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ALUC-22-08 (Benicia City Building Code Amendments)

Determine that Application No. ALUC-22-08, (Benicia City Building Code Amendments), located within the Travis Air Force Base (AFB) Compatibility Zone D and E, is consistent with the Travis AFB Land Use Compatibility Plan (LUCP) (City of Benicia).

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RECOMMENDATION:

Determine that Application No. ALUC 22-08 (Benicia City Building Code Amendments), located within the Travis Air Force Base (AFB) Compatibility Zone D and E, is consistent with the Travis AFB Land Use Compatibility Plan (LUCP)

DISCUSSION:

Background

Section 21676 (d) of the State Aeronautics Act requires Airport Land Use Commission (ALUC) review of any Building Code change within an Airport Influence Area. The City of Benicia has referred an application to repeal and replace Title 15 (Building and Construction) of the Benicia Municipal Code to reflect the newly published California Building Standards Code, and adopt administrative procedures and local amendments or appendices relating to those standards. Following ALUC consistency finding, the proposed amendments will be heard by City Council.

A majority of the City is located within Zone D and small portion lies within Zone E of the Travis AFB Land Use Compatibility Plan. The project does not address residential densities, height restrictions or other hazards to flight. The compatibility zones do not restrict residential densities or uses. Based on review, staff recommends the ALUC find that the proposed ordinances comply with the requirements of these zones to protect flight, meet guidance criteria of the California Airport Land Use Planning Handbook, and are consistent with the Travis AFB Land Use Compatibility Plan (LUCP).

Project Description

The City of Benicia proposal to amend the Building regulations consists of updating Title 15 (Buildings and Construction) of the Benicia Municipal Code (BMC). The California Building Standards Commission has published the 2022 California Building Standards Code (Title 24 of the California Code of Regulations), which includes the Building Code, Existing Building Code, Residential Code, Plumbing Code, Mechanical Code, Electrical Code, and Fire Code. The California Building Standards Commission adopts codes in a three-year cycle. State law mandates that local jurisdictions implement the recently adopted codes by January 1, 2023.

The proposed amendments do not address changes to building or tower heights, introduce hazards to flight such as glare, wildlife, electrical interference or induce infill development.

AIRPORT PLANNING CONTEXT & ANALYSIS

Building regulation amendments must undergo review by the ALUC for consistency with the applicable LUCPs (State Aeronautics Act section 21676). The proposed amendments would apply

City wide, which is located in Compatibility Zones D and E of the Travis AFB LUCP (see Attachment D). In general, Compatibility Zones D and E criteria require review of structural heights of objects and/or hazards related to bird attraction, electrical inference, glare and other flight hazards.

The California Department of Transportation (Caltrans) Division of Aeronautics has published the California Airport Land Use Planning Handbook (Caltrans Handbook) as a guide for Airport Land Use Commissions (ALUCs) in the preparation and implementation of Land Use Compatibility Planning and Procedure Documents. Section 6.4.2 of the Caltrans Handbook establishes the guidance appropriate for reviewing zoning ordinances and building regulations. This section references Table 5A of the Caltrans Handbook which presents the consistency requirements for “Zoning or Other Policy Documents.”

Staff evaluated the City's project using the Zone Compatibility criteria for Zone D and E of the Travis AFB LUCP, and the zoning consistency test criteria contained in the California Airport Land Use Planning Handbook. Staff analysis of the project based on this evaluation is summarized in Attachment A.

Analysis Finding

Based on review, staff finds that the proposed amendments comply with the requirements of the zones to protect flight, meet guidance criteria of the California Airport Land Use Planning Handbook, and are consistent with the Travis AFB Land Use Compatibility Plan (LUCP).

Attachments

[Attachment A: Airport Compatibility Zones and Airport Land Use Planning Guidance criteria](#)

[Attachment B: City of Benicia Building Code Amendments – Draft](#)

[Attachment C: City of Benicia Application](#)

[Attachment D: City of Benicia and Compatibility Zones](#)

Attachment E: Resolution (To Be Distributed by Separate Cover)

Travis AFB Land Use Compatibility Zone Criteria

Zone D & E Criteria	Consistent	Not Consistent	Comment
All proposed wind turbines must meet line-of-sight criteria in Policy 3.4.4	X		No wind turbines proposed
All new or expanded commercial-scale solar facilities must conduct an [Solar Glare Hazard Analysis Tool (SGHAT)] glint and glare study for ALUC review	X		No commercial solar facilities proposed
All new or expanded meteorological towers > 200 feet AGL, whether temporary or permanent, require ALUC review	X		No meteorological towers proposed
For areas outside of the Bird Strike Hazard Zone but within the Outer Perimeter, any new or expanded land use involving discretionary review that has the potential to attract the movement of wildlife that could cause bird strikes are required to prepare a WHA.	X		Not within Outer Perimeter
No hazards to flight, including physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations, and land uses that may attract birds to increase in the area shall be permitted.”	X		The proposed ordinances will not create any of the listed hazards.
Buyer awareness measure in place which states, “a notice regarding aircraft operational impacts on the property shall be attached to the property deed.”	X		The pproject will not require deed notices
Additional Zone D criteria			
For areas within the Bird Strike Hazard Zone, reviewing agencies shall prepare a [wildlife hazard analysis (WHA)] for discretionary projects that have the potential to attract wildlife that could cause bird strikes. Based on the findings of the WHA, all reasonably feasible mitigation measures must be incorporated into the planned land use.	X		Not within Bird Strike Hazard zone

California Airport Land Use Planning Handbook Criteria

California Airport Land Use Planning Handbook Criteria	Consistent	Not Consistent	Comment
Intensity Limitations on Nonresidential Uses	X		No intensity limits on new uses in Compatibility Zone D or E; Development of large assembly uses are not anticipated
Identification of Prohibited Uses	X		The proposed ordinances do not have potential for visual or electromagnetic interference or to attract wildlife hazardous to aircraft.
Open Land Requirements	X		Not required for Compatibility Zones D or E
Infill Development	X		Not anticipated to induce infill development
Height Limitations and Other Hazards to Flight	X		The proposed ordinances do not increase building height or introduce hazards to flight.
Buyer Awareness Measures	X		The ordinances do not affect buyer awareness measures
Non-conforming Uses and Reconstruction	X		No new incompatible uses, or reconstruction of incompatible uses are included in ordinances

CITY OF BENICIA

ORDINANCE NO. 22-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA TO REPEAL TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE AND REPLACE WITH THE 2022 CALIFORNIA BUILDING CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1 Building Code:

Title 15 (Buildings and Construction) of the Benicia Municipal Code is repealed in its entirety and replaced with the following:

TITLE 15 BUILDINGS AND CONSTRUCTION ⁱ

Division I. Building and Safety Construction Code.

Chapters:

15.01 Purpose and findings.

15.03 Construction code adopted.

15.05 Amendments and additions to the California Building Code.

15.08 Amendments and additions to the California Residential Code.

15.11 Amendments and additions to the California Plumbing Code.

15.16 Amendments and additions to the California Existing Building Code.

15.20 Amendments and additions to the International Swimming Pool and Spa Code.

15.25 Mandatory Construction Waste Reduction, Disposal and Recycling and Water Efficient Landscaping.

15.27 Commercial Construction Time Limits.

15.30 Gas Shut-Off Devices.

15.33 Notice of Building Occupancy Prohibitions.

15.35 Streamlining Permitting for Residential Rooftop Solar.

15.40 Streamlining Permitting for (EV) Electric Charging Stations.

Division II. Flood Damage Prevention.

Chapters:

15.47 General Flood Provisions.

15.49 Administration.

15.50 Reserved.

15.51 Provisions for Flood Hazard Reduction.

15.53 Variances.

15.55 Appeals.

15.56 Reserved.

Division III. Seismic Hazards.

Chapters:

15.60 Seismic Hazards identification Program.

15.62 Reserved.

15.64 Reserved.

15.66 Reserved.

Division IV. Storm Water, Grading and Erosion Control,

Public Improvement Standards.

Chapters:

15.70 Storm Water Management and Discharge Control.

15.73 Grading and Erosion Control.

15.75 Public Improvement Standards.

For statutory provisions authorizing cities to regulate buildings and construction, see Government Code §§ [38601](#) and [38660](#); for provisions on the construction of housing, see Health and Safety Code § [17910](#) et seq.; for provisions authorizing cities to adopt codes by reference, see Government Code § [50022.1](#) et seq.

Division I. Building and Safety Construction Code

Chapter 15.01 PURPOSE AND FINDINGS

15.01.010 Purpose.

1. This title regulates building standards, safety, and related matters. It adopts by reference and as amended or added to by the City of Benicia various codes developed by the state of California and other entities, including but not limited to the California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Historical Building, Fire, Existing Building, and Green Building Standards Codes, Flood Damage Prevention, Seismic Hazards, Storm Water, Grading and Erosion Control, and Public Improvement Standards. The purpose of the ordinances codified in this chapter is to make certain amendments, deletions, and additions as allowed under State law to align with the newest cycle of regulatory codes by incorporating the latest version of applicable codes listed herein.
2. Such code shall be known as the Benicia Building and Safety Construction Code regulating the erection, construction, alteration, repair, relocation, demolition, occupancy, use, height, area, and maintenance of all buildings and structures and certain equipment therein specifically regulated. The provisions of said code shall provide for the issuance of permits and certificates of occupancy, the collection of fees thereof, and penalties for violation of such code.

15.01.020 Findings.

1. Pursuant to California Health and Safety Code Sections 17958.5, 17958.7, and 18941.5 the city council finds that the requirements set forth in this title are reasonable and necessary modifications because of climatic, geological, and topographical conditions within the City of Benicia. The “express findings of need” contained herein address each of these conditions and present the local situations which cause the established amendments, deletions, and additions to be adopted.

- a) The region is within a climate zone that requires compliance with energy efficiency standards for building construction. The amendment adds design flexibility that will add to energy efficiency in construction while maintaining nationally recognized health and safety standards. This reason is herein referred to as "Climatic I".
- b) The community is in an air quality nonattainment region. Research conducted by the Bay Area Air Quality Management District and reflected in the 2019 amendment to Regulation 6 Rule 3 extends the Air Districts authority to ban wood burning or combustion in wood-burning devices year-round. Emissions and pollutants may be greatly reduced with the use of gas-fired type fireplaces. This reason is herein referred to as "Climatic II"
- c) The city is subject to frequent periods of strong, gusty winds from the southwest and north. During this period, the temperatures can reach from 80-100 degrees in the summer months and the relative humidity can fall below 20 percent. The hot, dry, and windy climatic conditions create a hazardous situation that has led to extensive grass and brush fires. Future development with heat driven wind have the potential for high fire consequences. Minor fires can rapidly spread because of the climate and vegetation. The configuration and type of existing development require additional review. Wood construction, including wood shingle and wood shake roofing, presents extreme adverse fire conditions as does the proximity of some buildings. The reason is hereinafter referred to as "Climatic III".
- d) The region is in an area of high seismic activities as indicated by the United States Geological Survey and California Division of Mines and Geology. Recent earthquake activities have indicated that lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants and increase the cost of rehabilitation of structures. This reason is hereinafter referred to as "Geological I".
- e) According to the California Department of Developmental Services, drowning is the number one cause of accidental death for children under the age of five in California. Each year, near-drowning incidents result in life-long disabilities. Between 2005 and 2014, there was an average of 3,536 drownings annually in the United States. Well-designed pool barriers can reduce accidental drowning deaths and injuries. This reason hereinafter referred to as "Life / Safety I".
- f) Modifications and amendments provide minimum standards designed to enhance the aesthetic appearance of the community, preserve property values, and protect health, safety, and welfare. As required by the California

Health and Safety Code, the city council finds and declares that the amendments, deletions, and additions to the regulations are reasonably necessary because of local conditions in that they prescribe local fee schedules and make other amendments, deletions, or additions to the code consistent with a comprehensive building program for the city. This reason hereinafter referred to as "Local Conditions I".

15.03 Construction Code Adopted

For the purpose of setting forth proper regulations for the protection of public health, safety, and welfare, regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use height, area and maintenance of buildings and structures in the city, providing for the issuance of permits and collection of fees, and providing penalties for the violation thereof, the following uniform construction codes are adopted, as amended, to apply in the City of Benicia:

The following codes are hereby adopted by reference for the City of Benicia:

- a) The California Building Code, 2022 edition, which is the 2021 International Building Code, with California amendments, consisting of Volumes 1 and 2, and the following appendix chapters: appendix B, appendix G, appendix H, appendix I and appendix J, are adopted in their entirety with amendments and additions set forth in this Title 15 as recommended by the Chief Building Official ("Building Official").
- b) The California Residential Building Code, 2022 edition, which is the 2021 International Residential Code with California amendments and the following appendix chapters: Appendix AL, Appendix AH, Appendix AJ, Appendix AK, Appendix AQ, Appendix AT, and Appendix AV, are adopted in their entirety with amendments and additions set forth in this Title 15 as recommended by the Building Official;
- c) The California Electrical Code, 2022 edition, which is the 2021 National Electrical Code with California amendments, is adopted in its entirety with no amendments, deletions, or additions;
- d) The California Mechanical Code, 2022 edition, which is the 2021 Uniform Mechanical Code with California amendment is adopted in its entirety with no amendments, deletions, or additions;
- e) The California Plumbing Code, 2022 edition, which is the 2021 Uniform Plumbing Code with California amendments and the following appendix chapters: chapter

A, chapter B, chapter E, chapter I, chapter K, and chapter L, are adopted in their entirety with amendments and additions as set forth in this Title 15 as recommended by the Building Official;

- f) The California Green Building Standards Code, 2022 edition, is adopted in its entirety with no amendments, deletions, or additions;
- g) The California Energy Code, 2022 edition, is adopted in its entirety with no amendments, deletions, or additions;
- h) The California Historical Building Code, 2022 edition, published by the International Code Council, is adopted in its entirety with no amendments, deletions, or additions;
- i) The California Existing Building Code, 2022 edition, and the following appendix and chapters: appendix A, chapter A1, chapter A2, chapter A3, chapter A4, and chapter A5, appendix B, appendix D, are adopted in their entirety with amendments and additions as set forth in this Title 15 as recommended by the Building Official;
- j) The International Pool and Spa Code, 2021 edition, is adopted in its entirety with amendments and additions as set forth in this Title 15 as recommended by the Building Official;
- k) The California Administrative Code, 2022 edition, is adopted with no amendments, deletions, or additions.

At least one (1) copy of the City of Benicia Building and Safety Construction Code has been deposited in the office of the city Building Official and is available for public inspection.

A copy of these findings, together with the amendments or additions are expressly marked and identified to which each finding refers, shall be filed by the Building Official or their designee with the California Building Standards Commission.

Chapter 15.05 Amendments and Additions to the California Building Code

A. The following amendments and additions as recommended by the Building Official are adopted to the California Building Code, 2022 edition, which is the 2021 International Building Code as amended by the State of California:

- 1) Amend section 502.1 to read as follows:

502.1 Building Address. New and existing buildings shall be provided with approved address identification. The address shall be legible and placed in a position that is visible from the street or road fronting the property. **Any new building or an existing building that undergoes an alteration or addition that requires a building permit shall be provided with approved address identification as follows:**

- a) **Industrial-** Industrial buildings with multiple addresses shall have at least one address number posted toward the access road with a minimum numeral size of 12" high with a minimum stroke of 3" wide. Individual units within an Industrial building shall be approved to have a minimum numeral address size of 6" high with a stroke of 1". All address identification characters shall contrast with the background.
- b) **Commercial-** All commercial units shall be provided with a minimum numeral size of 6" high with a 1" wide stroke and shall contrast with the background.
- c) **Residential-** All residential buildings shall have a minimum numeral size of 4" high with a 1/2" wide stroke and shall contrast with the background.
- d) **Lighting of building addresses –** The building address for all new buildings constructed after October 1, 2022, shall be automatically lighted at night

Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole, or other approved sign or means shall be used to identify the structure. Address identification shall be maintained. (Local condition I)

2) Amend section 105.5.1 to read as follows:

105.5.1 Expiration (BSC). On or after January 1, 2019, every permit issued shall become invalid unless work on the site authorized by such permit is commenced **and a building inspection received by the Building Official or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months of after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each prior to the expiration date of such permit. The extension shall be requested in writing and justifiable cause demonstrated **or as mandated in title 15-chapter 15.27 Commercial construction time limits.** (See Health and Safety Code Section 18938.5 and 18938.6) (Local conditions I)

3) Add section 105.8 to read as follows:

105.8 Reactivation of an expired permit. To continue work on an expired permit the permittee shall obtain an approval for reactivation of an expired building permit or apply for a new building permit for the remaining work prior to continuing any further construction. A

written reactivation request will be reviewed by the Building Official provided no changes have been made or will be made in the original plans, details, or specifications for such work. Reactivation of an expired building permit shall be at the discretion of the Building Official per the California Building Code Chapter 1 Section 105.5.1 Expiration (BSC) as amended. by the Benicia Municipal Code as adopted by City Council of Title 15 Buildings and Construction. If an expired building permit requires changes to the original plans, details, or specifications including but not limited to field changes or California Building Code cycle update, a new building permit shall be required for all remaining work. The new building permit application will be reviewed and issued under the current building code cycle and current fees established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions l)

4) Add section 107.6 to read as follows:

107.6 Standard or Master Plans. The Building Official may review for compliance a set of plans for a building or structure as a "standard or master plan," provided the applicant has made proper application, submitted a complete set of plans, and paid the plan review fee required by the Benicia Master Fee Schedule adopted by City Council. When it is desired to use an approved "standard or master plan" for an identical structure, a plot plan and or floor plan shall be submitted by application and a plan-review fee paid that is equal to one-half of the full plan-review fee as required by the current Benicia Master Fee Schedule adopted by City Council for such identical work. In case of any deviation whatsoever from this standard or master plan, complete plans, together with a full plan-review fee required by the Benicia Master Fee Schedule and adopted by City Council, shall be submitted for the proposed work. Standard or master 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 building code in effect when the plan review application is submitted, and the plan review fee paid shall be the governing code. (Local conditions 1)

5) Add section 107.7 to read as follows:

107.7 Property survey. If a new structure or addition to a structure is proposed within six inches (6") of the required yard line or setback specified by zoning or otherwise approved by the Benicia Planning Division, or within six inches (6") of the property line when there is no specified yard line or setback, the following requirement applies: The building permit applicant shall have a California licensed professional or California land surveyor provide documentation certifying that: a) the proposed location of the structure/addition is entirely on the applicant's property; b) the structure/addition does not encroach onto adjacent property(s); and c) the structure/addition complies with the minimum yard/setback requirements. This documentation may take the form of a site plan, or a written letter prepared, stamped, and signed by the California licensed professional or California land

surveyor. The Building Official may require string lines at the time of first inspection, at their discretion. Additionally, this documentation requirement may be partially waived by the Building Official or the Planning Manager if multiple adjacent parcels under single ownership are being developed or have previously been developed as a single site. (Local conditions I)

6) Amend section 109.3 to read as follows:

109.3 Permit Valuations. Building permit valuations. The applicant for a permit shall provide an estimated permit value at the time of application. Permit valuations shall reflect the total work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems. If, in the opinion of the Building Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates **in the form of a bid for work from a California licensed contractor of that discipline, a signed contract for scope of work to be performed on the permit from a California licensed contractor of that discipline, or the valuation meets the minimum square foot cost from the current International Code Council Building Value data table (BVD) with regional calculator.** Final building permit valuation shall be set by the Building Official. (Local conditions I)

7) Amended section 109.4 to read as follows:

109.4 Work commencing before permit issuance. Any person who commences any work **requiring a permit on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to an investigation fee established in the Benicia Master Fee Schedule as adopted by City Council. An investigation shall be made before a permit may be issued for such work. Whether or not a permit is then or subsequently issued an investigation fee established by the Benicia Master Fee Schedule as adopted by City Council shall be collected. In addition to all fees required by this section all fees established by the California Mechanical Code section 104.5.2 Investigation fees and California Plumbing Code section 104.5.2 Investigation fees, including all amendments and additions as adopted by City Council shall be paid. The payment of such investigation fees shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law. The Building Official shall have the authority to reduce but at no time waive an investigation fee at their discretion. In addition to all fees required as established by the California Mechanical Code section 104.4.2 Investigation fees and California Plumbing Code section 104.4.2 Investigation fees, including all amendments and additions as adopted by City Council. All investigation fees shall be in addition to the required permit fees.** (Local conditions I)

8) Amend section 109.6 to read as follows:

109.6 Refunds. The Building Official may authorize the refunding of building permit inspection and electrical fees paid when no work has commenced under a permit in accordance with this code or when an applicant wishes to withdraw an application for a permit for which a plan review fee has been paid. Plan review fees collected shall not be subject to refund if plan review has commenced. Permit application, document retention, and processing fees collected shall not be subject to refund. An administrative fee established by the Benicia Master Fee Schedule and adopted by City Council will be assessed for any permit refund request unless fees were charged in error by city staff. Fee refunds of mechanical and plumbing permits are established by the California Mechanical Code section 104.5.3 Fee refunds, and the California Plumbing Code section 104.5.3 Fee refunds, including all amendments and additions as adopted by City Council. (Local conditions I)

9) Add section 109.7 to read as follows:

109.7 Plan review fees. Plan review more than 15 minutes requires a plan check fee established by the Benicia Master Fee Schedule as adopted by City Council, the fee shall be paid at the time of submitting plans, calculations, and specifications for plan review. Plan review fees cover 1st and 2nd review. When a submittal of documents is a 3rd or subsequent review, incomplete, revised to require additional plan review, or when the project involves deferred submittal items an additional plan review fee will be charged at an hourly rate as established by the Benicia Master Fee Schedule as adopted by City Council. All fees incurred during plan review from an outside contract service company are considered pass-through fees and shall be paid by the applicant in full whether a permit is issued or not. Separate plan review fees shall be paid in addition to building plan review fees as established by the California Mechanical Code section 104.3.2 Plan review fees and the California Plumbing Code section 104.3.2 Plan review fees, including all amendments and additions as adopted by City Council. Electrical plan review fees shall be paid as established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

10) Add section 109.8 to read as follows:

109.08 Reactivation of expired valuation-based permit fees. Expired valuation-based permits that have been approved for reactivation by the Building Official shall pay a new full permit application fee and building inspection and electrical fee at one-half the amount required for a new permit as established in the current Benicia Master Fee Schedule, in addition to all fees required as established by the California Mechanical Code section 104.4.3 Expiration and California Plumbing Code section 104.4.4 Extension, including all amendments and additions as adopted by City Council. (Local conditions I)

11) Add section 109.9 Permit fees to read as follows:

109.9 Permit fees. Permit fees shall be assessed in accordance with the Benicia Master Fee Schedule and the California Residential Code section R108.2 Schedule of permit fees, California Mechanical Code section 104.5 Fees and California Plumbing Code section 104.5 Fees, including all amendments and additions as adopted by City Council, or as contracted with outside support services. (Local conditions I)

12) Add section 110.7 to read as follows:

110.7 Reinspection and phasing fees. A reinspection and or phasing fee established in the Benicia Master Fee Schedule as adopted by City Council may be assessed for each inspection or reinspection when such portion of work for which inspection is scheduled is not complete, has been phased, or when corrections called for previously are not complete. In instances when reinspection and or phasing fees have been assessed, no additional inspection of work will be performed until the required fees have been paid. (Local conditions I)

13) Add section 114.5 to read as follows:

114.5 Abatement. If a declared dangerous building is not completely abated by the owner of the property within the time prescribed by the Building Official, city staff may cause the dangerous building to be abated by city personnel or private contract. In furtherance of this section, the Building Official is expressly authorized to enter upon the premises for the purpose of abating the dangerous building. 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. (Local conditions I)

14) Add section 114.6 to read as follows:

114.6 Cost of Abatement. The Building Official 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. Such person or persons receiving the notice and order shall be liable to the city for all costs and expenses to the city involved in abating the violation. Costs and expenses as referred to in these sections shall include but are not limited to, 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 because of the dangerous building and procedures associated with collecting moneys due hereunder. 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 assessed amount. 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. 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. (Local conditions 1)

15) Add section 114.7 to read as follows:

114.7 Violation a public nuisance. It is declared that any violation of Title 15 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. (Local conditions I)

16) Add section 114.8 to read as follows:

114.8 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 [1.08](#) (General Penalty) Section [1.08.030](#) (Penalty). (Local conditions I)

17) Add section 1505.11 to read as follows:

1505.11 Shingles and Shakes. All new roof coverings shall be a class B or better roof covering assembly as defined by Section 1505 Fire Classification. (Climatic III)

18) Building code appendices to be adopted.

The 2022 California Building Code is further amended by adopting by reference the following appendix chapters:

- a) Appendix B – Board of Appeals
- b) Appendix G – Flood-Resistant Construction
- c) Appendix H – Signs
- d) Appendix I – Patio Covers
- e) Appendix J – Grading

Chapter 15.08 Amendments and Additions to the California Residential Code

- A. The following amendments and additions as recommended by the Building Official are adopted to the California Residential Code, 2022 edition, which is the 2021 International Residential Code as amended by the State of California.

- 1) Amend section R105.5.1 to read as follows:

R105.5.1 Expiration (BSC). On or after January 1, 2019, every permit issued shall become invalid unless work on the site authorized by such permit is commenced **and a building inspection received by the Building Official or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months of after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each prior to the expiration date of such permit. The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6) (Local conditions I)

- 2) Add section R105.10 to read as follows:

R105.10 Reactivation of an expired permit. To continue work on an expired permit the permittee shall obtain an approval for reactivation of an expired building permit or apply for a new building permit for the remaining work prior to continuing any further construction. A written reactivation request will be reviewed by the Building Official provided no changes have been made or will be made in the original plans, details, or specifications for such work. Reactivation of an expired building permit shall be at the discretion of the Building Official per the California Building Code Chapter 1 Section 105.5.1 Expiration (BSC) as amended by the Benicia Municipal Code Title 15 Buildings and Construction. If an expired building permit requires changes to the original plans, details, or specifications including but not limited to field changes or California Building Code cycle update, a new building permit shall be required for all remaining work. The new building permit application will be reviewed and issued under the current building code cycle and current fees established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

3) Add section R106.6 to read as follows:

R106.6 Standard or master plans. The Building Official may review for compliance a set of plans for a building or structure as a "standard or master plan," provided the applicant has made proper application, submitted a complete set of plans, and paid the plan review fee required by the Benicia Master Fee Schedule adopted by City Council. When it is desired to use an approved "standard or master plan" for an identical structure, a plot plan and or floor plan shall be submitted by application and a plan-review fee paid that is equal to one-half of the full plan-review fee as required by the current Benicia Master Fee Schedule adopted by City Council for such identical work. In case of any deviation whatsoever from this standard or master plan, complete plans, together with a full plan-review fee required by the Benicia Master Fee Schedule and adopted by City Council, shall be submitted for the proposed work. Standard or master 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 building code in effect when the plan review application is submitted, and the plan review fee paid shall be the governing code. (Local conditions I)

4) Amend section R108.1 to read as follows:

R108.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid. **Fees shall be assessed in accordance with the Benicia Master Fee Schedule and the California Building Code section 109.9 Fees, California Mechanical Code section 104.5 Fees and California Plumbing Code section 104.5 Fees, including all amendments and additions as adopted by City Council, or as established through city contracted support services.** (Local conditions I)

5) Amend section R108.3 to read as follows:

R108.3 Building permit valuations. **The applicant for a permit shall provide an estimated permit value at the time of application.** Permit valuations shall reflect the total work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems. **If, in the opinion of the Building Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates in the form of a bid for work from a California licensed contractor of that discipline, a signed contract for scope of work to be performed on the permit from a California licensed contractor of that discipline, or the valuation meets the minimum square foot cost from the current International Code Council Building Value data table (BVD) with regional calculator. Final building permit valuation shall be set by the Building Official.** (Local conditions 1)

6) Amend section R108.5 to read as follows:

R108.5 Refunds. The Building Official may authorize the refunding of building permit inspection and electrical fees paid when no work has commenced under a permit in accordance with this code or when an applicant wishes to withdraw an application for a permit for which a plan review fee has been paid. Plan review fees collected shall not be subject to refund if plan review has commenced. Permit application, document retention, and processing fees collected shall not be subject to refund. An administrative fee established by the Benicia Master Fee Schedule and adopted by City Council will be assessed for any permit refund request unless fees were charged in error by city staff. Fee refunds of mechanical and plumbing permits are established by the California Mechanical Code section 104.5.3 Fee refunds and the California Plumbing Code section 104.5.3 Fee refunds, including all amendments and additions as adopted by City Council. (Local conditions I)

7) Amend section R108.6 to read as follows:

R108.6 Work commencing before permit issuance. Any person who commences work requiring a permit on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to an investigation fee established in the Benicia Master Fee Schedule as adopted by City Council. An investigation shall be made before a permit may be issued for such work. Whether or not a permit is then or subsequently issued an investigation fee established by the Benicia Master Fee Schedule as adopted by City Council shall be collected. In addition to all fees required by this section all fees established by the California Mechanical Code section 104.4.2 Investigation fees and California Plumbing Code section 104.4.2 Investigation fees, including all amendments and additions as adopted by City Council shall be paid. The payment of such investigation fees shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law. The Building Official shall have the authority to reduce but at no time waive an investigation fee at their discretion. In addition to all fees required as established by the California Mechanical Code section 104.4.2 Investigation fees and California Plumbing Code section 104.4.2 Investigation fees, including all amendments and additions as adopted by City Council. All investigation fees shall be in addition to the required permit fees. (Local conditions I)

8) Add section R108.7 to read as follows:

R108.7 Plan review fees. Plan review more than 15 minutes requires a plan check fee established by the Benicia Master Fee Schedule as adopted by City Council, the fee shall be paid at the time of submitting plans, calculations, and specifications for plan review. Plan review fees cover 1st and 2nd review. When a submittal of documents is a 3rd or subsequent review, incomplete, revised to require additional plan review, or when the project involves deferred submittal items an additional plan review fee will be charged at an hourly rate as

established by the Benicia Master Fee Schedule as adopted by City Council or as established by contract of support services. All fees incurred during plan review from an outside contract service company are considered pass-through fees and shall be paid by the applicant in full whether a permit is issued or not. Separate plan review fees shall be paid in addition to building plan review fees as established by the California Mechanical Code section 104.3.2 Plan review fees and the California Plumbing Code section 104.3.2 Plan review fees, including all amendments and additions as adopted by City Council. Electrical plan review fees shall be paid as established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

9) Add section R108.8 to read as follows:

R108.8 All-inclusive Flat Fees. Residential permit applications that do not required contracted support plan review and require less than 15 minutes of plan review time will be assessed flat fees per the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

10) Add section R108.9 to read as follows:

R108.9 Reactivation of expired valuation-based permit fees. Expired valuation-based permits that have been approved for reactivation by the Building Official shall pay a new full permit application fee and a building inspection and electrical fee at one-half the amount required of a new permit as established in the current Benicia Master Fee Schedule, in addition to all fees required as established by the California Mechanical Code section 104.4.3 Expiration and California Plumbing Code section 104.4.4 Extension, including all amendments and additions as adopted by City Council. (Local conditions I)

11) Add section R108.10 to read as follows:

R108.10 Reactivation of expired residential all inclusive (flat fee) permit fees. Expired flat fee permits that have been approved for reactivation by the Building Official shall pay a new flat fee at one-half the cost of a new permit, including a new full application fee as established by the Master Fee Schedule adopted by City Council. Flat fee mechanical and plumbing permit fees shall be established by the California Mechanical Code section 104.4.3 Expiration and California Plumbing Code section 104.4.4 Extension, including all amendments and additions as adopted by City Council. (Local conditions I)

12) Add section R108.11 to read as follows:

R108.11 Reinspection and phasing fees. A reinspection and or phasing fees established in the Benicia Master Fee Schedule as adopted by City Council may be assessed for each inspection or reinspection when such portion of work for which inspection is scheduled is

not complete, has been phased, or when corrections called for previously are not complete. In instances when reinspection and or phasing fees have been assessed, no additional inspection of work will be performed until the required fees have been paid. (Local conditions I)

13) Amend section R319 to read as follows:

R319 Site Address. Buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. **Any new building or an existing building that undergoes an alteration or addition that requires a building permit shall be provided with approved address identification as follows:**

- a) **Industrial-** Industrial buildings with multiple addresses shall have at least one address number posted toward the access road with a minimum numeral size of 12" high with a minimum stroke of 3" wide. Individual units within an Industrial building shall be approved to have a minimum numeral address size of 6" high with a stroke of 1". All address identification characters shall contrast with the background.
- b) **Commercial-** All commercial units shall be provided with a minimum numeral size of 6" high with a 1" wide stroke and shall contrast with the background.
- c) **Residential-** All residential buildings shall have a minimum numeral size of 4" high with a 1/2" wide stroke and shall contrast with the background.
- d) **Lighting of building addresses –** The building address for all new buildings constructed after October 1, 2022, shall be automatically lighted at night.

Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole, or other sign or means shall be used to identify the structure. Address identification shall be maintained. (Local condition 1)

14) Amend Section R902.1.2 to read as follows:

R902.1.2 Roof coverings in all other areas. The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any 1-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least a class **B or better**. (Climatic III)

15) Add section R902.5 to read as follows:

R902.5 All new roof coverings shall be a class B or better roof covering assembly as defined by section 902 Fire Classification. (Climate III)

16) Add section R1007 to read as follows:

R1007 Wood Burning Stoves or devices must meet or exceed the requirements specified in Bay Area Air Quality Management District Regulation 6, Rule 3: Wood-burning devices. (Climate II)

17) California Residential Code appendices to be adopted.

The 2022 California Residential Code is further amended by adopting with amendments the following appendix chapters.

- a) Appendix AL – Permit Fees.
- b) Appendix AH – Patio Covers.
- c) Appendix AJ – Existing Buildings and Structures
- d) Appendix AK – Sound Transmission

18) Amend Section AK101.1 to read as follows:

AK101.1 General. Wall and floor-ceiling assemblies separating dwelling units, including those separating adjacent townhouse units, shall provide airborne sound insulation for walls, and both airborne and impact sound insulation for floor-ceiling assemblies. **Conversion of an existing structure to include an accessory dwelling unit and it is in the opinion of the Building Official that some or all of appendix AK requirements are infeasible or will affect the historic fabric of the structure, the Building Official shall have the authority to waive some or all of appendix AK requirements at their discretion.** (Local conditions I)

- a) Appendix AQ – Tiny Houses
- b) Appendix AT – Solar Ready Provisions – Detached One – and Two-Family Dwellings and Townhouses
- c) Appendix AV – Board of Appeals

Chapter 15.11 Amendments and Additions to the California Plumbing Code

- A. The following amendments and additions as recommended by the Building Official are adopted to the California Plumbing Code, 2022 edition, which is the 2021 Uniform Plumbing Code as amended by the State of California.

- 1) Amend section 104.4.3.1 to read as follows:

104.4.3.1 Expiration (BSC). On or after January 1, 2019, every permit issued shall become invalid (expired) unless work on the site authorized by such permit is commenced **and a building inspection received by the Building Official or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each prior to the expiration date of such permit. The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6) (local conditions I)

- 2) Amend section 104.5 to read as follows:

104.5 Fees. **Plumbing fees are established by California Plumbing Code, the Benicia Master Fee Schedule as adopted by City Council, or as contracted with support services. All fees incurred during plan review from an outside contract service company are considered pass-through fees and shall be paid by the applicant in full whether a permit is issued or not.** (Local conditions I)

- 3) Amend section 719.1 to read as follows:

719.1 Locations. Cleanouts shall be placed inside the building near the connection between the building drain and the building sewer or installed outside the building in the lower end of the building drain and extended to grade. **An additional required clean-out shall be installed on private property adjacent to the property line where the sewer system connects to the public sanitary sewer lateral and shall terminate within a concrete box or an approved Christy box. All other** additional building sewer cleanouts shall be installed at intervals not to exceed 100 feet in straight runs and for each aggregate horizontal change in direction exceeding 135 degrees. **All such line clean-outs shall be extended to grade as prescribed in this code section 707.0 for sizing construction and materials.** (Local conditions I)

Exception: If the sewer lateral does not exceed 12ft. from the back of sidewalk to the building drain clean-out, and the run is substantially straight the required additional cleanout adjacent to the property line is not required. (Local conditions I)

- 4) Plumbing code appendices to be adopted.

The 2022 California Plumbing Code is further amended by adopting by reference the following appendix chapters:

- a) Appendix A - Recommended Rules for Sizing the Water Supply System.
- b) Appendix B - Explanatory Notes on Combination Waste and Vent Systems.

- c) Appendix E – Manufactured/Mobile Home Parks and Recreational Vehicle Parks.
- d) Appendix I – Installation Standards
- e) Appendix K – Potable Rainwater Catchment Systems
- f) Appendix L – Sustainable Practices

Chapter 15.16 Amendments and Additions to the

California Existing Building Code

- A. The following amendments and additions as recommended by the Building Official are adopted to the California Existing Building Code, 2022 edition, which is the 2021 International Existing Building Code as amended by the State of California:

- 1) Amend section 105.5.1 to read as follows:

105.5.1 Expiration (BSC). On or after January 1, 2019, every permit issued shall become invalid unless work on the site authorized by such permit is commenced **and a building inspection received by the Building Official or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months of after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each prior to the expiration date of such permit. The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6) (Local conditions I)

- 2) Add section 105.8 to read as follows:

105.8 Reactivation of an expired permit. To continue work on an expired permit the permittee shall obtain an approval for reactivation of an expired building permit or apply for a new building permit for the remaining work prior to continuing any further construction. A written reactivation request will be reviewed by the Building Official provided no changes have been made or will be made in the original plans, details, or specifications for such work. Reactivation of an expired building permit shall be at the discretion of the Building Official per the California Building Code Chapter 1 Section 105.5.1 Expiration (BSC) as amended. If an expired building permit requires changes to the original plans, details, or specifications including but not limited to field changes or California Building Code cycle update, a new building permit shall be required for all remaining work. The new building permit application will be reviewed and issued under

the current building code cycle and current fees established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

3) Amended section 108.4 to read as follows:

108.4 Work commencing before permit issuance. Any person who commences any work requiring a permit on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to **an investigation fee established in the Benicia Master Fee Schedule as adopted by City Council. An investigation shall be made before a permit may be issued for such work. Whether or not a permit is then or subsequently issued an investigation fee established by the Benicia Master Fee Schedule as adopted by City Council shall be collected. In addition to all fees required by this section all fees established by the California Mechanical Code section 104.5.2 Investigation fees and California Plumbing Code section 104.5.2 Investigation fees, including all amendments and additions as adopted by City Council shall be paid. All investigation fees shall be in addition to the required permit fees.** (Local conditions I)

4) Amend section 108.6 to read as follows:

108.6 Refunds. The Building Official **may authorize the refunding of building permit inspection and electrical fees paid when no work has commenced under a permit in accordance with this code or when an applicant wishes to withdraw an application for a permit for which a plan review fee has been paid. Plan review fees collected shall not be subject to refund if plan review has commenced. Permit application, document retention, and processing fees collected shall not be subject to refund. An administrative fee established by the Benicia Master Fee Schedule and adopted by City Council will be assessed for any permit refund request unless fees were charged in error by city staff. Fee refunds of mechanical and plumbing permits are established by the California Mechanical Code section 104.5.3 Fee refunds, and the California Plumbing Code section 104.5.3 Fee refunds, including all amendments and additions as adopted by City Council.** (Local conditions I)

5) Add section 108.7 to read as follows:

108.7 Plan review fees. Plan review more than 15 minutes requires a plan check fee established by the Benicia Master Fee Schedule as adopted by City Council, the fee shall be paid at the time of submitting plans, calculations, and specifications for plan review. Plan review fees cover 1st and 2nd review. When a submittal of documents is a 3rd or subsequent review, incomplete, revised to require additional plan review, or when the project involves deferred submittal items an additional plan review fee will be charged at an hourly rate as established by the Benicia Master Fee Schedule as adopted by City Council or as established by contract of support services. All fees incurred during plan review from an outside contract service company are

considered pass-through fees and shall be paid by the applicant in full whether a permit is issued or not. Separate plan review fees shall be paid in addition to building plan review fees as established by the California Mechanical Code section 104.3.2 Plan review fees and the California Plumbing Code section 104.3.2 Plan review fees, including all amendments and additions as adopted by City Council. Electrical plan review fees shall be paid as established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

6) Add section 108.8 to read as follows:

108.08 Reactivation of expired valuation-based permit fees. Expired valuation-based permits that have been approved for reactivation by the Building Official shall pay a new full permit application fee and building inspection fee at one-half the amount required for a new permit as established in the current Benicia Master Fee Schedule, in addition to all fees required as established by the California Mechanical Code section 104.4.3 Expiration and Plumbing Code section 104.4.4 Extension, including all amendments and additions as adopted by City Council. (Local conditions I)

7) Add section 108.9 Permit fees to read as follows:

108.9 Permit fees. Permit fees shall be assessed in accordance with the Benicia Master Fee Schedule and the California Residential Code section R108.2 Schedule of permit fees, California Mechanical Code section 104.5 Fees and California Plumbing Code section 104.5 Fees, as amended and adopted by City Council, or as contracted with outside support services. (Local conditions I)

8) Add section 109.7 to read as follows:

109.7 Reinspection and phasing fees. A reinspection and or phasing fees established in the Benicia Master Fee Schedule an adopted by City Council may be assessed for each inspection or reinspection when such portion of work for which inspection is scheduled is not complete, has been phased, or when corrections called for previously are not complete. In instances when reinspection and or phasing fees have been assessed, no additional inspection of work will be performed until the required fees have been paid. (Local conditions I)

9) Add section 113.5 to read as follows:

113.5 Abatement. If a declared dangerous building is not completely abated by the owner of the property within the time prescribed by the building official, city staff may cause the dangerous building to be abated by city personnel or private contract. In furtherance of this section, the building official is expressly authorized to enter upon the premises for the

purpose of abating the dangerous building. 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. (Local conditions I)

10) Add section 113.6 to read as follows:

113.6 Cost of Abatement. The building official 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. Such person or persons receiving the notice and order shall be liable to the City for all costs and expenses to the city involved in abating the violation. Costs and expenses as referred to in these sections shall include but are not limited to, 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 because of the dangerous building and procedures associated with collecting moneys due hereunder. 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 asse amount. 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. 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 chapter. (Local conditions 1)

11) Add section 113.7 to read as follows:

113.7 Violation a public nuisance. It is declared that any violation of Title 15 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. 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 [1.08](#) (General Penalty) Section [1.08.030](#) (Penalty). (Local conditions I)

12) Add section 1401.3 to read as follows:

1401.3 Appeal procedure. If the Building Official denies the relocation permit for any reason, they shall notify the applicant of this fact in writing. The applicant may appeal to the Building Board of Appeals by filing a written appeal in accordance with Chapter 1.44 of the Benicia Municipal Code. (Local conditions I)

13) Add section 1402.8 to read as follows:

1402.8 Permit required. No person, firm or corporation shall move onto any premises within the city any building or structure, except a contractor's tool house, construction building or similar structure, which is moved as construction requires, until a surety bond has been posted and a relocation building permit has been secured as provided in this chapter. (Local conditions I)

14) Add section 1402.9 to read as follows:

1402.9 Permit application. Every application to the Building Official for a relocation building permit shall set forth such information as the Building Official may reasonably require carrying out the purpose of this chapter. (Local conditions I)

15) Add section 1402.10 to read as follows:

1402.10 Permit investigation. To determine any of the matters presented by the application, the Building Official may require plans, photographs, or other substantiating data, and may cause to be made any investigation which they believe is necessary or helpful. The Building Official may refer the matter for further investigation to the board of appeals. After the investigation is completed, if the applicant fails to post the required bond and secure the relocation building permit within 60 days, the application is null and void. (Local conditions I)

16) Add section 1402.11 to read as follows:

1402.11 Permit conditions. The Building Official, in granting any relocation building permit, may impose thereon such terms and conditions as they may deem reasonable and proper. These terms may include, but are not limited to: the period of time required to complete all work; the requirement of changes, alterations, additions or repairs to be made to or upon the building or structures, to the end that the relocation thereof will not be materially detrimental or injurious to public safety or to public welfare or to the property and improvements, or either, in the district, as hereinabove limited, to which it is to be relocated. (Local conditions I)

17) Add section 1402.12 to read as follows:

1402.12 Permit issuance. If the condition of the building or structure, in the judgment of the Building Official, admits of practicable and effective repair they may issue a relocation building permit to the owner of the property where the building or structure is to be located upon conditions as hereinafter provided; otherwise, the permit shall be denied. (Local conditions I)

18) Add section 1402.13 to read as follows:

1402.13 Work of any kind. Work of any kind in the public right-of-way requires separate permitting and fees through the City of Benicia Engineering Division of Public Works, prior to the issuance of any building or relocation permits. (Local conditions I)

19) Add section 1402.14 to read as follows:

1402.14 Demolition option. When any default has occurred on the part of the principal under the provisions of this chapter, the surety, at its option, in lieu of completing the work required may remove or demolish the building or structure and clear, clean and restore the site. (Local conditions I)

20) Add section 1403 Fees.

21) Add section 1403.1 to read as follows:

1403.1 Permit fees, application, and investigation. To determine any of the matters presented by the application, the Building Official may require plans, photographs, or other substantiating data, and may cause to be made any investigation which they believe is necessary or helpful. The Building Official may refer the matter for further investigation to the board of appeals. After the investigation is completed, if the applicant fails to post the required bond and secure the relocation building permit within 60 days, the application is null and void. (Local conditions I)

22) Add section 1403.2 to read as follows:

1403.2 Permit fees, repairs, or alterations. Relocation building permit fees for repairs or alterations to relocated buildings shall be required in accordance with the Benicia Master Fee Schedule as adopted by City Council, prior to final of any relocation permit. (Local conditions I)

23) Add section 1403.3 to read as follows:

1403.3 Permit bond required. The Building Official shall not issue a relocation building permit unless the owner shall first post with the Building Official a bond executed by the said owner, as principal, and by an approved surety company authorized to do business in this state, as surety; or deposits a cash bond; or deposits and assigns to the city other approved sureties. (Local conditions I)

24) Add section 1403.4 to read as follows:

1403.4 Outside agency approvals. All outside city, local, and state agency permit requirements shall be satisfied prior to issuance of a relocation permit. (Local conditions I)

25) Add section 1403.5 to read as follows:

1403.5 Bond refunds. When a cash bond has been posted or savings and loan certificates or shares deposited and assigned, and all requirements of the relocation building permit have been completed, the Building Official shall return the cash or savings and loan certificates or shares to the depositor or to their successors or assigns, and reassign the savings and loan certificates or shares, except any portion thereof that may have been used, cashed, or deducted as provided elsewhere in this chapter. (Local conditions I)

26) Add chapter 1403.6 to read as follows:

1403.6 Default notice required. Whenever the principal on the bond defaults in the performance of the conditions required by the relocation building permit, the Building Official shall give notice in writing to the principal and the surety on the bond. (Local conditions I)

27) Add 1403.7 to read as follows:

1403.7 Default notice contents. The Building Official in the notice of default shall state the conditions of the bond which have not been complied with and the period deemed by him to be reasonably necessary for the completion of such work. (Local conditions I)

28) Add section 1403.8 to read as follows:

1403.8 Default surety to perform work. After receipt of a notice of default, the surety, within the time therein specified, shall cause the required work to be performed. (Local conditions I)

29) Add section 1403.9 to read as follows:

1403.9 Default bond use. If a cash bond has been posted, or savings and loan certificates or shares have been deposited and assigned, the building official shall give notice of default, as provided above, to the principal, and if compliance is not had within the time specified, the Building Official shall proceed without delay and without further notice or proceeding whatever to use the cash deposit or savings and loan certificates or shares, or any portion thereof, to cause the required work to be done by contract or otherwise, in their discretion. The balance, if any, of such cash deposit or savings and loan certificates or shares, upon the completion of the work shall be returned and reassigned to the depositor or to their successors or assigns after deducting the cost of the work plus 15 percent thereof. (Local conditions I)

30) Add section 1404 Plumbing.

31) Add section 1404.1 to read as follows:

1404.1 Moved structures. Moved structures shall comply with the California Plumbing Code Chapter 1 section 102.7 Moved structures. (Local conditions I)

32) Add section 1403.2 to read as follows:

1404.2 Equivalent inspection. Where other equivalent means of inspection is required due to walls and or floors in place, a running test from all roof top plumbing vents shall be required. Approval of additional equivalent testing methods is at the discretion of the Building Official. (Local conditions I)

For statutory provisions on moving apartment houses and dwellings, see Health and Safety Code § [17958.9](#).

¹ H & S Code Local ordinances or regulations governing the moving of apartment houses and dwellings shall, after July 1, 1978, permit the retention of existing materials and methods of construction so long as the apartment house or dwelling complies with the building standards for foundation applicable to new construction, and does not become or continue to be a substandard building.

Chapter 15.20 Amendments and Additions to the International Swimming Pool and Spa Code

A. The following modifications and changes as recommended by the Building Official are adopted to the International Pool and Spa Code, 2021 edition. (Life / Safety I)

1) Add section 202 Definitions to read as follows:

- a) "Swimming pool, spa, or regulated body of water". A construction or prefabricated pool, spa, fountain, pond, or man-made body of water used for swimming, bathing, or wading, or a landscape element, exceeding 18 inches (457mm) in depth at any point. (Life/Safety I)

2) Amend section 305.1 to read as follows:

305.1 General. The provision of this section shall apply to the design and requirement for installation of barriers for swimming pools, spas, or regulated body of water of 18 inches in depth at any point, constructed after March 19, 1998. These design controls are intended to provide protection against the potential drowning and near drowning by restricting access to such pools or spas. These requirements provide an integrated level of protection against potential drowning through the use of physical barriers and warning devices. Hot tubs or spas with locking safety covers complying with ASTM-ES 13-89 shall be considered in compliance with Pool Enclosure Requirements. (Life / Safety I)

3) Amend section 305.2.1 to read as follows:

305.2.1 Barrier height and clearances. Barrier heights and clearances shall be in accordance with the following:

- a) The top of the barrier shall be not less than 60-inches (1524 mm) above grade, where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 3-feet (914 mm) measured horizontally from the outside of the required barrier. (Life / Safety I)
- b) The vertical clearance between grade and the bottom of the barrier shall not exceed 2 inches (51mm) for all grade surfaces, where measured on the side of the barrier that faces away from the pool, spa, or regulated body of water. (Life / Safety I)
- c) Any decorative design work on the side of the barrier which faces away from the swimming pool, spa, or man-made body of water, such as protrusions, indentations, or cutouts, which render the barrier easily climbable are prohibited. (Life / Safety I)

4) Amend section 305.2.4 to read as follows:

305.2.4 Mesh Fence as a barrier. Mesh fences, other than chain-link fences in accordance with section 305.2.7, shall be installed in accordance with the manufacturer's instructions and shall comply with the following:

- a) The bottom of the mesh fence shall be not more than 1 inch (25 mm) above the deck or installed surface or grade. (Life / Safety I)
- b) The maximum vertical clearance from the bottom of the mesh and grade shall not permit the fence to be lifted more than 4 inches (102 mm) from grade or decking. (Life / Safety I)
- c) The fence shall be designed and constructed so that it does not allow passage of a 4-inch (102 mm) sphere under any mesh panel. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall not be more than 4 inches (102 mm) from grade or decking. (Life / Safety I)
- d) An attachment device shall attach each barrier section at a height not lower than 60-inches (1524 mm) above grade. Common attachment devices include, but are not limited to, devices that provide the security equal to or greater than that of a self-closing hook-and-eye type latch incorporating a spring-actuated retaining lever such as a safety gate hook. (Life / Safety I)

- e) Where a hinged gate is used with a mesh fence, the gate shall comply with Section 305.3. (Life / Safety I)
- f) Patio deck sleeves such as vertical post receptacles that are placed inside the patio surface shall be of a nonconductive material. (Life / Safety I)
- g) Mesh fences shall not be installed on top of on-ground residential pools. (Life / Safety I)

5) Add section 305.2.7 to read as follows:

305.2.7 Minimum wire gauge of the chain link shall be not less than 11 gauge. (Life / Safety I)

6) Amend section 305.3 to read as follows:

305.3 Gates. Access gates shall comply with the requirements of Sections 305.3.1 through 305.3.3, be no less than 60 inches (1524 mm) in height when measured from grade, equipped with a locking device no less than 60 inches (1524 mm) from grade. Pedestrian access gates shall open outward away from the pool or spa, shall be self-closing and shall have a self-latching device and remain locked when not in use. (Life / Safety I)

7) Amend section 305.3.3 to read as follows:

305.3.3 Latches. Self-latching device shall be placed no lower than 60 inches (1524 mm) above ground. (Life / Safety I)

8) Amend 305.5 condition 1 to read as follows:

- a) Where only the pool wall serves as the barrier, the bottom wall is on grade, the top of the wall is not less than 60-inches (1524mm) above grade for the entire perimeter of the pool, the wall complies with the requirements of section 305.2 and the pool manufacturer allows the wall to serve as the barrier. (Life / Safety I)

9) Amend 305.5 condition 2 to read as follows:

- a) Where the barrier is mounted on top of the pool wall the top of the barrier is not less than 60-inches (1524mm) above grade for the entire perimeter of the pool and the wall and the barrier on top of the wall comply with the requirements of section 305.2. (Life / Safety I)

Chapter 15.25 Mandatory Construction Waste Reduction, Disposal, and Recycling, and Water Efficient Landscaping

Sections:

- 15.25.010 Purpose.
- 15.25.020 Definitions.
- 15.25.030 Enforcement authority.
- 15.25.040 Applicable projects.
- 15.25.050 Applications and fees for construction waste management plans.
- 15.25.060 Exemptions.
- 15.25.070 Construction waste diversion requirement.
- 15.25.080 Documentation requirements.
- 15.25.090 Model Water Efficient Landscaping Ordinance (MWEL0).
- 15.25.100 Penalties.
- 15.25.110 Inspections and investigations.
- 15.25.120 Appeals.
- 15.25.130 Effective date.

15.25.010 Purpose.

The city council finds as follows:

A. The purpose of this chapter is to appoint and designate the community development department as the enforcement authority to enforce the provisions of the California Integrated Waste Management Act of 1989 that have been promulgated in Section [40000](#) of the California Public Resources Code as amended, supplemented, superseded, and replaced from time to time.

15.25.020 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as hereafter set out, unless it shall be apparent from the context that they have a different meaning:

“Applicant” shall mean any individual, firm, contractor, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever that applies to the city for the applicable permits to undertake any construction or demolition project within the city.

“C&D” shall mean construction and demolition debris.

“Construction” shall mean the building of any facility or structure or any portion thereof, including any tenant improvements to an existing facility or structure.

“Construction and demolition waste materials” shall mean:

1. Discarded materials generally not considered water soluble and nonhazardous in nature, including but not limited to steel, copper, aluminum, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, roofing materials and lumber from the construction or demolition of a structure as part of a construction or demolition project or from the renovation of a structure;
2. Landscaping, including rocks, soils, noninfectious tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project;
3. Remnants of new materials, including but not limited to: cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project;
4. Other nonhazardous wastes generated at construction or demolition projects provided such amounts are consistent with best management practices of the industry.

“Contractor” shall mean any person or entity holding, or required to hold, a contractor’s license of any type under the laws of the state of California, or who performs (whether as contractor, subcontractor, owner-builder, or otherwise) any construction, demolition, remodeling, renovation, or landscaping service relating to buildings or accessory structures within the city of Benicia.

“Demolition” shall mean the decimating, razing, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

“Deposit” shall mean a cash dollar amount provided to the community development department at the time of submitting the diversion plan for those applicants where prior projects have been determined as good faith effort or noncompliance status. Refunds of the deposits (without interest) are dependent on the level of compliance with this chapter as described in BMC [15.25.080](#). Forfeited deposits shall be deposited in the city designated recycling program fund to be used for outreach and implementation of the department’s recycling program.

“Designated recyclable and reusable materials” shall mean and include but not be limited to:

1. Corrugated cardboard;
2. Inert materials generally used in construction including, but not limited to, asphalt, concrete, rock, stone, mortar and brick;

3. Metals, including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences;
4. Roofing materials including wood shingles and shakes as well as asphalt, stone and slate based roofing material;
5. Salvageable materials and structures, including, but not limited to, doors, windows, fixtures, hardwood flooring, sinks, bathtubs and appliances;
6. Vegetative materials, including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use;
7. Wallboard materials including gypsum and drywall;
8. Wood materials, including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted; and
9. Any other materials that the city determines can be diverted due to the identification of a recycling facility, reuse facility, or market accessible from the city.

“Diversion” shall mean the use of material for any purpose other than disposal to include but not be limited to reuse and recycling.

“Enforcement action” shall mean an action of the jurisdiction to address noncompliance with this chapter including, but not limited to, issuing administrative citations, fines, penalties or using other remedies.

“Good faith effort” shall mean and be applicable to projects where the availability of markets for construction and demolition debris was a determining factor in not meeting full compliance and where sufficient evidence of the project through documented efforts, such as weight receipts, demonstrates the applicant attempted to divert construction and demolition debris but did not meet full compliance.

“Notice of violation (NOV)” shall mean a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 1892(a)(45) or further explained in 14 CCR Section 18995.4.

“Organic waste” shall mean solid wastes containing material originating from living organisms and their metabolic products, including but not limited to food, green material, landscaping and pruning waste, organic textiles and carpets, lumber, wood, paper products, printings and writing paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

“Project” shall have the meaning set forth in BMC [15.25.040](#).

“Recycling” shall mean the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste and returning them to the economic mainstream in the form of a raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace.

“Renovation” shall mean any change, addition, or modification in an existing structure.

“Reuse” shall mean further or repeated use of construction of demolition debris.

“Universal waste” shall include items such as fluorescent lamps and ballast and mercury-containing thermostats as well as other California prohibited universal waste materials that require proper disposal to ensure diversion from landfills.

“Waste management plan” shall mean a completed city-provided form submitted before the issuance of a building and/or demolition permit, approved by the community development department for the purpose of compliance with this chapter.

“Waste management report” shall mean a completed city-provided program submitted after demolition or construction, as a precedent to final inspection and issuance of any certificate of occupancy, approved by the community development department for the purpose of compliance with this chapter.

“MWELO” refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

15.25.030 Enforcement authority.

A. Violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and assessment of a fine by the Benicia enforcement official or representative. Enforcement actions under this chapter are issuance of an administrative citation and assessment of a fine. The city of Benicia’s procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

B. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. Benicia may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. Benicia may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations, exist such that court action is a reasonable use of Benicia staff and resources.

C. Responsible Entity for Enforcement.

1. Enforcement pursuant to this chapter may be undertaken by the Benicia enforcement official, which may be the city manager or their designated entity, legal counsel, or combination thereof.
2. Enforcement may also be undertaken by an enforcement official, designated by the city of Benicia, in consultation with the Benicia enforcement official.
3. The Benicia enforcement official(s) will interpret this chapter; determine the applicability of waivers, if violation(s) have occurred; implement enforcement actions; and determine if compliance standards are met.
4. The Benicia enforcement official(s) may issue notices of violation(s).

D. Process for Enforcement.

1. The Benicia enforcement officials and/or their designee will monitor compliance with this chapter randomly and through compliance reviews, investigation of complaints, and an inspection program. BMC [15.25.110](#) establishes jurisdiction's right to conduct inspections and investigations.
2. Jurisdiction may issue an official notification to notify regulated entities of its obligations under this chapter.
3. Absent compliance by the respondent within the deadline set forth in the notice of violation, Benicia shall commence an action to impose penalties, via an administrative citation and fine, pursuant to BMC [15.25.100](#), Penalties.
4. Notices shall be sent to owner at the official address of the owner maintained by the tax collector for Benicia or, if no such address is available, to the owner at the address of the dwelling or commercial property or to the party responsible for paying for the collection services, depending upon available information.

15.25.040 Applicable projects.

Unless otherwise exempt pursuant to BMC [15.25.060](#), projects subject to the requirements of this chapter include any project which consists of one or more of the following:

- A. Construction of a new commercial, industrial or institutional building or structure that is equal to or greater than 5,000 square feet;
- B. Construction of multifamily dwellings, such as duplexes, where two or more units are under construction at a given time, or apartment complexes, where three or more units are under construction at a given time;

C. Construction of new residential dwellings, each dwelling equal to or greater than 2,000 square feet, in a subdivision housing tract where a homebuilder has a construction phase that includes multiple residential lots (two or more) under construction at a given time;

D. Demolition of a building or structure, or a portion thereof, that is equal to or greater than 1,500 square feet (residential, multifamily, commercial, industrial or institutional);

E. Renovation, addition or alteration of any commercial, industrial, institutional or multifamily building or structure that is equal to or greater than 1,000 square feet; and

F. Commercial and residential projects with construction costs estimated at \$100,000 or greater (labor and materials).

15.25.050 Applications and fees for construction waste management plans.

No person shall commence a project or dispose of construction waste from a project which is subject to this chapter, except for an exempt project, without first submitting and obtaining an approved Phase I waste management plan from the community development department and paying all the fees for such review according to the current master fee schedule.

15.25.060 Exemptions.

The following projects shall not be subject to the provisions of this chapter:

A. Project contaminated by hazardous substances or hazardous waste as defined by the state or federal law;

B. Land clearing debris contaminated by infectious disease or pathogen-spreading organisms as defined by the county agricultural commissioner and subject to approved county agricultural commissioner disposal methods;

C. Construction or renovation of one residential dwelling, or two or more residential dwellings where each dwelling is less than 2,000 square feet;

D. Demolition of a building or structure, or a portion thereof, that is less than 1,500 square feet;

E. Emergency work (addition, alteration, construction, demolition, renovation performed in conjunction with an emergency (i.e., fire, earthquake, flood) or a building or structure deemed substandard by the California Building Code through the chief building official);

F. Renovation, addition, or alteration of any commercial, industrial, institutional or multifamily building structure that is less than 1,000 square feet;

G. Abandonment of in-ground pools; and

H. Installation of prefabricated structures and equipment where the community development department determines that combined weight of construction disposal does not exceed two pounds per square foot of building area may be deemed to meet the minimum percent diversion requirement set forth in BMC [15.25.070](#), Construction waste diversion requirement.

15.25.070 Construction waste diversion requirement.

Sixty-five percent of nonhazardous construction and demolition debris and 100 percent of excavated soil and noninfectious land clearing debris generated from every applicable construction, renovation, or demolition project shall be diverted from going to landfills by using recycling, reuse and diversion programs. Reports will be required for verification of such activities. Acceptable diversion methods are:

A. Taking all mixed or segregated construction and demolition debris to an approved facility, which meets the diversion requirements of this chapter on every load. Other such mixed facilities may be utilized if they are city-approved; or

B. Utilizing a waste management company that can provide verifiable documentation that the percentage of construction and demolition waste material diverted from the landfill complies with this chapter; or

C. Source separating designated materials, such as cardboard, wood, metals, green waste, wallboard, tile, concrete, and other easily recycled materials, and directing them to recycling facilities, approved by the city, and taking the remainder (but no more than 45 percent by weight or yardage) to a landfill for disposal.

15.25.080 Documentation requirements.

The following plan will need to be submitted and approved prior to issuance of a permit:

A. Every contractor shall submit a properly completed waste management plan on a form prescribed by the city, as a requirement of the construction and demolition permit process. The plan can cover multiple building permits for lots where construction activity is occurring at the same time by the same applicant. Separate plans must be submitted for each batch of building permits requested. The waste management plan shall identify the materials to be recycled or reused and/or disposed of and shall list facilities and providers to be used. An administrative fee for each requested permit and, if applicable, a corresponding deposit must be submitted with the waste management form.

B. Notwithstanding any other provisions of this title, no construction or demolition permit shall be issued for any project as defined in BMC [15.25.040](#), Applicable projects, unless and until the community development department has approved the waste management plan. The community development department shall only approve a waste management plan if he or she determines that it contains all the information set forth in subsection (A) of this section. If the community development department determines that all the above conditions have been met,

he or she shall mark the waste management plan "Approved," return a copy of the plan to the applicant and notify the building division that it has been approved.

C. If the community development department determines that the waste management plan is incomplete, they shall return it to the applicant marked "Denied" or "Further Explanation Required." The applicant must then submit additional information before the waste management plan can be reviewed again and the construction or demolition permit issued. The applicant may resubmit the waste management plan within 180 calendar days of permit application without forfeiting the administrative fee.

D. The following reports will need to be submitted and approved prior to issuance of final or certificate of occupancy:

1. Final report with all waste, recycling, donation, and salvage receipts due no later than 30 days following the completion of a construction or demolition project. The contractor shall, as a condition of final approval and for issuance of any certificate of occupancy, submit a final waste management report to the community development department that demonstrates compliance with the requirements of this chapter.
2. The documentation shall consist of photocopies of receipts and weight tags or other records of measurement or equivalent documentation from recycling companies, deconstruction contractors, and landfill and disposal companies.
3. The contractor's approved diversion report shall be completed by recording and confirming the type of debris diverted and the facilities to which it was taken. Receipts from vendors or facilities shall clearly state the project title and date. If the receipt provides information for multiple projects, the project titles and the amounts of materials for each project must be clearly identified. The contractor shall sign the completed waste management report to certify its accuracy as part of the documentation of compliance.
4. All documentation submitted pursuant to this section is subject to verification by the community development department.
5. It is unlawful for any person to submit documentation to the community development department under this section which that person knows to contain any false statements, including but not limited to false statements regarding tonnage of materials recycled or diverted, or to submit any false or fraudulent receipt or weight tag or other record of measurement.

15.25.090 Model Water Efficient Landscaping Ordinance (MWELO).

Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the jurisdiction, who are constructing a new (single-family, multifamily, public, institutional, or commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total

landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELo, including sections related to use of compost and mulch as delineated in this section.

A. The following compost and mulch use requirements that are part of the MWELo are now also included as requirements of this chapter. Other requirements of the MWELo are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.

B. Property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in subsection (A) of this section shall:

1. Comply with Sections 492.6(a)(3)(B), (C), (D) and (G) of the MWELo, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section.

C. Persons applying for a permit from the jurisdiction for new construction and building additions and alternations shall comply with the requirements of this section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen.

D. Where five or more multifamily dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of blue container and green container materials, consistent with the three, three-plus, or two-container collection program offered by the jurisdiction, or comply with provision of adequate space for recycling for multifamily and commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11.

E. For landscape installations, compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six inches into the soil. Soils with greater than six percent organic matter in the top six inches of soil are exempt from adding compost and tilling.

F. For landscape installations, a minimum three-inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

G. Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

H. The MWELo compliance items listed in this section are not an inclusive list of MWELo requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in subsection (A) of this section shall consult the full MWELo for all requirements.

I. If, after the adoption of this chapter, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELo September 15, 2015, requirements in a manner that requires jurisdictions to incorporate the requirements of an updated MWELo in a local ordinance, and the amended requirements include provisions more stringent than those required in this section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

15.25.100 Penalties.

For projects determined noncompliant by the community development department, a penalty of \$1,000 or one percent of the project valuation, whichever is less, will be assessed to all construction and demolition projects. For projects determined to have a "good faith effort," the community development department has the discretion to reduce the minimum penalty by 50 percent for first-time offenders and 25 percent for second-time offenders. Repeat offenders, three violations or more, shall be charged the full penalty amount for noncompliant projects. Final approvals and a certificate of occupancy will not be issued until the appropriate penalty has been paid in full as described in this section and all penalties shall be nonrefundable.

A. The following factors shall be used to determine good faith effort:

1. The nature, circumstances, and severity of the violation(s).
2. The violator's ability to pay.
3. The willfulness of the violator's misconduct.
4. Whether the violator took measures to avoid or mitigate violations of this chapter.
5. Evidence of any economic benefit resulting from the violation(s).
6. The deterrent effect of the penalty on the violator.
7. Whether the violation(s) were due to conditions outside the control of the violator.

B. Compliance Deadline Extension Considerations.

1. Benicia may extend the compliance deadlines set forth in a notice of violation issued in accordance with this section if it finds that there are extenuating circumstances beyond

the control of the respondent that make compliance within the deadlines impracticable, including the following:

- a. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- b. Delays in obtaining discretionary permits or other government agency approvals.

15.25.110 Inspections and investigations.

City of Benicia representatives, its designated entity, and/or designee are authorized to conduct any inspections or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. Any records obtained by a jurisdiction during its inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act (PRA) as set forth in Government Code Section [6250](#) et seq.

15.25.120 Appeals.

Any person wishing to appeal a decision made under this chapter or an administrative citation containing a penalty for an uncorrected violation may submit a written appeal to the building appeals board, provided the appeal is made in writing and filed with the building official in accordance with Chapter [1.44](#) BMC, and that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

15.25.130 Effective date.

The ordinance codified in this chapter shall be effective commencing on February 3, 2022.

Chapter 15.27 Commercial Construction Time Limits

Sections:

- 15.27.010 Definitions.**
- 15.27.020 Application.**
- 15.27.030 Time limit guidelines.**
- 15.27.040 Extension of commercial construction time limits.**
- 15.27.050 Commercial construction time limit penalties.**
- 15.27.060 Administration and enforcement.**
- 15.27.070 Appeal of commercial construction time limits and penalties.**

15.27.010 Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

“Building Official” shall mean the Chief Building Official, or their designee.

“Commercial uses” shall mean those uses described as “commercial uses” in the schedule set forth in BMC [17.28.020](#).

“Construction” shall mean any work, including but not limited to additions, alterations, modifications, repairs, improvements, rehabilitation, and/or demolitions for which a building permit is required.

15.27.020 Application.

A. This chapter shall apply to the construction of structures and buildings that accommodate commercial uses.

B. In addition to all new construction, this chapter shall also apply to existing construction which has not been deemed complete pursuant to this section as of the effective date of the ordinance codified in this chapter. For purposes of calculating time limits for such existing construction, the time limits set forth in this section shall commence 60 days following the effective date of the ordinance codified in this chapter.

15.27.030 Time limit guidelines.

A. Except where a longer time period is approved pursuant to section [15.27.040](#), the maximum time for completion of construction following issuance of the building permit, shall not exceed the following:

Table No. 15.27.030:

**Commercial Construction
Time Limits Based upon**

Demonstrable Estimated Project Value

Estimated Value of Project (\$)	Construction Time Limits (months)
\$0 to \$100,000	12 months
\$100,001 to \$500,000	18 months
Greater than \$500,000	24 months

B. Building permit applicants must submit documents supporting the estimated value of the project to the building safety division of the Benicia community development department. Applicants shall submit all information requested by the building official to support the estimated value of the project for materials and labor. The time for completion of the project shall be indicated on the building permit.

C. For the purposes of this chapter, construction shall be deemed complete upon the satisfactory performance of all construction, including, but not limited to, compliance with all conditions of application approval, the clearing and cleaning of all construction-related materials and debris from the site, final inspection, and, where applicable, issuance of certificate of occupancy.

15.27.040 Extension of commercial construction time limits.

A. The owner or owners authorized agent may request in writing, showing reasonable cause, a construction time limit extension upon or after the issuance of a building permit and prior to the expiration of the applicable construction time limit. Applicants are encouraged to avoid alterations to an exterior of a structure unless materials have arrived on site.

B. The Building Official has the authority to grant, conditionally grant, or deny a time limit extension request upon issuance of the building permit based on the reasonable anticipation of one or more of the factors in section 15.27.070.E.

C. The Building Official has the authority to grant, conditionally grant, or deny a time limit extension request made after the issuance of a building permit but before the expiration of the applicable construction time limit based on one or more of the factors in section 15.29.070.E. The building safety division shall review the extension request within 20 working days of receiving a written request and fee as established by city council resolution for an extension of commercial construction time limit.

D. Projects may request one or more extensions, but at no time exceed the following time limits: Projects with an initial 12-month construction time limit may receive a maximum six-month extension. Projects with an initial 18-month construction time limit may receive a maximum 12-month extension. Projects with an initial 24-month construction time limit may receive a maximum 18-month extension. Additional time maybe granted by the building official on a case-by -case basis when the cause of delay does not affect the exterior of a structure or completion of exterior construction, or where no exterior finishes or site conditions have been disturbed.

E. Construction Time Limit Extension Factors. Requests for construction time limit extensions shall be determined based on one or more of the following factors:

1. Site topography;
2. Site access;
3. Geological issues;
4. Neighborhood considerations;

5. Extreme weather events;
6. Unanticipated discovery of archeological resources;
7. Other conditions that could not have been reasonably anticipated at the time of project application and deemed to be an extenuating circumstance.

15.27.050 Commercial construction time limit penalties.

A. Upon failure of the applicant to complete construction by the established time limit, including any time limit extensions, a compliance order will be issued by the city enforcement officer setting a deadline of 30 days from the date of such order within which time the applicant shall be required to complete the construction, and advising the applicant that the following penalties may be imposed if the applicant fails to comply with said order:

1. For the initial 60 days that the project remains incomplete beyond the compliance order deadline: a penalty of \$600.00 per day for every day the violation exists;
2. For the next 60 days (i.e., the sixty-first through the one hundred twentieth day) beyond the compliance order deadline during which the project remains incomplete: an additional penalty of \$900.00 per day for every day the violation exists; and
3. For any additional days (i.e., the one hundred twenty-first and subsequent days) beyond the compliance order deadline during which the project remains incomplete: an additional penalty of \$1,000 per day for every day the violation exists.

B. The applicant shall be notified in writing of the amount of any penalty imposed pursuant to this section. The notice shall be given to the owner in person or by regular, first-class mail, postage prepaid, to the owner or owner's agent's address as it appears on the building permit or in city / county records. 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 city's enforcement officer shall post a copy of the notice in a conspicuous place upon the property. Penalties imposed pursuant to this section shall be paid within 60 calendar days of the date of the notice of penalty.

15.27.060 Administration and enforcement.

A. Upon failure of a property owner to complete construction by the time limits established by this chapter, the Building Official may suspend the building permit, stop work at the site for such construction and require submission of the penalties provided by Section [15.27.050](#). Upon submission of the penalties by the property owner, the Building Official shall declare the suspension of the building permit terminated and the property owner may recommence work under the permit in accordance with its terms.

B. The building official may impose additional conditions on the building permit following suspension to mitigate any adverse impacts on the surrounding area due to the continued construction. However, if standards of the building code are amended while a building permit is suspended, those amended standards shall not apply to the suspended building permit and instead, following termination of the suspension, the building code standards which were in place at the time

the building permit was pulled shall continue to apply unless deemed by the Building Official to be a life safety issue to the structure or occupants.

C. It is declared that any violation of the provisions of this chapter, including but not limited to a failure to complete construction by the time limits established by this chapter, shall, in addition to any other remedy or penalties, constitute a public nuisance, and such nuisance may be abated as provided by law.

15.27.070 Appeal of commercial construction time limits and penalties.

A. The Building Official's decision to grant, conditionally grant, or deny a time limit extension pursuant to this chapter may be appealed in accordance with Chapter [1.44](#) BMC.

B. A suspension of a building permit imposed pursuant to this chapter may be appealed in accordance with Chapter [1.44](#) BMC.

C. A penalty imposed pursuant to this chapter may be appealed in accordance with Chapter [1.44](#) BMC.

D. Appeals pursuant to this section shall be heard by the zoning administrator at a notice public hearing which shall provide a written determination affirming, denying, or modifying the Building Official's denial of an application to extend time limits, suspension of a building permit and/or imposition of a commercial construction time limit penalty. Specifically, the zoning administrator may affirm, modify, reduce, or vacate the Building Official's actions if based upon the following, but at no time waive or reduce the requirements of the California Building Codes.

1. Reasons beyond the control of the applicant, which may include but are not limited to, one or more of the following factors:

- a. Administrative appeals of the project filed by third parties;
- b. Extreme weather events;
- c. Unanticipated discovery of archeological resources;
- d. Labor stoppages;
- e. Acts of war or terrorism;
- f. Natural disasters.

2. Reasons beyond the control of the applicant which shall not include:

- a. Delays caused by normal weather events;
- b. Failure to adequately protect the job site from damage;
- c. Failure of subcontractors to complete work according to schedule;
- d. The use of custom and/or imported materials and/or highly specialized subcontractors, unless determined by the building official that historic preservation requirements or considerations have necessitated an extension of time limits

e. Significant, numerous, and/or late design changes unless determined by the building official that historic preservation requirements have resulted in additional design changes, including but not limited to design review;

f. Failure of materials suppliers to provide materials in a timely manner.

C. Any penalty finally imposed pursuant to this chapter shall constitute a lien on the applicant's property, to be imposed, recorded and satisfied as provided in BMC [8.04.200](#) and [8.04.220](#).

D. The provisions of this chapter are not the exclusive remedy for addressing violations of a construction time limit. In addition to penalties provided by this chapter, the city may pursue all other actions and remedies provided by law including but not limited to administrative citations, administrative code enforcement, nuisance abatement proceedings, and receivership.

Chapter 15.30 Gas Shut-Off Devices

Sections:

- 15.30.010 Definitions
- 15.30.020 Scope
- 15.30.030 Exceptions
- 15.30.040 General requirements

- 15.30.050 Enforcing agency

15.30.010 Definitions.

1. "Customer-owned gas piping" shall have the meaning set forth in Health and Safety Code section 19201(c) as it currently exists or may herein after be amended. As of the effective date of the ordinance adopting this chapter 15.30 "customer-owned gas piping" means all parts of the gas piping system downstream of the gas utility point of delivery, including, but not limited to, downstream of the gas utility meter and service tee (also known as a bypass tee).

2. "Downstream of gas utility meter" refers to all customer owned gas piping.

3. "Residential building" means any structure designed for residential occupancy including a single-family dwelling, access dwelling unit, duplex, multi-family dwelling, apartment

building, condominium building, townhouse building, lodging house, congregate residence, bed and breakfast, hotel, or motel.

4. "Seismic gas shut-off device" A system consisting of a seismic sensing means and actuating means designed to automatically actuate a companion gas shut-off means installed in a gas piping system to shut-off the gas downstream of the location of the gas shut-off means in the event of a severe seismic disturbance. The system may consist of separable components or may incorporate all functions in a single body. The device shall be certified by the State Architect and the operational and functional design of the device shall meet or exceed the device certified by the Office of the State Architect. The determination of whether the operational and functional design of the device is at least equal to the device certified by the State Architect may be made by one of the following: the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO), or other recognized listing and testing agency. Seismic gas shut-off shall have the meaning set forth in Health and Safety Code section 19201(a) as it currently exists or may herein after being amended. As of the effective date of the ordinance adopting this chapter 15.30 "seismic gas shut-off device" means a seismic gas shutoff device installed on customer-owned gas piping certified by the State Architect pursuant to Health and Safety Code Section 19202. Notwithstanding any other provision of law, "seismic gas shutoff device" does not include any device installed on a gas distribution system owned or operated by a public utility.

5. "Excess flow gas shut-off device" Those valves or devices that are not actuated by motion but are activated by significant gas leaks or over-pressure surges, which can occur when pipes rupture inside the structure. The design of the device shall provide a proven method to provide automatically for expedient and safe gas shut-off in an emergency. The design of the device shall provide a capability for ease of consumer or owner resetting in a safe manner. The device shall be certified by the State Architect, or the operational and functional design of the device shall meet or exceed the device certified by the Office of the State Architect. The determination of whether the operational and functional design of the device is at least equal to the device certified by the State Architect may be made by one of the following: the International Association of Plumbing and Mechanical Officials (IAPMO), the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), or other recognized listing and testing agency. Excess flow gas shut-off device shall have the meaning set forth in Health and Safety Code section 19201(b) as it currently exists or may herein after being amended. As of the effective date of the ordinance adopting this chapter 15.30 "excess flow gas shut-off device" means a gas shutoff device installed on customer-owned gas piping described in Health and Safety Code Section 19202(a)(2) as automatic gas shutoff devices that are not activated by motion, but are activated by significant gas leaks or overpressure surges, that has been certified by the State Architect pursuant to that Health and Safety Code section 19202. Notwithstanding any other provision of law, "excess flow gas shutoff device" shall not include any device installed on a gas distribution system owned or operated by a public utility.

6. "Upstream of gas utility meter" refers to all gas piping installed by the utility up to and including the meter and the utility's bypass tee at the connection to the customer owned piping.
7. "Gas shut-off device "means either a seismic gas shut-off device or excess flow gas shut-off device.

15.30.020 Scope.

An approved seismic gas-shut-off device (motion sensitive) or an approved excess flow gas shut-off device (non-motion sensitive) shall be installed downstream of the gas utility meter on each gas line where the gas line serves the following buildings:

1. Any new building construction (commercial, industrial, or residential) containing gas piping for which a building permit is first issued on or after the effective date of the ordinance adopting this chapter 15.30.
2. Any existing residential, commercial, or industrial building which is altered or added to and a building permit for the work is first issued on or after the effective date of the ordinance adopting this chapter 15.30 when:
 - a) Such building has gas piping supplying the existing building or the addition to the building; and
 - b) Where gas piping is involved in the alteration or addition and the valuation of materials and labor of such alteration or addition is more than \$5,000; or
 - c) Where gas piping is not involved in the alteration or addition, and the valuation of material and labor of such alteration or addition is more than \$60,000 for single-family dwellings and \$50,000 for all other buildings.
 - I. With respect to residential buildings, the requirements set forth in subsections A and B herein include alterations or additions to an individual condominium or apartment unit so that such alterations or additions shall require a gas shut-off device to be installed on individual gas meters for gas piping serving that condominium or apartment unit or where a single gas meter services the entire structure as set forth in subsections A and B herein.
 - II. With respect to commercial or industrial buildings, the requirements set forth in subsections A and B herein include alterations or additions to individual units or tenant spaces so that such alterations or additions shall require a gas shut-off device to be installed for all gas piping serving that commercial or industrial space or building when served by a single gas meter.

15.30.030 Exceptions.

1. A gas-shut-off device is not required to be installed downstream of the gas utility meter where a gas-shut-off device has been installed upstream of the gas utility meter and downstream of the meter service regulator and such installation is in accordance with this chapter and with the manufacturer's specifications.
2. Gas-shut-off devices installed on a building prior to the effective date of the ordinance codified in this chapter are exempt from the requirements of this section provided they remain installed on the building or structure and are maintained. Future work meeting the requirements of section 15.30.020 Scope will require all existing devices to comply with this ordinance.
3. Gas-shut-off devices installed on a gas distribution system owned or operated by a public utility shall not be subject to the requirements of this chapter.
4. The Building Official may waive any of the provisions of this chapter upon application in writing by the owner, lessee, or duly authorized representative of the property owner where there are unique circumstances or hazards created by carrying out this chapter, provided that other measures are implemented as required by the building official to protect public safety.
5. This chapter shall not apply to mechanical or processing equipment or facilities where the disruption of the gas distribution system would have an adverse effect on the public safety.
6. This chapter shall not apply to gas shutoff devices installed within gas lines (see California Health & Safety Code Section 19204).

15.30.040 General requirements.

Gas shut-off devices installed either in compliance with this chapter or voluntarily, with a building permit issued on or after the effective date of this section, shall comply with all the following requirements:

1. Be installed by a contractor licensed in the appropriate classification by the State of California and in accordance with the manufacturer's instructions.
2. Seismic gas shut-off devices (motion sensitive) must be mounted rigidly to the exterior of the building or structure containing the gas piping. This requirement need not apply if the Building Safety Division determines that the seismic gas shut-off device (motion sensitive) has been tested and listed for an alternate method of installation.
3. Seismic gas shut-off devices (motion sensitive) must be certified by the State Architect and be listed by an approved listing and testing agency such as International Association of Plumbing

and Mechanical Officials (IAPMO), International Approval Services (IAS), Underwriters' Laboratories (UL), or the Office of the State Architect.

4. Excess flow gas shut-off devices (non-motion sensitive) must be certified by the State Architect or be listed by an approved listing and testing agency such as IAPMO, IAS, UL, or the Office of the State Architect.

5. Where gas shut-off devices are installed voluntarily or as required by this chapter, they shall be maintained for the life of the building or structure or be replaced with a valve or device complying with the requirements of this chapter.

Chapter 15.33 Notice of Building Occupancy Prohibitions

Sections:

- 15.33.010 Intent.
- 15.33.020 Application.
- 15.33.030 Definitions.
- 15.33.040 Posted notifications.
- 15.33.050 Unlawful to remove notification.

15.33.010 Intent.

This chapter establishes the notification process used to indicate the condition of a structure for continued occupancy. The chapter further authorizes the chief Building Official and their authorized representative to post the appropriate notice or placard at each entry point to a building or structure upon completion of a safety assessment. Buildings or structures may become unsafe for occupancy due to a large-scale natural event, a single accident, dilapidated property maintenance, or for any of the factors set forth in the building code which make a property uninhabitable, and which may cause harm or jeopardize the safety of the occupant.

- **15.33.020 Application.**

The provisions of this chapter are applicable to all buildings and structures of all occupancies regulated by the city of Benicia. The city council may extend the provisions as necessary.

15.33.030 Definitions.

“Safety assessment” means a visual, nondestructive examination of a building or structure for the purpose of determining the condition for continued occupancy.

15.33.040 Posted notifications.

The following is a description of the notifications or placards used by the Building Official to designate the condition for allowed occupancy of buildings or structures:

A. “Inspected/Lawful Occupancy Permitted” is to be posted on any building or structure where no apparent structural hazard has been found. The notification is not intended to mean that there is no damage to the building or structure, but that it is safe to occupy.

B. “Yellow Tag/Restricted Use” is to be posted on each building or structure that has been determined to be unsafe or uninhabitable to the extent there is a restriction on continued occupancy. The notification shall note the reasons for the restrictions on continued occupancy and what type of occupancy will be allowed.

C. “Red Tag/Unsafe/Do Not Enter or Occupy” is to be posted on each building or structure that has been damaged or has become uninhabitable such that continued occupancy poses a threat to life safety. Buildings or structures posted with this notification shall not be entered under any circumstance except as authorized in writing by the Building Official, or their authorized representative. Safety assessment teams shall be authorized to enter these buildings with permission from the Building Official. This notification is not to be used or considered as a demolition order. The notification shall note the reasons for the complete restriction on any occupancy.

D. All notifications should cite this section and provide contact information for the appropriate city staff person.

15.33.050 Unlawful to remove notification.

Once a notification has been attached to a building or structure, it shall not be removed, altered or covered until done so by an authorized representative of the chief building official. It shall be unlawful for any person, firm or corporation to alter, cover or deface a notification posted pursuant to this chapter.

Chapter 15.35 Streamlined Permitting for Residential Rooftop Solar

Sections:

- 15.35.010 Definitions.
- 15.35.020 Purpose.
- 15.35.030 Applicability.
- 15.35.040 Solar energy system requirements.

15.35.050 Duties of the building division and building official.

15.35.060 Permit review and inspection requirements.

15.35.010 Definitions.

For the purpose of this chapter, the following words and phrases shall be construed as hereafter set out, unless it shall be apparent from the context that they have a different meaning:

“Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

“Common interest development” means any of the following:

1. A community apartment project.
2. A condominium project.
3. A planned development.
4. A stock cooperative.

“Electronic submittal” means the utilization of one or more of the following:

1. Email;
2. The internet;
3. Facsimile.

“Reasonable restrictions” on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

“Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance” means:

1. For water heater systems or solar swimming pool heating systems: an amount exceeding 10 percent of the cost of the system, but in no case more than \$1,000, or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified, and proposed.

2. For photovoltaic systems: an amount not to exceed \$1,000 over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

“Small residential rooftop solar energy system” means all of the following:

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the city, and all state and city health and safety standards.

“Solar energy system” means any of the following:

1. Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
2. Any structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.
3. A solar energy system that is installed on a single or duplex family dwelling.
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the city.

“Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

15.35.020 Purpose.

The purpose of this chapter is to adopt an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This chapter encourages the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the city, and expanding the ability of property owners to install solar energy systems. This chapter allows the city to achieve these goals while protecting the public health and safety.

15.35.030 Applicability.

A. This chapter applies to the permitting of all small residential rooftop solar energy systems in the city.

B. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this chapter are not subject to the requirements of this chapter unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

15.35.040 Solar energy system requirements.

A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the city including the Benicia fire department.

B. Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Codes.

C. Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

D. All solar energy systems shall meet all the eligibility requirements of the adopted checklist to qualify for the expedited plan review process.

15.35.050 Duties of the Building Safety Division and Building Official.

A. All documents required for the submission of an expedited solar energy system application shall be made available on the publicly accessible city of Benicia website.

B. Electronic submittal of the required permit application and documents by email, the internet, or facsimile shall be made available to all small residential rooftop solar energy system permit applicants.

C. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

D. The building division shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review.

E. The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the

checklist and standard plans contained in the most current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research.

F. All fees prescribed for the permitting of small residential rooftop solar energy system must comply with Government Code Sections [65850.55](#), [66015](#), and [66016](#), and State Health and Safety Code Section [17951](#) and are adopted by resolution.

15.35.060 Permit review and inspection requirements.

A. The building safety division shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within 30 days of the adoption of this chapter. The building division shall issue a building permit or other nondiscretionary permit (the same day for over-the-counter applications or within one to three business days for electronic applications) of receipt of a complete application and meets the requirements of the approved checklist and standard plan. A building official may require an applicant to apply for a use permit if the official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the planning commission.

B. Review of the application shall be limited to the building official's review of whether the application meets local, state, and federal health and safety requirements.

C. If a use permit is required, a building official may deny an application for the use permit if the official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the planning commission.

D. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

E. "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the city on another similarly situated application in a prior successful application for a permit. The city shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section [714](#) of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

F. The city shall not condition approval of an application on the approval of an association, as defined in Section [4080](#) of the Civil Code.

G. If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

H. Only one inspection shall be required and performed by the building division for small residential rooftop solar energy systems eligible for expedited review.

I. The inspection shall be done in a timely manner. An inspection will be scheduled within two business days of a request and provide a four-hour inspection window.

J. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this chapter.

Chapter 15.40 Streamlined Permitting for (EV) Electric Vehicle Charging Stations

Sections:

- 15.40.010 Definitions.
- 15.40.020 Purpose.
- 15.40.030 Streamlined permitting process.
- 15.40.040 Permit application processing.
- 15.40.050 Technical review.
- 15.40.060 Electric vehicle charging station installation requirements.

15.40.010 Definitions.

A. "Electric vehicle charging station" or "charging station" means any level of electric vehicle supply equipment station that is designed and built-in compliance with Article 625 of the California Electrical Code, as it reads on the effective date of this chapter, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

B. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

C. "Electronic submittal" means the utilization of one or more of the following:

1. Electronic mail or email.
2. The internet.
3. Facsimile.

15.40.020 Purpose.

The purpose of this chapter is to promote and encourage the use of electric vehicles by creating an expedited, streamlined permitting process for electric vehicle charging stations while promoting public health and safety and preventing specific adverse impacts in the installation and use of such charging stations. This chapter is also purposed to comply with California Government Code Section [65850.7](#). (Ord. 19-14 § 2).

15.40.030 Streamlined permitting process.

Consistent with Government Code Section [65850.7](#), the building official shall implement an expedited, streamlined permitting process for electric vehicle charging stations, and adopt a checklist of all requirements with which electric vehicle charging stations shall comply in order to be eligible for expedited review. The expedited, streamlined permitting process and checklist may refer to the recommendations contained in the most current version of the “Plug-In Electric Vehicle Infrastructure Permitting Checklist” of the “Zero-Emission Vehicles in California: Community Readiness Guidebook” as published by the Governor’s Office of Planning and Research. The city’s adopted checklist shall be published on the city’s website.

15.40.040 Permit application processing.

A. Prior to submitting an application for processing, the applicant shall verify that the installation of an electric vehicle charging station will not have a specific, adverse impact to public health and safety and building occupants. Verification by the applicant includes but is not limited to: electrical system capacity and loads; electrical system wiring, bonding and overcurrent protection; building infrastructure affected by charging station equipment and associated conduits; areas of charging station equipment and vehicle parking.

B. A permit application that satisfies the information requirements in the city’s adopted checklist shall be deemed complete and be promptly processed. Upon confirmation by the building official that the permit application and supporting documents meet the requirements of the city’s adopted checklist, and are consistent with all applicable laws and health and safety standards, the building official shall, consistent with Government Code Section [65850.7](#), approve the application and issue all necessary permits. Such approval does not authorize an applicant to energize or utilize the electric vehicle charging station until approval is granted by the city. If the building official determines that the permit application is incomplete, he or she shall issue a written correction notice to the applicant, detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

C. Consistent with Government Code Section [65850.7](#), the building official shall allow for electronic submittal of permit applications covered by this chapter and associated supporting documentations.

15.40.050 Technical review.

A. It is the intent of this chapter to encourage the installation of electric vehicle charging stations by removing obstacles to permitting for charging stations so long as the action does not supersede the building official's authority to address higher priority life-safety situations. If the building official makes a finding based on substantial evidence that the electric vehicle charging station could have a specific adverse impact upon the public health or safety, as defined in this chapter, the city may require the applicant to apply for a use permit.

B. In the technical review of a charging station, consistent with Government Code Section [65850.7](#), the building official shall not condition the approval for any electric vehicle charging station permit on the approval of such a system by an association, as that term is defined by Civil Code Section [4080](#).

15.40.060 Electric vehicle charging station installation requirements.

A. Electric vehicle charging station equipment shall meet the requirements of the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories, and rules of the Public Utilities Commission or a municipal electric utility company regarding safety and reliability.

B. Installation of electric vehicle charging stations and associated wiring, bonding, disconnecting means and overcurrent protective devices shall meet the requirements of Article 625 and all applicable provisions of the California Electrical Code.

C. Installation of electric vehicle charging stations shall be incorporated into the load calculations of all new or existing electrical services and shall meet the requirements of the California Electrical Code. Electric vehicle charging equipment shall be considered a continuous load.

D. Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code as applicable per occupancy, and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.

Division II Flood Damaged Provisions

Chapter 15.47 General Flood Provisions

Sections:

- 15.47.010 Statutory authorization.
- 15.47.020 Findings of fact.
- 15.47.030 Statement of purpose.
- 15.47.050 Definitions.
- 15.47.060 Lands to which this division applies.
- 15.47.070 Basis for establishing the areas of special flood hazard.
- 15.47.080 Compliance.
- 15.47.090 Abrogation and greater restrictions.
- 15.47.100 Interpretation.
- 15.47.110 Warning and disclaimer of liability.

15.47.010 Statutory authorization.

The Legislature of the state of California has in Government Code Sections [65302](#), [65560](#), and [65800](#) conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of the city of Benicia adopted this Division II.

15.47.020 Findings of fact.

A. The flood hazard areas of the city of Benicia are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by structures that are inadequately elevated, floodproofed, or protected from flood damage. In addition, the cumulative effect of structures in areas of special flood hazards increases flood heights and velocities and contributes to flood losses.

15.47.030 Statement of purpose.

It is the purpose of this division to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood-prone, mudslide (i.e., mudflow) or flood-related erosion areas. These regulations are designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

15.47.050 Definitions.

Unless specifically defined in this section, words or phrases used in this division shall be interpreted so as to give them the meaning they have in common usage and to give this division its most reasonable application.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this division or a request for a variance.

“Area of shallow flooding” means a designated A, AH or V Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet where a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

Area of Special Flood Hazard. See “Special flood hazard area (SFHA).”

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also called the “100-year flood”).

“Basement” means any area of a building having its floor subgrade (below ground level) on all sides.

“Breakaway walls” are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any building to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

“Coastal high hazard area” is the area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1 – V30, VE or V.

“Development” means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision which was constructed before May 31, 1977.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots including the installation of utilities, the construction of streets, and final site grading and pouring of concrete pads.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of floodwaters, (b) the unusual and rapid accumulation or runoff of surface waters from any source, and/or (c) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

“Flood Boundary and Floodway Map (FBFM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

“Floodplain” or “flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

“Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

“Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “regulatory floodway.”

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” for floodplain management purposes means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
3. Individually listed on the California Register of Historic Resources.
4. Individually listed on the local inventory of historic places.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided it conforms to applicable non-elevation design requirements, including, but not limited to:

1. The flood openings standard in BMC [15.51.010\(C\)\(3\)](#).
2. The anchoring standards in BMC [15.51.010\(A\)](#).
3. The construction materials and methods standards in BMC [15.51.010](#).
4. The standards for utilities in BMC 15.51.20

For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements. This prohibition includes below-grade garages and storage areas.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“New construction” means, for floodplain management purposes, structures for which the “start of construction” commenced on or after May 31, 1977 and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision which was completed on or after May 31, 1977.

“One-hundred-year flood” or “100-year flood” means a flood which has a one percent annual probability of being equaled or exceeded. It is identical to the “base flood,” which will be the term used throughout this division.

“Person” means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Remedy a violation” means to bring a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damage, implementing the enforcement provisions of this division or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Sand dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Special flood hazard area (SFHA)” means an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AE, AH, AO, A99, V or VE.

“Start of construction” includes substantial improvement and other proposed new development, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of

accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed value of the structure before the damage occurred.

Substantial Improvement.

1. “Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred.

2. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

“Variance” means a grant of relief from the requirements of this division which permits construction in a manner that would otherwise be prohibited by this division.

“Violation” means the failure of a structure or other development to fully comply with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this division is presumed to be in violation until such time as that documentation is provided.

15.47.060 Lands to which this division applies.

This division shall apply to all areas of special flood hazard, within the jurisdiction of the city.

15.47.070 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency or the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for the City of Benicia" dated August 3, 2016, with an accompanying Flood Insurance Rate Map (FIRM), and all subsequent amendments and/or revisions are hereby adopted by reference and declared to be a part hereof. This Flood Insurance Study is on file at 250 East L Street, Benicia, California. This Flood Insurance Study is the minimum area of applicability of this division and may be supplemented by studies for other areas which allow implementation of this division and which are recommended to the city council by the floodplain administrator.

15.47.080 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this division and other applicable regulations. Violations of the provisions of this division by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy a violation.

15.47.090 Abrogation and greater restrictions.

This division is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this division and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.47.100 Interpretation.

In the interpretation and application of this division, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor to repeal any other powers granted under state statutes.

15.47.110 Warning and disclaimer of liability.

The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This

division does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This division shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this division, or any administrative decision lawfully made hereunder.

Chapter 15.49 Administration

Sections:

- 15.49.010 Establishment of development permit.**
- 15.49.012 Fees established.**
- 15.49.020 Designation of the floodplain administrator.**
- 15.49.030 Duties and responsibilities of the floodplain administrator.**

15.49.010 Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in BMC [15.47.070](#). Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO or VO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures;
- B. Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
- C. All appropriate certifications listed in BMC [15.49.030\(D\)](#); and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

15.49.012 Fees established.

Fees for complying with this chapter will be set by city council resolution.

15.49.020 Designation of the floodplain administrator.

The Building Official or their designee is hereby designated as the floodplain administrator and is appointed to administer and implement this division by granting and denying development permits in accordance with its provisions.

15.49.030 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the floodplain administrator shall include, but not be limited to:

A. Review of all development permits to determine:

1. That the permit requirements of this division have been satisfied;
2. That all other required state and federal permits have been obtained;
3. That the site is reasonably safe from flooding; and
4. That the proposed development does not adversely affect the carrying capacity of the floodway. For purposes of this division, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and reasonably probable future development will increase the water surface elevation of the base flood more than one foot at any point;

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with BMC [15.47.070](#), the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Chapter [15.47](#) BMC. Any such information shall be submitted to the city council for adoption;

C. Notification of Other Agencies.

1. Whenever a watercourse is to be altered or relocated:

- a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
- b. Submit evidence of such notification to the Federal Emergency Management Agency; and
- c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

2. Base flood elevation changes due to physical alterations:

- a. All LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction"

definition. Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

b. Within six months of information becoming available or project completion, whichever comes first, the floodplain administrator shall assure that the permit applicant submits technical or scientific data to FEMA for a letter of map revision (LOMR).

3. Changes in Corporate Boundaries. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits;

D. Obtaining and maintaining for public inspection the following information, as needed:

1. The certification required in BMC [15.51.010\(C\)\(1\)](#),
2. The certification required in BMC [15.51.010\(C\)\(2\)](#),
3. The certification required in BMC [15.51.010\(C\)\(3\)](#),
4. The certification required in BMC [15.51.010\(C\)\(4\)\(a\)](#) or (b),
5. The certified elevation required in BMC [15.51.030\(B\)](#),
6. The certification required in BMC [15.51.050\(A\)](#), and
7. The information required in BMC [15.51.060\(F\)](#);

E. Interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions); and

F. Taking action to remedy violations of this division as specified in BMC [15.47.080](#).

Chapter 15.51 Provisions for Flood Hazard Reduction

Sections:

- 15.51.010 Standards of construction.**
- 15.51.020 Standards for utilities.**
- 15.51.030 Standards for subdivisions.**
- 15.51.040 Standards for manufactured homes.**
- 15.51.045 Standards for recreational vehicles.**
- 15.51.050 Floodways.**

15.51.060 Coastal high hazard areas.**15.51.010 Standards of construction.**

In all areas of special flood hazard, all new construction and substantial improvements shall (A) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (B) be constructed with materials resistant to flood damage, (C) be constructed by methods and practices that minimize flood damages, and (D) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. The following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All manufactured homes shall meet the anchoring standards of BMC [15.48.040](#).

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. All new construction and substantial improvements within zones AH, AO or VO shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

C. Elevation and Floodproofing.

1. Residential Construction. All new construction or substantial improvements of residential structures shall have the lowest floor (including basement):
 - a. In AE, AH, A1-30 zones, elevated to or above the base flood elevation.

- b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.
- c. In an A zone, without BFEs specified on the FIRM (unnumbered A zone), elevated to or above the base flood elevation; as determined under BMC [15.44.030\(B\)](#).

For all of this subsection (C)(1): upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or registered land surveyor, and verified in the field. Certification and verification shall be provided to the floodplain administrator.

2. Nonresidential Construction. All new construction or substantial improvements of nonresidential structures shall have an elevation that conforms to this subsection (C) or:

- a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation required by this subsection (C), so that the structure is watertight with walls substantially impermeable to the passage of water; and
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered civil engineer or architect that the standards of subsections (C)(2)(a) and (2)(b) of this section are satisfied. Such certifications shall be provided to the floodplain administrator.

3. Flood Openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for this requirement shall meet the following minimum criteria:

- a. For nonengineered openings: shall have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; and
- b. Be certified by a registered civil engineer or architect.

4. Manufactured homes shall also meet the standards in BMC [15.48.040](#).

15.51.020 Standards for utilities.

A. All new and replacement water supply and sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.

B. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.

15.51.030 Standards for subdivisions.

A. All preliminary subdivision proposals shall identify the flood hazard areas and the elevation of the base flood. In addition, all new subdivision proposals, and other proposed development, greater than 50 lots or five acres, whichever is lesser, shall provide a hydrologic and hydraulic study in areas without a base flood elevation (BFE).

B. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.

C. All subdivision proposals shall be consistent with the need to minimize flood damage.

D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

15.51.040 Standards for manufactured homes.

A. All manufactured homes that are placed or substantially improved on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

1. Within zones A1-30, AH and AE on the city's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the BFE and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Within zones V1-30, V, and VE on the city's Flood Insurance Rate Map, meet the requirements of BMC [15.48.060](#).

B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision with zones A1-30, AH, AE, V1-30, V and VE on the city's

Flood Insurance Rate Map that are not subject to the provisions of subsection (A) of this section will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

1. Lowest floor of the manufactured home is at or above the BFE; or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the placement of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or registered land surveyor and verified in the field. Such certification and verification shall be provided to the floodplain administrator.

15.51.045 Standards for recreational vehicles.

A. All recreational vehicles placed in zones A1-30, AH, AE, VI-30 and VE will either:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the permit requirements of BMC [15.44.010](#) and the elevation and anchoring requirements for manufactured homes in BMC [15.48.040](#).

B. Recreational vehicles placed on sites within zones V1-30, V, and VE on the city's Flood Insurance Rate Map will meet the requirements of subsection (A) of this section and BMC [15.48.060](#).

15.51.050 Floodways.

Located within areas of special flood hazard established in BMC [15.40.070](#) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of

floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. All encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the floodway unless certification by a registered civil engineer or architect is provided demonstrating that the cumulative effect of the proposed development encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this chapter.

15.51.060 Coastal high hazard areas.

Within coastal high hazard areas established in BMC [15.40.070](#), the following standards shall apply:

A. All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation.

B. All new construction shall be located on the landward side of the reach of mean high tide.

C. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation.

D. Fill shall not be used for structural support of buildings.

E. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.

F. The floodplain administrator shall obtain and maintain the following records:

1. Certification by a registered engineer or architect that a proposed structure complies with subsection (A) of this section;
2. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

Chapter 15.53 Variances

Sections:

15.53.010 Variance – General.

15.53.010 Variance – General.

A. The building department board of appeals shall hear and decide requests for variances from the requirements of this division.

B. In passing upon an application for a variance, the building department board of appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this division, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in time of flooding for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

C. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level; provided, subsections (B)(1) through (B)(11) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

D. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

E. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use; provided, that the provisions of BMC [15.44.030](#)(A) through (D) are satisfied and that the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

F. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

G. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances; and
4. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

H. Upon consideration of the factors of subsection (B) of this section and the purposes of this division, the building department board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this division.

I. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the floodplain board in the office of the Solano County recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

J. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

K. Decisions of the building department board of appeals may be appealed to the city council by any person adversely affected by such decision by filing a written notice of appeal in accordance with Chapter [1.44](#) BMC.

L. A decision of the building department board of appeals shall become final if not appealed pursuant to Chapter [15.56](#) BMC.

M. A variance shall expire if a building permit is not obtained within one year after the variance becomes final. The variance shall also expire if the structure is not completed by the time the building permit expires.

Chapter 15.55 Appeals

Sections:

15.55.010 Appeals to the building department board of appeals.

15.55.020 Appeals to the city council.

15.55.010 Appeals to the building department board of appeals.  **Is.**

Any interested person may appeal an alleged error in any requirement, decision or determination of the floodplain administrator hereunder to the building department board of appeals by filing a written notice of appeal, stating the grounds thereof, in accordance with Chapter [1.44](#) BMC.

15.55.020 Appeals to the city council.

Any interested person may appeal a decision made by the building department board of appeals to the city council by filing a written notice of appeal, stating the grounds thereof, in accordance with Chapter [1.44](#) BMC.

Chapter 15.60 Seismic Hazard Identification Program

Sections:

- 15.60.010 Purpose.
- 15.60.020 Definitions.
- 15.60.030 Scope of program – Applicability.
- 15.60.040 Building owner notification.
- 15.60.050 Responsibilities of the building owner.
- 15.60.060 Program status report to the city council.
- 15.60.070 Reporting to the State Seismic Safety Commission.
- 15.60.080 Violation.

15.60.010 Purpose.

It is found that in the event of a strong or moderate local earthquake, loss of life or serious injury may result from damage to or collapse of buildings in the city of Benicia. It is generally acknowledged that Benicia will experience earthquakes in the future due to its proximity to both the San Andreas and Hayward faults. The purpose of this chapter is to promote public safety by identifying potentially hazardous buildings in Benicia which are not earthquake resistant by reason of structural deficiencies. The city council finds that the existence and occupancy of potentially hazardous buildings constitute a threat to public safety in the event of earthquake of moderate to high magnitude. The city council finds that the public safety is served by identifying potentially hazardous buildings and providing for notification of legal owners and their tenants that the building is considered to be one of a general type that historically has exhibited little resistance to earthquake motion. Such a seismic hazards identification program is consistent with the State Unreinforced Masonry Law of 1986.

15.60.020 Definitions.

For the purposes of this chapter:

- A. "Bearing wall" means any wall supporting a floor or roof where the total superimposed load exceeds 100 pounds per linear foot, or any unreinforced masonry wall supporting its own weight when over six feet in height.
- B. "Civil engineer or structural engineer" means a licensed civil or structural engineer registered by the state of California pursuant to the rules and regulations of Title 16, Chapter 5 of the California Administrative Code.
- C. "Future occupant" means each successive building tenant who was not in possession at the time the building owner originally notified tenants as required by BMC [15.60.050](#), but who subsequently became a building tenant.
- D. "Potentially hazardous building" means any building constructed prior to the adoption of local building codes requiring earthquake resistant design of buildings and constructed of

unreinforced masonry wall construction. "Potentially hazardous building" includes all buildings of this type, including, but not limited to, public and private schools, theaters, places of public assembly, apartment buildings, hotels, motels, fire stations, police stations, and buildings housing emergency services, equipment, or supplies, such as government buildings, disaster relief centers, communications facilities, hospitals, blood banks, pharmaceutical supply warehouses, plants, and retail outlets. "Potentially hazardous building" does not include warehouses or similar structures not used for human habitation, except for warehouses or structures housing emergency services, equipment or supplies. "Potentially hazardous building" does not include any building having five living units or less. "Potentially hazardous building" does not include, for purposes of identification, any building which qualifies as "historical property" as determined by an appropriate governmental agency under Section [37602](#) of the Health and Safety Code.

E. "Tenant" means all building tenants who were in possession at the time the building owner was required to notify building tenants as required by BMC [15.60.050](#).

F. "Unreinforced masonry (URM) building" means any building containing walls constructed wholly or partially with any of the following materials:

1. Unreinforced brick masonry;
2. Unreinforced concrete masonry;
3. Hollow clay; and
4. Adobe or unburned clay masonry.

15.60.030 Scope of program – Applicability.

The building inspection department shall inspect all "potentially hazardous buildings" constructed of unreinforced masonry (URM) to create a list of potentially hazardous buildings which by nature or extent of structural deficiencies could result in collapse or partial collapse of the building or by nature or extent of deficiencies in anchoring of external hazards in collapse or partial collapse of the building.

15.60.040 Building owner notification.

The owners of buildings, except those designated as historic buildings, shall be notified on or before July 31, 1990, by the building inspection department of the city that: (A) their building is considered to be a potentially hazardous building because of the nature or extent of structural deficiencies or deficiencies in anchoring which could result in collapse or partial collapse of the building in a moderate to severe earthquake; and (B) the owner must give notification to building tenants and future occupants as required by BMC [15.60.050](#). Said notice from the building inspection department of the city to owners as required in this section shall be referred to as a "BMC [15.60.040](#) notice" and said notice from owners to building tenants and

future occupants shall be referred to as a "BMC [15.60.040](#) notice." A BMC [15.60.040](#) notice from the building inspection department to owners shall include a copy of BMC [15.60.050](#) with said notice to owners and advise the owners that failure to comply with BMC [15.60.050](#) is a misdemeanor.

15.60.050 Responsibilities of the building owner.

A. Notification of Building Tenants. A building owner shall notify all tenants, in writing, within 30 days of receipt of a BMC [15.60.040](#) notice from the city, that their building may be potentially hazardous and is considered to be one of a general type that historically has exhibited little resistance to earthquake motion. A building owner who has received a BMC [15.60.040](#) notice shall notify all future occupants that the building is potentially hazardous. Said notice to future occupants shall (1) be given at least 10 days before a future occupant has physically occupied the premises; and (2) shall contain the notice that the building may be potentially hazardous and is considered to be one of a general type that historically has exhibited little resistance to earthquake motion.

B. Notification of the City of Benicia. A building owner shall deliver to the city clerk, within five days after each tenant is notified by the building owner that their building may be potentially hazardous, copies of each written notification given to building tenants and future occupants as required by subsection (A) of this section.

15.60.060 Program status report to the city council.

The building official shall submit a semi-annual narrative report to the city council on the status of the seismic hazards identification program, which shall also describe (A) by street address the location of each of the buildings identified by the building department as potentially hazardous; and (B) any actions taken by owners of each building, including copies of letters received by the city sent pursuant to BMC [15.60.050](#).

15.60.070 Reporting to the State Seismic Safety Commission.

The building official shall submit a report to the State Seismic Safety Commission which shall include the following:

- A. A listing of the number of buildings identified and the total square footage and use of each building;
- B. A summary of the mitigation program implemented by the city with copies of the program and any ordinances attached to the report;
- C. A summary of the status of the mitigation program listing the number of building owners notified;
- D. Suggestions regarding how the state program could be improved.

15.60.080 Violation.

It is unlawful for the owner of a building, who has been notified by the building inspection department of the city pursuant to BMC [15.60.040](#), to fail to give notice to the tenants or to future occupants of the building that the building may be potentially hazardous in the manner required by BMC [15.60.050\(A\)](#).

Before any action shall be taken by the city to enforce a violation of this chapter, the owner of the building shall be given written notice of the violation. The notice of violation shall be delivered either personally or by certified mail. When delivered by certified mail, the notice shall be addressed to the last known address of the owner of the building and a notice shall also be addressed to the address shown on the county tax assessment rolls if different from the last known address, or if the address of the building owner is unknown then only to the address shown on the county tax assessment rolls. The building owner shall have 10 days from the date of personal service of the written notice of violation, or 15 days from the date of mailing of the written notice of violation, to give actual notice to the tenants that the building is potentially hazardous, as required by BMC [15.60.050\(A\)](#), and to deliver a copy of the written notice to the city clerk, as required by BMC [15.60.050\(B\)](#). No action to enforce a violation of this chapter shall be taken by the city if the owner gives said notice and delivers to the city a copy of said written notice within said time periods.

Division IV. Storm Water, Grading and Erosion Control, Public

Improvement Standards.

Chapter 15.70 Storm Water

Sections:

- 15.70.010 Purpose.
- 15.70.020 Definitions.
- 15.70.030 Responsibility for administration.
- 15.70.040 Construction and application.
- 15.70.050 Taking.
- 15.70.060 Discharge of pollutants.
- 15.70.070 Discharge in violation of permit.
- 15.70.080 Illicit discharge and illicit connections.
- 15.70.090 Best management practices and standards.
- 15.70.100 Tourtelot cleanup project.
- 15.70.110 Watercourse protection.
- 15.70.120 Authority to inspect.
- 15.70.130 Violations constituting misdemeanors.

- 15.70.140 Penalty for violation.
- 15.70.150 Continuing violation.
- 15.70.160 Concealment.
- 15.70.170 Acts potentially resulting in violation of federal Clean Water Act and/or Porter-Cologne Act.
- 15.70.180 Violations deemed a public nuisance.
- 15.70.190 California Code of Civil Procedure Section 1094.6.
- 15.70.200 Civil actions.
- 15.70.210 Administrative enforcement powers.
- 15.70.220 Remedies not exclusive.
- 15.70.230 Coordination with hazardous materials inventory and response program.

15.70.010 Purpose.

The city council finds as follows:

A. The intent of this chapter is to protect and enhance the water quality in the city of Benicia's watercourses, water bodies, and wetlands in a manner pursuant to, and consistent with, the Porter-Cologne Water Quality Control Act (Water Code Section [13000](#) et seq.), the federal Clean Water Act ([33](#) U.S.C. Section [1251](#) et seq.) and any subsequent revisions and amendments thereto, and with the goals of the city of Benicia general plan including:

- Goal 2.38: Protect water quality.
- Goal 3.22: Preserve water bodies.
- Goal 3.24: Protect watersheds.
- Goal 4.12: Accommodate runoff from existing and future development.
- Goal 4.14: Prevent ground and surface water contamination.

B. This chapter also carries out the conditions in the city's Phase II small municipal separate storm sewer system (MS4) National Pollutant Discharge Elimination System (NPDES) permit, Water Quality Order No. 2013-0001-DWQ, General Permit No. CAS000004 (Phase II Storm Water Permit) and subsequent revisions and amendments thereto, that require, effective upon adoption of this chapter, implementation of appropriate measures to control pollutant discharges into and from the MS4 system.

C. It is the purpose of the city council in enacting this chapter to ensure the future health, safety, and general welfare of city of Benicia residents and acting in accordance with the precepts of the general plan by:

1. Detecting and eliminating non-storm water discharges and illegal connections to the municipal separate storm drain system.

2. Responding to and prohibiting the discharge to municipal separate storm drains from spills, dumping or disposal of materials other than storm water.
3. Reducing pollutants in storm water discharges to waters of the United States to the maximum extent practicable.
4. Complying with applicable state and federal laws.
5. Minimizing increases in nonpoint source pollution caused by storm water runoff from development that would otherwise degrade local water quality.
6. Reducing storm water runoff rates and volumes and nonpoint source pollution whenever possible, through storm water management controls and ensuring that these management controls are properly maintained and pose no threat to public safety.

15.70.020 Definitions.

The following words and phrases when used in this chapter shall be as defined herein. Words and phrases in this chapter and not otherwise defined shall be interpreted as defined in the regulations issued by the U.S. Environmental Protection Agency to implement the provisions of the Phase II storm water permit, the federal Clean Water Act, and as defined by the State Water Resources Control Board to implement the Porter-Cologne Act:

“Authorized enforcement official” or “authorized enforcement officer” is the city engineer and those individuals designated by the city engineer as authorized enforcement officials.

“BASMAA Post Construction Manual” means the most recent version of the Bay Area Storm Water Management Agencies (BASMAA) Post Construction Manual.

“Best management practices (BMPs)” are schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to the waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from raw material storage.

“City storm drain system” includes but is not limited to those facilities within the city by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, drainage inlets, curbs, gutters, ditches, manmade open channels or culverts and pipes, which is not part of a Publicly Owned Treatment Works (POTW) as defined at [40 CFR Part 122.2](#).

“Construction activity” means any activity that involves soil disturbing activities including, but not limited to, clearing, grading, paving, disturbances to ground such as stockpiling, and excavation.

“Development runoff requirements” shall mean the provisions in the city’s storm water Phase II final rule that contains performance standards to address both construction and post-construction phase impacts of new projects and redevelopment projects on storm water quality.

“Discharge” or “discharge of a pollutant” is (1) the addition of any pollutant or combination of pollutants to waters of the United States from any point source, or (2) any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft, which is being used as a means of transportation. The term includes additions of pollutants to waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

“Erosion and sediment control plan (ESCP)” means a plan prepared to control erosion and prevent the discharge of sediment and construction materials from a construction site.

“Illicit connection” is any device or method that conveys non-storm water to a municipal separate storm sewer (storm drain) system (MS4) or receiving water.

“Illicit discharge” is any discharge to an MS4 that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term “illicit discharge” includes all non-storm water discharges not composed entirely of storm water and discharges that are identified under the discharge of pollutants section of this chapter (BMC [15.70.060](#)). The term “illicit discharge” does not include discharges that are regulated by an NPDES permit.

“Incidental irrigation runoff” means unintended amounts (volume) of runoff, such as unintended, minimal overspray from sprinklers that escapes the landscaped area of intended use. Water leaving an intended use area is not considered incidental if it is part of the facility design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence.

“Low impact development (LID)” means a sustainable practice that benefits water supply and contributes to water quality protection. LID uses site design and storm water management to maintain the site’s predevelopment runoff rates and volumes. The goal of LID is to mimic a site’s predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall.

“Non-storm water discharge” is any discharge to a storm sewer system that is not composed entirely of storm water.

“NPDES permit” is a National Pollutant Discharge Elimination System (NPDES) permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board,

or a California Regional Water Quality Control Board pursuant to the Clean Water Act that authorizes discharges to waters of the United States.

“Permit registration documents (PRDs)” are the application materials required by the State Water Resources Control Board that include a notice of intent to comply with the terms of the general permit to discharge storm water associated with construction and ground disturbing activities (Order No. 2009-0009-DWQ as amended, General Permit No. CAS000002) or the general permit to discharge storm water associated with industrial activities (Order No. 2014-057-DWQ, General Permit No. CAS000001).

“Phase II storm water permit” is the NPDES general storm water permit applicable to the city of Benicia, Water Quality Order No. 2013-0001-DWQ, General Permit No. CAS000004, and any subsequent amendment, reissuance, or successor to this NPDES permit.

“Pollutant” is any material other than storm water including, but not limited to, petroleum products or byproducts, acidity, dredged or excavated soil, solid waste, incinerator residue, filter backwash, sewage, pet wastes, manure, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, sediment, cellar dirt, concrete, debris, dumped yard wastes, and industrial, municipal, and agricultural waste; temperature, wrecked or discarded equipment, rock, sand, soil and industrial, municipal or agricultural waste discharged into the water or storm water system, that is discharged to or placed in such a way as to be carried away by storm water into the storm drains and watercourses of the city.

“Post-construction measure requirements” are the provisions in Section E.12 of the Phase II storm water permit that contain design standards or performance criteria to address the post-construction phase impacts of new projects and redeveloped projects on storm water quality and quantity.

“Premises” are any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

“Responsible person” shall mean the owner or occupant of any premises or who engages in any activity from which there is or may be a non-storm water discharge or any person who releases pollutants to the city’s storm water system.

“Storm drain system” or “storm drain” includes but is not limited to those storm water drainage conveyance facilities within the city by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, drainage inlets, curbs, gutters, ditches, creeks, manmade open channels or culverts and pipes, which is not part of a Publicly Owned Treatment Works (POTW) as defined in the Code of Federal Regulations (at [40 CFR Part 122.2](#)).

“Storm water” means storm water runoff, surface runoff and drainage. It excludes infiltration and runoff from agricultural land.

“Storm water control plan” means a plan that meets the criteria contained in the most recent version of the BASMAA Post Construction Manual.

“Storm water facilities operation and maintenance plan” is a plan identifying the locations and characteristics of storm water management facilities on a newly developed or redeveloped site and describing maintenance activities, schedules, and responsibilities to ensure the ongoing proper operation of those facilities.

“Storm water management facility” is any device designated to detain, retain, filter, or infiltrate storm water.

“Storm water pollution prevention plan (SWPPP)” is a plan to identify sources of sediment and other pollutants that affect the quality of storm water discharges and describes and ensures the implementation of practices to reduce sediment and other pollutants in storm water discharges.

“Watercourse” is any channel, ditch, drainage swale, closed pipe system, whether manmade or natural, that collects and transports runoff.

“Waters of the United States” are all waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide as defined in [33](#) CFR Part [328](#).

15.70.030 Responsibility for administration.

This chapter shall be administered for the city by the city engineer. In administering this chapter, the city engineer has the authority to request and require the submittal of information deemed necessary to assess compliance with this chapter and the Phase II storm water permit.

15.70.040 Construction and application.

This chapter shall be construed to assure consistency with the requirements of the federal Clean Water Act and acts amendatory thereof or supplementary thereto, and applicable implementing regulations. Every application for a development project, including but not limited to a rezoning, tentative map, parcel map, conditional use permit, variance, site development permit, design review, or building permit is subject to the development runoff requirements in the city’s NPDES permit and shall be accompanied by a storm water control plan that meets the most recent version of the BASMAA Post Construction Manual.

15.70.050 Taking.

The provisions of this chapter shall not operate to deprive any landowner of substantially all of the market value of his/her property or otherwise constitute an unconstitutional taking without compensation. If application of this chapter to a specific project would create a taking, then pursuant to this chapter the city council may allow additional land uses, but only to the extent necessary to avoid a taking. Such uses shall be consistent with and carry out the purposes of this chapter as stated in BMC [15.70.010](#).

15.70.060 Discharge of pollutants.

A. The discharge of non-storm water discharges to the city storm drain system is prohibited. All discharges of material other than storm water must be in compliance with this chapter, state and federal regulations and authorized by the city engineer.

B. The discharge of storm water from premises or an activity that causes or contributes to a violation of receiving water limitations in the city's NPDES permit is prohibited.

C. Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibition set forth in subsection (A) of this section:

1. Discharges regulated under a National Pollutant Discharge Elimination System (NPDES) permit (other than the Phase II storm water permit) issued to the discharger and administered by the state of California under authority of the United States Environmental Protection Agency; provided, that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.
2. Discharges or flows from fire-fighting activities unless they are identified as significant sources of pollutants to waters of the United States.
3. Discharges from the following activities, provided any pollutants in the discharges are identified and appropriate control measures to minimize the impacts of such discharges are developed and implemented:
 - a. Water line flushing and other discharges from potable water sources;
 - b. Incidental irrigation runoff from landscaped areas provided the conditions in subsection (C)(4) of this section are met;
 - c. Diverted stream flows;
 - d. Rising ground waters;
 - e. Infiltration to separate storm drains;

- f. Uncontaminated pumped ground water (as defined at [40 CFR 35.2005\(20\)](#)) to separate storm sewers;
- g. Foundation and footing drains;
- h. Water from crawl space pumps;
- i. Air conditioning condensation;
- j. Natural springs;
- k. Individual residential car washing;
- l. Flows from riparian habitats and wetlands; and
- m. Dechlorinated swimming pool discharges.

4. Irrigation systems must be designed to conserve water and prevent water leaving the area of application. Persons responsible for controlling irrigation systems shall prevent excessive irrigation runoff by:

- a. Detecting and correcting leaks from the irrigation system within 72 hours of discovering the leak;
- b. Properly designing and aiming sprinkler heads to only irrigate the planned application area;
- c. Not irrigating during precipitation events; and
- d. Where recycled water is used for irrigation, designing, and managing holding ponds such that no discharge occurs unless it is the result of the 25-year, 24-hour storm event. Any releases from holding ponds must be reported to the Regional Water Board and the city of Benicia within 24 hours of the discharge.

15.70.070 Discharge in violation of permit.

Any discharge that would result in a contribution to a violation of the Phase II storm water permit, either separately considered or when combined with other discharge, is prohibited. Any non-storm water discharge not within the confines of this chapter and/or not approved by the city engineer is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify, and hold harmless the city in any administrative or judicial enforcement action relating to such discharge.

15.70.080 Illicit discharge and illicit connections.

A. It is prohibited to establish, use, maintain, or continue illicit drainage connections to the city storm water system or watercourse, and to commence or continue any illicit discharges to the city storm water system or watercourse. This prohibition is expressly retroactive and applies to connections made in the past, regardless of whether made under a permit or other authorization or whether permissible under the law or practices applicable or prevailing at the time of the connection.

B. Any person responsible for a discharge, spill, or pollutant release shall promptly cease and desist discharging, and/or clean up and abate such a discharge as directed by the city engineer.

C. Any person found to be in violation of this section or found to be responsible for an illicit connection shall promptly remove the illicit drainage or connection in a manner acceptable to and approved by the city.

D. No discharge shall cause the following conditions, create a nuisance, or adversely affect beneficial uses of waters of the state:

1. Floating, suspended or deposited macroscopic matter or foam;
2. Bottom deposits or aquatic growth;
3. Alterations of temperature, sediment load, nutrient load, or dissolved oxygen, which cause significant adverse impacts to native aquatic biota;
4. Visible, floating, suspended or deposited oil or products of petroleum origin; or
5. Substances present in concentrations or quantities which cause deleterious effects on aquatic biota, wildlife, or waterfowl, or which render any of these unfit for human consumption.

E. The city may perform cleanup and abatement work and recover its costs from the responsible person as provided in BMC [15.70.200](#).

15.70.090 Best management practices and standards.

Any person engaged in activities that will or may result in pollutants entering the city storm drain system shall undertake all practicable measures to cease such activities, and/or eliminate or reduce such pollutants. Such activities shall include, but not be limited to ownership and use of parking lots, gasoline stations, industrial facilities, commercial facilities, ground disturbing activities, and stores fronting city streets. The following minimal requirements shall apply:

A. Littering. Except for pollutants lawfully disposed of by way of containers or in lawfully established dumping grounds, no person shall throw, deposit, leave, maintain, keep, or permit

to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, drain inlet, conduit or other drainage structures, business place, or upon any public or private lot of land in the city, in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the city, so that the same might be or become a pollutant.

B. Sidewalks. The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the city of Benicia in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway but shall be disposed of in receptacles maintained on said real property as required for the disposal of garbage, trash or green waste.

C. Standard for Parking Lots and Similar Uses. Persons owning or operating private streets, a parking lot, gas station pavement or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the city storm water system.

D. Best Management Practices for Construction and Ground Disturbing Activities.

1. Any person performing construction activities in the city shall use the best available technology (BAT) and the best conventional technology (BCT). Any person performing construction activities shall implement appropriate BMPs consistent with the California Stormwater Quality Association BMPs or equivalent to prevent the discharge of construction wastes or contaminants from construction materials, tools, and equipment from entering the storm drain system or watercourse.

2. Construction-phase BMPs include erosion and sediment controls and pollution prevention practices.

a. Erosion control BMPs may include, but are not limited to:

- i. Scheduling and timing of grading activities;
- ii. Preservation of existing vegetation;
- iii. Timely revegetation of graded areas;
- iv. The use of hydroseed and hydraulic mulches;
- v. Soil binders;
- vi. Earth dike and drainage swales;

- vii. Velocity dissipation devices;
- viii. Slope drains;
- ix. Installation of erosion control blankets;
- x. Soil preparation – roughening;
- xi. Wind erosion control.

b. Sediment control BMPs may include, but are not limited to:

- i. Properly sized detention basins, dams, or filters to reduce entry of suspended sediment into the storm drain system and watercourses;
- ii. Installation of construction entrances to prevent tracking of sediment onto adjacent streets;
- iii. Biofilter bags;
- iv. Sandbag barrier;
- v. Storm drain inlet protection;
- vi. Entrance outlet tire wash;
- vii. Street sweeping to remove tracked sediment.

c. Pollution prevention practices may include, but are not limited to:

- i. Designated concrete washout areas or facilities;
- ii. Control of trash and recycled materials;
- iii. Tarping of materials stored on site;
- iv. Proper location of and maintenance of temporary sanitary facilities.

The combination of BMPs used, and their execution in the field, must be customized to the site using up-to-date standards and practices.

3. Financial security may be required to ensure that temporary measures to control storm water pollution are implemented and maintained during construction and after construction for a period determined by the city. Financial security shall consist of an

irrevocable letter of credit, cash deposit, or performance bond as determined by the agency.

4. When any work is being done contrary to the provisions of this chapter, the city engineer may order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done. Such work shall stop until the authorized enforcement official authorizes the work to proceed. This remedy is in addition to, and does not supersede or limit, any and all other remedies, both civil and criminal, provided in the city of Benicia Municipal Code.

5. The city has the authority to review designs and proposals for construction activities and new development and redevelopment sites to determine whether adequate BMPs will be installed, implemented, and maintained during construction and after final stabilization (post-construction).

6. All construction plans and applications for construction activity submitted to the city shall consider the potential for erosion and sedimentation at the construction site and shall include appropriate erosion and sedimentation controls.

7. Erosion and Sediment Control Plan Requirements:

a. An erosion and sediment control plan (ESCP) shall be required for:

i. Any project subject to a grading permit under Chapter 15.73 BMC, Grading and Erosion Control;

ii. Any project subject to a building permit or other permit that has the potential for significant erosion and/or significant non-storm water discharges of sediment and/or construction site waste;

iii. Any other project, as required by the authorized enforcement official, considering factors such as whether the project involves hillside soil disturbance, rainy season construction, construction near a creek or an intermittent or ephemeral drainage way, or any other condition or construction site activity that could lead to a non-storm water discharge to a storm drain if not managed by effective implementation of an ESCP.

b. The ESCP shall be submitted for review and approval by the authorized enforcement official. The project applicant shall follow guidance issued by the city engineer in preparing the ESCP. At a minimum, the ESCP shall include:

i. Description of the proposed project and soil disturbing activity;

ii. Site-specific construction-phase BMPs;

- iii. Rationale for selecting the BMPs, including, if needed, soil loss calculations;
- iv. List of applicable permits associated with the soil disturbing activity, such as: the state's construction general permit (CGP); Clean Water Act Section 404 Permit; Clean Water Act Section 401 Water Quality Certification; streambed/lake alteration agreement (1600 Agreements);
- v. Proof that the applicant has obtained the applicable permits associated with the soil disturbing activity that must be submitted prior to approval of the ESCP; and
- vi. Project information including but not limited to:
 - (A) Owner and contractor contact information;
 - (B) Site information (location, status, size of project, size of disturbed area);
 - (C) Name and distance to the nearest receiving water; and
 - (D) Planned start date and anticipated completion date.
- c. For projects subject to the state's general construction permit (CGP), project applicants may submit a storm water pollution prevention plan (SWPPP) developed pursuant to the CGP in lieu of submitting an ESCP.
- d. Implementation of an approved ESCP shall be a condition of the issuance of a building permit, a grading permit, or other permit issued by the city for a project subject to this section. The ESCP shall be implemented year-round and must be updated to reflect changing conditions on the project site. Any modifications to the ESCP shall be submitted to the city for review and approval.

E. Best Management Practices for New Development and Redevelopment.

1. Prior to and/or during construction, the authorized enforcement official may establish controls on the volume and rate of storm water runoff from new developments and redevelopment as may be appropriate to minimize peak flows or total runoff volume, and to mimic the predevelopment site hydrology. These controls may include limits on impervious area or provisions for detention and retention of runoff on site.
2. The authorized enforcement official may require, as a condition of project approval, permanent structural controls designed for the removal of sediment and other pollutants, and for control on the volume and rate of storm water runoff from the project's added or replaced impervious surfaces. The selection and design of such controls shall be in accordance with criteria established or recommended by federal, state, and local

agencies, and where required, the BASMAA Post Construction Manual. Where physical and safety conditions allow, the preferred control measure is to retain drainage ways above ground and in as natural a state as possible, or by other biological methods such as bioretention areas.

3. Storm Water Control Plan Requirements:

a. For each new development and redevelopment project subject to post-construction measure requirements, or where required by the nature and extent of a proposed project and where deemed appropriate by the city, every applicant shall submit a storm water control plan (SCP) that meets the criteria in the most recent version of the BASMAA Post Construction Manual.

i. Applicable new development and redevelopment projects subject to post-construction measures include:

(A) Small Projects. Projects that create or replace between 2,500 and 5,000 square feet of impervious area, excluding linear underground/overhead utility projects.

(B) Regulated Projects. Projects that create or replace greater than or equal to 5,000 square feet of impervious area, excluding: detached single-family residences that are not part of a common plan of development; interior remodels; routine maintenance or repair; linear underground/overhead utility projects unless the project has a discrete location that has 5,000 square feet or more of newly constructed contiguous impervious area.

(C) Full Hydromodification Projects. Regulated projects that create or replace greater than or equal to one acre of impervious area, with a net increase in impervious area.

b. Applicants shall implement the controls identified in the SCP and required by the conditions of approval that reduce storm water pollutant discharges through the construction, operation and maintenance of source control measures, low impact development design, site design measures, storm water treatment measures and hydromodification management measures. Increases in runoff shall be managed in accordance with the post-construction measures requirements.

c. The SCP is separate and distinct from the ESCP requirements described in subsection (D) of this section.

d. Where projects are required to have a SCP, project applicants shall follow the appropriate SCP template, based on the project type, in the BASMAA Post Construction Manual.

e. Implementation of an approved SCP and submittal of an approved storm water facilities operation and maintenance plan by the applicant shall be a condition precedent to the issuance of a building permit or another city-issued permit for a project subject to this section.

f. Financial security may be required to ensure that storm water management facilities operate and are maintained following construction for a period which may be determined by the city. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the city.

g. When any work is being done contrary to the provisions of this chapter, the authorized enforcement official may order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done. Such work shall stop until the city engineer authorizes the work to proceed. This remedy is in addition to and does not supersede or limit any and all other remedies, both civil and criminal, provided in the BMC.

h. All storm water management facilities shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the BASMAA Post Construction Manual.

i. All storm water management facilities shall be maintained according to the approved storm water facilities operation and maintenance plan. The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Unless a different time period is provided for in the plan, those responsible for maintenance shall inspect the storm water management facilities at least annually and submit a written report of the inspection to the city engineer. The storm water facilities operation and maintenance plan shall describe how the maintenance costs will be funded. If the responsible person fails to maintain the storm water management facilities in accordance with this chapter or the plan, the city may perform the maintenance and recover its costs from the responsible person as provided in BMC [15.70.200](#).

j. For each new development and redevelopment project subject to the post-construction measures requirements, or where deemed appropriate by the city, access by the city to storm water management facilities for inspections, as provided in BMC [15.70.200](#), and through such means as may be appropriate, including, but not limited to, legal agreements, recorded covenants or easements, shall be provided by the property owner.

k. All project proponents and their successors, or successors in fee title, in control of a new development and redevelopment project subject to the post-construction measures requirements, shall submit one of the following as a condition prior to final inspection and approval of building permit closure:

- i. The project proponent's signed statement accepting responsibility for the operations and maintenance of storm water management facilities until such responsibility is legally transferred to another entity;
- ii. Written conditions in the sales or lease agreements or deed for the project that requires the buyer or lessee to assume responsibility for the operations and maintenance of the storm water management facilities until such responsibility is legally transferred to another entity;
- iii. Written text in project deeds, or conditions, covenants and restrictions for multi-unit residential projects that require the homeowners' association or, if there is no association, each individual owner, to assume responsibility for the operation and maintenance of the storm water management facilities until such responsibility is legally transferred to another entity; or
- iv. Any other legally enforceable agreement or mechanism, such as recordation in the property deed, that assigns the operation and maintenance of the storm water management facilities to the project owner(s).

F. Notification of Intent and Compliance with General Permits. Each industrial discharger, discharger associated with construction activity, or other discharger, described in any general storm water permit addressing such discharges, as may be adopted by the United States Environmental Protection Agency, the State Water Resources Control Board, or the California Regional Water Quality Control Board, San Francisco Bay Region, shall provide notice of intent, comply with, and undertake all other activities required by any general storm water permit applicable to such discharges.

Each discharger identified in an individual NPDES permit relating to storm water discharges shall comply with and undertake all activities required by such permit.

G. Compliance with Best Management Practices. Where best management practices, guidelines or requirements have been adopted by any federal, state of California, and/or regional agency, or by the city, for any activity, operation, or facility that may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm drain system, every person undertaking such activity or operation, or owning or operating such facility, shall comply with such guidelines or requirements as may be identified by the city engineer.

H. Storm Water Pollution Prevention Plan. The city engineer may require any business or utility in the city that is engaged in activities which may result in any discharges, lawful or otherwise, to develop and implement a storm water pollution prevention plan (SWPPP), which must include maintenance, storage, manufacturing, assembly, equipment storage, vehicle loading, fueling, vehicle maintenance, food handling or processing or cleanup procedure that is carried out partially or wholly out of doors.

I. Coordination with Hazardous Materials Release Response and Inventory Plans. Any business subject to hazardous material release response and inventory plan, Division 20, Chapter 6.95 of the California Health and Safety Code (commencing with Section [25500](#)), shall include, in that plan, provision for compliance with this chapter, including the prohibition of non-storm water discharges and the requirement to reduce release of pollutants to the maximum extent practicable.

15.70.100 Tourtelot cleanup project.

The Tourtelot cleanup project area consists of approximately 220 acres of the former Benicia Arsenal, north of Rose Drive and west of East 2nd Street. The site was used from 1944 to 1960 as part of the Benicia Arsenal. The site was known to contain ordnance and explosives and has been subject to a cleanup project. Because of various methods of detection and cleanup used on the site, areas of the site are subject to specific controls. Some areas are under the restriction of filing a plan for any work below grade. Other areas of the site also require the submittal of approved procedures prepared by a licensed engineer and observed by representatives of the State of California Division of Toxic Substances Control. No new discharges of any type or alteration of any existing discharge are allowed into the Tourtelot site without compliance with restrictions contained in the Tourtelot site contingency action plans and the operation and maintenance plan which are further cited in Chapter [15.73](#) BMC, Grading and Erosion Control.

15.70.110 Watercourse protection.

A. Every person owning property through which a watercourse passes, or such person's lessee or tenant, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse; shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and shall not remove healthy bank vegetation beyond that actually necessary for maintenance, and not remove vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

B. No person shall commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the city engineer:

1. Discharge into or connect any pipe or channel to a watercourse;
2. Modify the natural flow of water in a watercourse;
3. Carry out development within the greater of 30 feet of the center line of any creek or 25 feet of the top of a bank wherein the "top of bank" is defined as the flatter of the actual top of bank or a projected top of bank from the toe of slope at two horizontal to one vertical bank slope;

4. Deposit in, plant in, or remove any material from a watercourse including its banks, except as required for necessary maintenance;
5. Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or
6. Place any loose or unconsolidated material along the side of or within a watercourse or so close to the side as to cause a diversion of the flow, or to cause a probability of such material being carried away by storm water passing through such watercourse.

15.70.120 Authority to inspect.

A. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the enforcement official has the duty and the responsibility to inspect any and all locations for any violation of the provisions of this chapter. The authorized enforcement official may, within the limitations of applicable state and federal laws, enter any such building or any premises (including, but not limited to, facilities, equipment, practices, or operations) at all reasonable times to inspect the same for any or all of the following situations, as determined by the authorized enforcement official:

1. Routine inspections to ensure implementation of BMPs and other requirements of this chapter;
2. Active or potential storm water discharges;
3. Whenever there is reasonable cause to believe that there exists any condition which constitutes a violation of the provisions of this chapter or the Phase II storm water permit;
4. Actual violations of this chapter or the Phase II storm water permit;
5. Whenever necessary to enforce any of the provisions of this chapter or the Phase II storm water permit; or
6. To perform any duty imposed upon the official by this chapter.

B. Prior to entry for inspections, the authorized enforcement official shall comply with the following: (1) If the building or premises is occupied, the enforcement official shall first present proper credentials and request entry; (2) if the building or premises is unoccupied, the enforcement 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. Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry

after such request has been made, the official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

C. The authorized enforcement official has the right to and shall conduct routine sampling and monitoring on, or adjacent to, the premises under review. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to random sampling and/or sampling in areas with evidence of storm water contamination, illicit discharges, discharge of non-storm water to the storm sewer system, or similar factors. The cost of such routine sampling and/or monitoring activities, including test reports and results, shall be borne by the city. The authorized enforcement official may, within the limitations of law, enter such premises at reasonable times to conduct sampling and monitoring operations; provided, that the official presents proper credentials to and obtains consent from the owner or occupant to enter. In the event the owner and/or occupant refuses entry, the official shall request assistance of the city attorney to obtain an administrative warrant to enter the premises, pursuant to the provisions of state law.

D. Authority to Sample and Establish Sampling Devices. The city shall have the right to establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on site.

E. Notification of Spills. All persons in charge of a facility or responsible for emergency response for a facility have a responsibility to train facility personnel and maintain notification procedures to ensure that immediate notification is provided to the city of any suspected, confirmed, or unconfirmed release of material, pollutants or waste creating a risk of discharge into the city storm water system.

F. As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed release of materials, pollutants or waste that may result in pollutants or non-storm water discharges entering the city storm water system, such person shall take all necessary steps to ensure the discovery and containment and cleanup of such release and shall notify the city of the occurrence by telephoning the city engineer during normal business hours and confirming the notification by correspondence. Outside of normal business hours, telephone notice shall be made to the Benicia fire department.

G. The city will identify, document, and respond to pretreatment violations in accordance with its enforcement response plan.

H. Requirement to Test or Monitor. Any authorized enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, undertake such monitoring activities and/or analyses and furnish such reports as the official may specify. The burden and cost of

undertaking such sampling and monitoring activities, including test results and reports, shall be borne by the owner of the premises under review. The type and method of sampling and monitoring shall bear a reasonable relationship to the need for testing and monitoring and to the benefits to be obtained, as determined by the enforcement official.

I. Exigent Circumstances. Whenever a condition is found to exist in violation of this chapter that presents an immediate and present danger to the public health, safety and welfare requiring immediate remedial action to prevent injury to persons or property, the authorized enforcement official shall take whatever reasonable and appropriate action is necessary to neutralize the danger, including but not limited to entry upon private premises for inspection, sampling and monitoring, and abatement.

15.70.130 Violations constituting misdemeanors.

The violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter, shall constitute a misdemeanor. However, any such violation constituting a misdemeanor under this chapter may, in the discretion of the city attorney, be charged and prosecuted as an infraction.

15.70.140 Penalty for violation.

Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section [36901](#).

Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in California Government Code Section [36900](#). After a third conviction for a violation of the same provision subsequent violations within a 12-month period may be charged as a misdemeanor.

15.70.150 Continuing violation.

Unless otherwise provided, a person, firm, corporation, or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

15.70.160 Concealment.

Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of such provision.

15.70.170 Acts potentially resulting in violation of federal Clean Water Act and/or Porter-Cologne Act.

Any person who violates any provision of this chapter, any provision of any permit issued pursuant to this chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the federal Clean Water Act, the Porter-Cologne Act, and/or the Phase II storm water permit, and may be subject to the sanctions of those Acts including civil and criminal penalty. Any enforcement action authorized under this chapter should also include notice to the violator of such potential liability.

15.70.180 Violations deemed a public nuisance.

In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety and welfare, and is hereby declared and deemed a public nuisance, and may be summarily abated and original conditions restored by any authorized enforcement official, and/or by a civil action to abate, enjoin or otherwise compel the cessation of such nuisance brought by the city attorney.

The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be a lien upon and against the property and such lien shall continue in existence until the same shall be paid. If the lien is not satisfied by the owner of the property within three months after the completion by the authorized enforcement official of the removal of the nuisance and the restoration of the property to its original condition, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution.

If any violation of this chapter constitutes a seasonal and recurrent nuisance, the city council shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

15.70.190 California Code of Civil Procedure Section [1094.6](#).

The provisions of Section [1094.6](#) of the California Code of Civil Procedure are applicable to judicial review of city decisions pursuant to this chapter.

15.70.200 Civil actions.

In addition to any other enforcement powers and/or remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the city. In any such action, the city may seek, and the court shall grant, as appropriate, any or all of the following remedies:

A. A temporary and/or permanent injunction;

B. An action for an unlawful business practice pursuant to Business and Professions Code Section [17206](#);

C. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

D. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation;

E. Compensatory damages for loss or destruction to water quality, wildlife, fish, and aquatic life. Assessments under this subsection shall be paid to the city to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this chapter;

F. The cost of maintenance and repair of any BMP or storm water management facility that is not maintained in accordance with the guidebook or the storm water control plan.

15.70.210 Administrative enforcement powers.

In addition to the other enforcement powers and remedies established by this chapter, any authorized enforcement official has the authority to utilize the following administrative remedies:

A. Cease and Desist Orders. When an authorized enforcement official finds that a discharge has taken place or is likely to take place in violation of this chapter, the official may issue an order to cease and desist such discharge, practice, or operation likely to cause such discharge and direct that those persons not complying: (1) comply with the requirement, (2) comply with a time schedule for compliance, and/or (3) take appropriate remedial or preventive action to prevent the violation from recurring. Upon the violator's failure to comply with such order, the city shall take further enforcement action as specified in this chapter, or in accordance with other appropriate provisions of local, state, or federal law. At the discretion of the authorized enforcement official, orders to cease and desist may take the following form:

1. Verbal warnings, as may be issued during inspections;
2. Warning letters and orders to abate pollution;
3. Warning letters with requirements to submit written reports; or
4. Formal violations and legal action as described in this chapter and as authorized by Chapter [17.128](#) BMC.

B. Notice to Clean. Whenever an authorized enforcement official finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering the city storm drain system or a non-storm water discharge to the city storm drain system, the authorized enforcement official may

give notice to remove such oil, earth, dirt, grass, weeds, dead trees, metal cans, rubbish, refuse, waste or other material, in any manner that the enforcement official may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice.

15.70.220 Remedies not exclusive.

Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

A. Appeal. Any person, firm, corporation or organization required to perform monitoring, analyses, reporting and/or corrective activities by an authorized enforcement officer who is aggrieved by the decision of the authorized enforcement officer may appeal such decision to the city engineer within 10 days following the effective date of the decision by writing the city engineer in accordance with Chapter [1.44](#) BMC. Upon receipt of such request, the city manager shall request a report and recommendation from the authorized enforcement officer and shall set the matter for hearing within 14 days. At said hearing, the city manager may hear additional evidence, and may reject, affirm, or modify the authorized enforcement officer's decision. Said decision shall be final unless appealed further in accordance with Chapter [1.44](#) BMC.

B. Disclaimer of Liability. The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This chapter shall not create liability on the part of the city, any officer or employee thereof for any damages that result from reliance on this chapter, or any administrative decision lawfully made thereunder.

15.70.230 Coordination with hazardous materials inventory and response program.

The first revision of the business plan for any facility subject to the city's hazardous materials inventory and response program shall include a program for compliance with this chapter, including the prohibitions on non-storm water discharges and illicit discharges, and the requirement to reduce storm water pollutants to the maximum extent practicable.

Chapter 15.73 Grading and Erosion control

Sections:

15.73.010 Intent and Purpose; General Provisions.

15.73.020 Scope.

15.73.030 Permits required.

15.73.040 Hazards.

15.73.050 Definitions.

- 15.73.060 Application – Fees.
- 15.73.070 Application – Contents.
- 15.73.080 Issuance of permit.
- 15.73.090 Bonds – Posting required.
- 15.73.100 Bonds – Term.
- 15.73.110 Bonds – Failure to complete work.
- 15.73.120 Permit – Duration/expiration.
- 15.73.130 Excavating, grading and filling – Regulations.
- 15.73.140 Erosion control.
- 15.73.150 Grading inspection.
- 15.73.160 Completion of work.
- 15.73.170 Appeal procedures.
- 15.73.180 Violations – Prosecution as Infraction.
- 15.73.190 Violations – Penalties

15.73.010 Intent and purpose; general provisions.

A. *Intent.* The intent of this article is to protect life, limb, and property, promote and enhance the public welfare and a superior community environment, and preserve the natural scenic character of the city by establishing applicable standards, requirements, and procedures relating to grading, erosion, and sedimentation control.

B. *Purpose.* The purpose of this article is to ensure that grading is conducted:

1. In a manner with least adverse effect upon persons and properties; and
2. In conformance with applicable standards, requirements, and procedures.

C. *Prohibited acts.* The following are prohibited:

1. Grading without a permit from the City Engineer, except as provided for in section [15.73.030](#)(b) (emergency grading) and section [15.73.030](#)(c) (exceptions to permit requirements);
2. Grading that will:
 - a. Cause erosion or sediment onto adjacent property or on public streets; or
 - b. Obstruct or otherwise interfere with drainage, or deposit sediment in natural or artificial drainage facilities; or
 - c. Alter drainage facilities or courses without first obtaining a grading permit.

3. Activities not in compliance with best management practices (BMPs).

D. *Administration and enforcement.* The City Engineer shall administer and enforce the provisions of this article.

15.73.020 Scope.

This section sets forth rules and regulations to control excavation, grading, earthwork construction, erosion, and sedimentation, including fills and embankments; establishes requirements for storm water management during construction for the prevention and control of erosion and sedimentation; establishes the administrative procedures and requirements for the preparation, review, and approval of grading plans, issuance of grading permits, and inspection of construction.

15.73.030 Permits required.

A. *Grading permit required.* Except as provided in subsection B. of this section (emergency grading), and subsection C. of this section (exceptions to permit requirements), no person shall perform or cause any grading without a grading permit.

B. *Emergency grading.* Grading of an emergency nature to safeguard life or property may be undertaken prior to the issuance of a grading permit. The City Engineer shall be notified within 48 hours of the commencement of emergency work unless such work is exempted in accordance with the provisions of subsection C. of this section (exceptions to permit requirements). The grading permit shall be obtained no later than 14 calendar days after the commencement of the emergency work.

C. *Exceptions from grading permit.* A grading permit may be waived when in the opinion of the City Engineer one or more of the following conditions apply:

1. The excavation or fill at any location:

a. Is less than five feet deep and adequately supported by a retaining structure designed in accordance with chapter 15.05; and

b. Does not create a slope steeper than two horizontal to one vertical.

2. The volume of excavation or fill does not exceed 50 cubic yards, provided:

a. The excavation or fill does not obstruct a drainage course or alter existing drainage patterns, and does not add pollutants to the storm drain system, creeks, or other waterways; and

b. The excavation or fill is less than five feet at its deepest point, measured vertically upward from natural grade to the surface; and

- c. The fill is not intended to support structures; and
 - d. The fill is placed on natural grade that has a slope not steeper than five horizontal to one vertical; and
 - e. The proposed grading or resulting grades will not adversely impact abutting properties
- 3.. Minor land leveling for agricultural farming and gardening if the ground elevation stays substantially the same and the drainage pattern is not altered.
- 4.. Cemetery graves.
5. An excavation below finished grade for basements and footing of a building, retaining wall, swimming pool or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure.
6. The trench excavations authorized by a valid permit for the purpose of installing underground utilities, if to be backfilled to natural or existing grade.
7. Grading in refuse disposal areas and sanitary landfills, mining, quarrying, processing, or stockpiling of rock, sand, gravel, aggregate, or clay, for which a development permit has been granted, provided:
- a. Such operations do not affect the lateral support or increase the stresses in, or pressure upon, any adjacent or contiguous property; and
 - b. Such operations are consistent with the grading practices set forth herein; and
 - c. The work does not block or divert any natural drainageway or increase runoff or sedimentation onto any adjacent or contiguous property.
3. Grading is conducted by an agency of the federal government, the state government, or the city.
4. Stockpiles 50 cubic yards or less of topsoil materials are not placed within a public right-of-way, do not obstruct drainageways, are not subject to erosion, do not endanger other properties, do not create a public nuisance or safety hazard, and are removed within a period of 10 days or less. The land shall be restored to its original condition after removal of stockpiles.
5. Construction of fire trails, access roads to public utilities, and gas and electric transmission lines provided the drainage pattern remains the same.
6. Clearing of vegetation when all of the following conditions are met:

- a. The slope of the ground is less than 15 percent; and
 - b. The area to be cleared is one acre or less; and
 - c. Clearing is more than 100 feet away from the top bank of a watercourse or other water body; and
 - d. Clearing will not result in erosion.
7. Construction of water wells.
 8. Construction of test trenches, pits, and bores within private property under the supervision of a professional such as civil engineer or engineering geologist, provided the drainage pattern remains the same.
 9. Placement of fill above existing grade, which will be retained by the exterior wall of a building, a retaining wall, swimming pool, or other structure authorized by a valid building permit, when the existing and finished ground slope is less than 15 percent.
 10. Grading within a street to conform to elevations approved by the City Engineer and for which a permit has been issued under the provisions of chapter 12.12 (Encroachments).
 11. Refuse disposal sites controlled by other regulations.
 12. Excavation for utilities when performed by a public utility.
 13. Exploratory excavations of 50 cubic yards or less under the direction of soil engineers or engineering geologists.
 14. An excavation of 200 cubic yards or less which:
 - a. Is less than two feet in depth, at any one given point: or
 - b. Does not create a cut slope greater than four feet in height and steeper than two horizontal to one vertical.
 15. A fill of 200 cubic yards or less which is less than two feet in depth and placed on a slope flatter than five horizontal to one vertical, not intended to support structures, on a single lot or parcel, and does not obstruct or alter a drainage course.
 16. Work conducted in any city street, public right-of-way, or easement when the work is being done under the authority of a valid encroachment permit issued by the city engineer.

Grading permit exceptions outlined above apply to grading for a single activity. Subsequent grading activity that occurs within 10 years after initial grading activity resulting in cumulative work exceeding the limitations outlined above shall require a grading permit.

Grading shall also comply with the requirements of Chapter 15.70 BMC, Storm Water Management and Discharge Control. Grading that disturbs one acre or more, regardless of quantity, shall be subject to the state of California general construction permit requirements.

15.73.040 Hazards.

Whenever the city engineer determines that any existing excavation, embankment or fill on private property has become a hazard to life or limb, endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the city engineer shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter.

15.73.050 Definitions.

For purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words, terms, and phrases used herein are defined below

“As-graded” is the actual surface conditions present on completion of grading.

“Applicant” is the property owner, or their authorized agent making application to the City for a grading permit.

“Bench” is a relatively level surface interrupting the slope of an excavation or embankment.

“Best management practices” or “BMPs” are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to watercourses, water bodies, wetlands and waters of the city or state. BMPs also include treatment requirements, operating procedures, design specifications and practices to control site runoff, spillage or leaks, waste disposal, and drainage from raw material storage. BMPs are for construction and post-construction storm water controls.

“California Building Code (CBC)” refers to the latest edition as adopted by reference by the city of Benicia.

“Certification” shall mean a written engineering or geological opinion concerning the progress and completion of the work.

“City” shall mean the City of Benicia.

“City engineer” shall mean the city engineer of the city of Benicia or their authorized representative.

“Civil engineer” is a professional engineer registered in and licensed by the state of California to practice in the field of civil engineering.

“Civil engineering” shall mean the application of the knowledge of forces of nature, principles of mechanics and the properties of materials to the evaluation, design, and construction of civil works for the beneficial uses of mankind.

“Clearing”. Is site preparation consisting of, but not limited to, the removal of vegetation.

“Compaction” is the densification of a fill by mechanical means.

“Contour rounding” means the rounding of cut and fill slopes in the horizontal plane to blend with existing contours or to provide horizontal variation to eliminate the artificial appearance of slopes.

“Critically expansive soil” Is soil conditions which have the potential to cause damage to improvements, including streets, structures, and buildings.

“Cut” is the mechanical removal of earth material.

“Cut slope” Is a finished or interim surface along an inclined plane resulting from grading.

“Diversion” Is a facility such as a ditch or berm constructed to intercept and divert surface runoff.

“Elevation” Is the vertical distance above an established datum.

“Earth material” is any rock, natural soil and/or any combination thereof.

“Engineering geologist” shall mean a professional engineering geologist registered in and by the state of California to practice in the field of engineering geology.

“Engineering geology” shall mean the application of geologic data, knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

“Erosion” is the wearing away, detachment and movement of the ground surface as a result of gravity or the movement of wind, water and/or ice.

"Erosion and sediment control manual" means the latest edition entitled "Manual of Standards for Erosion and Sediment Control Measures," published by Association of Bay Area Governments (ABAG). "Excavation" (cut) is any act by which earth material is removed.

"Fill" is a deposit of earth material placed by artificial means.

"Final erosion and sediment control plan" is a plan that depicts the permanent erosion control measures approved by the City Engineer.

"Geologic report" Is a report prepared by an engineering geologist or a civil engineer dealing with geological features and characteristics such as fault line, fault creep, landslide, and seismic hazards.

"Geotechnical engineer/soil engineer" Is a civil engineer who is experienced in the field of engineering as described in the definition of "geotechnical/soil engineering" in this section.

"Geotechnical/soil engineering" Is the application of the principles of soil mechanics in the investigation, evaluation, and design of civil engineering works involving the use of earth materials and the inspection and testing of the construction thereof.

"Geotechnical/soil report" Is a report prepared by a geotechnical engineer dealing with items such as field test results, observations regarding the nature, distribution, and strength of existing soils and recommendations and conclusions for grading procedures and designs

"Grade" shall mean the vertical location of the ground surface.

1. "Existing grade" is the grade prior to grading.
2. "Rough grade" is the stage at which the grade approximately conforms to the approved plan.
3. "Finish grade" is the final grade of the site which conforms to the approved plan.

"Grading" is any excavation (cut), filling, stripping, stockpiling, clearing, and grubbing, or any combination thereof, which alters land or vegetation.

"Interim erosion and sediment control plan" Is a plan that depicts a set of erosion and sediment control measures for an uncompleted project.

“Notice of intent (NOI)” is a form required by the State Water Resources Control Board which consists of a notice of intent to comply with the terms of the General Permit to Discharge Storm Water Associated with Construction Activity (WQ Order No. 2003-2007-DWQ).

“Permittee” means the applicant to whom the permit is issued.

“Pollutants” means any material other than stormwater, including but not limited to rock, sand, building materials, waste, and litter discharged into the city’s stormwater system.

“Rainy season” means the time period between October 15 and April 15 inclusive.

“Runoff” means the surface flow of water.

“Sediment” means earth material deposited by action of water, wind, or gravity.

“Sedimentation” means the process by which soil, mineral, or organic matter is removed, transported, and deposited by action of water, wind, or gravity.

“Sediment basin” means a reservoir which retards flow to cause or allow deposition of transported sediment.

“Sensitive area” is the area less than 200 feet away from a water quality resource including a wetland, stream, pond, lake, river, or bay wherein placement of impervious surfaces shall be avoided.

“Site” is any lot or parcel of land or contiguous combination thereof, where grading is performed or permitted.

“Slope” means the inclination of a ground surface expressed as the:

1. Ratio of horizontal distance to vertical distance; or
2. *Ratio of vertical distance to horizontal distance expressed in percent.*

“Soil” means the naturally occurring surficial deposits of any origin overlying bedrock.

“Soil (geotechnical) engineer” shall mean a professional soil or geotechnical engineer registered in and by the state of California to practice in the field of soil engineering.

“Soil (geotechnical) engineering” shall mean the application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

“Stockpile” means earth, rock, gravel, sand, or other similar material temporarily stored prior to final disposition.

“Storm water” means storm water runoff and surface runoff and drainage. It excludes infiltration and runoff from agricultural land.

“Storm water control plan” or “SCP)” is a plan to identify sources of sediment and other pollutants that affect the quality of storm water discharges and describes and ensures the implementation of practices to reduce sediment and other pollutants in storm water discharges. The SCP must include BMPs which address prevention and control of erosion and sediment.

“Storm water pollution prevention plan” or “SWPPP” is a plan to identify sources of sediment and other pollutants that affect the quality of storm water discharges and describes and ensures the implementation of practices to reduce sediment and other pollutants in storm water discharges. A SWPPP is required for sites greater than one acre or from a site that results in a land disturbance of less than one acre but is part of a larger common plan and is part of the State Water Resources Control Board’s General Construction Activity Storm Water Permit or the federal National Pollution Discharge Elimination System (NPDES) storm water discharge regulations. The SWPPP must include BMPs which address prevention and control of erosion and sediment.

“Terrace” is a relatively level step constructed, in the face of a graded slope surface, for drainage and maintenance purposes.

“Vicinity map” Is a visual representation of the project site in relationship to significant geographic features such as watercourses, water bodies, roads, and other significant structures.

“Watercourse” Is a drainage channel or natural creek.

“Zoning permit” is a permit issued by the planning department pursuant to the requirements of Chapter [17.100](#) BMC.

15.73.060 Application – Fees.

A. The applicant shall pay the fees set forth in the Benicia Master Fee Schedule as adopted by City Council.

B. Fees are nonrefundable.

C. Before accepting plans or specifications for review, the city engineer shall collect a plan-check fee from the applicant.

D. Before issuing a grading permit, the city engineer shall collect a grading permit fee.

E. The fee for a grading permit authorizing additional work to be performed under a valid permit shall be the difference between the fee paid for the original permit and the fee shown for the entire project.

F. If any work requiring a permit is begun without a permit, the permit fees shall be doubled to compensate for the extra work involved in inspecting completed, or partially completed, work.

15.73.070 Application – Contents.

A. Application for grading permit. The application for a grading permit shall include but not be limited to the following:

1. Completed city grading permit application form; and
2. Vicinity map, site map and grading plan; and
3. Interim erosion and sediment control plan; and
4. Final erosion and sedimentation control plan when required by the city engineer; and
5. Soil report when required by the city engineer; and
6. Geologic report when required by the city engineer; and
7. Proposed work schedule; and
8. Fee for review of the application in accordance with the current Benicia Master Fee Schedule as adopted by City Council; and
9. A landscape addendum to the erosion and sediment control plan by a licensed landscape architect when required by the community development director; and
10. Copies of the notice of intent (NOI) and stormwater pollution prevention plan (SWPPP) when required by state law; and
11. Such other items as may be required by the city engineer.

B. *Grading plan.* The grading plan shall conform to the guideline(s) provided by the city engineer. The grading plan shall be prepared, stamped, and signed by a civil engineer, and shall be subject to review and approval by the city engineer.

C. Issuance or denial of grading permit; conditions and limitations. Upon receiving an application for a grading permit along with the required submittals, posting of surety as required, and payment of fees, the city engineer will review the application and related documents. Applications may be approved, conditionally approved, or denied.

1. *Issuance.* When the city engineer issues a grading permit, they may attach such conditions as they may deem necessary to ensure compliance with this chapter. The permittee shall perform the work in accordance with the approved plans, the grading permit including any conditions thereon, and in compliance with all the requirements of this chapter. The permittee shall keep informed of all state and federal laws, local ordinances, and regulations which in any manner affect the permit. The permittee shall always comply with and shall cause all their agents, contractors, and employees to comply with all such laws, ordinances, regulations, decisions, and court and similar authoritative orders.

2. *Denial.* If the application conflicts with the provisions of this article, the City Engineer shall deny the permit in writing, giving the reasons for the denial. A grading permit may be denied if the applicant fails to furnish information or secure other permits that may be required by the city or agencies of the federal or state government or other agencies.

3. *Limitations; expiration.* The issuance of a permit under this article shall constitute an authorization to do only that work described or illustrated on the application or on the site plans approved by the city engineer and shall not exempt the permittee from any applicable provisions of the zoning and subdivision regulations and other state and local laws.

a. *Term.* The permittee shall diligently perform and complete the work by the completion date. Unless an extension is granted, the permit shall expire on the date following the specified completion date.

b. *Extension of time.* The permittee may request an extension of time prior to the expiration of the permit. The request shall be in writing and shall set forth the reasons for the request. The request shall be accompanied by a new filing fee and a written consent by the surety company. If in the opinion of the City Engineer such an extension is warranted, the City Engineer may grant an extension, adding such conditions to ensure compliance with this article.

4. *Permit conditions.* The City Engineer may impose any condition to ensure compliance with the provisions of this article and other applicable laws and regulations. Such conditions may include, but not be limited to:

a. Requirements for fencing around excavations or fills which otherwise would be hazardous and drip lines of trees to be preserved; and/or

b. Completion of the work within a specified period; and/or

c. Compliance with best management practices (BMPs); and/or

- d. Provisions for dust control; and/or
- e. Construction of stabilized ingress and egress; and/or
- f. Hours of operations; and/or
- g. Designation of route and time of travel over streets. A surety bond, or other acceptable security, may be required, if deemed necessary by the City Engineer, to secure the repair of improvements that may be damaged by the permittee; and/or
- h. The installation of barricades and barricade lighting; and/or
- i. Designation of the disposal site for any material removed from the grading site.

5. *Copy of plans and permit to be kept at job site.* When an application is approved and a permit issued, one set of approved plans shall be returned to the permittee. The approved plans and permit shall be kept available for reference at the job site.

6. *Changes in permit or work.* No work shall deviate from the approved plans without prior written approval by the city engineer. The city engineer may require the submittal of a revised plan prior to approving any proposed change. Additional fees shall be charged for reviewing plan revisions. Failure to obtain prior approval for any change in the work may be grounds for suspension of work.

7. *Assignment of transfer of permit.* A permit shall be issued only to the applicant and may not be assigned to another person or entity. If a permittee assigns or transfers its permit to another person or entity, the permit shall become void. If an applicant applies for a permit for grading work for which a prior permit was issued, the applicant shall pay a filing fee as set forth in the Benicia Master Fee Schedule as adopted by City Council. No other fee will be charged in addition to the fees for the prior permit unless additional plan review is required due to plan changes.

8. *Suspension or revocation of grading permit.*

a. *Suspension of permit and work.* If the permittee fails to comply with the permit conditions or the provisions of this chapter, the city engineer may suspend the permit. If the city engineer determines that work will potentially cause injuries to persons or damage to properties or improvements, the city engineer shall suspend the work. Upon notice of such suspension, the permittee shall immediately cease all work except for work required by the city engineer to eliminate hazardous conditions or nuisances. The city engineer may reinstate or revoke suspended permits.

b. *Revocation of permit.* The city engineer may in writing revoke a permit issued under the provisions of this article whenever the permit is issued in error or based on incorrect

information or in violation of any ordinance or regulation. The permit may also be revoked due to noncompliance with the permit conditions, the provisions of this chapter, or other applicable laws and regulations, or whenever the permittee has defaulted in performing any work under the terms of the posted bond. Once the permit is revoked, work shall not commence until a new application is filed and a new permit issued.

c. *Procedure.* Upon determination that grounds for revocation of a grading permit exist, the city engineer may conduct a hearing. If a hearing is conducted, a written notice shall be sent separately to the permittee and to the surety, stating the time and place for the hearing and the grounds for revocation. The notice shall be given at least five days before the hearing, and it shall be served personally or by deposit in the United States mail with postage fully prepaid, addressed to the permittee and surety at the mailing address shown in the application and in the surety instrument. Within 30 days of the conclusion of the hearing, the city engineer shall make their findings and decision and file same in their office and shall serve a copy thereof separately upon the permittee and its surety in the manner provided above for service of notice of hearing.

9. *Geologic report.* The city engineer may require a geologic report prior to approval of a grading permit. A geologic report when required by the city engineer shall be based on adequate and necessary test borings and shall contain and not be limited to the following information:

- a. An adequate description of the geology of the site, including delineating any hazard of surface fault trace or rupture; and
- b. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development; and
- c. Recommendations and conclusions regarding the adequacy of site(s) to be developed by the proposed grading; and
- d. Any other information required by the city engineer.

10. *Authority to require geotechnical/soil report.* The city engineer may require a geotechnical/soil report identifying the presence of critically expansive soil.

11. *Contents of geotechnical/soil report.* A geotechnical/soil report, prepared by a civil engineer or engineering geologist, based upon adequate test pits or trenches, shall contain but not be limited to the following:

- a. Description of any critically expansive soil or any other soil problem(s) present at the site; and
- b. An investigation of each site, including recommended corrective actions which will prevent structural damage to buildings, structures, and improvements to be constructed; and

c. A geologic map and description of geologic formations and structures significant to the safety and performance of improvements; and

d. Faults, existing active or inactive landslides, and areas subject to earthquake ground failure such as liquefaction; and

e. "R" values necessary to determine the suitability of the earth material for any improvements; and

f. Recommendations for construction procedures to obtain required stability; and

g. Any other unstable soil conditions to ensure proper development of the site; and

h. Recommendations for corrective actions at locations where land stability problems exist; and

i. The signature and registration number of the civil engineer or engineering geologist preparing the report.

12. *Review of reports.* All reports shall be subject to review by the city engineer. Supplemental reports and data may be required as deemed necessary. Recommendations included in the reports and approved by the city engineer shall be incorporated in the grading plan.

15.73.080 Issuance of permit.

A. No permit shall be issued until all of the required data has been submitted for the application, the city engineer has approved the plans, and all required fees have been paid.

B. No permit shall be issued prior to the approval of any land use entitlement requirements, such as, but not limited to, zoning permits, tentative map and/or building or site plan review. An environmental assessment shall be performed in accordance with the requirements of CEQA (California Environmental Quality Act), in accordance with the city's current zoning ordinance. Conditions may be imposed by the city to minimize or mitigate any environmental impacts of the proposed work.

C. In the case of subdivisions, the approval to proceed by the city engineer, after receiving all required bonds, permit fees, agreements and deeds (if applicable), and after approval of the tentative map by the planning commission or city council, shall constitute the requirements to allow issuance of a grading permit.

15.73.090 Bonds – Posting required.

A. A permit shall not be issued unless the permittee shall first post with the city engineer a surety bond executed by the applicant and a corporate surety authorized to do business in the state as a surety.

The amount of the surety bond shall be based upon the estimated cost to the city to complete the grading or perform work to eliminate drainage obstruction, hazard, or nuisance and shall include the cost of interim and permanent erosion control measures if deemed necessary by the city engineer. If the grading permit requires an erosion and sediment control plan, the surety shall include a cash deposit in an amount equal to the estimated cost of the proposed erosion and sediment control measures but not to exceed \$10,000.00. The estimated cost of the proposed erosion and sediment control measures shall be subject to review and approval by the city engineer.

In lieu of a surety bond, the applicant may file:

1. A corporate surety bond executed by a surety company authorized to transact business in the state; or
2. A cash deposit or its equivalent; or
3. An instrument of credit filed with the city, from a financial institution subject to regulation by the state or the federal government, pledging that the funds necessary to meet the performance are on deposit and guaranteed for payment upon demand and agreeing that the funds designated by the instrument shall be trust funds for the purposes set forth in the instrument. The form of surety bond will be subject to the approval of the city engineer and city attorney.

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B. Among other appropriate provisions, every surety bond shall include the following conditions to which the principal and surety shall each be bound:

1. Comply with the applicable provisions of this article and all other applicable laws, ordinances, rules, and regulations; and
2. Comply with all of the terms and conditions of the permit to the satisfaction of the city engineer; and
3. Complete the work proposed under the permit within the time specified in the permit. The City Engineer may for sufficient cause, extend the time specified in the permit. Such extension shall not release the surety; and
4. Pay all reasonable costs incurred or expended by the city, including but not limited to court costs and attorney's fees, in doing or causing to be done any of the work set forth in the permit, any other work which in the judgment of the city engineer is required to be done as a result of any work or activity done under the permit, or any abatement of any nuisance created by any work or activity done under the permit, or in collecting money or damages in connection with any of the foregoing.

15.73.100 Bonds – Term.

The term of the surety bond shall begin on the date of its posting and shall end upon satisfactory completion of the terms and conditions of the permit. Completion shall be evidenced by a certificate of completion to be issued by the city engineer and filed with the records of the permit.

15.73.110 Bonds – Failure to complete work.

A. In the event of failure to complete the work and failure to comply with all of the conditions and terms of the permit, the city engineer may order the work required by the permit to be completed to his satisfaction. The surety executing such bond or deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the governing agency in causing any and all such required work to be done. If the work is not completed within the time period specified in [BMC 15.73.120](#), the permittee shall be deemed to have abandoned the project, and the city engineer may, in his discretion, order the land to be returned as much as possible to its natural condition, and the surety shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the governing agency in causing such restoration work to be done. In the case of cash deposit, said deposit, or any unused portion thereof, shall be refunded to the permittee in whatever amount is not necessary to complete the work described.

B. *Notice of default.* Whenever the permittee defaults in performing any term or condition of the permit, the City Engineer shall give written notice thereof separately to the permittee and surety. The notice shall state the work to be done to cure the default, its estimated cost, and the starting and completion dates of the work. The notice shall be served personally or by deposit in the United States mail in a sealed envelope, with postage fully prepaid, addressed to the permittee and surety at the mailing address, or, if there is no mailing address, the business address, shown in the application or in the surety.

C. *Duty of surety.* Upon service of the notice of default, the surety shall perform or cause the completion of the work within the time prescribed in the notice.

D. *Disposition of cash surety.* If the permittee fails to perform the work within the time prescribed in the notice, the city engineer may use the cash deposit, its equivalent, or instrument of credit to complete the work.

E. *Right of entry.* In the event of a default in the performance of any term or condition of the permit, the surety or the city engineer or their designees shall have the right to enter the premises to complete the work. It shall be unlawful for any person in any way to hinder, obstruct, or prevent such entry.

F. *Interference prohibited.* No person shall interfere with, obstruct, hinder, or prevent the ingress or egress to or from any such premises by which an authorized representative or agent

of any surety or of the city is engaged in completing the work required under the permit, checking on compliance of the work with the terms or conditions of the permit and the provisions of this article, or taking emergency actions for the protection of the public and abutting properties.

15.73.120 Permit – Duration/expiration.

If the work authorized by any permit under this chapter is not commenced within six months of the date of issuance, or as otherwise indicated on the face of the permit, or if the work is not completed within two years of the date of issuance, or sooner if indicated on the face of the permit, the permit shall expire and become null and void.

15.73.130 Excavating, grading, and filling – Regulations.

The following regulations shall apply to all excavating, grading, and filling:

- A. One copy of the approved plan, and specifications, the storm water control plan, if required, storm water pollution prevention plan, and the grading permit shall be always kept on the site during the progress of grading work.
- B. All grading and noise therefrom, including, but not limited to, warming of motors, shall be limited to the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, unless other times are specifically authorized in writing by the city engineer.
- C. All graded surfaces and materials, whether filled, excavated, transported, or stockpiled, shall be wetted, protected, covered, or contained in such a manner as to prevent any nuisance from dust, sediment, site runoff, or spillage upon adjoining property or streets. Best management practices incorporating erosion controls and other controls (e.g., dust palliative) shall be applied to the site when directed by the city engineer. Equipment and materials on the site and on hauling routes should be used in such a manner as to avoid excessive dust, site runoff, or spillage upon streets or storm drain inlets. This may include limiting work during windy periods.
- D. No grading shall be conducted to encroach upon or alter the established gradient and riparian habitat of natural drainage courses except when a valid permit and other necessary approvals are obtained from the appropriate state and federal authorities (i.e., Fish and Wildlife, etc.) and the necessary environmental review and approvals are received from the planning commission, or city council as the case may be.
- E. Whenever any portion of the work requires entry onto adjacent property for any reason, the permit applicant shall obtain a right of entry from the adjacent property owner or his authorized representative in a form acceptable to the city. A copy of such fully executed right of entry shall be filed with the city prior to the issuance of the grading permit and/or approval of the grading plans.

F. Sediment controls and other best management practices shall be constructed on all developments, as determined by the city engineer, to manage runoff into biologically sensitive areas or onto adjacent property and to control sediment during construction until permanent erosion controls have been established. The sediment and silt collected on site shall then be removed and the resulting material hauled from the site or used as topsoil. Additional erosion control measures shall be employed during the rainy season as required by the city engineer pursuant to BMC [15.73.140](#) and Chapter [15.70](#) BMC, Storm Water Management and Discharge Control. Permanent siltation basins may be required in biologically sensitive areas.

G. Grading shall be designed so that lot lines are at the top of slope and with adequate property line setback from the slope to provide for required vertical slope rounding. The tops and toes of cut and fill slopes shall be set back from property lines of pedestrians and vehicular traffic, required slope rounding, adequate foundation support, required swales, berms and drainage facilities, and applicable zoning requirements. Except for pier-type foundations or other special foundation design, setbacks from property lines shall be not less than as required by Appendix Section 3314 and Figure 18-I-1 of the California Building Code.

H. The permit applicant and grading contractor shall be responsible for the protection of adjacent properties during grading operations. Prior to commencing any grading of the site, the exterior boundaries shall be marked as required by the city engineer. Boundary markers shall be maintained throughout the grading operation. Temporary barriers and/or protective fencing shall be used when necessary to protect adjacent properties.

I. Proper soil stabilization is required for all graded areas. Slopes, both cut and fill, shall be provided with subsurface drainage as necessary for stability.

J. Unless otherwise recommended in the approved soils report, fills shall conform to the following provisions:

1. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil, and other unsuitable materials, then scarifying surface to provide a bond with new fill.
2. Fill on slopes' steeper than 5:1 and higher than five feet shall require benching into sound bedrock or other competent material as determined by the soil engineer. Bench shall be a minimum width of 10 feet. The area beyond the top of fill shall be sloped for sheet overflow or an approved drainage facility provided.
3. When fill is placed over a cut, the bench under the top of fill shall be at least 10 feet wide but the cut shall be made before placing the fill and acceptance by the soil engineer or engineering geologist or both as a suitable foundation for fill.
4. Detrimental amounts of organic material shall not be permitted in fills. No rocks or similar irreducible material with a minimum dimension greater than 12 inches shall be

buried or placed in fills. The city engineer may permit placement of larger rock only upon receipt and approval of a method of placement prepared by a soil engineer and under his/her direction. The following conditions shall also apply:

- a. Rock disposal areas shall be delineated on grading plan.
- b. Rock sizes greater than 12 inches in maximum dimension shall be 10 feet or more below finished grade, measured vertically.
- c. Rocks shall be placed to assure filling of all voids with fines.

5. All fills shall be compacted to a minimum 90 percent of maximum density as determined in accordance with the requirements of the city engineer. In-place density shall be determined in accordance with the requirements of the city engineer.

K. Slopes, both cut and fill, shall not be steeper than two horizontal to one vertical (2:1), unless special circumstances applicable to the property, including size, shape, topography, location or surroundings would cause the strict application of the standard to deprive such property of reasonable use. If the above conditions are met, a thorough geological and engineering analysis shall verify that steeper slopes are safe and appropriate erosion control measures are specified.

L. Cut and fill slopes shall be contour-rounded unless the city engineer finds special circumstances applicable to the property that would require deviation from the requirement.

M. Variable slopes shall be used to mitigate environmental and visual impacts of grading unless the city engineer finds special circumstances applicable to the property that would require deviation from this requirement.

N. Terraces at least six feet in width shall be established at not more than 30-foot vertical intervals, subject to maximum height limitations, to control surface drainage and debris on cut or fill slopes. Suitable access shall be provided to permit proper cleaning and maintenance. Swales and ditches or terraces exceeding 200 feet in length shall have a minimum gradient of one percent and must be paved with concrete not less than three inches in thickness. They shall have a minimum depth of one foot at the center and a minimum paved width of 32 inches. A single run of swale or ditch shall not collect runoff from a tributary area exceeding 15,000 square feet (projected) without discharging into a down drain. These requirements regarding ditches and swales may be modified if recommended by a licensed soil engineer and approved by the city engineer.

O. All drainage facilities shall be designed to carry waters to the nearest practical drainage way approved by the city and/or other appropriate jurisdiction as a safe place to deposit such waters. Such facilities shall comply with the requirements of Chapter [15.70](#), Storm Water Management and Discharge Control. If drainage facilities discharge on natural ground, riprap

and/or energy dissipators shall be constructed. All building sites shall be graded and sloped away from the building foundation with a minimum slope of two percent for 10 feet on all sides of every building except where yard requirements are less than 20 feet, in which case the soil shall be graded away from the foundation to a minimum of two-tenths of a foot in elevation at a distance not less than one-half the required yard width. The guidance documents referred to in Chapter [15.70](#), and city engineering standards, shall be referred to in the planning of site grading so that surfaces drain first to planned landscaped areas before discharging to the public storm system.

P. Properly designed trash racks shall be installed on the upstream end of storm drainpipes 18 inches or larger where the pipe accepts drainage from a waterway, which is not to be undergrounded. These racks are to be constructed to preclude large debris, small children, and pets from entering the pipe. The city may require the installation of trash racks at other locations as deemed necessary for proper maintenance and safety.

Q. Upon completion of grading, provisions shall be made for the permanent maintenance of planted slopes or permanent erosion control measures. Finished improvements contained within private property shall be the responsibility of that owner for permanent maintenance. Where finished improvements are within a common area, there shall be a provision in the covenants, conditions, and restrictions of that development for permanent maintenance. Where finished improvements are to be included in the public right-of-way, then permanent maintenance shall be subject to a condition of approval of the entitlement allowing the improvement(s) within the City's rights-of-way.

R. No fill material shall be placed, spread, or rolled during unfavorable weather conditions as determined by the soil engineer or city engineer. When the work is interrupted by heavy rains, fill operations shall not be resumed until field tests by the soil engineer indicate that the moisture content and density of the fill are satisfactory for resumption of the filling operation.

S. Modification of the specific grading regulations contained in this chapter may be approved or required by the city upon a finding that such modification:

1. Is necessary to preserve existing natural features, such as trees, streams, rolling hill forms, knolls, ridges, significant vegetation, or rock outcroppings; or
2. Will reduce the adverse visual impacts of cut and fill operations.

For subdivisions of five or more units, this finding must be made by the planning commission or city council at the time of the approval of the tentative map, site plan, etc. For all other grading where a grading permit is required, the finding must be made by the city engineer in consultation with the permittee.

15.73.140 Erosion control.

A. All active and passive construction sites projects shall have a best management practices plan and storm water control measures in compliance with BMC [15.70.090](#). The Benicia Municipal Code requires a storm water pollution prevention plan (SWPPP) that meets either the requirements of the city of Benicia or the state general construction permit. A storm water control plan shall also be submitted in compliance with BMC [15.70.090\(E\)](#) that incorporates best management practices of site design, source controls and treatment control.

B. The city may approve grading operations through the rainy season if all of the following conditions are met:

1. Applicant has a storm water control plan approved by the city.
2. A letter from the project geotechnical engineer or certified engineering geologist stating that such grading is acceptable and will not create a hazard to life, limb, property and public welfare.
3. Wet weather BMPs for grading operations are in conformance with approved plans and the SWPPP, have been placed and approved by the city, and are kept continuously maintained and in place.
4. Adequate security has been provided to the city.

C. The only BMPs that may be altered are those in direct conflict with the daily construction activity, as long as such BMPs are replaced at the end of the day's construction activities, the start of a storm event or whichever occurs first.

D. The applicant shall comply with all BMPs and any rules, regulations, standards, ordinances, laws, permits and policies established or issued by the Federal Environmental Protection Agency, California Water Quality Control Board, and other regional, state, and federal agencies as applicable.

E. The following documents shall be used as guides for the design and suitability of storm water control measures:

1. The city of Benicia general plan.
2. Association of Bay Area Governments Manual of Standards of Erosion and Sediment Control Measures.
3. California Stormwater Quality Association Best Management Practices Handbook.
4. The Erosion and Sediment Control Field Manual prepared by the Regional Water Quality Control Board, San Francisco Bay Region.

5. Bay Area Storm Water Management Agencies Association "Start at the Source."

F. Slopes. The faces of cut and fill slopes over four feet in vertical height shall be prepared, stabilized, and maintained to control against erosion. This control may consist of hydroseeding, jute matting, cribbing, walls, terracing, drainage facilities, approved planting, or a combination thereof. If planting is required by the city or as a condition of approval of the tentative map, the planting plan shall be approved by the city's community development director and by the parks and community services director. The protection for the slopes shall be installed as soon as practicable and prior to October 15th. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be minimized with prior approval from the city engineer.

G. Other unprotected graded surfaces exceeding 5,000 square feet in area shall be planted, paved, or built upon, or shall be provided with berms, approved drainage facilities or approved erosion control facilities adequate to prevent erosion and to conduct the accumulation of runoff of surface waters to an approved place of discharge.

H. The design, installation and maintenance of all erosion control facilities or methods shall follow the standards and guidelines contained in the latest edition of the California Best Management Practices Handbook for Construction Activity, dated 2003, unless otherwise approved by the city engineer. Erosion control devices (including straw bales, silt fences, etc.) shall be on the site on or before October 1st. The erosion control facilities shall be installed and in operation in accordance with the approved erosion control plan, storm water management plan or storm water pollution prevention plan on or before October 15th. The following basic design principles and standards shall serve as minimum guidelines to control erosion and reduce sedimentation:

1. Stripping or burning of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion.
2. Existing natural vegetation shall be retained, protected, and supplemented where necessary. Site development shall be accomplished so that existing trees can be preserved whenever possible and practical.
3. Exposure of soil to erosion by removal of vegetation shall be limited to the smallest area practicable and for the shortest time practicable. Soil exposure shall not exceed an area in which development can be completed during a single construction season to ensure that soils are stabilized, and vegetation is established well in advance of the rainy season.
4. Facilities shall be constructed to retain sediment produced on-site.
5. Sediment basins, sediment traps, diversions or similar required measures shall be installed well in advance of any clearing or grading and maintained through any such

operations until removal is authorized by the city engineer. Design and size of basins shall be shown on plans and of a capacity to service the watershed affected.

6. Temporary seeding, mulching, or other suitable stabilization measures shall be used to protect exposed erodible areas during development at a minimum of two weeks in advance of the rainy season.

7. Permanent control structures and final vegetation should be installed as soon as practicable in the development, and a long-range maintenance plan developed and adhered to.

8. Standby crews and straw bales or sandbags stacked at the job site shall be available to the permittee or contractor for emergency work during rainstorms.

9. Velocity check dams in all unpaved street areas and all unpaved graded channels shall be provided at the necessary intervals to control and minimize erosion.

10. All erosion control devices shall be in place at the end of each working day during the rainy season and when directed by the city engineer or his authorized representative during the dry season when there is a probability of rain forecasted.

11. All erosion control devices including basins and check dams shall be properly maintained within 24 hours after each storm in order to be prepared to accommodate runoff from the next storm event. This may require basins and check dams to be pumped dry and all debris and silt removed as directed by the soil engineer or city engineer.

12. It is the intent of this chapter to prohibit the abandonment of graded areas or slopes which are not provided with erosion protection and adequate drainage facilities even if all other requirements in this section and this chapter have been provided and approved.

15.73.150 Grading inspection.

A. General. All grading operations for which a permit is required, including measures required by Chapter [15.70](#) BMC, Storm Water Management and Discharge Control, shall be subject to inspection by the city engineer. Special inspection of grading operations and special testing shall be performed in accordance with the provisions of subsection C. of this section.

B. Grading Designation. All grading in excess of 5,000 cubic yards or with cuts/fills greater than four feet shall be performed in accordance with the approved grading plan prepared by a civil engineer and shall be designated as "engineered grading." Grading involving less than 5,000 cubic yards shall be designated "regular grading." When the city engineer has cause to believe that hydraulic, geologic, or other factors may be involved, the grading operation shall be required to conform to "engineered grading" requirements.

C. Engineered Grading Requirements. For engineered grading it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He shall also be responsible for the professional inspection and approval of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade, and drainage of the development area. The civil engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor, and the city engineer. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-built grading plans upon completion of the work.

Soil engineering and engineering geology reports shall be required as specified in BMC [15.73.160](#). During grading, all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the city engineer by the soil engineer and the engineering geologist.

The soil engineer's area of responsibility shall include, but need not be limited to, professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and the design of buttress fills, and where required, incorporating data supplied by the engineering geologist.

The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. He shall report his findings to the soil engineer and the civil engineer for engineering analysis.

The city engineer shall inspect the project at the various stages of the work requiring approvals and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.

D. Regular Grading Requirements. The city engineer, at his discretion, may require inspection and testing by an approved testing agency at the permittee's expense.

The testing agency's responsibility shall include, but need not be limited to, certification concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.

E. Notification of Noncompliance. If, while fulfilling their responsibility under this chapter, the civil engineer, the soil engineer, the engineering geologist, or the testing agency finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and the city engineer. Recommendations for corrective measures, if necessary, shall be submitted.

F. Transfer of Responsibility. If the civil engineer, the soil engineer, the engineering geologist, or the testing agency of record are changed during the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for approval upon completion of the work.

15.73.160 Completion of work.

A. Final Reports.

1. Upon completion of the rough grading work and at the final completion of the work, the city engineer shall require the following reports and drawings and supplements thereto:

a. An as-built grading plan, including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities.

b. The grading contractor shall submit a statement that his work was in conformance to said as-built grading plan.

2. For "engineering grading" the following shall also be required:

a. A final soils grading report prepared by the soil engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading, and their effect on the recommendations made in the soil engineering investigation report. The soil engineer shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soil engineering report.

b. A geologic grading report prepared by the engineering geologist including a final description of the geology of the site, including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. The engineering geologist shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soil engineering report.

c. The civil engineer shall submit a statement that, to the best of their knowledge, the work within their area of responsibility was done in accordance with the final approved grading plan. An as-graded grading plan prepared by the civil engineer on three-mil-thick mylar shall be provided, incorporating original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, location and elevation of all surface and subsurface drainage facilities and other information as contained in the originally approved grading plan.

B. Notification of Completion. The permittee or the permittee's agent shall notify the city engineer when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices and all erosion control measures, have been completed in accordance with the final approved grading plan and the required reports have been submitted.

C. Upon completion of all grading work, receipt of the as-built grading plan and the necessary statements, and upon evidence that all the requirements of this chapter have been satisfactorily complied with, the city engineer shall notify the city building inspection division. Completion of all rough grading work and approval from the city engineer is required prior to issuance of any building permit by the building inspection division.

15.73.170 Appeal procedures.

Any person under this chapter who may be dissatisfied with the action of the city engineer on the application may file an appeal in accordance with Chapter [1.44](#) BMC.

15.73.180 Violations – Prosecution as infraction

The violation of any provision of this article, or failure to comply with any of the mandatory requirements of this chapter, shall constitute a misdemeanor, except that, notwithstanding any other provisions of this article, any such violation constituting a misdemeanor under this article may, at the discretion of the authorized enforcement officer, be charged and prosecuted as an infraction.

15.73.190 Violations – Penalties.

A. Penalties for violation of this chapter shall be as set forth in chapter 1.08.

B. The city engineer may issue a stop-work order until violation of any provision of this chapter is corrected. If, in the opinion of the city engineer, a grading operation creates a dangerous or hazardous condition, the city engineer shall require the applicant to immediately abate such condition. If the applicant fails to abate the condition, the applicant's grading bond shall be called by the city and the cost of corrective work charged to the bond.

Chapter 15.75 Public Improvement Standards

Sections:

- 15.75.010 Findings – Purpose.**
- 15.75.020 Adoption.**
- 15.75.030 Revision.**
- 15.75.040 Copies on file.**

15.75.010 Findings – Purpose.

The city council finds it necessary that the city adopt regulations and standard specifications for public improvements in the city. The purpose of these regulations and specifications is to provide certain minimum standards for the design, methods of construction, and use of materials for streets, alleys, concrete structures, storm drain facilities, sanitary sewage facilities, water distribution systems and other public improvements hereafter constructed, altered, or repaired within the city; and to provide minimum standards for surveys, preparation of maps, preparation of improvement plans, and monumenting in connection with the aforesaid improvements of the city.

15.75.020 Adoption.

The city engineer shall recommend to the city council regulations and standard specifications for public improvements in the city. The city council, by resolution, may adopt the regulations and specifications in whole or in part with any additions or amendments deemed necessary. These regulations and specifications shall be known as “The City of Benicia Regulations and Standard Specifications for Public Improvements.”

15.75.030 Revision.

The city council, by resolution, may from time to time revise the “City of Benicia Regulations and Standard Specifications for Public Improvements” as the need for such revision arises. The city engineer shall recommend to the city council any changes to the regulations and specifications whenever he deems such changes advisable and an improvement over existing regulations and specifications.

15.75.040 Copies on file.

At least one copy of the “City of Benicia Regulations and Standard Specifications” shall be on file at the office of the city clerk and at the office of the city engineer. These copies shall be available in said offices for examination by the public upon request.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 3.

Compliance with the California Environmental Quality Act: The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to under California Code of Regulations, Title 14, sections 15060(c)(2) (the activity will not result in a direct or reasonably

foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 4.

Effective Date and Posting: This Ordinance shall be effective 30 days following its adoption by the Town Council or _____. Before the expiration of fifteen (15) days after its passage, this ordinance, or a summary thereof as provided in California Government code Section 36933, shall be posted in at least three public places in the City of Benicia, along with the names of the members of the Town Council voting for and against its passage.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Benicia on November 15, 2022, and was therefore adopted at the regular meeting of the City Council on _____ by the following vote of the City Council:

Solano County Airport Land Use Commission

675 Texas Street Suite 5500
Fairfield, California 94533
Tel 707.784.6765 / Fax 707.784.4805
SolanoALUC@SolanoCounty.com

LAND USE COMPATIBILITY DETERMINATION: APPLICATION FORM

TO BE COMPLETED BY STAFF		
APPLICATION NUMBER:	FILING FEE:	
DATE FILED:	RECEIPT NUMBER:	
JURISDICTION:	RECEIVED BY:	
PROJECT APN(S):		
TO BE COMPLETED BY THE APPLICANT		
I. GENERAL INFORMATION		
NAME OF AGENCY: City of Benicia	DATE: 10/17/2022	
ADDRESS: 250 East L Street, Benicia, CA		
E-MAIL ADDRESS: EGorman@ci.benicia.ca.us	DAYTIME PHONE: 707-746-4276	FAX:
NAME OF PROPERTY OWNER: N/A - Citywide Ordinance	DATE: 10/17/2022	
ADDRESS: N/A - Citywide Ordinance		
NAME OF DOCUMENT PREPARER: Evan Gorman, Associate Planner	DATE:	
ADDRESS: 250 East L Street, Benicia, CA	DAYTIME PHONE: 707-746-4276	FAX:
NAME OF PROJECT: Benicia amendments to Title 15: Building Code		
PROJECT LOCATION: Citywide Ordinance		
STREET ADDRESS: N/A - Citywide Ordinance		

PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.

TO BE COMPLETED BY THE APPLICANT

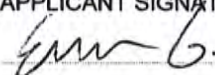
II. DESCRIPTION OF PROJECT

The proposed project would amend Title 15 (Buildings and Construction) of the Benicia Municipal Code (BMC). The California Building Standards Commission has published the 2022 California Building Standards Code (Title 24 of the California Code of Regulations), which includes the Building Code, Existing Building Code, Residential Code, Plumbing Code, Mechanical Code, Electrical Code, and Fire Code. The California Building Standards Commission adopts codes in a three-year cycle. State law mandates that local jurisdictions implement the recently adopted codes by January 1, 2023. Cities may adopt available appendices to the state code to address specific local climatic, geological, or topographical conditions.

This proposal would repeal and replace Title 15 (Building and Construction) of the City of Benicia Municipal Code to reflect the newly published California Building Standards Code and adopt administrative procedures and local amendments or appendices relating to those standards. Following ALUC approval, this will move forward to the Benicia City Council.

PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.

LAND USE COMPATIBILITY DETERMINATION APPLICATION

TO BE COMPLETED BY THE APPLICANT	
II. DESCRIPTION OF PROJECT (CONT'D)	
POTENTIAL PROJECT EMISSIONS: (i.e. smoke, steam, glare, radio, signals): None.	
PROJECT AIRPORT LAND USE COMPATIBILITY PLAN: Travis Airport Land Use Compatibility PIn	COMPATIBILITY ZONE: E and D
PERCENTAGE OF LAND COVERAGE: N/A	MAXIMUM PERSONS PER ACRE: N/A
THE FOLLOWING INFORMATION MUST BE SUBMITTED AS A MINIMUM REQUIREMENT:	
<input checked="" type="checkbox"/> JURISDICTION REFERRAL LETTER: <input type="checkbox"/> ENVIRONMENTAL DOCUMENTATION: <input type="checkbox"/> LOCATION MAP: <input type="checkbox"/> ASSESSOR'S PARCEL MAP, with subject property marked in red: <input type="checkbox"/> SITE PLAN, drawn to scale and fully dimensioned including topographical information, and 8 1/2 x 11 inch reduction(s): <input type="checkbox"/> ELEVATIONS, if located in APZ, clear zones and A,B,C compatibility zones or over 200' in height, plus 8 1/2 x 11 inch reduction(s) : <input type="checkbox"/> WIND TURBINE STUDY, including cumulative impact studies. Such studies shall include an analysis of (1) the individual effects of the proposed project, and (2) as required by law, an analysis of the cumulative effects of the proposed project considered in connection with the effects of past projects, the effects of other current projects and proposed projects, and the effects of probable future projects, including (i) the probable build out for wind energy development of the remaining vacant parcels within the wind resource areas described in the Solano County General Plan and (ii) any probable replacement of existing turbines or meteorological towers with structures having different dimensions.	
<input checked="" type="checkbox"/> SUPPLEMENTAL INFORMATION: Draft Ordinance <input checked="" type="checkbox"/> FEES: \$200 <input type="checkbox"/> ELECTRONIC COPIES OF ALL APPLICATION MATERIALS ON A CD:	
APPLICANT SIGNATURE: X 	DATE: 10.17.2022
DOES THE PROJECT PROPOSE THE DEMOLITION OR ALTERATION OF ANY EXISTING STRUCTURES ON THE PROJECT SITE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, describe below:	

PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.



250 East L Street • Benicia, CA 94510 • (707) 746-4320

Community Development Department Planning Division

October 17, 2022

Nedzlene Ferrario
Solano County Department of Resource Management
Planning Services Division
675 Texas Street, Suite 5500
Fairfield, CA 94533-6341

RE: Referral of Municipal Code Text Amendments to Airport Land Use Commission

Dear Ms. Ferrario,

Enclosed please find two applications to the Airport Land Use Commission, requesting the Commission's review of proposed Text Amendments within the City of Benicia for compatibility with the Travis Air Force Land Use Compatibility Plan (ALUCP). The proposed Text Amendments would include adoption of the 2022 Building Code, and amendments to Title 17 (zoning) addressing Mixed Use Zones and Cannabis Uses. The ordinances would be effective City-wide. A majority of the City is in Zone D of the Travis ALUCP, but a portion of the city appears to also be in Zone E.

The proposed projects include the following:

- Application #1: Proposed amendments to Title 15, adopting the 2022 Building Code along with locally focused amendments.
- Application #2: Proposed amendments to Title 17, including the code sections regulating mixed-use districts and cannabis uses.

The City of Benicia hopes that you will review the enclosed application and documentation to advise us of the application's completeness and any comments you may have.

Thank you for your assistance and consideration.

Respectfully,

Evan Gorman
Associate Planner

CITY OF BENICIA

ORDINANCE NO. 22-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY COUNCIL OF THE CITY OF BENICIA TO REPEAL TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE AND REPLACE WITH THE 2022 CALIFORNIA BUILDING CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1 Building Code:

Title 15 (Buildings and Construction) of the Benicia Municipal Code is repealed in its entirety and replaced with the following:

TITLE 15 BUILDINGS AND CONSTRUCTION ⁱ

Division I. Building and Safety Construction Code.

Chapters:

15.01 Purpose and findings.

15.03 Construction code adopted.

15.05 Amendments and additions to the California Building Code.

15.08 Amendments and additions to the California Residential Code.

15.11 Amendments and additions to the California Plumbing Code.

15.16 Amendments and additions to the California Existing Building Code.

15.20 Amendments and additions to the International Swimming Pool and Spa Code.

15.25 Mandatory Construction Waste Reduction, Disposal and Recycling and Water Efficient Landscaping.

15.27 Commercial Construction Time Limits.

15.30 Gas Shut-Off Devices.

15.33 Notice of Building Occupancy Prohibitions.

15.35 Streamlining Permitting for Residential Rooftop Solar.

15.40 Streamlining Permitting for (EV) Electric Charging Stations.

Division II. Flood Damage Prevention.

Chapters:

15.47 General Flood Provisions.

15.49 Administration.

15.50 Reserved.

15.51 Provisions for Flood Hazard Reduction.

15.53 Variances.

15.55 Appeals.

15.56 Reserved.

Division III. Seismic Hazards.

Chapters:

15.60 Seismic Hazards identification Program.

15.62 Reserved.

15.64 Reserved.

15.66 Reserved.

Division IV. Storm Water, Grading and Erosion Control,

Public Improvement Standards.

Chapters:

15.70 Storm Water Management and Discharge Control.

15.73 Grading and Erosion Control.

15.75 Public Improvement Standards.

For statutory provisions authorizing cities to regulate buildings and construction, see Government Code §§ [38601](#) and [38660](#); for provisions on the construction of housing, see Health and Safety Code § [17910](#) et seq.; for provisions authorizing cities to adopt codes by reference, see Government Code § [50022.1](#) et seq.

Division I. Building and Safety Construction Code

Chapter 15.01 PURPOSE AND FINDINGS

15.01.010 Purpose.

1. This title regulates building standards, safety, and related matters. It adopts by reference and as amended or added to by the City of Benicia various codes developed by the state of California and other entities, including but not limited to the California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Historical Building, Fire, Existing Building, and Green Building Standards Codes, Flood Damage Prevention, Seismic Hazards, Storm Water, Grading and Erosion Control, and Public Improvement Standards. The purpose of the ordinances codified in this chapter is to make certain amendments, deletions, and additions as allowed under State law to align with the newest cycle of regulatory codes by incorporating the latest version of applicable codes listed herein.
2. Such code shall be known as the Benicia Building and Safety Construction Code regulating the erection, construction, alteration, repair, relocation, demolition, occupancy, use, height, area, and maintenance of all buildings and structures and certain equipment therein specifically regulated. The provisions of said code shall provide for the issuance of permits and certificates of occupancy, the collection of fees thereof, and penalties for violation of such code.

15.01.020 Findings.

1. Pursuant to California Health and Safety Code Sections 17958.5, 17958.7, and 18941.5 the city council finds that the requirements set forth in this title are reasonable and necessary modifications because of climatic, geological, and topographical conditions within the City of Benicia. The “express findings of need” contained herein address each of these conditions and present the local situations which cause the established amendments, deletions, and additions to be adopted.

- a) The region is within a climate zone that requires compliance with energy efficiency standards for building construction. The amendment adds design flexibility that will add to energy efficiency in construction while maintaining nationally recognized health and safety standards. This reason is herein referred to as "Climatic I".
- b) The community is in an air quality nonattainment region. Research conducted by the Bay Area Air Quality Management District and reflected in the 2019 amendment to Regulation 6 Rule 3 extends the Air Districts authority to ban wood burning or combustion in wood-burning devices year-round. Emissions and pollutants may be greatly reduced with the use of gas-fired type fireplaces. This reason is herein referred to as "Climatic II"
- c) The city is subject to frequent periods of strong, gusty winds from the southwest and north. During this period, the temperatures can reach from 80-100 degrees in the summer months and the relative humidity can fall below 20 percent. The hot, dry, and windy climatic conditions create a hazardous situation that has led to extensive grass and brush fires. Future development with heat driven wind have the potential for high fire consequences. Minor fires can rapidly spread because of the climate and vegetation. The configuration and type of existing development require additional review. Wood construction, including wood shingle and wood shake roofing, presents extreme adverse fire conditions as does the proximity of some buildings. The reason is hereinafter referred to as "Climatic III".
- d) The region is in an area of high seismic activities as indicated by the United States Geological Survey and California Division of Mines and Geology. Recent earthquake activities have indicated that lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants and increase the cost of rehabilitation of structures. This reason is hereinafter referred to as "Geological I".
- e) According to the California Department of Developmental Services, drowning is the number one cause of accidental death for children under the age of five in California. Each year, near-drowning incidents result in life-long disabilities. Between 2005 and 2014, there was an average of 3,536 drownings annually in the United States. Well-designed pool barriers can reduce accidental drowning deaths and injuries. This reason hereinafter referred to as "Life / Safety I".
- f) Modifications and amendments provide minimum standards designed to enhance the aesthetic appearance of the community, preserve property values, and protect health, safety, and welfare. As required by the California

Health and Safety Code, the city council finds and declares that the amendments, deletions, and additions to the regulations are reasonably necessary because of local conditions in that they prescribe local fee schedules and make other amendments, deletions, or additions to the code consistent with a comprehensive building program for the city. This reason hereinafter referred to as "Local Conditions I".

15.03 Construction Code Adopted

For the purpose of setting forth proper regulations for the protection of public health, safety, and welfare, regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use height, area and maintenance of buildings and structures in the city, providing for the issuance of permits and collection of fees, and providing penalties for the violation thereof, the following uniform construction codes are adopted, as amended, to apply in the City of Benicia:

The following codes are hereby adopted by reference for the City of Benicia:

- a) The California Building Code, 2022 edition, which is the 2021 International Building Code, with California amendments, consisting of Volumes 1 and 2, and the following appendix chapters: appendix B, appendix G, appendix H, appendix I and appendix J, are adopted in their entirety with amendments and additions set forth in this Title 15 as recommended by the Chief Building Official ("Building Official").
- b) The California Residential Building Code, 2022 edition, which is the 2021 International Residential Code with California amendments and the following appendix chapters: Appendix AL, Appendix AH, Appendix AJ, Appendix AK, Appendix AQ, Appendix AT, and Appendix AV, are adopted in their entirety with amendments and additions set forth in this Title 15 as recommended by the Building Official;
- c) The California Electrical Code, 2022 edition, which is the 2021 National Electrical Code with California amendments, is adopted in its entirety with no amendments, deletions, or additions;
- d) The California Mechanical Code, 2022 edition, which is the 2021 Uniform Mechanical Code with California amendment is adopted in its entirety with no amendments, deletions, or additions;
- e) The California Plumbing Code, 2022 edition, which is the 2021 Uniform Plumbing Code with California amendments and the following appendix chapters: chapter

A, chapter B, chapter E, chapter I, chapter K, and chapter L, are adopted in their entirety with amendments and additions as set forth in this Title 15 as recommended by the Building Official;

- f) The California Green Building Standards Code, 2022 edition, is adopted in its entirety with no amendments, deletions, or additions;
- g) The California Energy Code, 2022 edition, is adopted in its entirety with no amendments, deletions, or additions;
- h) The California Historical Building Code, 2022 edition, published by the International Code council, is adopted in its entirety with no amendments, deletions, or additions;
- i) The California Existing Building Code, 2022 edition, and the following appendix and chapters: appendix A, chapter A1, chapter A2, chapter A3, chapter A4, and chapter A5, appendix B, appendix D, are adopted in their entirety with amendments and additions as set forth in this Title 15 as recommended by the Building Official;
- j) The International Pool and Spa Code, 2021 edition, is adopted in its entirety with amendments and additions as set forth in this Title 15 as recommended by the Building Official;
- k) The California Administrative Code, 2022 edition, is adopted with no amendments, deletions, or additions.

At least one (1) copy of the City of Benicia Building and Safety Construction Code has been deposited in the office of the city Building Official and is available for public inspection.

A copy of these findings, together with the amendments or additions are expressly marked and identified to which each finding refers, shall be filed by the Building Official or their designee with the California Building Standards Commission.

Chapter 15.05 Amendments and Additions to the California Building Code

A. The following amendments and additions as recommended by the Building Official are adopted to the California Building Code, 2022 edition, which is the 2021 International Building Code as amended by the State of California:

- 1) Amend section 502.1 to read as follows:

502.1 Building Address. New and existing buildings shall be provided with approved address identification. The address shall be legible and placed in a position that is visible from the street or road fronting the property. **Any new building or an existing building that undergoes an alteration or addition that requires a building permit shall be provided with approved address identification as follows:**

- a) **Industrial-** Industrial buildings with multiple addresses shall have at least one address number posted toward the access road with a minimum numeral size of 12" high with a minimum stroke of 3" wide. Individual units within an Industrial building shall be approved to have a minimum numeral address size of 6" high with a stroke of 1". All address identification characters shall contrast with the background.
- b) **Commercial-** All commercial units shall be provided with a minimum numeral size of 6" high with a 1" wide stroke and shall contrast with the background.
- c) **Residential-** All residential buildings shall have a minimum numeral size of 4" high with a 1/2" wide stroke and shall contrast with the background.
- d) **Lighting of building addresses –** The building address for all new buildings constructed after October 1, 2022, shall be automatically lighted at night

Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole, or other approved sign or means shall be used to identify the structure. Address identification shall be maintained. (Local condition I)

2) Amend section 105.5.1 to read as follows:

105.5.1 Expiration (BSC). On or after January 1, 2019, every permit issued shall become invalid unless work on the site authorized by such permit is commenced **and a building inspection received by the Building Official or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months of after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each prior to the expiration date of such permit. The extension shall be requested in writing and justifiable cause demonstrated **or as mandated in title 15-chapter 15.27 Commercial construction time limits.** (See Health and Safety Code Section 18938.5 and 18938.6) (Local conditions I)

3) Add section 105.8 to read as follows:

105.8 Reactivation of an expired permit. To continue work on an expired permit the permittee shall obtain an approval for reactivation of an expired building permit or apply for a new building permit for the remaining work prior to continuing any further construction. A

written reactivation request will be reviewed by the Building Official provided no changes have been made or will be made in the original plans, details, or specifications for such work. Reactivation of an expired building permit shall be at the discretion of the Building Official per the California Building Code Chapter 1 Section 105.5.1 Expiration (BSC) as amended. by the Benicia Municipal Code as adopted by City Council of Title 15 Buildings and Construction. If an expired building permit requires changes to the original plans, details, or specifications including but not limited to field changes or California Building Code cycle update, a new building permit shall be required for all remaining work. The new building permit application will be reviewed and issued under the current building code cycle and current fees established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions l)

4) Add section 107.6 to read as follows:

107.6 Standard or Master Plans. The Building Official may review for compliance a set of plans for a building or structure as a "standard or master plan," provided the applicant has made proper application, submitted a complete set of plans, and paid the plan review fee required by the Benicia Master Fee Schedule adopted by City Council. When it is desired to use an approved "standard or master plan" for an identical structure, a plot plan and or floor plan shall be submitted by application and a plan-review fee paid that is equal to one-half of the full plan-review fee as required by the current Benicia Master Fee Schedule adopted by City Council for such identical work. In case of any deviation whatsoever from this standard or master plan, complete plans, together with a full plan-review fee required by the Benicia Master Fee Schedule and adopted by City Council, shall be submitted for the proposed work. Standard or master 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 building code in effect when the plan review application is submitted, and the plan review fee paid shall be the governing code. (Local conditions 1)

5) Add section 107.7 to read as follows:

107.7 Property survey. If a new structure or addition to a structure is proposed within six inches (6") of the required yard line or setback specified by zoning or otherwise approved by the Benicia Planning Division, or within six inches (6") of the property line when there is no specified yard line or setback, the following requirement applies: The building permit applicant shall have a California licensed professional or California land surveyor provide documentation certifying that: a) the proposed location of the structure/addition is entirely on the applicant's property; b) the structure/addition does not encroach onto adjacent property(s); and c) the structure/addition complies with the minimum yard/setback requirements. This documentation may take the form of a site plan, or a written letter prepared, stamped, and signed by the California licensed professional or California land

surveyor. The Building Official may require string lines at the time of first inspection, at their discretion. Additionally, this documentation requirement may be partially waived by the Building Official or the Planning Manager if multiple adjacent parcels under single ownership are being developed or have previously been developed as a single site. (Local conditions I)

6) Amend section 109.3 to read as follows:

109.3 Permit Valuations. Building permit valuations. The applicant for a permit shall provide an estimated permit value at the time of application. Permit valuations shall reflect the total work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems. If, in the opinion of the Building Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates **in the form of a bid for work from a California licensed contractor of that discipline, a signed contract for scope of work to be performed on the permit from a California licensed contractor of that discipline, or the valuation meets the minimum square foot cost from the current International Code Council Building Value data table (BVD) with regional calculator.** Final building permit valuation shall be set by the Building Official. (Local conditions I)

7) Amended section 109.4 to read as follows:

109.4 Work commencing before permit issuance. Any person who commences any work **requiring a permit on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to an investigation fee established in the Benicia Master Fee Schedule as adopted by City Council. An investigation shall be made before a permit may be issued for such work. Whether or not a permit is then or subsequently issued an investigation fee established by the Benicia Master Fee Schedule as adopted by City Council shall be collected. In addition to all fees required by this section all fees established by the California Mechanical Code section 104.5.2 Investigation fees and California Plumbing Code section 104.5.2 Investigation fees, including all amendments and additions as adopted by City Council shall be paid. The payment of such investigation fees shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law. The Building Official shall have the authority to reduce but at no time waive an investigation fee at their discretion. In addition to all fees required as established by the California Mechanical Code section 104.4.2 Investigation fees and California Plumbing Code section 104.4.2 Investigation fees, including all amendments and additions as adopted by City Council. All investigation fees shall be in addition to the required permit fees.** (Local conditions I)

8) Amend section 109.6 to read as follows:

109.6 Refunds. The Building Official may authorize the refunding of building permit inspection and electrical fees paid when no work has commenced under a permit in accordance with this code or when an applicant wishes to withdraw an application for a permit for which a plan review fee has been paid. Plan review fees collected shall not be subject to refund if plan review has commenced. Permit application, document retention, and processing fees collected shall not be subject to refund. An administrative fee established by the Benicia Master Fee Schedule and adopted by City Council will be assessed for any permit refund request unless fees were charged in error by city staff. Fee refunds of mechanical and plumbing permits are established by the California Mechanical Code section 104.5.3 Fee refunds, and the California Plumbing Code section 104.5.3 Fee refunds, including all amendments and additions as adopted by City Council. (Local conditions I)

9) Add section 109.7 to read as follows:

109.7 Plan review fees. Plan review more than 15 minutes requires a plan check fee established by the Benicia Master Fee Schedule as adopted by City Council, the fee shall be paid at the time of submitting plans, calculations, and specifications for plan review. Plan review fees cover 1st and 2nd review. When a submittal of documents is a 3rd or subsequent review, incomplete, revised to require additional plan review, or when the project involves deferred submittal items an additional plan review fee will be charged at an hourly rate as established by the Benicia Master Fee Schedule as adopted by City Council. All fees incurred during plan review from an outside contract service company are considered pass-through fees and shall be paid by the applicant in full whether a permit is issued or not. Separate plan review fees shall be paid in addition to building plan review fees as established by the California Mechanical Code section 104.3.2 Plan review fees and the California Plumbing Code section 104.3.2 Plan review fees, including all amendments and additions as adopted by City Council. Electrical plan review fees shall be paid as established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

10) Add section 109.8 to read as follows:

109.08 Reactivation of expired valuation-based permit fees. Expired valuation-based permits that have been approved for reactivation by the Building Official shall pay a new full permit application fee and building inspection and electrical fee at one-half the amount required for a new permit as established in the current Benicia Master Fee Schedule, in addition to all fees required as established by the California Mechanical Code section 104.4.3 Expiration and California Plumbing Code section 104.4.4 Extension, including all amendments and additions as adopted by City Council. (Local conditions I)

11) Add section 109.9 Permit fees to read as follows:

109.9 Permit fees. Permit fees shall be assessed in accordance with the Benicia Master Fee Schedule and the California Residential Code section R108.2 Schedule of permit fees, California Mechanical Code section 104.5 Fees and California Plumbing Code section 104.5 Fees, including all amendments and additions as adopted by City Council, or as contracted with outside support services. (Local conditions I)

12) Add section 110.7 to read as follows:

110.7 Reinspection and phasing fees. A reinspection and or phasing fee established in the Benicia Master Fee Schedule as adopted by City Council may be assessed for each inspection or reinspection when such portion of work for which inspection is scheduled is not complete, has been phased, or when corrections called for previously are not complete. In instances when reinspection and or phasing fees have been assessed, no additional inspection of work will be performed until the required fees have been paid. (Local conditions I)

13) Add section 114.5 to read as follows:

114.5 Abatement. If a declared dangerous building is not completely abated by the owner of the property within the time prescribed by the Building Official, city staff may cause the dangerous building to be abated by city personnel or private contract. In furtherance of this section, the Building Official is expressly authorized to enter upon the premises for the purpose of abating the dangerous building. 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. (Local conditions I)

14) Add section 114.6 to read as follows:

114.6 Cost of Abatement. The Building Official 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. Such person or persons receiving the notice and order shall be liable to the city for all costs and expenses to the city involved in abating the violation. Costs and expenses as referred to in these sections shall include but are not limited to, 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 because of the dangerous building and procedures associated with collecting moneys due hereunder. 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 assessed amount. 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. 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. (Local conditions 1)

15) Add section 114.7 to read as follows:

114.7 Violation a public nuisance. It is declared that any violation of Title 15 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. (Local conditions I)

16) Add section 114.8 to read as follows:

114.8 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 [1.08](#) (General Penalty) Section [1.08.030](#) (Penalty). (Local conditions I)

17) Add section 1505.11 to read as follows:

1505.11 Shingles and Shakes. All new roof coverings shall be a class B or better roof covering assembly as defined by Section 1505 Fire Classification. (Climatic III)

18) Building code appendices to be adopted.

The 2022 California Building Code is further amended by adopting by reference the following appendix chapters:

- a) Appendix B – Board of Appeals
- b) Appendix G – Flood-Resistant Construction
- c) Appendix H – Signs
- d) Appendix I – Patio Covers
- e) Appendix J – Grading

Chapter 15.08 Amendments and Additions to the California Residential Code

- A. The following amendments and additions as recommended by the Building Official are adopted to the California Residential Code, 2022 edition, which is the 2021 International Residential Code as amended by the State of California.

- 1) Amend section R105.5.1 to read as follows:

R105.5.1 Expiration (BSC). On or after January 1, 2019, every permit issued shall become invalid unless work on the site authorized by such permit is commenced **and a building inspection received by the Building Official or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months of after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each prior to the expiration date of such permit. The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6) (Local conditions I)

- 2) Add section R105.10 to read as follows:

R105.10 Reactivation of an expired permit. To continue work on an expired permit the permittee shall obtain an approval for reactivation of an expired building permit or apply for a new building permit for the remaining work prior to continuing any further construction. A written reactivation request will be reviewed by the Building Official provided no changes have been made or will be made in the original plans, details, or specifications for such work. Reactivation of an expired building permit shall be at the discretion of the Building Official per the California Building Code Chapter 1 Section 105.5.1 Expiration (BSC) as amended by the Benicia Municipal Code Title 15 Buildings and Construction. If an expired building permit requires changes to the original plans, details, or specifications including but not limited to field changes or California Building Code cycle update, a new building permit shall be required for all remaining work. The new building permit application will be reviewed and issued under the current building code cycle and current fees established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

3) Add section R106.6 to read as follows:

R106.6 Standard or master plans. The Building Official may review for compliance a set of plans for a building or structure as a "standard or master plan," provided the applicant has made proper application, submitted a complete set of plans, and paid the plan review fee required by the Benicia Master Fee Schedule adopted by City Council. When it is desired to use an approved "standard or master plan" for an identical structure, a plot plan and or floor plan shall be submitted by application and a plan-review fee paid that is equal to one-half of the full plan-review fee as required by the current Benicia Master Fee Schedule adopted by City Council for such identical work. In case of any deviation whatsoever from this standard or master plan, complete plans, together with a full plan-review fee required by the Benicia Master Fee Schedule and adopted by City Council, shall be submitted for the proposed work. Standard or master 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 building code in effect when the plan review application is submitted, and the plan review fee paid shall be the governing code. (Local conditions I)

4) Amend section R108.1 to read as follows:

R108.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid. **Fees shall be assessed in accordance with the Benicia Master Fee Schedule and the California Building Code section 109.9 Fees, California Mechanical Code section 104.5 Fees and California Plumbing Code section 104.5 Fees, including all amendments and additions as adopted by City Council, or as established through city contracted support services.** (Local conditions I)

5) Amend section R108.3 to read as follows:

R108.3 Building permit valuations. **The applicant for a permit shall provide an estimated permit value at the time of application.** Permit valuations shall reflect the total work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems. **If, in the opinion of the Building Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates in the form of a bid for work from a California licensed contractor of that discipline, a signed contract for scope of work to be performed on the permit from a California licensed contractor of that discipline, or the valuation meets the minimum square foot cost from the current International Code Council Building Value data table (BVD) with regional calculator. Final building permit valuation shall be set by the Building Official.** (Local conditions 1)

6) Amend section R108.5 to read as follows:

R108.5 Refunds. The Building Official may authorize the refunding of building permit inspection and electrical fees paid when no work has commenced under a permit in accordance with this code or when an applicant wishes to withdraw an application for a permit for which a plan review fee has been paid. Plan review fees collected shall not be subject to refund if plan review has commenced. Permit application, document retention, and processing fees collected shall not be subject to refund. An administrative fee established by the Benicia Master Fee Schedule and adopted by City Council will be assessed for any permit refund request unless fees were charged in error by city staff. Fee refunds of mechanical and plumbing permits are established by the California Mechanical Code section 104.5.3 Fee refunds and the California Plumbing Code section 104.5.3 Fee refunds, including all amendments and additions as adopted by City Council. (Local conditions I)

7) Amend section R108.6 to read as follows:

R108.6 Work commencing before permit issuance. Any person who commences work requiring a permit on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to an investigation fee established in the Benicia Master Fee Schedule as adopted by City Council. An investigation shall be made before a permit may be issued for such work. Whether or not a permit is then or subsequently issued an investigation fee established by the Benicia Master Fee Schedule as adopted by City Council shall be collected. In addition to all fees required by this section all fees established by the California Mechanical Code section 104.4.2 Investigation fees and California Plumbing Code section 104.4.2 Investigation fees, including all amendments and additions as adopted by City Council shall be paid. The payment of such investigation fees shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law. The Building Official shall have the authority to reduce but at no time waive an investigation fee at their discretion. In addition to all fees required as established by the California Mechanical Code section 104.4.2 Investigation fees and California Plumbing Code section 104.4.2 Investigation fees, including all amendments and additions as adopted by City Council. All investigation fees shall be in addition to the required permit fees. (Local conditions I)

8) Add section R108.7 to read as follows:

R108.7 Plan review fees. Plan review more than 15 minutes requires a plan check fee established by the Benicia Master Fee Schedule as adopted by City Council, the fee shall be paid at the time of submitting plans, calculations, and specifications for plan review. Plan review fees cover 1st and 2nd review. When a submittal of documents is a 3rd or subsequent review, incomplete, revised to require additional plan review, or when the project involves deferred submittal items an additional plan review fee will be charged at an hourly rate as

established by the Benicia Master Fee Schedule as adopted by City Council or as established by contract of support services. All fees incurred during plan review from an outside contract service company are considered pass-through fees and shall be paid by the applicant in full whether a permit is issued or not. Separate plan review fees shall be paid in addition to building plan review fees as established by the California Mechanical Code section 104.3.2 Plan review fees and the California Plumbing Code section 104.3.2 Plan review fees, including all amendments and additions as adopted by City Council. Electrical plan review fees shall be paid as established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

9) Add section R108.8 to read as follows:

R108.8 All-inclusive Flat Fees. Residential permit applications that do not required contracted support plan review and require less than 15 minutes of plan review time will be assessed flat fees per the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

10) Add section R108.9 to read as follows:

R108.9 Reactivation of expired valuation-based permit fees. Expired valuation-based permits that have been approved for reactivation by the Building Official shall pay a new full permit application fee and a building inspection and electrical fee at one-half the amount required of a new permit as established in the current Benicia Master Fee Schedule, in addition to all fees required as established by the California Mechanical Code section 104.4.3 Expiration and California Plumbing Code section 104.4.4 Extension, including all amendments and additions as adopted by City Council. (Local conditions I)

11) Add section R108.10 to read as follows:

R108.10 Reactivation of expired residential all inclusive (flat fee) permit fees. Expired flat fee permits that have been approved for reactivation by the Building Official shall pay a new flat fee at one-half the cost of a new permit, including a new full application fee as established by the Master Fee Schedule adopted by City Council. Flat fee mechanical and plumbing permit fees shall be established by the California Mechanical Code section 104.4.3 Expiration and California Plumbing Code section 104.4.4 Extension, including all amendments and additions as adopted by City Council. (Local conditions I)

12) Add section R108.11 to read as follows:

R108.11 Reinspection and phasing fees. A reinspection and or phasing fees established in the Benicia Master Fee Schedule as adopted by City Council may be assessed for each inspection or reinspection when such portion of work for which inspection is scheduled is

not complete, has been phased, or when corrections called for previously are not complete. In instances when reinspection and or phasing fees have been assessed, no additional inspection of work will be performed until the required fees have been paid. (Local conditions I)

13) Amend section R319 to read as follows:

R319 Site Address. Buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. **Any new building or an existing building that undergoes an alteration or addition that requires a building permit shall be provided with approved address identification as follows:**

- a) **Industrial- Industrial buildings with multiple addresses shall have at least one address number posted toward the access road with a minimum numeral size of 12" high with a minimum stroke of 3" wide. Individual units within an Industrial building shall be approved to have a minimum numeral address size of 6" high with a stroke of 1". All address identification characters shall contrast with the background.**
- b) **Commercial- All commercial units shall be provided with a minimum numeral size of 6" high with a 1" wide stroke and shall contrast with the background.**
- c) **Residential- All residential buildings shall have a minimum numeral size of 4" high with a 1/2" wide stroke and shall contrast with the background.**
- d) **Lighting of building addresses – The building address for all new buildings constructed after October 1, 2022, shall be automatically lighted at night.**

Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole, or other sign or means shall be used to identify the structure. Address identification shall be maintained. (Local condition 1)

14) Amend Section R902.1.2 to read as follows:

R902.1.2 Roof coverings in all other areas. The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any 1-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair, or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least a class **B or better**. (Climatic III)

15) Add section R902.5 to read as follows:

R902.5 All new roof coverings shall be a class B or better roof covering assembly as defined by section 902 Fire Classification. (Climate III)

16) Add section R1007 to read as follows:

R1007 Wood Burning Stoves or devices must meet or exceed the requirements specified in Bay Area Air Quality Management District Regulation 6, Rule 3: Wood-burning devices. (Climate II)

17) California Residential Code appendices to be adopted.

The 2022 California Residential Code is further amended by adopting with amendments the following appendix chapters.

- a) Appendix AL – Permit Fees.
- b) Appendix AH – Patio Covers.
- c) Appendix AJ – Existing Buildings and Structures
- d) Appendix AK – Sound Transmission

18) Amend Section AK101.1 to read as follows:

AK101.1 General. Wall and floor-ceiling assemblies separating dwelling units, including those separating adjacent townhouse units, shall provide airborne sound insulation for walls, and both airborne and impact sound insulation for floor-ceiling assemblies. **Conversion of an existing structure to include an accessory dwelling unit and it is in the opinion of the Building Official that some or all of appendix AK requirements are infeasible or will affect the historic fabric of the structure, the Building Official shall have the authority to waive some or all of appendix AK requirements at their discretion.** (Local conditions I)

- a) Appendix AQ – Tiny Houses
- b) Appendix AT – Solar Ready Provisions – Detached One – and Two-Family Dwellings and Townhouses
- c) Appendix AV – Board of Appeals

Chapter 15.11 Amendments and Additions to the California Plumbing Code

- A. The following amendments and additions as recommended by the Building Official are adopted to the California Plumbing Code, 2022 edition, which is the 2021 Uniform Plumbing Code as amended by the State of California.

- 1) Amend section 104.4.3.1 to read as follows:

104.4.3.1 Expiration (BSC). On or after January 1, 2019, every permit issued shall become invalid (expired) unless work on the site authorized by such permit is commenced **and a building inspection received by the Building Official or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each prior to the expiration date of such permit. The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6) (local conditions I)

- 2) Amend section 104.5 to read as follows:

104.5 Fees. **Plumbing fees are established by California Plumbing Code, the Benicia Master Fee Schedule as adopted by City Council, or as contracted with support services. All fees incurred during plan review from an outside contract service company are considered pass-through fees and shall be paid by the applicant in full whether a permit is issued or not.** (Local conditions I)

- 3) Amend section 719.1 to read as follows:

719.1 Locations. Cleanouts shall be placed inside the building near the connection between the building drain and the building sewer or installed outside the building in the lower end of the building drain and extended to grade. **An additional required clean-out shall be installed on private property adjacent to the property line where the sewer system connects to the public sanitary sewer lateral and shall terminate within a concrete box or an approved Christy box. All other** additional building sewer cleanouts shall be installed at intervals not to exceed 100 feet in straight runs and for each aggregate horizontal change in direction exceeding 135 degrees. **All such line clean-outs shall be extended to grade as prescribed in this code section 707.0 for sizing construction and materials.** (Local conditions I)

Exception: If the sewer lateral does not exceed 12ft. from the back of sidewalk to the building drain clean-out, and the run is substantially straight the required additional cleanout adjacent to the property line is not required. (Local conditions I)

- 4) Plumbing code appendices to be adopted.

The 2022 California Plumbing Code is further amended by adopting by reference the following appendix chapters:

- a) Appendix A - Recommended Rules for Sizing the Water Supply System.
- b) Appendix B - Explanatory Notes on Combination Waste and Vent Systems.

- c) Appendix E – Manufactured/Mobile Home Parks and Recreational Vehicle Parks.
- d) Appendix I – Installation Standards
- e) Appendix K – Potable Rainwater Catchment Systems
- f) Appendix L – Sustainable Practices

Chapter 15.16 Amendments and Additions to the

California Existing Building Code

- A. The following amendments and additions as recommended by the Building Official are adopted to the California Existing Building Code, 2022 edition, which is the 2021 International Existing Building Code as amended by the State of California:

- 1) Amend section 105.5.1 to read as follows:

105.5.1 Expiration (BSC). On or after January 1, 2019, every permit issued shall become invalid unless work on the site authorized by such permit is commenced **and a building inspection received by the Building Official or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months of after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each prior to the expiration date of such permit. The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6) (Local conditions I)

- 2) Add section 105.8 to read as follows:

105.8 Reactivation of an expired permit. To continue work on an expired permit the permittee shall obtain an approval for reactivation of an expired building permit or apply for a new building permit for the remaining work prior to continuing any further construction. A written reactivation request will be reviewed by the Building Official provided no changes have been made or will be made in the original plans, details, or specifications for such work. Reactivation of an expired building permit shall be at the discretion of the Building Official per the California Building Code Chapter 1 Section 105.5.1 Expiration (BSC) as amended. If an expired building permit requires changes to the original plans, details, or specifications including but not limited to field changes or California Building Code cycle update, a new building permit shall be required for all remaining work. The new building permit application will be reviewed and issued under

the current building code cycle and current fees established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

3) Amended section 108.4 to read as follows:

108.4 Work commencing before permit issuance. Any person who commences any work requiring a permit on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to **an investigation fee established in the Benicia Master Fee Schedule as adopted by City Council. An investigation shall be made before a permit may be issued for such work. Whether or not a permit is then or subsequently issued an investigation fee established by the Benicia Master Fee Schedule as adopted by City Council shall be collected. In addition to all fees required by this section all fees established by the California Mechanical Code section 104.5.2 Investigation fees and California Plumbing Code section 104.5.2 Investigation fees, including all amendments and additions as adopted by City Council shall be paid. All investigation fees shall be in addition to the required permit fees.** (Local conditions I)

4) Amend section 108.6 to read as follows:

108.6 Refunds. The Building Official **may authorize the refunding of building permit inspection and electrical fees paid when no work has commenced under a permit in accordance with this code or when an applicant wishes to withdraw an application for a permit for which a plan review fee has been paid. Plan review fees collected shall not be subject to refund if plan review has commenced. Permit application, document retention, and processing fees collected shall not be subject to refund. An administrative fee established by the Benicia Master Fee Schedule and adopted by City Council will be assessed for any permit refund request unless fees were charged in error by city staff. Fee refunds of mechanical and plumbing permits are established by the California Mechanical Code section 104.5.3 Fee refunds, and the California Plumbing Code section 104.5.3 Fee refunds, including all amendments and additions as adopted by City Council.** (Local conditions I)

5) Add section 108.7 to read as follows:

108.7 Plan review fees. Plan review more than 15 minutes requires a plan check fee established by the Benicia Master Fee Schedule as adopted by City Council, the fee shall be paid at the time of submitting plans, calculations, and specifications for plan review. Plan review fees cover 1st and 2nd review. When a submittal of documents is a 3rd or subsequent review, incomplete, revised to require additional plan review, or when the project involves deferred submittal items an additional plan review fee will be charged at an hourly rate as established by the Benicia Master Fee Schedule as adopted by City Council or as established by contract of support services. All fees incurred during plan review from an outside contract service company are

considered pass-through fees and shall be paid by the applicant in full whether a permit is issued or not. Separate plan review fees shall be paid in addition to building plan review fees as established by the California Mechanical Code section 104.3.2 Plan review fees and the California Plumbing Code section 104.3.2 Plan review fees, including all amendments and additions as adopted by City Council. Electrical plan review fees shall be paid as established in the Benicia Master Fee Schedule as adopted by City Council. (Local conditions I)

6) Add section 108.8 to read as follows:

108.08 Reactivation of expired valuation-based permit fees. Expired valuation-based permits that have been approved for reactivation by the Building Official shall pay a new full permit application fee and building inspection fee at one-half the amount required for a new permit as established in the current Benicia Master Fee Schedule, in addition to all fees required as established by the California Mechanical Code section 104.4.3 Expiration and Plumbing Code section 104.4.4 Extension, including all amendments and additions as adopted by City Council. (Local conditions I)

7) Add section 108.9 Permit fees to read as follows:

108.9 Permit fees. Permit fees shall be assessed in accordance with the Benicia Master Fee Schedule and the California Residential Code section R108.2 Schedule of permit fees, California Mechanical Code section 104.5 Fees and California Plumbing Code section 104.5 Fees, as amended and adopted by City Council, or as contracted with outside support services. (Local conditions I)

8) Add section 109.7 to read as follows:

109.7 Reinspection and phasing fees. A reinspection and or phasing fees established in the Benicia Master Fee Schedule an adopted by City Council may be assessed for each inspection or reinspection when such portion of work for which inspection is scheduled is not complete, has been phased, or when corrections called for previously are not complete. In instances when reinspection and or phasing fees have been assessed, no additional inspection of work will be performed until the required fees have been paid. (Local conditions I)

9) Add section 113.5 to read as follows:

113.5 Abatement. If a declared dangerous building is not completely abated by the owner of the property within the time prescribed by the building official, city staff may cause the dangerous building to be abated by city personnel or private contract. In furtherance of this section, the building official is expressly authorized to enter upon the premises for the

purpose of abating the dangerous building. 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. (Local conditions I)

10) Add section 113.6 to read as follows:

113.6 Cost of Abatement. The building official 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. Such person or persons receiving the notice and order shall be liable to the City for all costs and expenses to the city involved in abating the violation. Costs and expenses as referred to in these sections shall include but are not limited to, 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 because of the dangerous building and procedures associated with collecting moneys due hereunder. 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 asse amount. 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. 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 chapter. (Local conditions 1)

11) Add section 113.7 to read as follows:

113.7 Violation a public nuisance. It is declared that any violation of Title 15 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. 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 [1.08](#) (General Penalty) Section [1.08.030](#) (Penalty). (Local conditions I)

12) Add section 1401.3 to read as follows:

1401.3 Appeal procedure. If the Building Official denies the relocation permit for any reason, they shall notify the applicant of this fact in writing. The applicant may appeal to the Building Board of Appeals by filing a written appeal in accordance with Chapter 1.44 of the Benicia Municipal Code. (Local conditions I)

13) Add section 1402.8 to read as follows:

1402.8 Permit required. No person, firm or corporation shall move onto any premises within the city any building or structure, except a contractor's tool house, construction building or similar structure, which is moved as construction requires, until a surety bond has been posted and a relocation building permit has been secured as provided in this chapter. (Local conditions I)

14) Add section 1402.9 to read as follows:

1402.9 Permit application. Every application to the Building Official for a relocation building permit shall set forth such information as the Building Official may reasonably require carrying out the purpose of this chapter. (Local conditions I)

15) Add section 1402.10 to read as follows:

1402.10 Permit investigation. To determine any of the matters presented by the application, the Building Official may require plans, photographs, or other substantiating data, and may cause to be made any investigation which they believe is necessary or helpful. The Building Official may refer the matter for further investigation to the board of appeals. After the investigation is completed, if the applicant fails to post the required bond and secure the relocation building permit within 60 days, the application is null and void. (Local conditions I)

16) Add section 1402.11 to read as follows:

1402.11 Permit conditions. The Building Official, in granting any relocation building permit, may impose thereon such terms and conditions as they may deem reasonable and proper. These terms may include, but are not limited to: the period of time required to complete all work; the requirement of changes, alterations, additions or repairs to be made to or upon the building or structures, to the end that the relocation thereof will not be materially detrimental or injurious to public safety or to public welfare or to the property and improvements, or either, in the district, as hereinabove limited, to which it is to be relocated. (Local conditions I)

17) Add section 1402.12 to read as follows:

1402.12 Permit issuance. If the condition of the building or structure, in the judgment of the Building Official, admits of practicable and effective repair they may issue a relocation building permit to the owner of the property where the building or structure is to be located upon conditions as hereinafter provided; otherwise, the permit shall be denied. (Local conditions I)

18) Add section 1402.13 to read as follows:

1402.13 Work of any kind. Work of any kind in the public right-of-way requires separate permitting and fees through the City of Benicia Engineering Division of Public Works, prior to the issuance of any building or relocation permits. (Local conditions I)

19) Add section 1402.14 to read as follows:

1402.14 Demolition option. When any default has occurred on the part of the principal under the provisions of this chapter, the surety, at its option, in lieu of completing the work required may remove or demolish the building or structure and clear, clean and restore the site. (Local conditions I)

20) Add section 1403 Fees.

21) Add section 1403.1 to read as follows:

1403.1 Permit fees, application, and investigation. To determine any of the matters presented by the application, the Building Official may require plans, photographs, or other substantiating data, and may cause to be made any investigation which they believe is necessary or helpful. The Building Official may refer the matter for further investigation to the board of appeals. After the investigation is completed, if the applicant fails to post the required bond and secure the relocation building permit within 60 days, the application is null and void. (Local conditions I)

22) Add section 1403.2 to read as follows:

1403.2 Permit fees, repairs, or alterations. Relocation building permit fees for repairs or alterations to relocated buildings shall be required in accordance with the Benicia Master Fee Schedule as adopted by City Council, prior to final of any relocation permit. (Local conditions I)

23) Add section 1403.3 to read as follows:

1403.3 Permit bond required. The Building Official shall not issue a relocation building permit unless the owner shall first post with the Building Official a bond executed by the said owner, as principal, and by an approved surety company authorized to do business in this state, as surety; or deposits a cash bond; or deposits and assigns to the city other approved sureties. (Local conditions I)

24) Add section 1403.4 to read as follows:

1403.4 Outside agency approvals. All outside city, local, and state agency permit requirements shall be satisfied prior to issuance of a relocation permit. (Local conditions I)

25) Add section 1403.5 to read as follows:

1403.5 Bond refunds. When a cash bond has been posted or savings and loan certificates or shares deposited and assigned, and all requirements of the relocation building permit have been completed, the Building Official shall return the cash or savings and loan certificates or shares to the depositor or to their successors or assigns, and reassign the savings and loan certificates or shares, except any portion thereof that may have been used, cashed, or deducted as provided elsewhere in this chapter. (Local conditions I)

26) Add chapter 1403.6 to read as follows:

1403.6 Default notice required. Whenever the principal on the bond defaults in the performance of the conditions required by the relocation building permit, the Building Official shall give notice in writing to the principal and the surety on the bond. (Local conditions I)

27) Add 1403.7 to read as follows:

1403.7 Default notice contents. The Building Official in the notice of default shall state the conditions of the bond which have not been complied with and the period deemed by him to be reasonably necessary for the completion of such work. (Local conditions I)

28) Add section 1403.8 to read as follows:

1403.8 Default surety to perform work. After receipt of a notice of default, the surety, within the time therein specified, shall cause the required work to be performed. (Local conditions I)

29) Add section 1403.9 to read as follows:

1403.9 Default bond use. If a cash bond has been posted, or savings and loan certificates or shares have been deposited and assigned, the building official shall give notice of default, as provided above, to the principal, and if compliance is not had within the time specified, the Building Official shall proceed without delay and without further notice or proceeding whatever to use the cash deposit or savings and loan certificates or shares, or any portion thereof, to cause the required work to be done by contract or otherwise, in their discretion. The balance, if any, of such cash deposit or savings and loan certificates or shares, upon the completion of the work shall be returned and reassigned to the depositor or to their successors or assigns after deducting the cost of the work plus 15 percent thereof. (Local conditions I)

30) Add section 1404 Plumbing.

31) Add section 1404.1 to read as follows:

1404.1 Moved structures. Moved structures shall comply with the California Plumbing Code Chapter 1 section 102.7 Moved structures. (Local conditions I)

32) Add section 1403.2 to read as follows:

1404.2 Equivalent inspection. Where other equivalent means of inspection is required due to walls and or floors in place, a running test from all roof top plumbing vents shall be required. Approval of additional equivalent testing methods is at the discretion of the Building Official. (Local conditions I)

For statutory provisions on moving apartment houses and dwellings, see Health and Safety Code § [17958.9](#).

¹ H & S Code Local ordinances or regulations governing the moving of apartment houses and dwellings shall, after July 1, 1978, permit the retention of existing materials and methods of construction so long as the apartment house or dwelling complies with the building standards for foundation applicable to new construction, and does not become or continue to be a substandard building.

Chapter 15.20 Amendments and Additions to the International Swimming Pool and Spa Code

A. The following modifications and changes as recommended by the Building Official are adopted to the International Pool and Spa Code, 2021 edition. (Life / Safety I)

1) Add section 202 Definitions to read as follows:

- a) "Swimming pool, spa, or regulated body of water". A construction or prefabricated pool, spa, fountain, pond, or man-made body of water used for swimming, bathing, or wading, or a landscape element, exceeding 18 inches (457mm) in depth at any point. (Life/Safety I)

2) Amend section 305.1 to read as follows:

305.1 General. The provision of this section shall apply to the design and requirement for installation of barriers for swimming pools, spas, or regulated body of water of 18 inches in depth at any point, constructed after March 19, 1998. These design controls are intended to provide protection against the potential drowning and near drowning by restricting access to such pools or spas. These requirements provide an integrated level of protection against potential drowning through the use of physical barriers and warning devices. Hot tubs or spas with locking safety covers complying with ASTM-ES 13-89 shall be considered in compliance with Pool Enclosure Requirements. (Life / Safety I)

3) Amend section 305.2.1 to read as follows:

305.2.1 Barrier height and clearances. Barrier heights and clearances shall be in accordance with the following:

- a) The top of the barrier shall be not less than 60-inches (1524 mm) above grade, where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 3-feet (914 mm) measured horizontally from the outside of the required barrier. (Life / Safety I)
- b) The vertical clearance between grade and the bottom of the barrier shall not exceed 2 inches (51mm) for all grade surfaces, where measured on the side of the barrier that faces away from the pool, spa, or regulated body of water. (Life / Safety I)
- c) Any decorative design work on the side of the barrier which faces away from the swimming pool, spa, or man-made body of water, such as protrusions, indentations, or cutouts, which render the barrier easily climbable are prohibited. (Life / Safety I)

4) Amend section 305.2.4 to read as follows:

305.2.4 Mesh Fence as a barrier. Mesh fences, other than chain-link fences in accordance with section 305.2.7, shall be installed in accordance with the manufacturer's instructions and shall comply with the following:

- a) The bottom of the mesh fence shall be not more than 1 inch (25 mm) above the deck or installed surface or grade. (Life / Safety I)
- b) The maximum vertical clearance from the bottom of the mesh and grade shall not permit the fence to be lifted more than 4 inches (102 mm) from grade or decking. (Life / Safety I)
- c) The fence shall be designed and constructed so that it does not allow passage of a 4-inch (102 mm) sphere under any mesh panel. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall not be more than 4 inches (102 mm) from grade or decking. (Life / Safety I)
- d) An attachment device shall attach each barrier section at a height not lower than 60-inches (1524 mm) above grade. Common attachment devices include, but are not limited to, devices that provide the security equal to or greater than that of a self-closing hook-and-eye type latch incorporating a spring-actuated retaining lever such as a safety gate hook. (Life / Safety I)

- e) Where a hinged gate is used with a mesh fence, the gate shall comply with Section 305.3. (Life / Safety I)
- f) Patio deck sleeves such as vertical post receptacles that are placed inside the patio surface shall be of a nonconductive material. (Life / Safety I)
- g) Mesh fences shall not be installed on top of on-ground residential pools. (Life / Safety I)

5) Add section 305.2.7 to read as follows:

305.2.7 Minimum wire gauge of the chain link shall be not less than 11 gauge. (Life / Safety I)

6) Amend section 305.3 to read as follows:

305.3 Gates. Access gates shall comply with the requirements of Sections 305.3.1 through 305.3.3, be no less than 60 inches (1524 mm) in height when measured from grade, equipped with a locking device no less than 60 inches (1524 mm) from grade. Pedestrian access gates shall open outward away from the pool or spa, shall be self-closing and shall have a self-latching device and remain locked when not in use. (Life / Safety I)

7) Amend section 305.3.3 to read as follows:

305.3.3 Latches. Self-latching device shall be placed no lower than 60 inches (1524 mm) above ground. (Life / Safety I)

8) Amend 305.5 condition 1 to read as follows:

- a) Where only the pool wall serves as the barrier, the bottom wall is on grade, the top of the wall is not less than 60-inches (1524mm) above grade for the entire perimeter of the pool, the wall complies with the requirements of section 305.2 and the pool manufacturer allows the wall to serve as the barrier. (Life / Safety I)

9) Amend 305.5 condition 2 to read as follows:

- a) Where the barrier is mounted on top of the pool wall the top of the barrier is not less than 60-inches (1524mm) above grade for the entire perimeter of the pool and the wall and the barrier on top of the wall comply with the requirements of section 305.2. (Life / Safety I)

Chapter 15.25 Mandatory Construction Waste Reduction, Disposal, and Recycling, and Water Efficient Landscaping

Sections:

- 15.25.010 Purpose.
- 15.25.020 Definitions.
- 15.25.030 Enforcement authority.
- 15.25.040 Applicable projects.
- 15.25.050 Applications and fees for construction waste management plans.
- 15.25.060 Exemptions.
- 15.25.070 Construction waste diversion requirement.
- 15.25.080 Documentation requirements.
- 15.25.090 Model Water Efficient Landscaping Ordinance (MWELo).
- 15.25.100 Penalties.
- 15.25.110 Inspections and investigations.
- 15.25.120 Appeals.
- 15.25.130 Effective date.

15.25.010 Purpose.

The city council finds as follows:

A. The purpose of this chapter is to appoint and designate the community development department as the enforcement authority to enforce the provisions of the California Integrated Waste Management Act of 1989 that have been promulgated in Section [40000](#) of the California Public Resources Code as amended, supplemented, superseded, and replaced from time to time.

15.25.020 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as hereafter set out, unless it shall be apparent from the context that they have a different meaning:

“Applicant” shall mean any individual, firm, contractor, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever that applies to the city for the applicable permits to undertake any construction or demolition project within the city.

“C&D” shall mean construction and demolition debris.

“Construction” shall mean the building of any facility or structure or any portion thereof, including any tenant improvements to an existing facility or structure.

“Construction and demolition waste materials” shall mean:

1. Discarded materials generally not considered water soluble and nonhazardous in nature, including but not limited to steel, copper, aluminum, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, roofing materials and lumber from the construction or demolition of a structure as part of a construction or demolition project or from the renovation of a structure;
2. Landscaping, including rocks, soils, noninfectious tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project;
3. Remnants of new materials, including but not limited to: cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project;
4. Other nonhazardous wastes generated at construction or demolition projects provided such amounts are consistent with best management practices of the industry.

“Contractor” shall mean any person or entity holding, or required to hold, a contractor’s license of any type under the laws of the state of California, or who performs (whether as contractor, subcontractor, owner-builder, or otherwise) any construction, demolition, remodeling, renovation, or landscaping service relating to buildings or accessory structures within the city of Benicia.

“Demolition” shall mean the decimating, razing, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

“Deposit” shall mean a cash dollar amount provided to the community development department at the time of submitting the diversion plan for those applicants where prior projects have been determined as good faith effort or noncompliance status. Refunds of the deposits (without interest) are dependent on the level of compliance with this chapter as described in BMC [15.25.080](#). Forfeited deposits shall be deposited in the city designated recycling program fund to be used for outreach and implementation of the department’s recycling program.

“Designated recyclable and reusable materials” shall mean and include but not be limited to:

1. Corrugated cardboard;
2. Inert materials generally used in construction including, but not limited to, asphalt, concrete, rock, stone, mortar and brick;

3. Metals, including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences;
4. Roofing materials including wood shingles and shakes as well as asphalt, stone and slate based roofing material;
5. Salvageable materials and structures, including, but not limited to, doors, windows, fixtures, hardwood flooring, sinks, bathtubs and appliances;
6. Vegetative materials, including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use;
7. Wallboard materials including gypsum and drywall;
8. Wood materials, including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted; and
9. Any other materials that the city determines can be diverted due to the identification of a recycling facility, reuse facility, or market accessible from the city.

“Diversion” shall mean the use of material for any purpose other than disposal to include but not be limited to reuse and recycling.

“Enforcement action” shall mean an action of the jurisdiction to address noncompliance with this chapter including, but not limited to, issuing administrative citations, fines, penalties or using other remedies.

“Good faith effort” shall mean and be applicable to projects where the availability of markets for construction and demolition debris was a determining factor in not meeting full compliance and where sufficient evidence of the project through documented efforts, such as weight receipts, demonstrates the applicant attempted to divert construction and demolition debris but did not meet full compliance.

“Notice of violation (NOV)” shall mean a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 1892(a)(45) or further explained in 14 CCR Section 18995.4.

“Organic waste” shall mean solid wastes containing material originating from living organisms and their metabolic products, including but not limited to food, green material, landscaping and pruning waste, organic textiles and carpets, lumber, wood, paper products, printings and writing paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

“Project” shall have the meaning set forth in BMC [15.25.040](#).

“Recycling” shall mean the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste and returning them to the economic mainstream in the form of a raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace.

“Renovation” shall mean any change, addition, or modification in an existing structure.

“Reuse” shall mean further or repeated use of construction of demolition debris.

“Universal waste” shall include items such as fluorescent lamps and ballast and mercury-containing thermostats as well as other California prohibited universal waste materials that require proper disposal to ensure diversion from landfills.

“Waste management plan” shall mean a completed city-provided form submitted before the issuance of a building and/or demolition permit, approved by the community development department for the purpose of compliance with this chapter.

“Waste management report” shall mean a completed city-provided program submitted after demolition or construction, as a precedent to final inspection and issuance of any certificate of occupancy, approved by the community development department for the purpose of compliance with this chapter.

“MWELO” refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

15.25.030 Enforcement authority.

A. Violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and assessment of a fine by the Benicia enforcement official or representative. Enforcement actions under this chapter are issuance of an administrative citation and assessment of a fine. The city of Benicia’s procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

B. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. Benicia may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. Benicia may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations, exist such that court action is a reasonable use of Benicia staff and resources.

C. Responsible Entity for Enforcement.

1. Enforcement pursuant to this chapter may be undertaken by the Benicia enforcement official, which may be the city manager or their designated entity, legal counsel, or combination thereof.
2. Enforcement may also be undertaken by an enforcement official, designated by the city of Benicia, in consultation with the Benicia enforcement official.
3. The Benicia enforcement official(s) will interpret this chapter; determine the applicability of waivers, if violation(s) have occurred; implement enforcement actions; and determine if compliance standards are met.
4. The Benicia enforcement official(s) may issue notices of violation(s).

D. Process for Enforcement.

1. The Benicia enforcement officials and/or their designee will monitor compliance with this chapter randomly and through compliance reviews, investigation of complaints, and an inspection program. BMC [15.25.110](#) establishes jurisdiction's right to conduct inspections and investigations.
2. Jurisdiction may issue an official notification to notify regulated entities of its obligations under this chapter.
3. Absent compliance by the respondent within the deadline set forth in the notice of violation, Benicia shall commence an action to impose penalties, via an administrative citation and fine, pursuant to BMC [15.25.100](#), Penalties.
4. Notices shall be sent to owner at the official address of the owner maintained by the tax collector for Benicia or, if no such address is available, to the owner at the address of the dwelling or commercial property or to the party responsible for paying for the collection services, depending upon available information.

15.25.040 Applicable projects.

Unless otherwise exempt pursuant to BMC [15.25.060](#), projects subject to the requirements of this chapter include any project which consists of one or more of the following:

- A. Construction of a new commercial, industrial or institutional building or structure that is equal to or greater than 5,000 square feet;
- B. Construction of multifamily dwellings, such as duplexes, where two or more units are under construction at a given time, or apartment complexes, where three or more units are under construction at a given time;

C. Construction of new residential dwellings, each dwelling equal to or greater than 2,000 square feet, in a subdivision housing tract where a homebuilder has a construction phase that includes multiple residential lots (two or more) under construction at a given time;

D. Demolition of a building or structure, or a portion thereof, that is equal to or greater than 1,500 square feet (residential, multifamily, commercial, industrial or institutional);

E. Renovation, addition or alteration of any commercial, industrial, institutional or multifamily building or structure that is equal to or greater than 1,000 square feet; and

F. Commercial and residential projects with construction costs estimated at \$100,000 or greater (labor and materials).

15.25.050 Applications and fees for construction waste management plans.

No person shall commence a project or dispose of construction waste from a project which is subject to this chapter, except for an exempt project, without first submitting and obtaining an approved Phase I waste management plan from the community development department and paying all the fees for such review according to the current master fee schedule.

15.25.060 Exemptions.

The following projects shall not be subject to the provisions of this chapter:

A. Project contaminated by hazardous substances or hazardous waste as defined by the state or federal law;

B. Land clearing debris contaminated by infectious disease or pathogen-spreading organisms as defined by the county agricultural commissioner and subject to approved county agricultural commissioner disposal methods;

C. Construction or renovation of one residential dwelling, or two or more residential dwellings where each dwelling is less than 2,000 square feet;

D. Demolition of a building or structure, or a portion thereof, that is less than 1,500 square feet;

E. Emergency work (addition, alteration, construction, demolition, renovation performed in conjunction with an emergency (i.e., fire, earthquake, flood) or a building or structure deemed substandard by the California Building Code through the chief building official);

F. Renovation, addition, or alteration of any commercial, industrial, institutional or multifamily building structure that is less than 1,000 square feet;

G. Abandonment of in-ground pools; and

H. Installation of prefabricated structures and equipment where the community development department determines that combined weight of construction disposal does not exceed two pounds per square foot of building area may be deemed to meet the minimum percent diversion requirement set forth in BMC [15.25.070](#), Construction waste diversion requirement.

15.25.070 Construction waste diversion requirement.

Sixty-five percent of nonhazardous construction and demolition debris and 100 percent of excavated soil and noninfectious land clearing debris generated from every applicable construction, renovation, or demolition project shall be diverted from going to landfills by using recycling, reuse and diversion programs. Reports will be required for verification of such activities. Acceptable diversion methods are:

A. Taking all mixed or segregated construction and demolition debris to an approved facility, which meets the diversion requirements of this chapter on every load. Other such mixed facilities may be utilized if they are city-approved; or

B. Utilizing a waste management company that can provide verifiable documentation that the percentage of construction and demolition waste material diverted from the landfill complies with this chapter; or

C. Source separating designated materials, such as cardboard, wood, metals, green waste, wallboard, tile, concrete, and other easily recycled materials, and directing them to recycling facilities, approved by the city, and taking the remainder (but no more than 45 percent by weight or yardage) to a landfill for disposal.

15.25.080 Documentation requirements.

The following plan will need to be submitted and approved prior to issuance of a permit:

A. Every contractor shall submit a properly completed waste management plan on a form prescribed by the city, as a requirement of the construction and demolition permit process. The plan can cover multiple building permits for lots where construction activity is occurring at the same time by the same applicant. Separate plans must be submitted for each batch of building permits requested. The waste management plan shall identify the materials to be recycled or reused and/or disposed of and shall list facilities and providers to be used. An administrative fee for each requested permit and, if applicable, a corresponding deposit must be submitted with the waste management form.

B. Notwithstanding any other provisions of this title, no construction or demolition permit shall be issued for any project as defined in BMC [15.25.040](#), Applicable projects, unless and until the community development department has approved the waste management plan. The community development department shall only approve a waste management plan if he or she determines that it contains all the information set forth in subsection (A) of this section. If the community development department determines that all the above conditions have been met,

he or she shall mark the waste management plan "Approved," return a copy of the plan to the applicant and notify the building division that it has been approved.

C. If the community development department determines that the waste management plan is incomplete, they shall return it to the applicant marked "Denied" or "Further Explanation Required." The applicant must then submit additional information before the waste management plan can be reviewed again and the construction or demolition permit issued. The applicant may resubmit the waste management plan within 180 calendar days of permit application without forfeiting the administrative fee.

D. The following reports will need to be submitted and approved prior to issuance of final or certificate of occupancy:

1. Final report with all waste, recycling, donation, and salvage receipts due no later than 30 days following the completion of a construction or demolition project. The contractor shall, as a condition of final approval and for issuance of any certificate of occupancy, submit a final waste management report to the community development department that demonstrates compliance with the requirements of this chapter.
2. The documentation shall consist of photocopies of receipts and weight tags or other records of measurement or equivalent documentation from recycling companies, deconstruction contractors, and landfill and disposal companies.
3. The contractor's approved diversion report shall be completed by recording and confirming the type of debris diverted and the facilities to which it was taken. Receipts from vendors or facilities shall clearly state the project title and date. If the receipt provides information for multiple projects, the project titles and the amounts of materials for each project must be clearly identified. The contractor shall sign the completed waste management report to certify its accuracy as part of the documentation of compliance.
4. All documentation submitted pursuant to this section is subject to verification by the community development department.
5. It is unlawful for any person to submit documentation to the community development department under this section which that person knows to contain any false statements, including but not limited to false statements regarding tonnage of materials recycled or diverted, or to submit any false or fraudulent receipt or weight tag or other record of measurement.

15.25.090 Model Water Efficient Landscaping Ordinance (MWELO).

Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the jurisdiction, who are constructing a new (single-family, multifamily, public, institutional, or commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total

landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELo, including sections related to use of compost and mulch as delineated in this section.

A. The following compost and mulch use requirements that are part of the MWELo are now also included as requirements of this chapter. Other requirements of the MWELo are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.

B. Property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in subsection (A) of this section shall:

1. Comply with Sections 492.6(a)(3)(B), (C), (D) and (G) of the MWELo, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section.

C. Persons applying for a permit from the jurisdiction for new construction and building additions and alternations shall comply with the requirements of this section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen.

D. Where five or more multifamily dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of blue container and green container materials, consistent with the three, three-plus, or two-container collection program offered by the jurisdiction, or comply with provision of adequate space for recycling for multifamily and commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11.

E. For landscape installations, compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six inches into the soil. Soils with greater than six percent organic matter in the top six inches of soil are exempt from adding compost and tilling.

F. For landscape installations, a minimum three-inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

G. Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

H. The MWELo compliance items listed in this section are not an inclusive list of MWELo requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in subsection (A) of this section shall consult the full MWELo for all requirements.

I. If, after the adoption of this chapter, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELo September 15, 2015, requirements in a manner that requires jurisdictions to incorporate the requirements of an updated MWELo in a local ordinance, and the amended requirements include provisions more stringent than those required in this section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

15.25.100 Penalties.

For projects determined noncompliant by the community development department, a penalty of \$1,000 or one percent of the project valuation, whichever is less, will be assessed to all construction and demolition projects. For projects determined to have a "good faith effort," the community development department has the discretion to reduce the minimum penalty by 50 percent for first-time offenders and 25 percent for second-time offenders. Repeat offenders, three violations or more, shall be charged the full penalty amount for noncompliant projects. Final approvals and a certificate of occupancy will not be issued until the appropriate penalty has been paid in full as described in this section and all penalties shall be nonrefundable.

A. The following factors shall be used to determine good faith effort:

1. The nature, circumstances, and severity of the violation(s).
2. The violator's ability to pay.
3. The willfulness of the violator's misconduct.
4. Whether the violator took measures to avoid or mitigate violations of this chapter.
5. Evidence of any economic benefit resulting from the violation(s).
6. The deterrent effect of the penalty on the violator.
7. Whether the violation(s) were due to conditions outside the control of the violator.

B. Compliance Deadline Extension Considerations.

1. Benicia may extend the compliance deadlines set forth in a notice of violation issued in accordance with this section if it finds that there are extenuating circumstances beyond

the control of the respondent that make compliance within the deadlines impracticable, including the following:

- a. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- b. Delays in obtaining discretionary permits or other government agency approvals.

15.25.110 Inspections and investigations.

City of Benicia representatives, its designated entity, and/or designee are authorized to conduct any inspections or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. Any records obtained by a jurisdiction during its inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act (PRA) as set forth in Government Code Section [6250](#) et seq.

15.25.120 Appeals.

Any person wishing to appeal a decision made under this chapter or an administrative citation containing a penalty for an uncorrected violation may submit a written appeal to the building appeals board, provided the appeal is made in writing and filed with the building official in accordance with Chapter [1.44](#) BMC, and that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

15.25.130 Effective date.

The ordinance codified in this chapter shall be effective commencing on February 3, 2022.

Chapter 15.27 Commercial Construction Time Limits

Sections:

- 15.27.010 Definitions.**
- 15.27.020 Application.**
- 15.27.030 Time limit guidelines.**
- 15.27.040 Extension of commercial construction time limits.**
- 15.27.050 Commercial construction time limit penalties.**
- 15.27.060 Administration and enforcement.**
- 15.27.070 Appeal of commercial construction time limits and penalties.**

15.27.010 Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

“Building Official” shall mean the Chief Building Official, or their designee.

“Commercial uses” shall mean those uses described as “commercial uses” in the schedule set forth in BMC [17.28.020](#).

“Construction” shall mean any work, including but not limited to additions, alterations, modifications, repairs, improvements, rehabilitation, and/or demolitions for which a building permit is required.

15.27.020 Application.

A. This chapter shall apply to the construction of structures and buildings that accommodate commercial uses.

B. In addition to all new construction, this chapter shall also apply to existing construction which has not been deemed complete pursuant to this section as of the effective date of the ordinance codified in this chapter. For purposes of calculating time limits for such existing construction, the time limits set forth in this section shall commence 60 days following the effective date of the ordinance codified in this chapter.

15.27.030 Time limit guidelines.

A. Except where a longer time period is approved pursuant to section [15.27.040](#), the maximum time for completion of construction following issuance of the building permit, shall not exceed the following:

Table No. 15.27.030:

**Commercial Construction
Time Limits Based upon**

Demonstrable Estimated Project Value

Estimated Value of Project (\$)	Construction Time Limits (months)
\$0 to \$100,000	12 months
\$100,001 to \$500,000	18 months
Greater than \$500,000	24 months

B. Building permit applicants must submit documents supporting the estimated value of the project to the building safety division of the Benicia community development department. Applicants shall submit all information requested by the building official to support the estimated value of the project for materials and labor. The time for completion of the project shall be indicated on the building permit.

C. For the purposes of this chapter, construction shall be deemed complete upon the satisfactory performance of all construction, including, but not limited to, compliance with all conditions of application approval, the clearing and cleaning of all construction-related materials and debris from the site, final inspection, and, where applicable, issuance of certificate of occupancy.

15.27.040 Extension of commercial construction time limits.

A. The owner or owners authorized agent may request in writing, showing reasonable cause, a construction time limit extension upon or after the issuance of a building permit and prior to the expiration of the applicable construction time limit. Applicants are encouraged to avoid alterations to an exterior of a structure unless materials have arrived on site.

B. The Building Official has the authority to grant, conditionally grant, or deny a time limit extension request upon issuance of the building permit based on the reasonable anticipation of one or more of the factors in section 15.27.070.E.

C. The Building Official has the authority to grant, conditionally grant, or deny a time limit extension request made after the issuance of a building permit but before the expiration of the applicable construction time limit based on one or more of the factors in section 15.29.070.E. The building safety division shall review the extension request within 20 working days of receiving a written request and fee as established by city council resolution for an extension of commercial construction time limit.

D. Projects may request one or more extensions, but at no time exceed the following time limits: Projects with an initial 12-month construction time limit may receive a maximum six-month extension. Projects with an initial 18-month construction time limit may receive a maximum 12-month extension. Projects with an initial 24-month construction time limit may receive a maximum 18-month extension. Additional time maybe granted by the building official on a case-by -case basis when the cause of delay does not affect the exterior of a structure or completion of exterior construction, or where no exterior finishes or site conditions have been disturbed.

E. Construction Time Limit Extension Factors. Requests for construction time limit extensions shall be determined based on one or more of the following factors:

1. Site topography;
2. Site access;
3. Geological issues;
4. Neighborhood considerations;

5. Extreme weather events;
6. Unanticipated discovery of archeological resources;
7. Other conditions that could not have been reasonably anticipated at the time of project application and deemed to be an extenuating circumstance.

15.27.050 Commercial construction time limit penalties.

A. Upon failure of the applicant to complete construction by the established time limit, including any time limit extensions, a compliance order will be issued by the city enforcement officer setting a deadline of 30 days from the date of such order within which time the applicant shall be required to complete the construction, and advising the applicant that the following penalties may be imposed if the applicant fails to comply with said order:

1. For the initial 60 days that the project remains incomplete beyond the compliance order deadline: a penalty of \$600.00 per day for every day the violation exists;
2. For the next 60 days (i.e., the sixty-first through the one hundred twentieth day) beyond the compliance order deadline during which the project remains incomplete: an additional penalty of \$900.00 per day for every day the violation exists; and
3. For any additional days (i.e., the one hundred twenty-first and subsequent days) beyond the compliance order deadline during which the project remains incomplete: an additional penalty of \$1,000 per day for every day the violation exists.

B. The applicant shall be notified in writing of the amount of any penalty imposed pursuant to this section. The notice shall be given to the owner in person or by regular, first-class mail, postage prepaid, to the owner or owner's agent's address as it appears on the building permit or in city / county records. 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 city's enforcement officer shall post a copy of the notice in a conspicuous place upon the property. Penalties imposed pursuant to this section shall be paid within 60 calendar days of the date of the notice of penalty.

15.27.060 Administration and enforcement.

A. Upon failure of a property owner to complete construction by the time limits established by this chapter, the Building Official may suspend the building permit, stop work at the site for such construction and require submission of the penalties provided by Section [15.27.050](#). Upon submission of the penalties by the property owner, the Building Official shall declare the suspension of the building permit terminated and the property owner may recommence work under the permit in accordance with its terms.

B. The building official may impose additional conditions on the building permit following suspension to mitigate any adverse impacts on the surrounding area due to the continued construction. However, if standards of the building code are amended while a building permit is suspended, those amended standards shall not apply to the suspended building permit and instead, following termination of the suspension, the building code standards which were in place at the time

the building permit was pulled shall continue to apply unless deemed by the Building Official to be a life safety issue to the structure or occupants.

C. It is declared that any violation of the provisions of this chapter, including but not limited to a failure to complete construction by the time limits established by this chapter, shall, in addition to any other remedy or penalties, constitute a public nuisance, and such nuisance may be abated as provided by law.

15.27.070 Appeal of commercial construction time limits and penalties.

A. The Building Official's decision to grant, conditionally grant, or deny a time limit extension pursuant to this chapter may be appealed in accordance with Chapter [1.44](#) BMC.

B. A suspension of a building permit imposed pursuant to this chapter may be appealed in accordance with Chapter [1.44](#) BMC.

C. A penalty imposed pursuant to this chapter may be appealed in accordance with Chapter [1.44](#) BMC.

D. Appeals pursuant to this section shall be heard by the zoning administrator at a notice public hearing which shall provide a written determination affirming, denying, or modifying the Building Official's denial of an application to extend time limits, suspension of a building permit and/or imposition of a commercial construction time limit penalty. Specifically, the zoning administrator may affirm, modify, reduce, or vacate the Building Official's actions if based upon the following, but at no time waive or reduce the requirements of the California Building Codes.

1. Reasons beyond the control of the applicant, which may include but are not limited to, one or more of the following factors:

- a. Administrative appeals of the project filed by third parties;
- b. Extreme weather events;
- c. Unanticipated discovery of archeological resources;
- d. Labor stoppages;
- e. Acts of war or terrorism;
- f. Natural disasters.

2. Reasons beyond the control of the applicant which shall not include:

- a. Delays caused by normal weather events;
- b. Failure to adequately protect the job site from damage;
- c. Failure of subcontractors to complete work according to schedule;
- d. The use of custom and/or imported materials and/or highly specialized subcontractors, unless determined by the building official that historic preservation requirements or considerations have necessitated an extension of time limits

e. Significant, numerous, and/or late design changes unless determined by the building official that historic preservation requirements have resulted in additional design changes, including but not limited to design review;

f. Failure of materials suppliers to provide materials in a timely manner.

C. Any penalty finally imposed pursuant to this chapter shall constitute a lien on the applicant's property, to be imposed, recorded and satisfied as provided in BMC [8.04.200](#) and [8.04.220](#).

D. The provisions of this chapter are not the exclusive remedy for addressing violations of a construction time limit. In addition to penalties provided by this chapter, the city may pursue all other actions and remedies provided by law including but not limited to administrative citations, administrative code enforcement, nuisance abatement proceedings, and receivership.

Chapter 15.30 Gas Shut-Off Devices

Sections:

- 15.30.010 Definitions
- 15.30.020 Scope
- 15.30.030 Exceptions
- 15.30.040 General requirements

- 15.30.050 Enforcing agency

15.30.010 Definitions.

1. "Customer-owned gas piping" shall have the meaning set forth in Health and Safety Code section 19201(c) as it currently exists or may herein after be amended. As of the effective date of the ordinance adopting this chapter 15.30 "customer-owned gas piping" means all parts of the gas piping system downstream of the gas utility point of delivery, including, but not limited to, downstream of the gas utility meter and service tee (also known as a bypass tee).

2. "Downstream of gas utility meter" refers to all customer owned gas piping.

3. "Residential building" means any structure designed for residential occupancy including a single-family dwelling, access dwelling unit, duplex, multi-family dwelling, apartment

building, condominium building, townhouse building, lodging house, congregate residence, bed and breakfast, hotel, or motel.

4. "Seismic gas shut-off device" A system consisting of a seismic sensing means and actuating means designed to automatically actuate a companion gas shut-off means installed in a gas piping system to shut-off the gas downstream of the location of the gas shut-off means in the event of a severe seismic disturbance. The system may consist of separable components or may incorporate all functions in a single body. The device shall be certified by the State Architect and the operational and functional design of the device shall meet or exceed the device certified by the Office of the State Architect. The determination of whether the operational and functional design of the device is at least equal to the device certified by the State Architect may be made by one of the following: the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO), or other recognized listing and testing agency. Seismic gas shut-off shall have the meaning set forth in Health and Safety Code section 19201(a) as it currently exists or may herein after being amended. As of the effective date of the ordinance adopting this chapter 15.30 "seismic gas shut-off device" means a seismic gas shutoff device installed on customer-owned gas piping certified by the State Architect pursuant to Health and Safety Code Section 19202. Notwithstanding any other provision of law, "seismic gas shutoff device" does not include any device installed on a gas distribution system owned or operated by a public utility.

5. "Excess flow gas shut-off device" Those valves or devices that are not actuated by motion but are activated by significant gas leaks or over-pressure surges, which can occur when pipes rupture inside the structure. The design of the device shall provide a proven method to provide automatically for expedient and safe gas shut-off in an emergency. The design of the device shall provide a capability for ease of consumer or owner resetting in a safe manner. The device shall be certified by the State Architect, or the operational and functional design of the device shall meet or exceed the device certified by the Office of the State Architect. The determination of whether the operational and functional design of the device is at least equal to the device certified by the State Architect may be made by one of the following: the International Association of Plumbing and Mechanical Officials (IAPMO), the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), or other recognized listing and testing agency. Excess flow gas shut-off device shall have the meaning set forth in Health and Safety Code section 19201(b) as it currently exists or may herein after being amended. As of the effective date of the ordinance adopting this chapter 15.30 "excess flow gas shut-off device" means a gas shutoff device installed on customer-owned gas piping described in Health and Safety Code Section 19202(a)(2) as automatic gas shutoff devices that are not activated by motion, but are activated by significant gas leaks or overpressure surges, that has been certified by the State Architect pursuant to that Health and Safety Code section 19202. Notwithstanding any other provision of law, "excess flow gas shutoff device" shall not include any device installed on a gas distribution system owned or operated by a public utility.

6. "Upstream of gas utility meter" refers to all gas piping installed by the utility up to and including the meter and the utility's bypass tee at the connection to the customer owned piping.
7. "Gas shut-off device "means either a seismic gas shut-off device or excess flow gas shut-off device.

15.30.020 Scope.

An approved seismic gas-shut-off device (motion sensitive) or an approved excess flow gas shut-off device (non-motion sensitive) shall be installed downstream of the gas utility meter on each gas line where the gas line serves the following buildings:

1. Any new building construction (commercial, industrial, or residential) containing gas piping for which a building permit is first issued on or after the effective date of the ordinance adopting this chapter 15.30.
2. Any existing residential, commercial, or industrial building which is altered or added to and a building permit for the work is first issued on or after the effective date of the ordinance adopting this chapter 15.30 when:
 - a) Such building has gas piping supplying the existing building or the addition to the building; and
 - b) Where gas piping is involved in the alteration or addition and the valuation of materials and labor of such alteration or addition is more than \$5,000; or
 - c) Where gas piping is not involved in the alteration or addition, and the valuation of material and labor of such alteration or addition is more than \$60,000 for single-family dwellings and \$50,000 for all other buildings.
 - I. With respect to residential buildings, the requirements set forth in subsections A and B herein include alterations or additions to an individual condominium or apartment unit so that such alterations or additions shall require a gas shut-off device to be installed on individual gas meters for gas piping serving that condominium or apartment unit or where a single gas meter services the entire structure as set forth in subsections A and B herein.
 - II. With respect to commercial or industrial buildings, the requirements set forth in subsections A and B herein include alterations or additions to individual units or tenant spaces so that such alterations or additions shall require a gas shut-off device to be installed for all gas piping serving that commercial or industrial space or building when served by a single gas meter.

15.30.030 Exceptions.

1. A gas-shut-off device is not required to be installed downstream of the gas utility meter where a gas-shut-off device has been installed upstream of the gas utility meter and downstream of the meter service regulator and such installation is in accordance with this chapter and with the manufacturer's specifications.
2. Gas-shut-off devices installed on a building prior to the effective date of the ordinance codified in this chapter are exempt from the requirements of this section provided they remain installed on the building or structure and are maintained. Future work meeting the requirements of section 15.30.020 Scope will require all existing devices to comply with this ordinance.
3. Gas-shut-off devices installed on a gas distribution system owned or operated by a public utility shall not be subject to the requirements of this chapter.
4. The Building Official may waive any of the provisions of this chapter upon application in writing by the owner, lessee, or duly authorized representative of the property owner where there are unique circumstances or hazards created by carrying out this chapter, provided that other measures are implemented as required by the building official to protect public safety.
5. This chapter shall not apply to mechanical or processing equipment or facilities where the disruption of the gas distribution system would have an adverse effect on the public safety.
6. This chapter shall not apply to gas shutoff devices installed within gas lines (see California Health & Safety Code Section 19204).

15.30.040 General requirements.

Gas shut-off devices installed either in compliance with this chapter or voluntarily, with a building permit issued on or after the effective date of this section, shall comply with all the following requirements:

1. Be installed by a contractor licensed in the appropriate classification by the State of California and in accordance with the manufacturer's instructions.
2. Seismic gas shut-off devices (motion sensitive) must be mounted rigidly to the exterior of the building or structure containing the gas piping. This requirement need not apply if the Building Safety Division determines that the seismic gas shut-off device (motion sensitive) has been tested and listed for an alternate method of installation.
3. Seismic gas shut-off devices (motion sensitive) must be certified by the State Architect and be listed by an approved listing and testing agency such as International Association of Plumbing

and Mechanical Officials (IAPMO), International Approval Services (IAS), Underwriters' Laboratories (UL), or the Office of the State Architect.

4. Excess flow gas shut-off devices (non-motion sensitive) must be certified by the State Architect or be listed by an approved listing and testing agency such as IAPMO, IAS, UL, or the Office of the State Architect.

5. Where gas shut-off devices are installed voluntarily or as required by this chapter, they shall be maintained for the life of the building or structure or be replaced with a valve or device complying with the requirements of this chapter.

Chapter 15.33 Notice of Building Occupancy Prohibitions

Sections:

- 15.33.010 Intent.
- 15.33.020 Application.
- 15.33.030 Definitions.
- 15.33.040 Posted notifications.
- 15.33.050 Unlawful to remove notification.

15.33.010 Intent.

This chapter establishes the notification process used to indicate the condition of a structure for continued occupancy. The chapter further authorizes the chief Building Official and their authorized representative to post the appropriate notice or placard at each entry point to a building or structure upon completion of a safety assessment. Buildings or structures may become unsafe for occupancy due to a large-scale natural event, a single accident, dilapidated property maintenance, or for any of the factors set forth in the building code which make a property uninhabitable, and which may cause harm or jeopardize the safety of the occupant.

- **15.33.020 Application.**

The provisions of this chapter are applicable to all buildings and structures of all occupancies regulated by the city of Benicia. The city council may extend the provisions as necessary.

15.33.030 Definitions.

“Safety assessment” means a visual, nondestructive examination of a building or structure for the purpose of determining the condition for continued occupancy.

15.33.040 Posted notifications.

The following is a description of the notifications or placards used by the Building Official to designate the condition for allowed occupancy of buildings or structures:

A. “Inspected/Lawful Occupancy Permitted” is to be posted on any building or structure where no apparent structural hazard has been found. The notification is not intended to mean that there is no damage to the building or structure, but that it is safe to occupy.

B. “Yellow Tag/Restricted Use” is to be posted on each building or structure that has been determined to be unsafe or uninhabitable to the extent there is a restriction on continued occupancy. The notification shall note the reasons for the restrictions on continued occupancy and what type of occupancy will be allowed.

C. “Red Tag/Unsafe/Do Not Enter or Occupy” is to be posted on each building or structure that has been damaged or has become uninhabitable such that continued occupancy poses a threat to life safety. Buildings or structures posted with this notification shall not be entered under any circumstance except as authorized in writing by the Building Official, or their authorized representative. Safety assessment teams shall be authorized to enter these buildings with permission from the Building Official. This notification is not to be used or considered as a demolition order. The notification shall note the reasons for the complete restriction on any occupancy.

D. All notifications should cite this section and provide contact information for the appropriate city staff person.

15.33.050 Unlawful to remove notification.

Once a notification has been attached to a building or structure, it shall not be removed, altered or covered until done so by an authorized representative of the chief building official. It shall be unlawful for any person, firm or corporation to alter, cover or deface a notification posted pursuant to this chapter.

Chapter 15.35 Streamlined Permitting for Residential Rooftop Solar

Sections:

- 15.35.010 Definitions.
- 15.35.020 Purpose.
- 15.35.030 Applicability.
- 15.35.040 Solar energy system requirements.

15.35.050 Duties of the building division and building official.

15.35.060 Permit review and inspection requirements.

15.35.010 Definitions.

For the purpose of this chapter, the following words and phrases shall be construed as hereafter set out, unless it shall be apparent from the context that they have a different meaning:

“Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

“Common interest development” means any of the following:

1. A community apartment project.
2. A condominium project.
3. A planned development.
4. A stock cooperative.

“Electronic submittal” means the utilization of one or more of the following:

1. Email;
2. The internet;
3. Facsimile.

“Reasonable restrictions” on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

“Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance” means:

1. For water heater systems or solar swimming pool heating systems: an amount exceeding 10 percent of the cost of the system, but in no case more than \$1,000, or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified, and proposed.

2. For photovoltaic systems: an amount not to exceed \$1,000 over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

“Small residential rooftop solar energy system” means all of the following:

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the city, and all state and city health and safety standards.

“Solar energy system” means any of the following:

1. Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
2. Any structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.
3. A solar energy system that is installed on a single or duplex family dwelling.
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the city.

“Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

15.35.020 Purpose.

The purpose of this chapter is to adopt an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This chapter encourages the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the city, and expanding the ability of property owners to install solar energy systems. This chapter allows the city to achieve these goals while protecting the public health and safety.

15.35.030 Applicability.

A. This chapter applies to the permitting of all small residential rooftop solar energy systems in the city.

B. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this chapter are not subject to the requirements of this chapter unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

15.35.040 Solar energy system requirements.

A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the city including the Benicia fire department.

B. Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Codes.

C. Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

D. All solar energy systems shall meet all the eligibility requirements of the adopted checklist to qualify for the expedited plan review process.

15.35.050 Duties of the Building Safety Division and Building Official.

A. All documents required for the submission of an expedited solar energy system application shall be made available on the publicly accessible city of Benicia website.

B. Electronic submittal of the required permit application and documents by email, the internet, or facsimile shall be made available to all small residential rooftop solar energy system permit applicants.

C. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

D. The building division shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review.

E. The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the

checklist and standard plans contained in the most current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research.

F. All fees prescribed for the permitting of small residential rooftop solar energy system must comply with Government Code Sections [65850.55](#), [66015](#), and [66016](#), and State Health and Safety Code Section [17951](#) and are adopted by resolution.

15.35.060 Permit review and inspection requirements.

A. The building safety division shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within 30 days of the adoption of this chapter. The building division shall issue a building permit or other nondiscretionary permit (the same day for over-the-counter applications or within one to three business days for electronic applications) of receipt of a complete application and meets the requirements of the approved checklist and standard plan. A building official may require an applicant to apply for a use permit if the official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the planning commission.

B. Review of the application shall be limited to the building official's review of whether the application meets local, state, and federal health and safety requirements.

C. If a use permit is required, a building official may deny an application for the use permit if the official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the planning commission.

D. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

E. "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the city on another similarly situated application in a prior successful application for a permit. The city shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section [714](#) of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

F. The city shall not condition approval of an application on the approval of an association, as defined in Section [4080](#) of the Civil Code.

G. If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

H. Only one inspection shall be required and performed by the building division for small residential rooftop solar energy systems eligible for expedited review.

I. The inspection shall be done in a timely manner. An inspection will be scheduled within two business days of a request and provide a four-hour inspection window.

J. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this chapter.

Chapter 15.40 Streamlined Permitting for (EV) Electric Vehicle Charging Stations

Sections:

- 15.40.010 Definitions.
- 15.40.020 Purpose.
- 15.40.030 Streamlined permitting process.
- 15.40.040 Permit application processing.
- 15.40.050 Technical review.
- 15.40.060 Electric vehicle charging station installation requirements.

15.40.010 Definitions.

A. "Electric vehicle charging station" or "charging station" means any level of electric vehicle supply equipment station that is designed and built-in compliance with Article 625 of the California Electrical Code, as it reads on the effective date of this chapter, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

B. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

C. "Electronic submittal" means the utilization of one or more of the following:

1. Electronic mail or email.
2. The internet.
3. Facsimile.

15.40.020 Purpose.

The purpose of this chapter is to promote and encourage the use of electric vehicles by creating an expedited, streamlined permitting process for electric vehicle charging stations while promoting public health and safety and preventing specific adverse impacts in the installation and use of such charging stations. This chapter is also purposed to comply with California Government Code Section [65850.7](#). (Ord. 19-14 § 2).

15.40.030 Streamlined permitting process.

Consistent with Government Code Section [65850.7](#), the building official shall implement an expedited, streamlined permitting process for electric vehicle charging stations, and adopt a checklist of all requirements with which electric vehicle charging stations shall comply in order to be eligible for expedited review. The expedited, streamlined permitting process and checklist may refer to the recommendations contained in the most current version of the “Plug-In Electric Vehicle Infrastructure Permitting Checklist” of the “Zero-Emission Vehicles in California: Community Readiness Guidebook” as published by the Governor’s Office of Planning and Research. The city’s adopted checklist shall be published on the city’s website.

15.40.040 Permit application processing.

A. Prior to submitting an application for processing, the applicant shall verify that the installation of an electric vehicle charging station will not have a specific, adverse impact to public health and safety and building occupants. Verification by the applicant includes but is not limited to: electrical system capacity and loads; electrical system wiring, bonding and overcurrent protection; building infrastructure affected by charging station equipment and associated conduits; areas of charging station equipment and vehicle parking.

B. A permit application that satisfies the information requirements in the city’s adopted checklist shall be deemed complete and be promptly processed. Upon confirmation by the building official that the permit application and supporting documents meet the requirements of the city’s adopted checklist, and are consistent with all applicable laws and health and safety standards, the building official shall, consistent with Government Code Section [65850.7](#), approve the application and issue all necessary permits. Such approval does not authorize an applicant to energize or utilize the electric vehicle charging station until approval is granted by the city. If the building official determines that the permit application is incomplete, he or she shall issue a written correction notice to the applicant, detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

C. Consistent with Government Code Section [65850.7](#), the building official shall allow for electronic submittal of permit applications covered by this chapter and associated supporting documentations.

15.40.050 Technical review.

A. It is the intent of this chapter to encourage the installation of electric vehicle charging stations by removing obstacles to permitting for charging stations so long as the action does not supersede the building official's authority to address higher priority life-safety situations. If the building official makes a finding based on substantial evidence that the electric vehicle charging station could have a specific adverse impact upon the public health or safety, as defined in this chapter, the city may require the applicant to apply for a use permit.

B. In the technical review of a charging station, consistent with Government Code Section [65850.7](#), the building official shall not condition the approval for any electric vehicle charging station permit on the approval of such a system by an association, as that term is defined by Civil Code Section [4080](#).

15.40.060 Electric vehicle charging station installation requirements.

A. Electric vehicle charging station equipment shall meet the requirements of the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories, and rules of the Public Utilities Commission or a municipal electric utility company regarding safety and reliability.

B. Installation of electric vehicle charging stations and associated wiring, bonding, disconnecting means and overcurrent protective devices shall meet the requirements of Article 625 and all applicable provisions of the California Electrical Code.

C. Installation of electric vehicle charging stations shall be incorporated into the load calculations of all new or existing electrical services and shall meet the requirements of the California Electrical Code. Electric vehicle charging equipment shall be considered a continuous load.

D. Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code as applicable per occupancy, and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.

Division II Flood Damaged Provisions

Chapter 15.47 General Flood Provisions

Sections:

- 15.47.010 Statutory authorization.
- 15.47.020 Findings of fact.
- 15.47.030 Statement of purpose.
- 15.47.050 Definitions.
- 15.47.060 Lands to which this division applies.
- 15.47.070 Basis for establishing the areas of special flood hazard.
- 15.47.080 Compliance.
- 15.47.090 Abrogation and greater restrictions.
- 15.47.100 Interpretation.
- 15.47.110 Warning and disclaimer of liability.

15.47.010 Statutory authorization.

The Legislature of the state of California has in Government Code Sections [65302](#), [65560](#), and [65800](#) conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of the city of Benicia adopted this Division II.

15.47.020 Findings of fact.

A. The flood hazard areas of the city of Benicia are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by structures that are inadequately elevated, floodproofed, or protected from flood damage. In addition, the cumulative effect of structures in areas of special flood hazards increases flood heights and velocities and contributes to flood losses.

15.47.030 Statement of purpose.

It is the purpose of this division to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood-prone, mudslide (i.e., mudflow) or flood-related erosion areas. These regulations are designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

15.47.050 Definitions.

Unless specifically defined in this section, words or phrases used in this division shall be interpreted so as to give them the meaning they have in common usage and to give this division its most reasonable application.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this division or a request for a variance.

“Area of shallow flooding” means a designated A, AH or V Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet where a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

Area of Special Flood Hazard. See “Special flood hazard area (SFHA).”

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also called the “100-year flood”).

“Basement” means any area of a building having its floor subgrade (below ground level) on all sides.

“Breakaway walls” are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any building to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

“Coastal high hazard area” is the area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1 – V30, VE or V.

“Development” means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision which was constructed before May 31, 1977.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots including the installation of utilities, the construction of streets, and final site grading and pouring of concrete pads.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of floodwaters, (b) the unusual and rapid accumulation or runoff of surface waters from any source, and/or (c) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

“Flood Boundary and Floodway Map (FBFM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

“Floodplain” or “flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

“Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

“Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “regulatory floodway.”

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” for floodplain management purposes means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
3. Individually listed on the California Register of Historic Resources.
4. Individually listed on the local inventory of historic places.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided it conforms to applicable non-elevation design requirements, including, but not limited to:

1. The flood openings standard in BMC [15.51.010\(C\)\(3\)](#).
2. The anchoring standards in BMC [15.51.010\(A\)](#).
3. The construction materials and methods standards in BMC [15.51.010](#).
4. The standards for utilities in BMC 15.51.20

For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements. This prohibition includes below-grade garages and storage areas.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“New construction” means, for floodplain management purposes, structures for which the “start of construction” commenced on or after May 31, 1977 and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision which was completed on or after May 31, 1977.

“One-hundred-year flood” or “100-year flood” means a flood which has a one percent annual probability of being equaled or exceeded. It is identical to the “base flood,” which will be the term used throughout this division.

“Person” means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Remedy a violation” means to bring a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damage, implementing the enforcement provisions of this division or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Sand dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Special flood hazard area (SFHA)” means an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AE, AH, AO, A99, V or VE.

“Start of construction” includes substantial improvement and other proposed new development, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of

accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed value of the structure before the damage occurred.

Substantial Improvement.

1. “Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred.

2. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

“Variance” means a grant of relief from the requirements of this division which permits construction in a manner that would otherwise be prohibited by this division.

“Violation” means the failure of a structure or other development to fully comply with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this division is presumed to be in violation until such time as that documentation is provided.

15.47.060 Lands to which this division applies.

This division shall apply to all areas of special flood hazard, within the jurisdiction of the city.

15.47.070 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency or the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for the City of Benicia" dated August 3, 2016, with an accompanying Flood Insurance Rate Map (FIRM), and all subsequent amendments and/or revisions are hereby adopted by reference and declared to be a part hereof. This Flood Insurance Study is on file at 250 East L Street, Benicia, California. This Flood Insurance Study is the minimum area of applicability of this division and may be supplemented by studies for other areas which allow implementation of this division and which are recommended to the city council by the floodplain administrator.

15.47.080 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this division and other applicable regulations. Violations of the provisions of this division by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy a violation.

15.47.090 Abrogation and greater restrictions.

This division is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this division and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.47.100 Interpretation.

In the interpretation and application of this division, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor to repeal any other powers granted under state statutes.

15.47.110 Warning and disclaimer of liability.

The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This

division does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This division shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this division, or any administrative decision lawfully made hereunder.

Chapter 15.49 Administration

Sections:

- 15.49.010 Establishment of development permit.**
- 15.49.012 Fees established.**
- 15.49.020 Designation of the floodplain administrator.**
- 15.49.030 Duties and responsibilities of the floodplain administrator.**

15.49.010 Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in BMC [15.47.070](#). Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO or VO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures;
- B. Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
- C. All appropriate certifications listed in BMC [15.49.030\(D\)](#); and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

15.49.012 Fees established.

Fees for complying with this chapter will be set by city council resolution.

15.49.020 Designation of the floodplain administrator.

The Building Official or their designee is hereby designated as the floodplain administrator and is appointed to administer and implement this division by granting and denying development permits in accordance with its provisions.

15.49.030 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the floodplain administrator shall include, but not be limited to:

A. Review of all development permits to determine:

1. That the permit requirements of this division have been satisfied;
2. That all other required state and federal permits have been obtained;
3. That the site is reasonably safe from flooding; and
4. That the proposed development does not adversely affect the carrying capacity of the floodway. For purposes of this division, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and reasonably probable future development will increase the water surface elevation of the base flood more than one foot at any point;

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with BMC [15.47.070](#), the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Chapter [15.47](#) BMC. Any such information shall be submitted to the city council for adoption;

C. Notification of Other Agencies.

1. Whenever a watercourse is to be altered or relocated:

- a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
- b. Submit evidence of such notification to the Federal Emergency Management Agency; and
- c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

2. Base flood elevation changes due to physical alterations:

- a. All LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction"

definition. Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

b. Within six months of information becoming available or project completion, whichever comes first, the floodplain administrator shall assure that the permit applicant submits technical or scientific data to FEMA for a letter of map revision (LOMR).

3. Changes in Corporate Boundaries. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits;

D. Obtaining and maintaining for public inspection the following information, as needed:

1. The certification required in BMC [15.51.010\(C\)\(1\)](#),
2. The certification required in BMC [15.51.010\(C\)\(2\)](#),
3. The certification required in BMC [15.51.010\(C\)\(3\)](#),
4. The certification required in BMC [15.51.010\(C\)\(4\)\(a\)](#) or (b),
5. The certified elevation required in BMC [15.51.030\(B\)](#),
6. The certification required in BMC [15.51.050\(A\)](#), and
7. The information required in BMC [15.51.060\(F\)](#);

E. Interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions); and

F. Taking action to remedy violations of this division as specified in BMC [15.47.080](#).

Chapter 15.51 Provisions for Flood Hazard Reduction

Sections:

- 15.51.010 Standards of construction.**
- 15.51.020 Standards for utilities.**
- 15.51.030 Standards for subdivisions.**
- 15.51.040 Standards for manufactured homes.**
- 15.51.045 Standards for recreational vehicles.**
- 15.51.050 Floodways.**

15.51.060 Coastal high hazard areas.**15.51.010 Standards of construction.**

In all areas of special flood hazard, all new construction and substantial improvements shall (A) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (B) be constructed with materials resistant to flood damage, (C) be constructed by methods and practices that minimize flood damages, and (D) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. The following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All manufactured homes shall meet the anchoring standards of BMC [15.48.040](#).

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. All new construction and substantial improvements within zones AH, AO or VO shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

C. Elevation and Floodproofing.

1. Residential Construction. All new construction or substantial improvements of residential structures shall have the lowest floor (including basement):
 - a. In AE, AH, A1-30 zones, elevated to or above the base flood elevation.

- b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.
- c. In an A zone, without BFEs specified on the FIRM (unnumbered A zone), elevated to or above the base flood elevation; as determined under BMC [15.44.030\(B\)](#).

For all of this subsection (C)(1): upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or registered land surveyor, and verified in the field. Certification and verification shall be provided to the floodplain administrator.

2. Nonresidential Construction. All new construction or substantial improvements of nonresidential structures shall have an elevation that conforms to this subsection (C) or:

- a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation required by this subsection (C), so that the structure is watertight with walls substantially impermeable to the passage of water; and
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered civil engineer or architect that the standards of subsections (C)(2)(a) and (2)(b) of this section are satisfied. Such certifications shall be provided to the floodplain administrator.

3. Flood Openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for this requirement shall meet the following minimum criteria:

- a. For nonengineered openings: shall have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; and
- b. Be certified by a registered civil engineer or architect.

4. Manufactured homes shall also meet the standards in BMC [15.48.040](#).

15.51.020 Standards for utilities.

A. All new and replacement water supply and sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.

B. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.

15.51.030 Standards for subdivisions.

A. All preliminary subdivision proposals shall identify the flood hazard areas and the elevation of the base flood. In addition, all new subdivision proposals, and other proposed development, greater than 50 lots or five acres, whichever is lesser, shall provide a hydrologic and hydraulic study in areas without a base flood elevation (BFE).

B. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.

C. All subdivision proposals shall be consistent with the need to minimize flood damage.

D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

15.51.040 Standards for manufactured homes.

A. All manufactured homes that are placed or substantially improved on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

1. Within zones A1-30, AH and AE on the city's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the BFE and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Within zones V1-30, V, and VE on the city's Flood Insurance Rate Map, meet the requirements of BMC [15.48.060](#).

B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision with zones A1-30, AH, AE, V1-30, V and VE on the city's

Flood Insurance Rate Map that are not subject to the provisions of subsection (A) of this section will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

1. Lowest floor of the manufactured home is at or above the BFE; or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the placement of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or registered land surveyor and verified in the field. Such certification and verification shall be provided to the floodplain administrator.

15.51.045 Standards for recreational vehicles.

A. All recreational vehicles placed in zones A1-30, AH, AE, VI-30 and VE will either:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the permit requirements of BMC [15.44.010](#) and the elevation and anchoring requirements for manufactured homes in BMC [15.48.040](#).

B. Recreational vehicles placed on sites within zones V1-30, V, and VE on the city's Flood Insurance Rate Map will meet the requirements of subsection (A) of this section and BMC [15.48.060](#).

15.51.050 Floodways.

Located within areas of special flood hazard established in BMC [15.40.070](#) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of

floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. All encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the floodway unless certification by a registered civil engineer or architect is provided demonstrating that the cumulative effect of the proposed development encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this chapter.

15.51.060 Coastal high hazard areas.

Within coastal high hazard areas established in BMC [15.40.070](#), the following standards shall apply:

A. All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation.

B. All new construction shall be located on the landward side of the reach of mean high tide.

C. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation.

D. Fill shall not be used for structural support of buildings.

E. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.

F. The floodplain administrator shall obtain and maintain the following records:

1. Certification by a registered engineer or architect that a proposed structure complies with subsection (A) of this section;
2. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

Chapter 15.53 Variances

Sections:

15.53.010 Variance – General.

15.53.010 Variance – General.

A. The building department board of appeals shall hear and decide requests for variances from the requirements of this division.

B. In passing upon an application for a variance, the building department board of appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this division, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in time of flooding for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

C. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level; provided, subsections (B)(1) through (B)(11) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

D. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

E. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use; provided, that the provisions of BMC [15.44.030](#)(A) through (D) are satisfied and that the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

F. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

G. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances; and
4. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

H. Upon consideration of the factors of subsection (B) of this section and the purposes of this division, the building department board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this division.

I. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the floodplain board in the office of the Solano County recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

J. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

K. Decisions of the building department board of appeals may be appealed to the city council by any person adversely affected by such decision by filing a written notice of appeal in accordance with Chapter [1.44](#) BMC.

L. A decision of the building department board of appeals shall become final if not appealed pursuant to Chapter [15.56](#) BMC.

M. A variance shall expire if a building permit is not obtained within one year after the variance becomes final. The variance shall also expire if the structure is not completed by the time the building permit expires.

Chapter 15.55 Appeals

Sections:

15.55.010 Appeals to the building department board of appeals.

15.55.020 Appeals to the city council.

15.55.010 Appeals to the building department board of appeals.  **Is.**

Any interested person may appeal an alleged error in any requirement, decision or determination of the floodplain administrator hereunder to the building department board of appeals by filing a written notice of appeal, stating the grounds thereof, in accordance with Chapter [1.44](#) BMC.

15.55.020 Appeals to the city council.

Any interested person may appeal a decision made by the building department board of appeals to the city council by filing a written notice of appeal, stating the grounds thereof, in accordance with Chapter [1.44](#) BMC.

Chapter 15.60 Seismic Hazard Identification Program

Sections:

- 15.60.010 Purpose.
- 15.60.020 Definitions.
- 15.60.030 Scope of program – Applicability.
- 15.60.040 Building owner notification.
- 15.60.050 Responsibilities of the building owner.
- 15.60.060 Program status report to the city council.
- 15.60.070 Reporting to the State Seismic Safety Commission.
- 15.60.080 Violation.

15.60.010 Purpose.

It is found that in the event of a strong or moderate local earthquake, loss of life or serious injury may result from damage to or collapse of buildings in the city of Benicia. It is generally acknowledged that Benicia will experience earthquakes in the future due to its proximity to both the San Andreas and Hayward faults. The purpose of this chapter is to promote public safety by identifying potentially hazardous buildings in Benicia which are not earthquake resistant by reason of structural deficiencies. The city council finds that the existence and occupancy of potentially hazardous buildings constitute a threat to public safety in the event of earthquake of moderate to high magnitude. The city council finds that the public safety is served by identifying potentially hazardous buildings and providing for notification of legal owners and their tenants that the building is considered to be one of a general type that historically has exhibited little resistance to earthquake motion. Such a seismic hazards identification program is consistent with the State Unreinforced Masonry Law of 1986.

15.60.020 Definitions.

For the purposes of this chapter:

- A. "Bearing wall" means any wall supporting a floor or roof where the total superimposed load exceeds 100 pounds per linear foot, or any unreinforced masonry wall supporting its own weight when over six feet in height.
- B. "Civil engineer or structural engineer" means a licensed civil or structural engineer registered by the state of California pursuant to the rules and regulations of Title 16, Chapter 5 of the California Administrative Code.
- C. "Future occupant" means each successive building tenant who was not in possession at the time the building owner originally notified tenants as required by BMC [15.60.050](#), but who subsequently became a building tenant.
- D. "Potentially hazardous building" means any building constructed prior to the adoption of local building codes requiring earthquake resistant design of buildings and constructed of

unreinforced masonry wall construction. "Potentially hazardous building" includes all buildings of this type, including, but not limited to, public and private schools, theaters, places of public assembly, apartment buildings, hotels, motels, fire stations, police stations, and buildings housing emergency services, equipment, or supplies, such as government buildings, disaster relief centers, communications facilities, hospitals, blood banks, pharmaceutical supply warehouses, plants, and retail outlets. "Potentially hazardous building" does not include warehouses or similar structures not used for human habitation, except for warehouses or structures housing emergency services, equipment or supplies. "Potentially hazardous building" does not include any building having five living units or less. "Potentially hazardous building" does not include, for purposes of identification, any building which qualifies as "historical property" as determined by an appropriate governmental agency under Section [37602](#) of the Health and Safety Code.

E. "Tenant" means all building tenants who were in possession at the time the building owner was required to notify building tenants as required by BMC [15.60.050](#).

F. "Unreinforced masonry (URM) building" means any building containing walls constructed wholly or partially with any of the following materials:

1. Unreinforced brick masonry;
2. Unreinforced concrete masonry;
3. Hollow clay; and
4. Adobe or unburned clay masonry.

15.60.030 Scope of program – Applicability.

The building inspection department shall inspect all "potentially hazardous buildings" constructed of unreinforced masonry (URM) to create a list of potentially hazardous buildings which by nature or extent of structural deficiencies could result in collapse or partial collapse of the building or by nature or extent of deficiencies in anchoring of external hazards in collapse or partial collapse of the building.

15.60.040 Building owner notification.

The owners of buildings, except those designated as historic buildings, shall be notified on or before July 31, 1990, by the building inspection department of the city that: (A) their building is considered to be a potentially hazardous building because of the nature or extent of structural deficiencies or deficiencies in anchoring which could result in collapse or partial collapse of the building in a moderate to severe earthquake; and (B) the owner must give notification to building tenants and future occupants as required by BMC [15.60.050](#). Said notice from the building inspection department of the city to owners as required in this section shall be referred to as a "BMC [15.60.040](#) notice" and said notice from owners to building tenants and

future occupants shall be referred to as a "BMC [15.60.040](#) notice." A BMC [15.60.040](#) notice from the building inspection department to owners shall include a copy of BMC [15.60.050](#) with said notice to owners and advise the owners that failure to comply with BMC [15.60.050](#) is a misdemeanor.

15.60.050 Responsibilities of the building owner.

A. Notification of Building Tenants. A building owner shall notify all tenants, in writing, within 30 days of receipt of a BMC [15.60.040](#) notice from the city, that their building may be potentially hazardous and is considered to be one of a general type that historically has exhibited little resistance to earthquake motion. A building owner who has received a BMC [15.60.040](#) notice shall notify all future occupants that the building is potentially hazardous. Said notice to future occupants shall (1) be given at least 10 days before a future occupant has physically occupied the premises; and (2) shall contain the notice that the building may be potentially hazardous and is considered to be one of a general type that historically has exhibited little resistance to earthquake motion.

B. Notification of the City of Benicia. A building owner shall deliver to the city clerk, within five days after each tenant is notified by the building owner that their building may be potentially hazardous, copies of each written notification given to building tenants and future occupants as required by subsection (A) of this section.

15.60.060 Program status report to the city council.

The building official shall submit a semi-annual narrative report to the city council on the status of the seismic hazards identification program, which shall also describe (A) by street address the location of each of the buildings identified by the building department as potentially hazardous; and (B) any actions taken by owners of each building, including copies of letters received by the city sent pursuant to BMC [15.60.050](#).

15.60.070 Reporting to the State Seismic Safety Commission.

The building official shall submit a report to the State Seismic Safety Commission which shall include the following:

- A. A listing of the number of buildings identified and the total square footage and use of each building;
- B. A summary of the mitigation program implemented by the city with copies of the program and any ordinances attached to the report;
- C. A summary of the status of the mitigation program listing the number of building owners notified;
- D. Suggestions regarding how the state program could be improved.

15.60.080 Violation.

It is unlawful for the owner of a building, who has been notified by the building inspection department of the city pursuant to BMC [15.60.040](#), to fail to give notice to the tenants or to future occupants of the building that the building may be potentially hazardous in the manner required by BMC [15.60.050\(A\)](#).

Before any action shall be taken by the city to enforce a violation of this chapter, the owner of the building shall be given written notice of the violation. The notice of violation shall be delivered either personally or by certified mail. When delivered by certified mail, the notice shall be addressed to the last known address of the owner of the building and a notice shall also be addressed to the address shown on the county tax assessment rolls if different from the last known address, or if the address of the building owner is unknown then only to the address shown on the county tax assessment rolls. The building owner shall have 10 days from the date of personal service of the written notice of violation, or 15 days from the date of mailing of the written notice of violation, to give actual notice to the tenants that the building is potentially hazardous, as required by BMC [15.60.050\(A\)](#), and to deliver a copy of the written notice to the city clerk, as required by BMC [15.60.050\(B\)](#). No action to enforce a violation of this chapter shall be taken by the city if the owner gives said notice and delivers to the city a copy of said written notice within said time periods.

Division IV. Storm Water, Grading and Erosion Control, Public

Improvement Standards.

Chapter 15.70 Storm Water

Sections:

- 15.70.010 Purpose.
- 15.70.020 Definitions.
- 15.70.030 Responsibility for administration.
- 15.70.040 Construction and application.
- 15.70.050 Taking.
- 15.70.060 Discharge of pollutants.
- 15.70.070 Discharge in violation of permit.
- 15.70.080 Illicit discharge and illicit connections.
- 15.70.090 Best management practices and standards.
- 15.70.100 Tourtelot cleanup project.
- 15.70.110 Watercourse protection.
- 15.70.120 Authority to inspect.
- 15.70.130 Violations constituting misdemeanors.

- 15.70.140 Penalty for violation.
- 15.70.150 Continuing violation.
- 15.70.160 Concealment.
- 15.70.170 Acts potentially resulting in violation of federal Clean Water Act and/or Porter-Cologne Act.
- 15.70.180 Violations deemed a public nuisance.
- 15.70.190 California Code of Civil Procedure Section 1094.6.
- 15.70.200 Civil actions.
- 15.70.210 Administrative enforcement powers.
- 15.70.220 Remedies not exclusive.
- 15.70.230 Coordination with hazardous materials inventory and response program.

15.70.010 Purpose.

The city council finds as follows:

A. The intent of this chapter is to protect and enhance the water quality in the city of Benicia's watercourses, water bodies, and wetlands in a manner pursuant to, and consistent with, the Porter-Cologne Water Quality Control Act (Water Code Section [13000](#) et seq.), the federal Clean Water Act ([33](#) U.S.C. Section [1251](#) et seq.) and any subsequent revisions and amendments thereto, and with the goals of the city of Benicia general plan including:

- Goal 2.38: Protect water quality.
- Goal 3.22: Preserve water bodies.
- Goal 3.24: Protect watersheds.
- Goal 4.12: Accommodate runoff from existing and future development.
- Goal 4.14: Prevent ground and surface water contamination.

B. This chapter also carries out the conditions in the city's Phase II small municipal separate storm sewer system (MS4) National Pollutant Discharge Elimination System (NPDES) permit, Water Quality Order No. 2013-0001-DWQ, General Permit No. CAS000004 (Phase II Storm Water Permit) and subsequent revisions and amendments thereto, that require, effective upon adoption of this chapter, implementation of appropriate measures to control pollutant discharges into and from the MS4 system.

C. It is the purpose of the city council in enacting this chapter to ensure the future health, safety, and general welfare of city of Benicia residents and acting in accordance with the precepts of the general plan by:

1. Detecting and eliminating non-storm water discharges and illegal connections to the municipal separate storm drain system.

2. Responding to and prohibiting the discharge to municipal separate storm drains from spills, dumping or disposal of materials other than storm water.
3. Reducing pollutants in storm water discharges to waters of the United States to the maximum extent practicable.
4. Complying with applicable state and federal laws.
5. Minimizing increases in nonpoint source pollution caused by storm water runoff from development that would otherwise degrade local water quality.
6. Reducing storm water runoff rates and volumes and nonpoint source pollution whenever possible, through storm water management controls and ensuring that these management controls are properly maintained and pose no threat to public safety.

15.70.020 Definitions.

The following words and phrases when used in this chapter shall be as defined herein. Words and phrases in this chapter and not otherwise defined shall be interpreted as defined in the regulations issued by the U.S. Environmental Protection Agency to implement the provisions of the Phase II storm water permit, the federal Clean Water Act, and as defined by the State Water Resources Control Board to implement the Porter-Cologne Act:

“Authorized enforcement official” or “authorized enforcement officer” is the city engineer and those individuals designated by the city engineer as authorized enforcement officials.

“BASMAA Post Construction Manual” means the most recent version of the Bay Area Storm Water Management Agencies (BASMAA) Post Construction Manual.

“Best management practices (BMPs)” are schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to the waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from raw material storage.

“City storm drain system” includes but is not limited to those facilities within the city by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, drainage inlets, curbs, gutters, ditches, manmade open channels or culverts and pipes, which is not part of a Publicly Owned Treatment Works (POTW) as defined at [40 CFR Part 122.2](#).

“Construction activity” means any activity that involves soil disturbing activities including, but not limited to, clearing, grading, paving, disturbances to ground such as stockpiling, and excavation.

“Development runoff requirements” shall mean the provisions in the city’s storm water Phase II final rule that contains performance standards to address both construction and post-construction phase impacts of new projects and redevelopment projects on storm water quality.

“Discharge” or “discharge of a pollutant” is (1) the addition of any pollutant or combination of pollutants to waters of the United States from any point source, or (2) any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft, which is being used as a means of transportation. The term includes additions of pollutants to waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

“Erosion and sediment control plan (ESCP)” means a plan prepared to control erosion and prevent the discharge of sediment and construction materials from a construction site.

“Illicit connection” is any device or method that conveys non-storm water to a municipal separate storm sewer (storm drain) system (MS4) or receiving water.

“Illicit discharge” is any discharge to an MS4 that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term “illicit discharge” includes all non-storm water discharges not composed entirely of storm water and discharges that are identified under the discharge of pollutants section of this chapter (BMC [15.70.060](#)). The term “illicit discharge” does not include discharges that are regulated by an NPDES permit.

“Incidental irrigation runoff” means unintended amounts (volume) of runoff, such as unintended, minimal overspray from sprinklers that escapes the landscaped area of intended use. Water leaving an intended use area is not considered incidental if it is part of the facility design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence.

“Low impact development (LID)” means a sustainable practice that benefits water supply and contributes to water quality protection. LID uses site design and storm water management to maintain the site’s predevelopment runoff rates and volumes. The goal of LID is to mimic a site’s predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall.

“Non-storm water discharge” is any discharge to a storm sewer system that is not composed entirely of storm water.

“NPDES permit” is a National Pollutant Discharge Elimination System (NPDES) permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board,

or a California Regional Water Quality Control Board pursuant to the Clean Water Act that authorizes discharges to waters of the United States.

“Permit registration documents (PRDs)” are the application materials required by the State Water Resources Control Board that include a notice of intent to comply with the terms of the general permit to discharge storm water associated with construction and ground disturbing activities (Order No. 2009-0009-DWQ as amended, General Permit No. CAS000002) or the general permit to discharge storm water associated with industrial activities (Order No. 2014-057-DWQ, General Permit No. CAS000001).

“Phase II storm water permit” is the NPDES general storm water permit applicable to the city of Benicia, Water Quality Order No. 2013-0001-DWQ, General Permit No. CAS000004, and any subsequent amendment, reissuance, or successor to this NPDES permit.

“Pollutant” is any material other than storm water including, but not limited to, petroleum products or byproducts, acidity, dredged or excavated soil, solid waste, incinerator residue, filter backwash, sewage, pet wastes, manure, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, sediment, cellar dirt, concrete, debris, dumped yard wastes, and industrial, municipal, and agricultural waste; temperature, wrecked or discarded equipment, rock, sand, soil and industrial, municipal or agricultural waste discharged into the water or storm water system, that is discharged to or placed in such a way as to be carried away by storm water into the storm drains and watercourses of the city.

“Post-construction measure requirements” are the provisions in Section E.12 of the Phase II storm water permit that contain design standards or performance criteria to address the post-construction phase impacts of new projects and redeveloped projects on storm water quality and quantity.

“Premises” are any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

“Responsible person” shall mean the owner or occupant of any premises or who engages in any activity from which there is or may be a non-storm water discharge or any person who releases pollutants to the city’s storm water system.

“Storm drain system” or “storm drain” includes but is not limited to those storm water drainage conveyance facilities within the city by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, drainage inlets, curbs, gutters, ditches, creeks, manmade open channels or culverts and pipes, which is not part of a Publicly Owned Treatment Works (POTW) as defined in the Code of Federal Regulations (at [40 CFR Part 122.2](#)).

“Storm water” means storm water runoff, surface runoff and drainage. It excludes infiltration and runoff from agricultural land.

“Storm water control plan” means a plan that meets the criteria contained in the most recent version of the BASMAA Post Construction Manual.

“Storm water facilities operation and maintenance plan” is a plan identifying the locations and characteristics of storm water management facilities on a newly developed or redeveloped site and describing maintenance activities, schedules, and responsibilities to ensure the ongoing proper operation of those facilities.

“Storm water management facility” is any device designated to detain, retain, filter, or infiltrate storm water.

“Storm water pollution prevention plan (SWPPP)” is a plan to identify sources of sediment and other pollutants that affect the quality of storm water discharges and describes and ensures the implementation of practices to reduce sediment and other pollutants in storm water discharges.

“Watercourse” is any channel, ditch, drainage swale, closed pipe system, whether manmade or natural, that collects and transports runoff.

“Waters of the United States” are all waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide as defined in [33](#) CFR Part [328](#).

15.70.030 Responsibility for administration.

This chapter shall be administered for the city by the city engineer. In administering this chapter, the city engineer has the authority to request and require the submittal of information deemed necessary to assess compliance with this chapter and the Phase II storm water permit.

15.70.040 Construction and application.

This chapter shall be construed to assure consistency with the requirements of the federal Clean Water Act and acts amendatory thereof or supplementary thereto, and applicable implementing regulations. Every application for a development project, including but not limited to a rezoning, tentative map, parcel map, conditional use permit, variance, site development permit, design review, or building permit is subject to the development runoff requirements in the city’s NPDES permit and shall be accompanied by a storm water control plan that meets the most recent version of the BASMAA Post Construction Manual.

15.70.050 Taking.

The provisions of this chapter shall not operate to deprive any landowner of substantially all of the market value of his/her property or otherwise constitute an unconstitutional taking without compensation. If application of this chapter to a specific project would create a taking, then pursuant to this chapter the city council may allow additional land uses, but only to the extent necessary to avoid a taking. Such uses shall be consistent with and carry out the purposes of this chapter as stated in BMC [15.70.010](#).

15.70.060 Discharge of pollutants.

A. The discharge of non-storm water discharges to the city storm drain system is prohibited. All discharges of material other than storm water must be in compliance with this chapter, state and federal regulations and authorized by the city engineer.

B. The discharge of storm water from premises or an activity that causes or contributes to a violation of receiving water limitations in the city's NPDES permit is prohibited.

C. Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibition set forth in subsection (A) of this section:

1. Discharges regulated under a National Pollutant Discharge Elimination System (NPDES) permit (other than the Phase II storm water permit) issued to the discharger and administered by the state of California under authority of the United States Environmental Protection Agency; provided, that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.
2. Discharges or flows from fire-fighting activities unless they are identified as significant sources of pollutants to waters of the United States.
3. Discharges from the following activities, provided any pollutants in the discharges are identified and appropriate control measures to minimize the impacts of such discharges are developed and implemented:
 - a. Water line flushing and other discharges from potable water sources;
 - b. Incidental irrigation runoff from landscaped areas provided the conditions in subsection (C)(4) of this section are met;
 - c. Diverted stream flows;
 - d. Rising ground waters;
 - e. Infiltration to separate storm drains;

- f. Uncontaminated pumped ground water (as defined at [40 CFR 35.2005\(20\)](#)) to separate storm sewers;
- g. Foundation and footing drains;
- h. Water from crawl space pumps;
- i. Air conditioning condensation;
- j. Natural springs;
- k. Individual residential car washing;
- l. Flows from riparian habitats and wetlands; and
- m. Dechlorinated swimming pool discharges.

4. Irrigation systems must be designed to conserve water and prevent water leaving the area of application. Persons responsible for controlling irrigation systems shall prevent excessive irrigation runoff by:

- a. Detecting and correcting leaks from the irrigation system within 72 hours of discovering the leak;
- b. Properly designing and aiming sprinkler heads to only irrigate the planned application area;
- c. Not irrigating during precipitation events; and
- d. Where recycled water is used for irrigation, designing, and managing holding ponds such that no discharge occurs unless it is the result of the 25-year, 24-hour storm event. Any releases from holding ponds must be reported to the Regional Water Board and the city of Benicia within 24 hours of the discharge.

15.70.070 Discharge in violation of permit.

Any discharge that would result in a contribution to a violation of the Phase II storm water permit, either separately considered or when combined with other discharge, is prohibited. Any non-storm water discharge not within the confines of this chapter and/or not approved by the city engineer is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify, and hold harmless the city in any administrative or judicial enforcement action relating to such discharge.

15.70.080 Illicit discharge and illicit connections.

A. It is prohibited to establish, use, maintain, or continue illicit drainage connections to the city storm water system or watercourse, and to commence or continue any illicit discharges to the city storm water system or watercourse. This prohibition is expressly retroactive and applies to connections made in the past, regardless of whether made under a permit or other authorization or whether permissible under the law or practices applicable or prevailing at the time of the connection.

B. Any person responsible for a discharge, spill, or pollutant release shall promptly cease and desist discharging, and/or clean up and abate such a discharge as directed by the city engineer.

C. Any person found to be in violation of this section or found to be responsible for an illicit connection shall promptly remove the illicit drainage or connection in a manner acceptable to and approved by the city.

D. No discharge shall cause the following conditions, create a nuisance, or adversely affect beneficial uses of waters of the state:

1. Floating, suspended or deposited macroscopic matter or foam;
2. Bottom deposits or aquatic growth;
3. Alterations of temperature, sediment load, nutrient load, or dissolved oxygen, which cause significant adverse impacts to native aquatic biota;
4. Visible, floating, suspended or deposited oil or products of petroleum origin; or
5. Substances present in concentrations or quantities which cause deleterious effects on aquatic biota, wildlife, or waterfowl, or which render any of these unfit for human consumption.

E. The city may perform cleanup and abatement work and recover its costs from the responsible person as provided in BMC [15.70.200](#).

15.70.090 Best management practices and standards.

Any person engaged in activities that will or may result in pollutants entering the city storm drain system shall undertake all practicable measures to cease such activities, and/or eliminate or reduce such pollutants. Such activities shall include, but not be limited to ownership and use of parking lots, gasoline stations, industrial facilities, commercial facilities, ground disturbing activities, and stores fronting city streets. The following minimal requirements shall apply:

A. Littering. Except for pollutants lawfully disposed of by way of containers or in lawfully established dumping grounds, no person shall throw, deposit, leave, maintain, keep, or permit

to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, drain inlet, conduit or other drainage structures, business place, or upon any public or private lot of land in the city, in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the city, so that the same might be or become a pollutant.

B. Sidewalks. The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the city of Benicia in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway but shall be disposed of in receptacles maintained on said real property as required for the disposal of garbage, trash or green waste.

C. Standard for Parking Lots and Similar Uses. Persons owning or operating private streets, a parking lot, gas station pavement or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the city storm water system.

D. Best Management Practices for Construction and Ground Disturbing Activities.

1. Any person performing construction activities in the city shall use the best available technology (BAT) and the best conventional technology (BCT). Any person performing construction activities shall implement appropriate BMPs consistent with the California Stormwater Quality Association BMPs or equivalent to prevent the discharge of construction wastes or contaminants from construction materials, tools, and equipment from entering the storm drain system or watercourse.

2. Construction-phase BMPs include erosion and sediment controls and pollution prevention practices.

a. Erosion control BMPs may include, but are not limited to:

- i. Scheduling and timing of grading activities;
- ii. Preservation of existing vegetation;
- iii. Timely revegetation of graded areas;
- iv. The use of hydroseed and hydraulic mulches;
- v. Soil binders;
- vi. Earth dike and drainage swales;

- vii. Velocity dissipation devices;
- viii. Slope drains;
- ix. Installation of erosion control blankets;
- x. Soil preparation – roughening;
- xi. Wind erosion control.

b. Sediment control BMPs may include, but are not limited to:

- i. Properly sized detention basins, dams, or filters to reduce entry of suspended sediment into the storm drain system and watercourses;
- ii. Installation of construction entrances to prevent tracking of sediment onto adjacent streets;
- iii. Biofilter bags;
- iv. Sandbag barrier;
- v. Storm drain inlet protection;
- vi. Entrance outlet tire wash;
- vii. Street sweeping to remove tracked sediment.

c. Pollution prevention practices may include, but are not limited to:

- i. Designated concrete washout areas or facilities;
- ii. Control of trash and recycled materials;
- iii. Tarping of materials stored on site;
- iv. Proper location of and maintenance of temporary sanitary facilities.

The combination of BMPs used, and their execution in the field, must be customized to the site using up-to-date standards and practices.

3. Financial security may be required to ensure that temporary measures to control storm water pollution are implemented and maintained during construction and after construction for a period determined by the city. Financial security shall consist of an

irrevocable letter of credit, cash deposit, or performance bond as determined by the agency.

4. When any work is being done contrary to the provisions of this chapter, the city engineer may order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done. Such work shall stop until the authorized enforcement official authorizes the work to proceed. This remedy is in addition to, and does not supersede or limit, any and all other remedies, both civil and criminal, provided in the city of Benicia Municipal Code.

5. The city has the authority to review designs and proposals for construction activities and new development and redevelopment sites to determine whether adequate BMPs will be installed, implemented, and maintained during construction and after final stabilization (post-construction).

6. All construction plans and applications for construction activity submitted to the city shall consider the potential for erosion and sedimentation at the construction site and shall include appropriate erosion and sedimentation controls.

7. Erosion and Sediment Control Plan Requirements:

a. An erosion and sediment control plan (ESCP) shall be required for:

i. Any project subject to a grading permit under Chapter 15.73 BMC, Grading and Erosion Control;

ii. Any project subject to a building permit or other permit that has the potential for significant erosion and/or significant non-storm water discharges of sediment and/or construction site waste;

iii. Any other project, as required by the authorized enforcement official, considering factors such as whether the project involves hillside soil disturbance, rainy season construction, construction near a creek or an intermittent or ephemeral drainage way, or any other condition or construction site activity that could lead to a non-storm water discharge to a storm drain if not managed by effective implementation of an ESCP.

b. The ESCP shall be submitted for review and approval by the authorized enforcement official. The project applicant shall follow guidance issued by the city engineer in preparing the ESCP. At a minimum, the ESCP shall include:

i. Description of the proposed project and soil disturbing activity;

ii. Site-specific construction-phase BMPs;

- iii. Rationale for selecting the BMPs, including, if needed, soil loss calculations;
- iv. List of applicable permits associated with the soil disturbing activity, such as: the state's construction general permit (CGP); Clean Water Act Section 404 Permit; Clean Water Act Section 401 Water Quality Certification; streambed/lake alteration agreement (1600 Agreements);
- v. Proof that the applicant has obtained the applicable permits associated with the soil disturbing activity that must be submitted prior to approval of the ESCP; and
- vi. Project information including but not limited to:
 - (A) Owner and contractor contact information;
 - (B) Site information (location, status, size of project, size of disturbed area);
 - (C) Name and distance to the nearest receiving water; and
 - (D) Planned start date and anticipated completion date.
- c. For projects subject to the state's general construction permit (CGP), project applicants may submit a storm water pollution prevention plan (SWPPP) developed pursuant to the CGP in lieu of submitting an ESCP.
- d. Implementation of an approved ESCP shall be a condition of the issuance of a building permit, a grading permit, or other permit issued by the city for a project subject to this section. The ESCP shall be implemented year-round and must be updated to reflect changing conditions on the project site. Any modifications to the ESCP shall be submitted to the city for review and approval.

E. Best Management Practices for New Development and Redevelopment.

1. Prior to and/or during construction, the authorized enforcement official may establish controls on the volume and rate of storm water runoff from new developments and redevelopment as may be appropriate to minimize peak flows or total runoff volume, and to mimic the predevelopment site hydrology. These controls may include limits on impervious area or provisions for detention and retention of runoff on site.
2. The authorized enforcement official may require, as a condition of project approval, permanent structural controls designed for the removal of sediment and other pollutants, and for control on the volume and rate of storm water runoff from the project's added or replaced impervious surfaces. The selection and design of such controls shall be in accordance with criteria established or recommended by federal, state, and local

agencies, and where required, the BASMAA Post Construction Manual. Where physical and safety conditions allow, the preferred control measure is to retain drainage ways above ground and in as natural a state as possible, or by other biological methods such as bioretention areas.

3. Storm Water Control Plan Requirements:

a. For each new development and redevelopment project subject to post-construction measure requirements, or where required by the nature and extent of a proposed project and where deemed appropriate by the city, every applicant shall submit a storm water control plan (SCP) that meets the criteria in the most recent version of the BASMAA Post Construction Manual.

i. Applicable new development and redevelopment projects subject to post-construction measures include:

(A) Small Projects. Projects that create or replace between 2,500 and 5,000 square feet of impervious area, excluding linear underground/overhead utility projects.

(B) Regulated Projects. Projects that create or replace greater than or equal to 5,000 square feet of impervious area, excluding: detached single-family residences that are not part of a common plan of development; interior remodels; routine maintenance or repair; linear underground/overhead utility projects unless the project has a discrete location that has 5,000 square feet or more of newly constructed contiguous impervious area.

(C) Full Hydromodification Projects. Regulated projects that create or replace greater than or equal to one acre of impervious area, with a net increase in impervious area.

b. Applicants shall implement the controls identified in the SCP and required by the conditions of approval that reduce storm water pollutant discharges through the construction, operation and maintenance of source control measures, low impact development design, site design measures, storm water treatment measures and hydromodification management measures. Increases in runoff shall be managed in accordance with the post-construction measures requirements.

c. The SCP is separate and distinct from the ESCP requirements described in subsection (D) of this section.

d. Where projects are required to have a SCP, project applicants shall follow the appropriate SCP template, based on the project type, in the BASMAA Post Construction Manual.

- e. Implementation of an approved SCP and submittal of an approved storm water facilities operation and maintenance plan by the applicant shall be a condition precedent to the issuance of a building permit or another city-issued permit for a project subject to this section.
- f. Financial security may be required to ensure that storm water management facilities operate and are maintained following construction for a period which may be determined by the city. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the city.
- g. When any work is being done contrary to the provisions of this chapter, the authorized enforcement official may order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done. Such work shall stop until the city engineer authorizes the work to proceed. This remedy is in addition to and does not supersede or limit any and all other remedies, both civil and criminal, provided in the BMC.
- h. All storm water management facilities shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the BASMAA Post Construction Manual.
- i. All storm water management facilities shall be maintained according to the approved storm water facilities operation and maintenance plan. The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Unless a different time period is provided for in the plan, those responsible for maintenance shall inspect the storm water management facilities at least annually and submit a written report of the inspection to the city engineer. The storm water facilities operation and maintenance plan shall describe how the maintenance costs will be funded. If the responsible person fails to maintain the storm water management facilities in accordance with this chapter or the plan, the city may perform the maintenance and recover its costs from the responsible person as provided in BMC [15.70.200](#).
- j. For each new development and redevelopment project subject to the post-construction measures requirements, or where deemed appropriate by the city, access by the city to storm water management facilities for inspections, as provided in BMC [15.70.200](#), and through such means as may be appropriate, including, but not limited to, legal agreements, recorded covenants or easements, shall be provided by the property owner.
- k. All project proponents and their successors, or successors in fee title, in control of a new development and redevelopment project subject to the post-construction measures requirements, shall submit one of the following as a condition prior to final inspection and approval of building permit closure:

- i. The project proponent's signed statement accepting responsibility for the operations and maintenance of storm water management facilities until such responsibility is legally transferred to another entity;
- ii. Written conditions in the sales or lease agreements or deed for the project that requires the buyer or lessee to assume responsibility for the operations and maintenance of the storm water management facilities until such responsibility is legally transferred to another entity;
- iii. Written text in project deeds, or conditions, covenants and restrictions for multi-unit residential projects that require the homeowners' association or, if there is no association, each individual owner, to assume responsibility for the operation and maintenance of the storm water management facilities until such responsibility is legally transferred to another entity; or
- iv. Any other legally enforceable agreement or mechanism, such as recordation in the property deed, that assigns the operation and maintenance of the storm water management facilities to the project owner(s).

F. Notification of Intent and Compliance with General Permits. Each industrial discharger, discharger associated with construction activity, or other discharger, described in any general storm water permit addressing such discharges, as may be adopted by the United States Environmental Protection Agency, the State Water Resources Control Board, or the California Regional Water Quality Control Board, San Francisco Bay Region, shall provide notice of intent, comply with, and undertake all other activities required by any general storm water permit applicable to such discharges.

Each discharger identified in an individual NPDES permit relating to storm water discharges shall comply with and undertake all activities required by such permit.

G. Compliance with Best Management Practices. Where best management practices, guidelines or requirements have been adopted by any federal, state of California, and/or regional agency, or by the city, for any activity, operation, or facility that may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm drain system, every person undertaking such activity or operation, or owning or operating such facility, shall comply with such guidelines or requirements as may be identified by the city engineer.

H. Storm Water Pollution Prevention Plan. The city engineer may require any business or utility in the city that is engaged in activities which may result in any discharges, lawful or otherwise, to develop and implement a storm water pollution prevention plan (SWPPP), which must include maintenance, storage, manufacturing, assembly, equipment storage, vehicle loading, fueling, vehicle maintenance, food handling or processing or cleanup procedure that is carried out partially or wholly out of doors.

I. Coordination with Hazardous Materials Release Response and Inventory Plans. Any business subject to hazardous material release response and inventory plan, Division 20, Chapter 6.95 of the California Health and Safety Code (commencing with Section [25500](#)), shall include, in that plan, provision for compliance with this chapter, including the prohibition of non-storm water discharges and the requirement to reduce release of pollutants to the maximum extent practicable.

15.70.100 Tourtelot cleanup project.

The Tourtelot cleanup project area consists of approximately 220 acres of the former Benicia Arsenal, north of Rose Drive and west of East 2nd Street. The site was used from 1944 to 1960 as part of the Benicia Arsenal. The site was known to contain ordnance and explosives and has been subject to a cleanup project. Because of various methods of detection and cleanup used on the site, areas of the site are subject to specific controls. Some areas are under the restriction of filing a plan for any work below grade. Other areas of the site also require the submittal of approved procedures prepared by a licensed engineer and observed by representatives of the State of California Division of Toxic Substances Control. No new discharges of any type or alteration of any existing discharge are allowed into the Tourtelot site without compliance with restrictions contained in the Tourtelot site contingency action plans and the operation and maintenance plan which are further cited in Chapter [15.73](#) BMC, Grading and Erosion Control.

15.70.110 Watercourse protection.

A. Every person owning property through which a watercourse passes, or such person's lessee or tenant, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse; shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and shall not remove healthy bank vegetation beyond that actually necessary for maintenance, and not remove vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

B. No person shall commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the city engineer:

1. Discharge into or connect any pipe or channel to a watercourse;
2. Modify the natural flow of water in a watercourse;
3. Carry out development within the greater of 30 feet of the center line of any creek or 25 feet of the top of a bank wherein the "top of bank" is defined as the flatter of the actual top of bank or a projected top of bank from the toe of slope at two horizontal to one vertical bank slope;

4. Deposit in, plant in, or remove any material from a watercourse including its banks, except as required for necessary maintenance;
5. Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or
6. Place any loose or unconsolidated material along the side of or within a watercourse or so close to the side as to cause a diversion of the flow, or to cause a probability of such material being carried away by storm water passing through such watercourse.

15.70.120 Authority to inspect.

A. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the enforcement official has the duty and the responsibility to inspect any and all locations for any violation of the provisions of this chapter. The authorized enforcement official may, within the limitations of applicable state and federal laws, enter any such building or any premises (including, but not limited to, facilities, equipment, practices, or operations) at all reasonable times to inspect the same for any or all of the following situations, as determined by the authorized enforcement official:

1. Routine inspections to ensure implementation of BMPs and other requirements of this chapter;
2. Active or potential storm water discharges;
3. Whenever there is reasonable cause to believe that there exists any condition which constitutes a violation of the provisions of this chapter or the Phase II storm water permit;
4. Actual violations of this chapter or the Phase II storm water permit;
5. Whenever necessary to enforce any of the provisions of this chapter or the Phase II storm water permit; or
6. To perform any duty imposed upon the official by this chapter.

B. Prior to entry for inspections, the authorized enforcement official shall comply with the following: (1) If the building or premises is occupied, the enforcement official shall first present proper credentials and request entry; (2) if the building or premises is unoccupied, the enforcement 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. Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry

after such request has been made, the official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

C. The authorized enforcement official has the right to and shall conduct routine sampling and monitoring on, or adjacent to, the premises under review. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to random sampling and/or sampling in areas with evidence of storm water contamination, illicit discharges, discharge of non-storm water to the storm sewer system, or similar factors. The cost of such routine sampling and/or monitoring activities, including test reports and results, shall be borne by the city. The authorized enforcement official may, within the limitations of law, enter such premises at reasonable times to conduct sampling and monitoring operations; provided, that the official presents proper credentials to and obtains consent from the owner or occupant to enter. In the event the owner and/or occupant refuses entry, the official shall request assistance of the city attorney to obtain an administrative warrant to enter the premises, pursuant to the provisions of state law.

D. Authority to Sample and Establish Sampling Devices. The city shall have the right to establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on site.

E. Notification of Spills. All persons in charge of a facility or responsible for emergency response for a facility have a responsibility to train facility personnel and maintain notification procedures to ensure that immediate notification is provided to the city of any suspected, confirmed, or unconfirmed release of material, pollutants or waste creating a risk of discharge into the city storm water system.

F. As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed release of materials, pollutants or waste that may result in pollutants or non-storm water discharges entering the city storm water system, such person shall take all necessary steps to ensure the discovery and containment and cleanup of such release and shall notify the city of the occurrence by telephoning the city engineer during normal business hours and confirming the notification by correspondence. Outside of normal business hours, telephone notice shall be made to the Benicia fire department.

G. The city will identify, document, and respond to pretreatment violations in accordance with its enforcement response plan.

H. Requirement to Test or Monitor. Any authorized enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, undertake such monitoring activities and/or analyses and furnish such reports as the official may specify. The burden and cost of

undertaking such sampling and monitoring activities, including test results and reports, shall be borne by the owner of the premises under review. The type and method of sampling and monitoring shall bear a reasonable relationship to the need for testing and monitoring and to the benefits to be obtained, as determined by the enforcement official.

I. Exigent Circumstances. Whenever a condition is found to exist in violation of this chapter that presents an immediate and present danger to the public health, safety and welfare requiring immediate remedial action to prevent injury to persons or property, the authorized enforcement official shall take whatever reasonable and appropriate action is necessary to neutralize the danger, including but not limited to entry upon private premises for inspection, sampling and monitoring, and abatement.

15.70.130 Violations constituting misdemeanors.

The violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter, shall constitute a misdemeanor. However, any such violation constituting a misdemeanor under this chapter may, in the discretion of the city attorney, be charged and prosecuted as an infraction.

15.70.140 Penalty for violation.

Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section [36901](#).

Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in California Government Code Section [36900](#). After a third conviction for a violation of the same provision subsequent violations within a 12-month period may be charged as a misdemeanor.

15.70.150 Continuing violation.

Unless otherwise provided, a person, firm, corporation, or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

15.70.160 Concealment.

Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of such provision.

15.70.170 Acts potentially resulting in violation of federal Clean Water Act and/or Porter-Cologne Act.

Any person who violates any provision of this chapter, any provision of any permit issued pursuant to this chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the federal Clean Water Act, the Porter-Cologne Act, and/or the Phase II storm water permit, and may be subject to the sanctions of those Acts including civil and criminal penalty. Any enforcement action authorized under this chapter should also include notice to the violator of such potential liability.

15.70.180 Violations deemed a public nuisance.

In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety and welfare, and is hereby declared and deemed a public nuisance, and may be summarily abated and original conditions restored by any authorized enforcement official, and/or by a civil action to abate, enjoin or otherwise compel the cessation of such nuisance brought by the city attorney.

The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be a lien upon and against the property and such lien shall continue in existence until the same shall be paid. If the lien is not satisfied by the owner of the property within three months after the completion by the authorized enforcement official of the removal of the nuisance and the restoration of the property to its original condition, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution.

If any violation of this chapter constitutes a seasonal and recurrent nuisance, the city council shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

15.70.190 California Code of Civil Procedure Section [1094.6](#).

The provisions of Section [1094.6](#) of the California Code of Civil Procedure are applicable to judicial review of city decisions pursuant to this chapter.

15.70.200 Civil actions.

In addition to any other enforcement powers and/or remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the city. In any such action, the city may seek, and the court shall grant, as appropriate, any or all of the following remedies:

A. A temporary and/or permanent injunction;

B. An action for an unlawful business practice pursuant to Business and Professions Code Section [17206](#);

C. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

D. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation;

E. Compensatory damages for loss or destruction to water quality, wildlife, fish, and aquatic life. Assessments under this subsection shall be paid to the city to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this chapter;

F. The cost of maintenance and repair of any BMP or storm water management facility that is not maintained in accordance with the guidebook or the storm water control plan.

15.70.210 Administrative enforcement powers.

In addition to the other enforcement powers and remedies established by this chapter, any authorized enforcement official has the authority to utilize the following administrative remedies:

A. Cease and Desist Orders. When an authorized enforcement official finds that a discharge has taken place or is likely to take place in violation of this chapter, the official may issue an order to cease and desist such discharge, practice, or operation likely to cause such discharge and direct that those persons not complying: (1) comply with the requirement, (2) comply with a time schedule for compliance, and/or (3) take appropriate remedial or preventive action to prevent the violation from recurring. Upon the violator's failure to comply with such order, the city shall take further enforcement action as specified in this chapter, or in accordance with other appropriate provisions of local, state, or federal law. At the discretion of the authorized enforcement official, orders to cease and desist may take the following form:

1. Verbal warnings, as may be issued during inspections;
2. Warning letters and orders to abate pollution;
3. Warning letters with requirements to submit written reports; or
4. Formal violations and legal action as described in this chapter and as authorized by Chapter [17.128](#) BMC.

B. Notice to Clean. Whenever an authorized enforcement official finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering the city storm drain system or a non-storm water discharge to the city storm drain system, the authorized enforcement official may

give notice to remove such oil, earth, dirt, grass, weeds, dead trees, metal cans, rubbish, refuse, waste or other material, in any manner that the enforcement official may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice.

15.70.220 Remedies not exclusive.

Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

A. Appeal. Any person, firm, corporation or organization required to perform monitoring, analyses, reporting and/or corrective activities by an authorized enforcement officer who is aggrieved by the decision of the authorized enforcement officer may appeal such decision to the city engineer within 10 days following the effective date of the decision by writing the city engineer in accordance with Chapter [1.44](#) BMC. Upon receipt of such request, the city manager shall request a report and recommendation from the authorized enforcement officer and shall set the matter for hearing within 14 days. At said hearing, the city manager may hear additional evidence, and may reject, affirm, or modify the authorized enforcement officer's decision. Said decision shall be final unless appealed further in accordance with Chapter [1.44](#) BMC.

B. Disclaimer of Liability. The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This chapter shall not create liability on the part of the city, any officer or employee thereof for any damages that result from reliance on this chapter, or any administrative decision lawfully made thereunder.

15.70.230 Coordination with hazardous materials inventory and response program.

The first revision of the business plan for any facility subject to the city's hazardous materials inventory and response program shall include a program for compliance with this chapter, including the prohibitions on non-storm water discharges and illicit discharges, and the requirement to reduce storm water pollutants to the maximum extent practicable.

Chapter 15.73 Grading and Erosion control

Sections:

15.73.010 Intent and Purpose; General Provisions.

15.73.020 Scope.

15.73.030 Permits required.

15.73.040 Hazards.

15.73.050 Definitions.

- 15.73.060 Application – Fees.
- 15.73.070 Application – Contents.
- 15.73.080 Issuance of permit.
- 15.73.090 Bonds – Posting required.
- 15.73.100 Bonds – Term.
- 15.73.110 Bonds – Failure to complete work.
- 15.73.120 Permit – Duration/expiration.
- 15.73.130 Excavating, grading and filling – Regulations.
- 15.73.140 Erosion control.
- 15.73.150 Grading inspection.
- 15.73.160 Completion of work.
- 15.73.170 Appeal procedures.
- 15.73.180 Violations – Prosecution as Infraction.
- 15.73.190 Violations – Penalties

15.73.010 Intent and purpose; general provisions.

A. *Intent.* The intent of this article is to protect life, limb, and property, promote and enhance the public welfare and a superior community environment, and preserve the natural scenic character of the city by establishing applicable standards, requirements, and procedures relating to grading, erosion, and sedimentation control.

B. *Purpose.* The purpose of this article is to ensure that grading is conducted:

1. In a manner with least adverse effect upon persons and properties; and
2. In conformance with applicable standards, requirements, and procedures.

C. *Prohibited acts.* The following are prohibited:

1. Grading without a permit from the City Engineer, except as provided for in section [15.73.030](#)(b) (emergency grading) and section [15.73.030](#)(c) (exceptions to permit requirements);
2. Grading that will:
 - a. Cause erosion or sediment onto adjacent property or on public streets; or
 - b. Obstruct or otherwise interfere with drainage, or deposit sediment in natural or artificial drainage facilities; or
 - c. Alter drainage facilities or courses without first obtaining a grading permit.

3. Activities not in compliance with best management practices (BMPs).

D. *Administration and enforcement.* The City Engineer shall administer and enforce the provisions of this article.

15.73.020 Scope.

This section sets forth rules and regulations to control excavation, grading, earthwork construction, erosion, and sedimentation, including fills and embankments; establishes requirements for storm water management during construction for the prevention and control of erosion and sedimentation; establishes the administrative procedures and requirements for the preparation, review, and approval of grading plans, issuance of grading permits, and inspection of construction.

15.73.030 Permits required.

A. *Grading permit required.* Except as provided in subsection B. of this section (emergency grading), and subsection C. of this section (exceptions to permit requirements), no person shall perform or cause any grading without a grading permit.

B. *Emergency grading.* Grading of an emergency nature to safeguard life or property may be undertaken prior to the issuance of a grading permit. The City Engineer shall be notified within 48 hours of the commencement of emergency work unless such work is exempted in accordance with the provisions of subsection C. of this section (exceptions to permit requirements). The grading permit shall be obtained no later than 14 calendar days after the commencement of the emergency work.

C. *Exceptions from grading permit.* A grading permit may be waived when in the opinion of the City Engineer one or more of the following conditions apply:

1. The excavation or fill at any location:

a. Is less than five feet deep and adequately supported by a retaining structure designed in accordance with chapter 15.05; and

b. Does not create a slope steeper than two horizontal to one vertical.

2. The volume of excavation or fill does not exceed 50 cubic yards, provided:

a. The excavation or fill does not obstruct a drainage course or alter existing drainage patterns, and does not add pollutants to the storm drain system, creeks, or other waterways; and

b. The excavation or fill is less than five feet at its deepest point, measured vertically upward from natural grade to the surface; and

- c. The fill is not intended to support structures; and
 - d. The fill is placed on natural grade that has a slope not steeper than five horizontal to one vertical; and
 - e. The proposed grading or resulting grades will not adversely impact abutting properties
- 3.. Minor land leveling for agricultural farming and gardening if the ground elevation stays substantially the same and the drainage pattern is not altered.
- 4.. Cemetery graves.
5. An excavation below finished grade for basements and footing of a building, retaining wall, swimming pool or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure.
6. The trench excavations authorized by a valid permit for the purpose of installing underground utilities, if to be backfilled to natural or existing grade.
7. Grading in refuse disposal areas and sanitary landfills, mining, quarrying, processing, or stockpiling of rock, sand, gravel, aggregate, or clay, for which a development permit has been granted, provided:
- a. Such operations do not affect the lateral support or increase the stresses in, or pressure upon, any adjacent or contiguous property; and
 - b. Such operations are consistent with the grading practices set forth herein; and
 - c. The work does not block or divert any natural drainageway or increase runoff or sedimentation onto any adjacent or contiguous property.
3. Grading is conducted by an agency of the federal government, the state government, or the city.
4. Stockpiles 50 cubic yards or less of topsoil materials are not placed within a public right-of-way, do not obstruct drainageways, are not subject to erosion, do not endanger other properties, do not create a public nuisance or safety hazard, and are removed within a period of 10 days or less. The land shall be restored to its original condition after removal of stockpiles.
5. Construction of fire trails, access roads to public utilities, and gas and electric transmission lines provided the drainage pattern remains the same.
6. Clearing of vegetation when all of the following conditions are met:

- a. The slope of the ground is less than 15 percent; and
 - b. The area to be cleared is one acre or less; and
 - c. Clearing is more than 100 feet away from the top bank of a watercourse or other water body; and
 - d. Clearing will not result in erosion.
7. Construction of water wells.
 8. Construction of test trenches, pits, and bores within private property under the supervision of a professional such as civil engineer or engineering geologist, provided the drainage pattern remains the same.
 9. Placement of fill above existing grade, which will be retained by the exterior wall of a building, a retaining wall, swimming pool, or other structure authorized by a valid building permit, when the existing and finished ground slope is less than 15 percent.
 10. Grading within a street to conform to elevations approved by the City Engineer and for which a permit has been issued under the provisions of chapter 12.12 (Encroachments).
 11. Refuse disposal sites controlled by other regulations.
 12. Excavation for utilities when performed by a public utility.
 13. Exploratory excavations of 50 cubic yards or less under the direction of soil engineers or engineering geologists.
 14. An excavation of 200 cubic yards or less which:
 - a. Is less than two feet in depth, at any one given point: or
 - b. Does not create a cut slope greater than four feet in height and steeper than two horizontal to one vertical.
 15. A fill of 200 cubic yards or less which is less than two feet in depth and placed on a slope flatter than five horizontal to one vertical, not intended to support structures, on a single lot or parcel, and does not obstruct or alter a drainage course.
 16. Work conducted in any city street, public right-of-way, or easement when the work is being done under the authority of a valid encroachment permit issued by the city engineer.

Grading permit exceptions outlined above apply to grading for a single activity. Subsequent grading activity that occurs within 10 years after initial grading activity resulting in cumulative work exceeding the limitations outlined above shall require a grading permit.

Grading shall also comply with the requirements of Chapter 15.70 BMC, Storm Water Management and Discharge Control. Grading that disturbs one acre or more, regardless of quantity, shall be subject to the state of California general construction permit requirements.

15.73.040 Hazards.

Whenever the city engineer determines that any existing excavation, embankment or fill on private property has become a hazard to life or limb, endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the city engineer shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter.

15.73.050 Definitions.

For purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words, terms, and phrases used herein are defined below

“As-graded” is the actual surface conditions present on completion of grading.

“Applicant” is the property owner, or their authorized agent making application to the City for a grading permit.

“Bench” is a relatively level surface interrupting the slope of an excavation or embankment.

“Best management practices” or “BMPs” are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to watercourses, water bodies, wetlands and waters of the city or state. BMPs also include treatment requirements, operating procedures, design specifications and practices to control site runoff, spillage or leaks, waste disposal, and drainage from raw material storage. BMPs are for construction and post-construction storm water controls.

“California Building Code (CBC)” refers to the latest edition as adopted by reference by the city of Benicia.

“Certification” shall mean a written engineering or geological opinion concerning the progress and completion of the work.

“City” shall mean the City of Benicia.

“City engineer” shall mean the city engineer of the city of Benicia or their authorized representative.

“Civil engineer” is a professional engineer registered in and licensed by the state of California to practice in the field of civil engineering.

“Civil engineering” shall mean the application of the knowledge of forces of nature, principles of mechanics and the properties of materials to the evaluation, design, and construction of civil works for the beneficial uses of mankind.

“Clearing”. Is site preparation consisting of, but not limited to, the removal of vegetation.

“Compaction” is the densification of a fill by mechanical means.

“Contour rounding” means the rounding of cut and fill slopes in the horizontal plane to blend with existing contours or to provide horizontal variation to eliminate the artificial appearance of slopes.

“Critically expansive soil” Is soil conditions which have the potential to cause damage to improvements, including streets, structures, and buildings.

“Cut” is the mechanical removal of earth material.

“Cut slope” Is a finished or interim surface along an inclined plane resulting from grading.

“Diversion” Is a facility such as a ditch or berm constructed to intercept and divert surface runoff.

“Elevation” Is the vertical distance above an established datum.

“Earth material” is any rock, natural soil and/or any combination thereof.

“Engineering geologist” shall mean a professional engineering geologist registered in and by the state of California to practice in the field of engineering geology.

“Engineering geology” shall mean the application of geologic data, knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

“Erosion” is the wearing away, detachment and movement of the ground surface as a result of gravity or the movement of wind, water and/or ice.

"Erosion and sediment control manual" means the latest edition entitled "Manual of Standards for Erosion and Sediment Control Measures," published by Association of Bay Area Governments (ABAG). "Excavation" (cut) is any act by which earth material is removed.

"Fill" is a deposit of earth material placed by artificial means.

"Final erosion and sediment control plan" is a plan that depicts the permanent erosion control measures approved by the City Engineer.

"Geologic report" Is a report prepared by an engineering geologist or a civil engineer dealing with geological features and characteristics such as fault line, fault creep, landslide, and seismic hazards.

"Geotechnical engineer/soil engineer" Is a civil engineer who is experienced in the field of engineering as described in the definition of "geotechnical/soil engineering" in this section.

"Geotechnical/soil engineering" Is the application of the principles of soil mechanics in the investigation, evaluation, and design of civil engineering works involving the use of earth materials and the inspection and testing of the construction thereof.

"Geotechnical/soil report" Is a report prepared by a geotechnical engineer dealing with items such as field test results, observations regarding the nature, distribution, and strength of existing soils and recommendations and conclusions for grading procedures and designs

"Grade" shall mean the vertical location of the ground surface.

1. "Existing grade" is the grade prior to grading.
2. "Rough grade" is the stage at which the grade approximately conforms to the approved plan.
3. "Finish grade" is the final grade of the site which conforms to the approved plan.

"Grading" is any excavation (cut), filling, stripping, stockpiling, clearing, and grubbing, or any combination thereof, which alters land or vegetation.

"Interim erosion and sediment control plan" Is a plan that depicts a set of erosion and sediment control measures for an uncompleted project.

“Notice of intent (NOI)” is a form required by the State Water Resources Control Board which consists of a notice of intent to comply with the terms of the General Permit to Discharge Storm Water Associated with Construction Activity (WQ Order No. 2003-2007-DWQ).

“Permittee” means the applicant to whom the permit is issued.

“Pollutants” means any material other than stormwater, including but not limited to rock, sand, building materials, waste, and litter discharged into the city’s stormwater system.

“Rainy season” means the time period between October 15 and April 15 inclusive.

“Runoff” means the surface flow of water.

“Sediment” means earth material deposited by action of water, wind, or gravity.

“Sedimentation” means the process by which soil, mineral, or organic matter is removed, transported, and deposited by action of water, wind, or gravity.

“Sediment basin” means a reservoir which retards flow to cause or allow deposition of transported sediment.

“Sensitive area” is the area less than 200 feet away from a water quality resource including a wetland, stream, pond, lake, river, or bay wherein placement of impervious surfaces shall be avoided.

“Site” is any lot or parcel of land or contiguous combination thereof, where grading is performed or permitted.

“Slope” means the inclination of a ground surface expressed as the:

1. Ratio of horizontal distance to vertical distance; or
2. *Ratio of vertical distance to horizontal distance expressed in percent.*

“Soil” means the naturally occurring surficial deposits of any origin overlying bedrock.

“Soil (geotechnical) engineer” shall mean a professional soil or geotechnical engineer registered in and by the state of California to practice in the field of soil engineering.

“Soil (geotechnical) engineering” shall mean the application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

“Stockpile” means earth, rock, gravel, sand, or other similar material temporarily stored prior to final disposition.

“Storm water” means storm water runoff and surface runoff and drainage. It excludes infiltration and runoff from agricultural land.

“Storm water control plan” or “SCP)” is a plan to identify sources of sediment and other pollutants that affect the quality of storm water discharges and describes and ensures the implementation of practices to reduce sediment and other pollutants in storm water discharges. The SCP must include BMPs which address prevention and control of erosion and sediment.

“Storm water pollution prevention plan” or “SWPPP” is a plan to identify sources of sediment and other pollutants that affect the quality of storm water discharges and describes and ensures the implementation of practices to reduce sediment and other pollutants in storm water discharges. A SWPPP is required for sites greater than one acre or from a site that results in a land disturbance of less than one acre but is part of a larger common plan and is part of the State Water Resources Control Board’s General Construction Activity Storm Water Permit or the federal National Pollution Discharge Elimination System (NPDES) storm water discharge regulations. The SWPPP must include BMPs which address prevention and control of erosion and sediment.

“Terrace” is a relatively level step constructed, in the face of a graded slope surface, for drainage and maintenance purposes.

“Vicinity map” Is a visual representation of the project site in relationship to significant geographic features such as watercourses, water bodies, roads, and other significant structures.

“Watercourse” Is a drainage channel or natural creek.

“Zoning permit” is a permit issued by the planning department pursuant to the requirements of Chapter [17.100](#) BMC.

15.73.060 Application – Fees.

A. The applicant shall pay the fees set forth in the Benicia Master Fee Schedule as adopted by City Council.

B. Fees are nonrefundable.

C. Before accepting plans or specifications for review, the city engineer shall collect a plan-check fee from the applicant.

D. Before issuing a grading permit, the city engineer shall collect a grading permit fee.

E. The fee for a grading permit authorizing additional work to be performed under a valid permit shall be the difference between the fee paid for the original permit and the fee shown for the entire project.

F. If any work requiring a permit is begun without a permit, the permit fees shall be doubled to compensate for the extra work involved in inspecting completed, or partially completed, work.

15.73.070 Application – Contents.

A. Application for grading permit. The application for a grading permit shall include but not be limited to the following:

1. Completed city grading permit application form; and
2. Vicinity map, site map and grading plan; and
3. Interim erosion and sediment control plan; and
4. Final erosion and sedimentation control plan when required by the city engineer; and
5. Soil report when required by the city engineer; and
6. Geologic report when required by the city engineer; and
7. Proposed work schedule; and
8. Fee for review of the application in accordance with the current Benicia Master Fee Schedule as adopted by City Council; and
9. A landscape addendum to the erosion and sediment control plan by a licensed landscape architect when required by the community development director; and
10. Copies of the notice of intent (NOI) and stormwater pollution prevention plan (SWPPP) when required by state law; and
11. Such other items as may be required by the city engineer.

B. *Grading plan.* The grading plan shall conform to the guideline(s) provided by the city engineer. The grading plan shall be prepared, stamped, and signed by a civil engineer, and shall be subject to review and approval by the city engineer.

C. Issuance or denial of grading permit; conditions and limitations. Upon receiving an application for a grading permit along with the required submittals, posting of surety as required, and payment of fees, the city engineer will review the application and related documents. Applications may be approved, conditionally approved, or denied.

1. *Issuance.* When the city engineer issues a grading permit, they may attach such conditions as they may deem necessary to ensure compliance with this chapter. The permittee shall perform the work in accordance with the approved plans, the grading permit including any conditions thereon, and in compliance with all the requirements of this chapter. The permittee shall keep informed of all state and federal laws, local ordinances, and regulations which in any manner affect the permit. The permittee shall always comply with and shall cause all their agents, contractors, and employees to comply with all such laws, ordinances, regulations, decisions, and court and similar authoritative orders.

2. *Denial.* If the application conflicts with the provisions of this article, the City Engineer shall deny the permit in writing, giving the reasons for the denial. A grading permit may be denied if the applicant fails to furnish information or secure other permits that may be required by the city or agencies of the federal or state government or other agencies.

3. *Limitations; expiration.* The issuance of a permit under this article shall constitute an authorization to do only that work described or illustrated on the application or on the site plans approved by the city engineer and shall not exempt the permittee from any applicable provisions of the zoning and subdivision regulations and other state and local laws.

a. *Term.* The permittee shall diligently perform and complete the work by the completion date. Unless an extension is granted, the permit shall expire on the date following the specified completion date.

b. *Extension of time.* The permittee may request an extension of time prior to the expiration of the permit. The request shall be in writing and shall set forth the reasons for the request. The request shall be accompanied by a new filing fee and a written consent by the surety company. If in the opinion of the City Engineer such an extension is warranted, the City Engineer may grant an extension, adding such conditions to ensure compliance with this article.

4. *Permit conditions.* The City Engineer may impose any condition to ensure compliance with the provisions of this article and other applicable laws and regulations. Such conditions may include, but not be limited to:

a. Requirements for fencing around excavations or fills which otherwise would be hazardous and drip lines of trees to be preserved; and/or

b. Completion of the work within a specified period; and/or

c. Compliance with best management practices (BMPs); and/or

- d. Provisions for dust control; and/or
- e. Construction of stabilized ingress and egress; and/or
- f. Hours of operations; and/or
- g. Designation of route and time of travel over streets. A surety bond, or other acceptable security, may be required, if deemed necessary by the City Engineer, to secure the repair of improvements that may be damaged by the permittee; and/or
- h. The installation of barricades and barricade lighting; and/or
- i. Designation of the disposal site for any material removed from the grading site.

5. *Copy of plans and permit to be kept at job site.* When an application is approved and a permit issued, one set of approved plans shall be returned to the permittee. The approved plans and permit shall be kept available for reference at the job site.

6. *Changes in permit or work.* No work shall deviate from the approved plans without prior written approval by the city engineer. The city engineer may require the submittal of a revised plan prior to approving any proposed change. Additional fees shall be charged for reviewing plan revisions. Failure to obtain prior approval for any change in the work may be grounds for suspension of work.

7. *Assignment or transfer of permit.* A permit shall be issued only to the applicant and may not be assigned to another person or entity. If a permittee assigns or transfers its permit to another person or entity, the permit shall become void. If an applicant applies for a permit for grading work for which a prior permit was issued, the applicant shall pay a filing fee as set forth in the Benicia Master Fee Schedule as adopted by City Council. No other fee will be charged in addition to the fees for the prior permit unless additional plan review is required due to plan changes.

8. *Suspension or revocation of grading permit.*

a. *Suspension of permit and work.* If the permittee fails to comply with the permit conditions or the provisions of this chapter, the city engineer may suspend the permit. If the city engineer determines that work will potentially cause injuries to persons or damage to properties or improvements, the city engineer shall suspend the work. Upon notice of such suspension, the permittee shall immediately cease all work except for work required by the city engineer to eliminate hazardous conditions or nuisances. The city engineer may reinstate or revoke suspended permits.

b. *Revocation of permit.* The city engineer may in writing revoke a permit issued under the provisions of this article whenever the permit is issued in error or based on incorrect

information or in violation of any ordinance or regulation. The permit may also be revoked due to noncompliance with the permit conditions, the provisions of this chapter, or other applicable laws and regulations, or whenever the permittee has defaulted in performing any work under the terms of the posted bond. Once the permit is revoked, work shall not commence until a new application is filed and a new permit issued.

c. *Procedure.* Upon determination that grounds for revocation of a grading permit exist, the city engineer may conduct a hearing. If a hearing is conducted, a written notice shall be sent separately to the permittee and to the surety, stating the time and place for the hearing and the grounds for revocation. The notice shall be given at least five days before the hearing, and it shall be served personally or by deposit in the United States mail with postage fully prepaid, addressed to the permittee and surety at the mailing address shown in the application and in the surety instrument. Within 30 days of the conclusion of the hearing, the city engineer shall make their findings and decision and file same in their office and shall serve a copy thereof separately upon the permittee and its surety in the manner provided above for service of notice of hearing.

9. *Geologic report.* The city engineer may require a geologic report prior to approval of a grading permit. A geologic report when required by the city engineer shall be based on adequate and necessary test borings and shall contain and not be limited to the following information:

- a. An adequate description of the geology of the site, including delineating any hazard of surface fault trace or rupture; and
- b. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development; and
- c. Recommendations and conclusions regarding the adequacy of site(s) to be developed by the proposed grading; and
- d. Any other information required by the city engineer.

10. *Authority to require geotechnical/soil report.* The city engineer may require a geotechnical/soil report identifying the presence of critically expansive soil.

11. *Contents of geotechnical/soil report.* A geotechnical/soil report, prepared by a civil engineer or engineering geologist, based upon adequate test pits or trenches, shall contain but not be limited to the following:

- a. Description of any critically expansive soil or any other soil problem(s) present at the site; and
- b. An investigation of each site, including recommended corrective actions which will prevent structural damage to buildings, structures, and improvements to be constructed; and

- c. A geologic map and description of geologic formations and structures significant to the safety and performance of improvements; and
- d. Faults, existing active or inactive landslides, and areas subject to earthquake ground failure such as liquefaction; and
- e. "R" values necessary to determine the suitability of the earth material for any improvements; and
- f. Recommendations for construction procedures to obtain required stability; and
- g. Any other unstable soil conditions to ensure proper development of the site; and
- h. Recommendations for corrective actions at locations where land stability problems exist; and
- i. The signature and registration number of the civil engineer or engineering geologist preparing the report.

12. *Review of reports.* All reports shall be subject to review by the city engineer. Supplemental reports and data may be required as deemed necessary. Recommendations included in the reports and approved by the city engineer shall be incorporated in the grading plan.

15.73.080 Issuance of permit.

- A. No permit shall be issued until all of the required data has been submitted for the application, the city engineer has approved the plans, and all required fees have been paid.
- B. No permit shall be issued prior to the approval of any land use entitlement requirements, such as, but not limited to, zoning permits, tentative map and/or building or site plan review. An environmental assessment shall be performed in accordance with the requirements of CEQA (California Environmental Quality Act), in accordance with the city's current zoning ordinance. Conditions may be imposed by the city to minimize or mitigate any environmental impacts of the proposed work.
- C. In the case of subdivisions, the approval to proceed by the city engineer, after receiving all required bonds, permit fees, agreements and deeds (if applicable), and after approval of the tentative map by the planning commission or city council, shall constitute the requirements to allow issuance of a grading permit.

15.73.090 Bonds – Posting required.

- A. A permit shall not be issued unless the permittee shall first post with the city engineer a surety bond executed by the applicant and a corporate surety authorized to do business in the state as a surety.

The amount of the surety bond shall be based upon the estimated cost to the city to complete the grading or perform work to eliminate drainage obstruction, hazard, or nuisance and shall include the cost of interim and permanent erosion control measures if deemed necessary by the city engineer. If the grading permit requires an erosion and sediment control plan, the surety shall include a cash deposit in an amount equal to the estimated cost of the proposed erosion and sediment control measures but not to exceed \$10,000.00. The estimated cost of the proposed erosion and sediment control measures shall be subject to review and approval by the city engineer.

In lieu of a surety bond, the applicant may file:

1. A corporate surety bond executed by a surety company authorized to transact business in the state; or
2. A cash deposit or its equivalent; or
3. An instrument of credit filed with the city, from a financial institution subject to regulation by the state or the federal government, pledging that the funds necessary to meet the performance are on deposit and guaranteed for payment upon demand and agreeing that the funds designated by the instrument shall be trust funds for the purposes set forth in the instrument. The form of surety bond will be subject to the approval of the city engineer and city attorney.

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B. Among other appropriate provisions, every surety bond shall include the following conditions to which the principal and surety shall each be bound:

1. Comply with the applicable provisions of this article and all other applicable laws, ordinances, rules, and regulations; and
2. Comply with all of the terms and conditions of the permit to the satisfaction of the city engineer; and
3. Complete the work proposed under the permit within the time specified in the permit. The City Engineer may for sufficient cause, extend the time specified in the permit. Such extension shall not release the surety; and
4. Pay all reasonable costs incurred or expended by the city, including but not limited to court costs and attorney's fees, in doing or causing to be done any of the work set forth in the permit, any other work which in the judgment of the city engineer is required to be done as a result of any work or activity done under the permit, or any abatement of any nuisance created by any work or activity done under the permit, or in collecting money or damages in connection with any of the foregoing.

15.73.100 Bonds – Term.

The term of the surety bond shall begin on the date of its posting and shall end upon satisfactory completion of the terms and conditions of the permit. Completion shall be evidenced by a certificate of completion to be issued by the city engineer and filed with the records of the permit.

15.73.110 Bonds – Failure to complete work.

A. In the event of failure to complete the work and failure to comply with all of the conditions and terms of the permit, the city engineer may order the work required by the permit to be completed to his satisfaction. The surety executing such bond or deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the governing agency in causing any and all such required work to be done. If the work is not completed within the time period specified in [BMC 15.73.120](#), the permittee shall be deemed to have abandoned the project, and the city engineer may, in his discretion, order the land to be returned as much as possible to its natural condition, and the surety shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the governing agency in causing such restoration work to be done. In the case of cash deposit, said deposit, or any unused portion thereof, shall be refunded to the permittee in whatever amount is not necessary to complete the work described.

B. *Notice of default.* Whenever the permittee defaults in performing any term or condition of the permit, the City Engineer shall give written notice thereof separately to the permittee and surety. The notice shall state the work to be done to cure the default, its estimated cost, and the starting and completion dates of the work. The notice shall be served personally or by deposit in the United States mail in a sealed envelope, with postage fully prepaid, addressed to the permittee and surety at the mailing address, or, if there is no mailing address, the business address, shown in the application or in the surety.

C. *Duty of surety.* Upon service of the notice of default, the surety shall perform or cause the completion of the work within the time prescribed in the notice.

D. *Disposition of cash surety.* If the permittee fails to perform the work within the time prescribed in the notice, the city engineer may use the cash deposit, its equivalent, or instrument of credit to complete the work.

E. *Right of entry.* In the event of a default in the performance of any term or condition of the permit, the surety or the city engineer or their designees shall have the right to enter the premises to complete the work. It shall be unlawful for any person in any way to hinder, obstruct, or prevent such entry.

F. *Interference prohibited.* No person shall interfere with, obstruct, hinder, or prevent the ingress or egress to or from any such premises by which an authorized representative or agent

of any surety or of the city is engaged in completing the work required under the permit, checking on compliance of the work with the terms or conditions of the permit and the provisions of this article, or taking emergency actions for the protection of the public and abutting properties.

15.73.120 Permit – Duration/expiration.

If the work authorized by any permit under this chapter is not commenced within six months of the date of issuance, or as otherwise indicated on the face of the permit, or if the work is not completed within two years of the date of issuance, or sooner if indicated on the face of the permit, the permit shall expire and become null and void.

15.73.130 Excavating, grading, and filling – Regulations.

The following regulations shall apply to all excavating, grading, and filling:

A. One copy of the approved plan, and specifications, the storm water control plan, if required, storm water pollution prevention plan, and the grading permit shall be always kept on the site during the progress of grading work.

B. All grading and noise therefrom, including, but not limited to, warming of motors, shall be limited to the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, unless other times are specifically authorized in writing by the city engineer.

C. All graded surfaces and materials, whether filled, excavated, transported, or stockpiled, shall be wetted, protected, covered, or contained in such a manner as to prevent any nuisance from dust, sediment, site runoff, or spillage upon adjoining property or streets. Best management practices incorporating erosion controls and other controls (e.g., dust palliative) shall be applied to the site when directed by the city engineer. Equipment and materials on the site and on hauling routes should be used in such a manner as to avoid excessive dust, site runoff, or spillage upon streets or storm drain inlets. This may include limiting work during windy periods.

D. No grading shall be conducted to encroach upon or alter the established gradient and riparian habitat of natural drainage courses except when a valid permit and other necessary approvals are obtained from the appropriate state and federal authorities (i.e., Fish and Wildlife, etc.) and the necessary environmental review and approvals are received from the planning commission, or city council as the case may be.

E. Whenever any portion of the work requires entry onto adjacent property for any reason, the permit applicant shall obtain a right of entry from the adjacent property owner or his authorized representative in a form acceptable to the city. A copy of such fully executed right of entry shall be filed with the city prior to the issuance of the grading permit and/or approval of the grading plans.

F. Sediment controls and other best management practices shall be constructed on all developments, as determined by the city engineer, to manage runoff into biologically sensitive areas or onto adjacent property and to control sediment during construction until permanent erosion controls have been established. The sediment and silt collected on site shall then be removed and the resulting material hauled from the site or used as topsoil. Additional erosion control measures shall be employed during the rainy season as required by the city engineer pursuant to BMC [15.73.140](#) and Chapter [15.70](#) BMC, Storm Water Management and Discharge Control. Permanent siltation basins may be required in biologically sensitive areas.

G. Grading shall be designed so that lot lines are at the top of slope and with adequate property line setback from the slope to provide for required vertical slope rounding. The tops and toes of cut and fill slopes shall be set back from property lines of pedestrians and vehicular traffic, required slope rounding, adequate foundation support, required swales, berms and drainage facilities, and applicable zoning requirements. Except for pier-type foundations or other special foundation design, setbacks from property lines shall be not less than as required by Appendix Section 3314 and Figure 18-I-1 of the California Building Code.

H. The permit applicant and grading contractor shall be responsible for the protection of adjacent properties during grading operations. Prior to commencing any grading of the site, the exterior boundaries shall be marked as required by the city engineer. Boundary markers shall be maintained throughout the grading operation. Temporary barriers and/or protective fencing shall be used when necessary to protect adjacent properties.

I. Proper soil stabilization is required for all graded areas. Slopes, both cut and fill, shall be provided with subsurface drainage as necessary for stability.

J. Unless otherwise recommended in the approved soils report, fills shall conform to the following provisions:

1. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil, and other unsuitable materials, then scarifying surface to provide a bond with new fill.
2. Fill on slopes' steeper than 5:1 and higher than five feet shall require benching into sound bedrock or other competent material as determined by the soil engineer. Bench shall be a minimum width of 10 feet. The area beyond the top of fill shall be sloped for sheet overflow or an approved drainage facility provided.
3. When fill is placed over a cut, the bench under the top of fill shall be at least 10 feet wide but the cut shall be made before placing the fill and acceptance by the soil engineer or engineering geologist or both as a suitable foundation for fill.
4. Detrimental amounts of organic material shall not be permitted in fills. No rocks or similar irreducible material with a minimum dimension greater than 12 inches shall be

buried or placed in fills. The city engineer may permit placement of larger rock only upon receipt and approval of a method of placement prepared by a soil engineer and under his/her direction. The following conditions shall also apply:

- a. Rock disposal areas shall be delineated on grading plan.
- b. Rock sizes greater than 12 inches in maximum dimension shall be 10 feet or more below finished grade, measured vertically.
- c. Rocks shall be placed to assure filling of all voids with fines.

5. All fills shall be compacted to a minimum 90 percent of maximum density as determined in accordance with the requirements of the city engineer. In-place density shall be determined in accordance with the requirements of the city engineer.

K. Slopes, both cut and fill, shall not be steeper than two horizontal to one vertical (2:1), unless special circumstances applicable to the property, including size, shape, topography, location or surroundings would cause the strict application of the standard to deprive such property of reasonable use. If the above conditions are met, a thorough geological and engineering analysis shall verify that steeper slopes are safe and appropriate erosion control measures are specified.

L. Cut and fill slopes shall be contour-rounded unless the city engineer finds special circumstances applicable to the property that would require deviation from the requirement.

M. Variable slopes shall be used to mitigate environmental and visual impacts of grading unless the city engineer finds special circumstances applicable to the property that would require deviation from this requirement.

N. Terraces at least six feet in width shall be established at not more than 30-foot vertical intervals, subject to maximum height limitations, to control surface drainage and debris on cut or fill slopes. Suitable access shall be provided to permit proper cleaning and maintenance. Swales and ditches or terraces exceeding 200 feet in length shall have a minimum gradient of one percent and must be paved with concrete not less than three inches in thickness. They shall have a minimum depth of one foot at the center and a minimum paved width of 32 inches. A single run of swale or ditch shall not collect runoff from a tributary area exceeding 15,000 square feet (projected) without discharging into a down drain. These requirements regarding ditches and swales may be modified if recommended by a licensed soil engineer and approved by the city engineer.

O. All drainage facilities shall be designed to carry waters to the nearest practical drainage way approved by the city and/or other appropriate jurisdiction as a safe place to deposit such waters. Such facilities shall comply with the requirements of Chapter [15.70](#), Storm Water Management and Discharge Control. If drainage facilities discharge on natural ground, riprap

and/or energy dissipators shall be constructed. All building sites shall be graded and sloped away from the building foundation with a minimum slope of two percent for 10 feet on all sides of every building except where yard requirements are less than 20 feet, in which case the soil shall be graded away from the foundation to a minimum of two-tenths of a foot in elevation at a distance not less than one-half the required yard width. The guidance documents referred to in Chapter [15.70](#), and city engineering standards, shall be referred to in the planning of site grading so that surfaces drain first to planned landscaped areas before discharging to the public storm system.

P. Properly designed trash racks shall be installed on the upstream end of storm drainpipes 18 inches or larger where the pipe accepts drainage from a waterway, which is not to be undergrounded. These racks are to be constructed to preclude large debris, small children, and pets from entering the pipe. The city may require the installation of trash racks at other locations as deemed necessary for proper maintenance and safety.

Q. Upon completion of grading, provisions shall be made for the permanent maintenance of planted slopes or permanent erosion control measures. Finished improvements contained within private property shall be the responsibility of that owner for permanent maintenance. Where finished improvements are within a common area, there shall be a provision in the covenants, conditions, and restrictions of that development for permanent maintenance. Where finished improvements are to be included in the public right-of-way, then permanent maintenance shall be subject to a condition of approval of the entitlement allowing the improvement(s) within the City's rights-of-way.

R. No fill material shall be placed, spread, or rolled during unfavorable weather conditions as determined by the soil engineer or city engineer. When the work is interrupted by heavy rains, fill operations shall not be resumed until field tests by the soil engineer indicate that the moisture content and density of the fill are satisfactory for resumption of the filling operation.

S. Modification of the specific grading regulations contained in this chapter may be approved or required by the city upon a finding that such modification:

1. Is necessary to preserve existing natural features, such as trees, streams, rolling hill forms, knolls, ridges, significant vegetation, or rock outcroppings; or
2. Will reduce the adverse visual impacts of cut and fill operations.

For subdivisions of five or more units, this finding must be made by the planning commission or city council at the time of the approval of the tentative map, site plan, etc. For all other grading where a grading permit is required, the finding must be made by the city engineer in consultation with the permittee.

15.73.140 Erosion control.

A. All active and passive construction sites projects shall have a best management practices plan and storm water control measures in compliance with BMC [15.70.090](#). The Benicia Municipal Code requires a storm water pollution prevention plan (SWPPP) that meets either the requirements of the city of Benicia or the state general construction permit. A storm water control plan shall also be submitted in compliance with BMC [15.70.090\(E\)](#) that incorporates best management practices of site design, source controls and treatment control.

B. The city may approve grading operations through the rainy season if all of the following conditions are met:

1. Applicant has a storm water control plan approved by the city.
2. A letter from the project geotechnical engineer or certified engineering geologist stating that such grading is acceptable and will not create a hazard to life, limb, property and public welfare.
3. Wet weather BMPs for grading operations are in conformance with approved plans and the SWPPP, have been placed and approved by the city, and are kept continuously maintained and in place.
4. Adequate security has been provided to the city.

C. The only BMPs that may be altered are those in direct conflict with the daily construction activity, as long as such BMPs are replaced at the end of the day's construction activities, the start of a storm event or whichever occurs first.

D. The applicant shall comply with all BMPs and any rules, regulations, standards, ordinances, laws, permits and policies established or issued by the Federal Environmental Protection Agency, California Water Quality Control Board, and other regional, state, and federal agencies as applicable.

E. The following documents shall be used as guides for the design and suitability of storm water control measures:

1. The city of Benicia general plan.
2. Association of Bay Area Governments Manual of Standards of Erosion and Sediment Control Measures.
3. California Stormwater Quality Association Best Management Practices Handbook.
4. The Erosion and Sediment Control Field Manual prepared by the Regional Water Quality Control Board, San Francisco Bay Region.

5. Bay Area Storm Water Management Agencies Association "Start at the Source."

F. Slopes. The faces of cut and fill slopes over four feet in vertical height shall be prepared, stabilized, and maintained to control against erosion. This control may consist of hydroseeding, jute matting, cribbing, walls, terracing, drainage facilities, approved planting, or a combination thereof. If planting is required by the city or as a condition of approval of the tentative map, the planting plan shall be approved by the city's community development director and by the parks and community services director. The protection for the slopes shall be installed as soon as practicable and prior to October 15th. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be minimized with prior approval from the city engineer.

G. Other unprotected graded surfaces exceeding 5,000 square feet in area shall be planted, paved, or built upon, or shall be provided with berms, approved drainage facilities or approved erosion control facilities adequate to prevent erosion and to conduct the accumulation of runoff of surface waters to an approved place of discharge.

H. The design, installation and maintenance of all erosion control facilities or methods shall follow the standards and guidelines contained in the latest edition of the California Best Management Practices Handbook for Construction Activity, dated 2003, unless otherwise approved by the city engineer. Erosion control devices (including straw bales, silt fences, etc.) shall be on the site on or before October 1st. The erosion control facilities shall be installed and in operation in accordance with the approved erosion control plan, storm water management plan or storm water pollution prevention plan on or before October 15th. The following basic design principles and standards shall serve as minimum guidelines to control erosion and reduce sedimentation:

1. Stripping or burning of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion.
2. Existing natural vegetation shall be retained, protected, and supplemented where necessary. Site development shall be accomplished so that existing trees can be preserved whenever possible and practical.
3. Exposure of soil to erosion by removal of vegetation shall be limited to the smallest area practicable and for the shortest time practicable. Soil exposure shall not exceed an area in which development can be completed during a single construction season to ensure that soils are stabilized, and vegetation is established well in advance of the rainy season.
4. Facilities shall be constructed to retain sediment produced on-site.
5. Sediment basins, sediment traps, diversions or similar required measures shall be installed well in advance of any clearing or grading and maintained through any such

operations until removal is authorized by the city engineer. Design and size of basins shall be shown on plans and of a capacity to service the watershed affected.

6. Temporary seeding, mulching, or other suitable stabilization measures shall be used to protect exposed erodible areas during development at a minimum of two weeks in advance of the rainy season.

7. Permanent control structures and final vegetation should be installed as soon as practicable in the development, and a long-range maintenance plan developed and adhered to.

8. Standby crews and straw bales or sandbags stacked at the job site shall be available to the permittee or contractor for emergency work during rainstorms.

9. Velocity check dams in all unpaved street areas and all unpaved graded channels shall be provided at the necessary intervals to control and minimize erosion.

10. All erosion control devices shall be in place at the end of each working day during the rainy season and when directed by the city engineer or his authorized representative during the dry season when there is a probability of rain forecasted.

11. All erosion control devices including basins and check dams shall be properly maintained within 24 hours after each storm in order to be prepared to accommodate runoff from the next storm event. This may require basins and check dams to be pumped dry and all debris and silt removed as directed by the soil engineer or city engineer.

12. It is the intent of this chapter to prohibit the abandonment of graded areas or slopes which are not provided with erosion protection and adequate drainage facilities even if all other requirements in this section and this chapter have been provided and approved.

15.73.150 Grading inspection.

A. General. All grading operations for which a permit is required, including measures required by Chapter [15.70](#) BMC, Storm Water Management and Discharge Control, shall be subject to inspection by the city engineer. Special inspection of grading operations and special testing shall be performed in accordance with the provisions of subsection C. of this section.

B. Grading Designation. All grading in excess of 5,000 cubic yards or with cuts/fills greater than four feet shall be performed in accordance with the approved grading plan prepared by a civil engineer and shall be designated as "engineered grading." Grading involving less than 5,000 cubic yards shall be designated "regular grading." When the city engineer has cause to believe that hydraulic, geologic, or other factors may be involved, the grading operation shall be required to conform to "engineered grading" requirements.

C. Engineered Grading Requirements. For engineered grading it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He shall also be responsible for the professional inspection and approval of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade, and drainage of the development area. The civil engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor, and the city engineer. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-built grading plans upon completion of the work.

Soil engineering and engineering geology reports shall be required as specified in BMC [15.73.160](#). During grading, all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the city engineer by the soil engineer and the engineering geologist.

The soil engineer's area of responsibility shall include, but need not be limited to, professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and the design of buttress fills, and where required, incorporating data supplied by the engineering geologist.

The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. He shall report his findings to the soil engineer and the civil engineer for engineering analysis.

The city engineer shall inspect the project at the various stages of the work requiring approvals and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.

D. Regular Grading Requirements. The city engineer, at his discretion, may require inspection and testing by an approved testing agency at the permittee's expense.

The testing agency's responsibility shall include, but need not be limited to, certification concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.

E. Notification of Noncompliance. If, while fulfilling their responsibility under this chapter, the civil engineer, the soil engineer, the engineering geologist, or the testing agency finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and the city engineer. Recommendations for corrective measures, if necessary, shall be submitted.

F. Transfer of Responsibility. If the civil engineer, the soil engineer, the engineering geologist, or the testing agency of record are changed during the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for approval upon completion of the work.

15.73.160 Completion of work.

A. Final Reports.

1. Upon completion of the rough grading work and at the final completion of the work, the city engineer shall require the following reports and drawings and supplements thereto:

a. An as-built grading plan, including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities.

b. The grading contractor shall submit a statement that his work was in conformance to said as-built grading plan.

2. For "engineering grading" the following shall also be required:

a. A final soils grading report prepared by the soil engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading, and their effect on the recommendations made in the soil engineering investigation report. The soil engineer shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soil engineering report.

b. A geologic grading report prepared by the engineering geologist including a final description of the geology of the site, including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. The engineering geologist shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soil engineering report.

c. The civil engineer shall submit a statement that, to the best of their knowledge, the work within their area of responsibility was done in accordance with the final approved grading plan. An as-graded grading plan prepared by the civil engineer on three-mil-thick mylar shall be provided, incorporating original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, location and elevation of all surface and subsurface drainage facilities and other information as contained in the originally approved grading plan.

B. Notification of Completion. The permittee or the permittee's agent shall notify the city engineer when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices and all erosion control measures, have been completed in accordance with the final approved grading plan and the required reports have been submitted.

C. Upon completion of all grading work, receipt of the as-built grading plan and the necessary statements, and upon evidence that all the requirements of this chapter have been satisfactorily complied with, the city engineer shall notify the city building inspection division. Completion of all rough grading work and approval from the city engineer is required prior to issuance of any building permit by the building inspection division.

15.73.170 Appeal procedures.

Any person under this chapter who may be dissatisfied with the action of the city engineer on the application may file an appeal in accordance with Chapter [1.44](#) BMC.

15.73.180 Violations – Prosecution as infraction

The violation of any provision of this article, or failure to comply with any of the mandatory requirements of this chapter, shall constitute a misdemeanor, except that, notwithstanding any other provisions of this article, any such violation constituting a misdemeanor under this article may, at the discretion of the authorized enforcement officer, be charged and prosecuted as an infraction.

15.73.190 Violations – Penalties.

A. Penalties for violation of this chapter shall be as set forth in chapter 1.08.

B. The city engineer may issue a stop-work order until violation of any provision of this chapter is corrected. If, in the opinion of the city engineer, a grading operation creates a dangerous or hazardous condition, the city engineer shall require the applicant to immediately abate such condition. If the applicant fails to abate the condition, the applicant's grading bond shall be called by the city and the cost of corrective work charged to the bond.

Chapter 15.75 Public Improvement Standards

Sections:

- 15.75.010 Findings – Purpose.**
- 15.75.020 Adoption.**
- 15.75.030 Revision.**
- 15.75.040 Copies on file.**

15.75.010 Findings – Purpose.

The city council finds it necessary that the city adopt regulations and standard specifications for public improvements in the city. The purpose of these regulations and specifications is to provide certain minimum standards for the design, methods of construction, and use of materials for streets, alleys, concrete structures, storm drain facilities, sanitary sewage facilities, water distribution systems and other public improvements hereafter constructed, altered, or repaired within the city; and to provide minimum standards for surveys, preparation of maps, preparation of improvement plans, and monumenting in connection with the aforesaid improvements of the city.

15.75.020 Adoption.

The city engineer shall recommend to the city council regulations and standard specifications for public improvements in the city. The city council, by resolution, may adopt the regulations and specifications in whole or in part with any additions or amendments deemed necessary. These regulations and specifications shall be known as “The City of Benicia Regulations and Standard Specifications for Public Improvements.”

15.75.030 Revision.

The city council, by resolution, may from time to time revise the “City of Benicia Regulations and Standard Specifications for Public Improvements” as the need for such revision arises. The city engineer shall recommend to the city council any changes to the regulations and specifications whenever he deems such changes advisable and an improvement over existing regulations and specifications.

15.75.040 Copies on file.

At least one copy of the “City of Benicia Regulations and Standard Specifications” shall be on file at the office of the city clerk and at the office of the city engineer. These copies shall be available in said offices for examination by the public upon request.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 3.

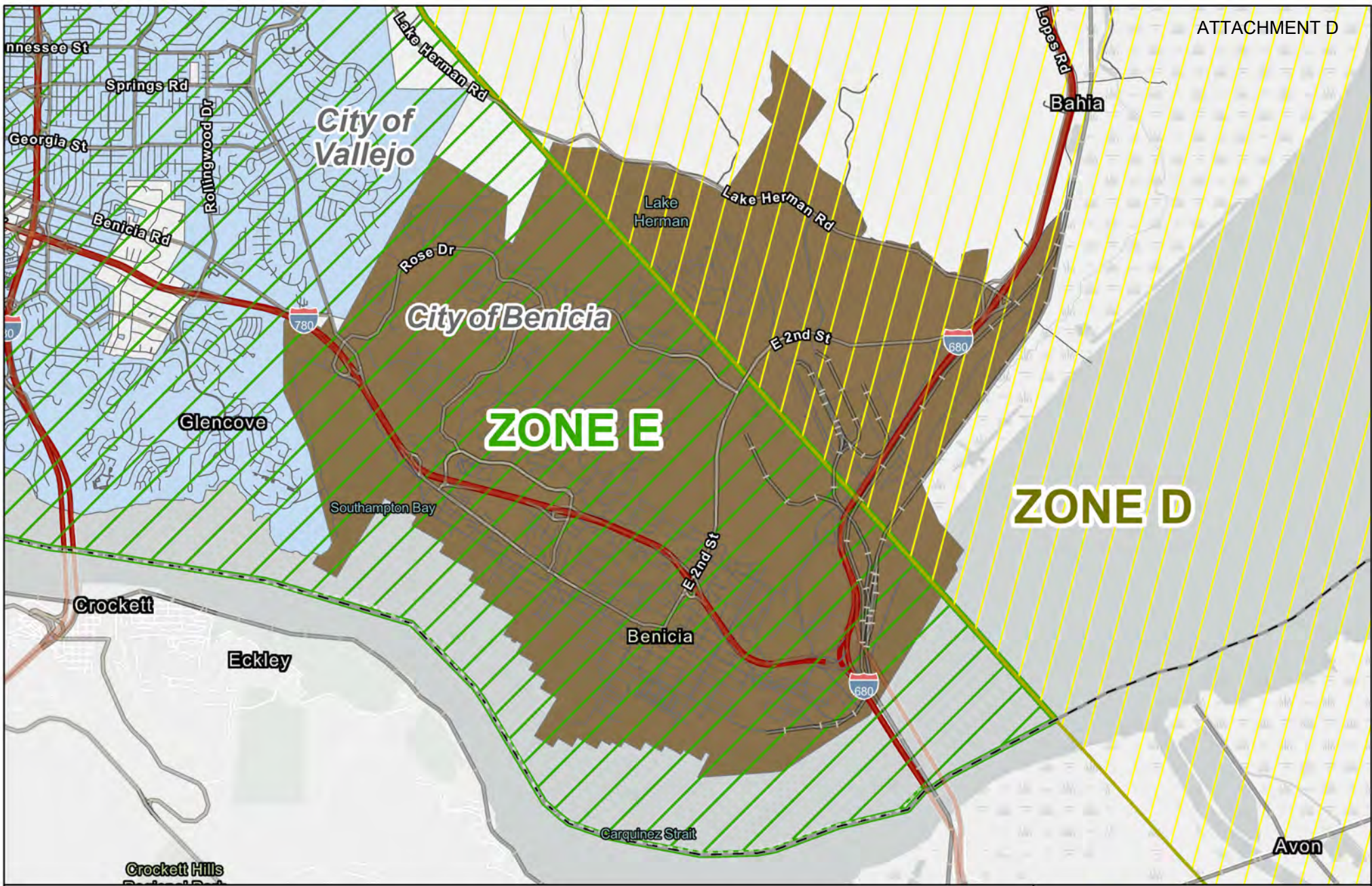
Compliance with the California Environmental Quality Act: The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to under California Code of Regulations, Title 14, sections 15060(c)(2) (the activity will not result in a direct or reasonably

foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 4.

Effective Date and Posting: This Ordinance shall be effective 30 days following its adoption by the Town Council or _____. Before the expiration of fifteen (15) days after its passage, this ordinance, or a summary thereof as provided in California Government code Section 36933, shall be posted in at least three public places in the City of Benicia, along with the names of the members of the Town Council voting for and against its passage.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Benicia on November 15, 2022, and was therefore adopted at the regular meeting of the City Council on _____ by the following vote of the City Council:



Travis AFB Compatibility Zones in City of Benicia

-  Zone D
-  Zone E
-  City of Benicia
-  City of Vallejo
-  Solano County Boundary



Disclaimer: The information shown is intended to be used for general display only and is not to be used as an official map.

