

BENICIA CITY COUNCIL CITY COUNCIL MEETING AGENDA

**November 4, 2025
6:00 PM**

**Benicia City Hall, Council Chambers
250 East L Street, Benicia, CA 94510**

COURTESY ZOOM PARTICIPATION

<https://us02web.zoom.us/j/88508047557?pwd=cHRsZlBrYlphU3pkODcycytmcFR2UT09>

Meeting ID: 885 0804 7557

Password: 449303

Phone: 1 669 900 9128

1. CALL TO ORDER (6:00 P.M.)

2. CONVENE OPEN SESSION

3. ROLL CALL

4. PLEDGE OF ALLEGIANCE

5. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

The fundamental rights of each member of the public can be found in the municipal code posted on the City's website and on a plaque that is posted at the entrance to this meeting per section 4.04.030 of the City of Benicia's Open Government Ordinance.

6. ANNOUNCEMENTS

6.A MAYOR'S OFFICE HOURS

RECOMMENDED ACTION: Mayor Young maintains open office hours on the first and third Mondays of the month (except holidays) in the Mayor's office of City Hall from 4:30 to 6:00 p.m. No appointment is necessary. Other meeting times may be scheduled through City Hall by calling 707-746-4200.

7. PROCLAMATIONS

7.A PROCLAMATION - RUBY BRIDGES WALK TO SCHOOL DAY

[Proclamation - Ruby Bridges Walk to School 2025](#)

8. APPOINTMENTS

8.A MAYOR'S APPOINTMENTS OF THREE (3) BENICIA RESIDENTS TO THE SOLTRANS PUBLIC ADVISORY COMMITTEE FOR A TWO-YEAR TERM ENDING DECEMBER 31, 2027

[1. Resolution - Mayor's Appointment - Dan Smith - SolTrans Public Advisory Committee](#)

[2. Resolution - Mayor's Appointment - Ginger Burnett - SolTrans Public Advisory](#)

9. PRESENTATIONS

10. ADOPTION OF AGENDA

11. OPPORTUNITY FOR PUBLIC COMMENTS

How to Submit Public Comments for this City Council meeting:

Besides appearing in person and offering public comments, members of the public may provide public comment via Zoom, or to the City Clerk by email at lwolfe@ci.benicia.ca.us. Any comment submitted to the City Clerk should indicate to which item of the agenda the comment relates to. Specific information follows:

- Comments received by 2:00 pm on the day of the meeting will be electronically forwarded to the City Council and posted on the City's website.

12. WRITTEN COMMENT

13. PUBLIC COMMENT

14. CONSENT CALENDAR

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council Member, Staff or member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

14.A MINUTES FROM THE OCTOBER 7 AND 14, 2025 SPECIAL MEETINGS

[October 7, 2028 Special City Council Meeting Minutes](#)

[October 14, 2025 Special City Council Closed Session Meeting Minutes](#)

[October 14, 2025 Special City Council Meeting Minutes](#)

14.B APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA

15. BUSINESS ITEMS

15.A CONFIRMING THE DISTRICT DIAGRAM AND ASSESSMENT AS PROPOSED IN THE ENGINEER'S REPORT FOR THE PARKS, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT, ORDERING THE IMPROVEMENTS AND FORMATION OF THE DISTRICT, AND ORDERING THE LEVY OF THE ASSESSMENT DISTRICT FOR FISCAL YEAR 2026/27

RECOMMENDED ACTION: Move to adopt a resolution (Attachment 1), after accepting the ballot proceedings as certified by the City Clerk (Attachment 2), confirming the district diagram and assessment as proposed in the Engineer's Report (Attachment 3), ordering the formation of the PLLAD, and ordering the levy and assessments for FY 26/27.

[Staff Report - PLLAD Ballot Results](#)

1. Resolution - PLLAD Ballot Results
2. Ballot Certification Letter City Clerk
3. Benicia Parks LLAD Final Engineer's Report FY26-27
4. District Diagram

15.B FIRST READING AN INTRODUCTION OF AN ORDINANCE ADOPTING THE 2025 CALIFORNIA BUILDING CODE AND RELATED AMENDMENTS TO TITLE 15 OF THE BENICIA MUNICIPAL CODE (BMC)

RECOMMENDED ACTION: Conduct the public hearing, introduce, and read by title only an Ordinance repealing and replacing Title 15 (Buildings and Construction) of the BMC and adopting by reference the 2025 California Building Standards Code Title 24 as mandated by the State Building Standards Commission and other updates to implement local Amendments and related construction requirements.

[Staff Report - Amending Title 15 of the Benicia Municipal Code](#)

1. Ordinance - Amending Title 15 of the Benicia Municipal Code
2. Mark Up of Ordinance

15.C FIRST READING AND INTRODUCTION OF THE 2025 CALIFORNIA FIRE CODE AND CHAPTER AMENDMENTS TO TITLE 8 OF THE BENICIA MUNICIPAL CODE

RECOMMENDED ACTION: Conduct the public hearing, introduce, and read by title only an Ordinance (Attachment 1) amending Chapter 8.28 (Fire Prevention and Life Safety Code) of Title 8 (Health and Safety) of the Benicia Municipal Code to repeal Chapter 8.28 in its entirety and adopting by reference the 2025 California Fire Code as prepared by the California Building Standards Commission with recommended local amendments and additions.

[Staff Report - First Reading and Introduction of the 2025 California Fire Code Chapter Amendments](#)

1. Ordinance - Adopting 2025 California Fire Code and Amendments
2. California Fire Code Update Ordinance - with Redline Markup

15.D APPROVAL OF THE DEDICATION OF 2,320 FEET OF THE BAY AREA RIDGE TRAIL

RECOMMENDED ACTION: Adopt a resolution approving the dedication of 2,320 feet of Bay Area Ridge Trail on Military East between East 5th Street and Jefferson Street.

[Staff Report - Dedication of Bay Area Ridge Trail](#)

1. Resolution - Dedication of Bay Area Ridge Trail

15.E ESTABLISH A PENSION RESERVE FUNDING POLICY

RECOMMENDED ACTION: Move to adopt a Resolution (Attachment 1) establishing a Pension Reserve Funding Policy (Exhibit A).

[Staff Report - Pension Reserve Funding Policy](#)

1. Resolution - Pension Reserve Funding Policy
2. PARS Section 115 Trust Statment

3. 2019 Staff Report - PARS Section 115 Trust Authorization
4. 2022 Staff Report - General Fund - Fund Balance Reserve Policy

16. ADJOURNMENT (9:00 P.M.)

Public Participation

The City of Benicia welcomes your interest and involvement in the City's legislative process. Persons wishing to address the Council, Board, Commission or Committee (CBCC) are asked to voluntarily complete a speaker request form, available at the entrance of Council Chambers, and submit it to the meeting Secretary/City Clerk. Speakers, addressing the CBCC at the time the item is considered, are requested to restrict their comments to the item as it appears on the agenda and stay within the three-minute time limit. The Brown Act does not permit the CBCC to take action on items brought up during the Public Comment period.

As a courtesy, and technology permitting, members of the public may participate remotely. Please be advised that those participating in the meeting remotely via Zoom do so at their own risk. Meetings will not be cancelled due to technical difficulties. The meeting can also be observed on Cable T.V. Broadcast - Check with your cable provider for your local government broadcast channel, or livestream online at www.ci.benicia.ca.us/agendas.

Americans with Disabilities Acts

The City of Benicia is committed to providing meeting facilities that are accessible to persons with disabilities. Meeting materials in alternative formats, a sign language interpreter, real-time captioning, assistive listening devices or other accommodations can be requested by calling (707) 746-4200 or by emailing ADACoordinator@ci.benicia.ca.us, at least four working days prior to a meeting. Assistive listening devices may be obtained at the meeting.

Meeting Procedures

Pursuant to Government Code Section 65009, if you challenge a decision of the CBCC in court, you may be limited to the issues raised during the meeting or in written correspondence delivered to the CBCC by the meeting. You may also be limited to a ninety (90) day statute of limitations when challenging certain administrative decisions, including any final decisions regarding planning or zoning.

The decision of the CBCC is final as of the date of its decision unless judicial review is initiated pursuant to Code of Civil Procedure Section 1094.5. Any such petition for judicial review is subject to the provisions of Code of Civil Procedure Section 1094.6

Public Records and Writings Received After Agenda Posting

A printed version of the agenda packet for this meeting is available at the Benicia Public Library during regular working hours. To the extent feasible, the agenda packet and any writing or documents related to an agenda item for this meeting provided to the CBCC, will be made available for public inspection on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." A complete recording of each meeting is available online at www.ci.benicia.ca.us/agendas.

Contact Your Council Members

Voicemail for Mayor and Council Members: (707) 746-4213

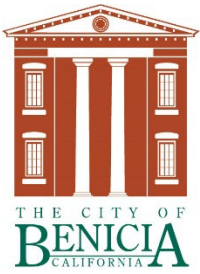
Mayor Steve Young: SYoung@ci.benicia.ca.us

Vice Mayor Trevor Macenski: TMacenski@ci.benicia.ca.us

Council Member Kari Birdseye: KBirdseye@ci.benicia.ca.us

Council Member Lionel Largaespada: LLargaespada@ci.benicia.ca.us

Council Member Terry Scott: TScott@ci.benicia.ca.us



PROCLAMATION

IN RECOGNITION OF

Ruby Bridges Walk to School Day November 14, 2025

WHEREAS, Ruby Bridges, at the age of six, became a symbol of hope, resilience, and equality when she integrated William Frantz Elementary School in New Orleans on November 14, 1960, walking past crowds of protestors and into history as one of the first Black students to desegregate an all-white school in the South; and

WHEREAS, despite being subjected to daily threats, protests, and vitriol, Ruby continually showed tremendous courage and didn't miss a single day of class that year; and

WHEREAS, Ruby's bravery, grace, and determination under immense pressure have inspired generations to stand against injustice and to work toward a future where all children, regardless of race, ethnicity, or background, can attend school with equal opportunities and without fear of discrimination; and

WHEREAS, this incident is a part of our country's recent history, a history under current threat of erasure, at a time where a push to reverse hard-fought gains is ever present. This story of courage and moral clarity serves as an opportunity to inspire and teach a new generation of students about Ms. Bridges' lifelong activism for racial equality; and

WHEREAS, the values embodied by Ruby Bridges—courage, tolerance, and the power of education to foster change—are essential to building stronger, more inclusive communities for all; and

WHEREAS, Ruby Bridges Walk to School Day is an opportunity for students, educators, and communities to commemorate her historic walk, continue her legacy, and recommit to ensuring that schools remain places of opportunity, respect, and inclusion for all.

NOW, THEREFORE, BE IT RESOLVED THAT I, Steve Young, Mayor of the City of Benicia, on behalf of the City Council of the City of Benicia, hereby proclaim Friday, November 14th as Ruby Bridges Day in the City of Benicia, and encourage all families to attend the program Bridging Rights, Celebrating Ruby Bridges and the Right to Education at the Benicia Public Library on Friday, November 14th at 6:30 pm. I also encourage all students to participate in the Ruby Bridges Walk to School Day on Friday, November 14th.

Steve Young, Mayor
November 4, 2025



RESOLUTION NO. 25-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING
THE MAYOR'S APPOINTMENT OF DAN SMITH TO THE SOLTRANS PUBLIC
ADVISORY COMMITTEE FOR A TWO-YEAR TERM ENDING DECEMBER 31, 2027**

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia that the appointment of Dan Smith to the SOLTRANS Public Advisory Committee by Mayor Young is hereby confirmed.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 4th day of November 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 25-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING
THE MAYOR'S APPOINTMENT OF GINGER BURNETT TO THE SOLTRANS
PUBLIC ADVISORY COMMITTEE FOR A TWO-YEAR TERM ENDING
DECEMBER 31, 2027**

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia that the appointment of Ginger Burnett to the SOLTRANS Public Advisory Committee by Mayor Young is hereby confirmed.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 4th day of November 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 25-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING
THE MAYOR'S APPOINTMENT OF RACHEL BHAGWAT TO THE SOLTRANS
PUBLIC ADVISORY COMMITTEE FOR A TWO-YEAR TERM ENDING
DECEMBER 31, 2027**

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia that the appointment of Rachel Bhagwat to the SOLTRANS Public Advisory Committee by Mayor Young is hereby confirmed.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 4th day of November 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

DRAFT

MINUTES OF THE SPECIAL MEETING – CITY COUNCIL OCTOBER 7, 2025 4:00 P.M.

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded. These are action minutes; a full video is available online at www.ci.benicia.ca.us/agendas.

COURTESY ZOOM PARTICIPATION

1) CALL SPECIAL MEETING TO ORDER (4:00 P.M.)

Mayor Young called the Special Meeting to order at 4:00 p.m.

2) CONVENE OPEN SESSION

3) ROLL CALL

Present: Council Member Birdseye, Council Member Largaespada, Council Member Scott, Mayor Young

Absent: Vice Mayor Macenski

4) PLEDGE OF ALLEGIANCE

5) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

6) ADOPTION OF THE AGENDA

On motion of Council Member Scott, seconded by Council Member Birdseye, Council approved the Adoption of the Agenda, as presented, on a roll call by the following vote:

Ayes: Council Member Birdseye, Council Member Largaespada, Council Member Scott, Mayor Young

Noes: (None)

7) OPPORTUNITY FOR PUBLIC COMMENTS

8) WRITTEN COMMENT

9) PUBLIC COMMENT

None

10) CONSENT CALENDAR

10.A DESIGNATION OF VOTING DELEGATE FOR THE 2025 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE AND EXPO GENERAL ASSEMBLY

[Staff Report - 2025 Cal Cities Voting Delegate](#) 
[1. 2025 Voting Delegate packet](#) 

Public Comment:

1. Lori Grundman - Ms. Grundman asked for clarification on the policy if a council member was unable to attend, and if the late appointment date would pose a problem.

On motion of Council Member Scott, seconded by Council Member Largaespada, Council approved, by minute action, designating Council Member Kari Birdseye as voting delegate, (there will be no alternate) for the General Assembly of the Cal Cities Annual Conference to be held on Friday, October 10, 2025, at the Long Beach Convention Center, on a roll call by the following vote:

Ayes: Council Member Birdseye, Council Member Largaespada, Council Member Scott, Mayor Young
Noes: (None)

11) PUBLIC COMMENT FOR CLOSED SESSION

12) ADJOURN TO CLOSED SESSION

12.A CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (1 potential case)

Mayor Young adjourned the meeting to Closed Session at 4:04 p.m.

13) RECONVENE OPEN SESSION

Mayor Young reconvened the Open Session at 5:05 p.m.

14) ANNOUNCEMENTS FROM CLOSED SESSION, IF ANY

Ben Stock, City Attorney, stated that Council took no reportable action during Closed Session.

DRAFT

15) ADJOURNMENT (5:00 P.M.)

Mayor Young adjourned the meeting at 5:05 p.m.

City Clerk

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
OCTOBER 14, 2025
5:00 P.M

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded. These are action minutes; a full video is available online at www.ci.benicia.ca.us/agendas.

1) CALL SPECIAL MEETING TO ORDER

Mayor Young called the Special Meeting to order at 5:00 p.m.

2) CONVENE OPEN SESSION

3) ROLL CALL

All Council Members were present.

Vice Mayor Macenski arrived at 5:20 p.m. after the Closed Session started.

4) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

5) PUBLIC COMMENT FOR CLOSED SESSION

None.

6) ADJOURN TO CLOSED SESSION

**6.A CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED
LITIGATION**

**Significant exposure to litigation pursuant to paragraph (2) of subdivision
(d) of Section 54956.9: (1 potential case)**

Mayor Young adjourned the meeting to Closed Session at 5:01 p.m.

7) RECONVENE OPEN SESSION

Mayor Young reconvened the Open Session at 6:00 p.m.

8) ANNOUNCEMENTS FROM CLOSED SESSION, IF ANY

Ben Stock, City Attorney, reported that Council met in Closed Session on one item and took no reportable actions.

9) **ADJOURNMENT**

Mayor Young adjourned the Special Meeting at 6:00 p.m.

City Clerk

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
OCTOBER 14, 2025
6:00 P.M.

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on. These are action minutes; a full video is available online at www.ci.benicia.ca.us/agendas.

COURTESY ZOOM PARTICIPATION

1) CALL SPECIAL MEETING TO ORDER

Mayor Young called the Special Meeting to order at 6:00 p.m.

2) CONVENE OPEN SESSION

3) ROLL CALL

All Council Members were present.

4) PLEDGE OF ALLEGIANCE

5) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

6) ADOPTION OF THE AGENDA

On motion of Vice Mayor Macenski, seconded by Council Member Birdseye, Council approved the Adoption of the Agenda, as presented, on a roll call by the following vote:

Ayes: Council Member Birdseye, Council Member Largaespada, Vice Mayor Macenski, Council Member Scott, Mayor Young
Noes: (None)

7) OPPORTUNITY FOR PUBLIC COMMENTS

8) WRITTEN COMMENT

9) PUBLIC COMMENT

1. Lori Grundman - Ms. Grundman inquired about the status of the Tesla charging stations in the Southampton Shopping Center.

10) CONSENT CALENDAR

10.A MINUTES FROM THE SEPTEMBER 16, 2025 SPECIAL AND REGULAR MEETING

[September 16, 2025 Special Meeting Minutes](#) 
[September 16, 2025 Regular Meeting Minutes](#) 

10.B APPROVING AN AGREEMENT WITH APTIM FEDERAL SERVICES, LLC FOR THE DOWNTOWN BENICIA ABANDONED VESSEL AND MARINE DEBRIS REMOVAL PROJECT TO PROVIDE ENVIRONMENTAL SERVICES, ENGINEERING DESIGN, AND CONSTRUCTION SUPPORT

[Staff Report - Approval of Agreement Aptim - Marine Debris Removal Project](#) 

[1. Resolution - Approval of Agreement Aptim - Marine Debris Removal Project](#)



[2. Agreement - Aptim Marine Debris Removal Project signed w Exhibit A-](#)

[Updated](#) 

[3. Notice of Award - NOAA Office of Response and Restoration](#) 

RESOLUTION NO. 25- 117 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AGREEMENT WITH APTIM FEDERAL SERVICES, LLC FOR THE DOWNTOWN BENICIA ABANDONED VESSEL AND MARINE DEBRIS REMOVAL PROJECT TO PROVIDE ENVIRONMENTAL SERVICES, ENGINEERING DESIGN, AND CONSTRUCTION SUPPORT

10.C REVISION TO JOINT EXERCISE OF POWERS AGREEMENT FOR MANAGEMENT OF EMERGENCY AMBULANCE SERVICES

[Staff Report - Approving Revised JEPA for Management of Ambulance Services](#)



[1. Resolution - Approving Revised JEPA for Management of Ambulance Services](#)



[2. Revised Joint Exercise of Powers Agreement](#) 

RESOLUTION NO. 25- 118 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPRIVING THE REVISED JOINT EXERCISE OF POWERS AGREEMENT FOR THE PROVISION AND MANAGEMENT OF EMERGENCY AMBULANCE SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

10.D APPROVAL OF WIZIX TECHNOLOGY GROUP COPIER LEASE BUY- OUT AGREEMENT AND SERVICE AGREEMENT

[Staff Report - Wizix Buy-Out Agreement](#) 

[1. Resolution - Wizix Technology Group](#) 

[2. Buy-Out Agreement with Wizix Technology Group-Final Version-Updated](#) 

RESOLUTION NO. 25- 119 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A BUY-OUT AGREEMENT AND SERVICE AGREEMENT WITH WIZIX TECHNOLOGY GROUP FOR CITYWIDE COPIER LEASE CONSOLIDATION

10.E APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA

On motion of Vice Mayor Macenski, seconded by Council Member Birdseye, Council approved the adoption of the Consent Calendar, as presented, on a roll call by the following vote:

Ayes: (None)

Noes: (None)

11) BUSINESS ITEM

11.A PUBLIC HEARING FOR CITY OF BENICIA FORMATION OF PARKS, LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT FOR FISCAL YEAR 2026-2027

[Staff Report - PLLAD FY26-27 Public Hearing](#) 

Sharon Denney, Senior Management Analyst, reviewed the staff report and a PowerPoint presentation.

Public Hearing Opened

Public Comment:

1. Christopher Shenfield - Mr. Shenfield spoke in opposition to the proposed Parks Landscaping and Lighting District (PLAAD).
2. James Egan - Mr. Egan spoke in opposition to the proposed PLAAD.
3. Earl Treadway - Mr. Treadway spoke in opposition to the proposed PLAAD.
4. Madeline Koster - Ms. Koster spoke in favor of the proposed PLAAD, and requested West 7th Street pavement be improved.
5. Omar Othian – Mr. Othian discussed concern regarding the outreach process.

Council did not recommend any changes and directed the City Clerk to publicly unseal and tabulate assessment ballots on October 15, 2025 at 9:00 a.m. at the Community Center, Program Room 2, 370 East L Street, Benicia, CA. 94510.

Public Hearing Closed

[1. Prelim Engineer's Report FY26-27](#) 

2. District Diagram PLLAD 

3. Objection Letters and Response Exhibits A and B Redacted 

11.B VALERO BENICIA REFINERY ECONOMIC IMPACT STUDY

Mario Giuliani, City Manager, introduced the item.

Jeff Tschudi, Finance Director, and Ruth Martinez, Hdl, reviewed the staff report and a PowerPoint presentation.

Council and Staff discussed the issue of the water fund estimate and how much the City bills Valero for raw water purchases, property taxes and what would happen if Valero sold equipment to another refinery, the business licenses used by Valero subcontractors, decision thresholds for mid-year budget adjustments, Utility User Tax, water and wastewater use, the General Fund reserve policy, how much water Valero uses per day, and what would be done with the excess water.

Public Comment:

1. Citizen - the citizen inquired about what lawmakers might be negotiating with the State to provide some level of support.

[Staff Report - Valero Refinery Economic Impact Report](#) 

[1. Economic Impact of Valero Refinery Closure Report](#) 

[2. Labor Market and Economic Impact From Refinery Closure Report](#) 

[3. Presentation - Valero Benicia Refinery Economic Impact](#) 

12) **CITY COUNCIL TASK FORCE GROUPS: ADVOCACY, COLLABORATION AND TRANSITION (ACT)**

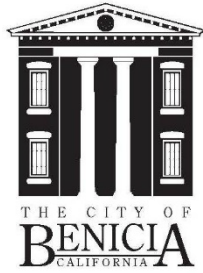
12.A AD HOC "ACT" TASK FORCE GROUPS UPDATES

[Ad Hoc "ACT" Task Force Groups Updates](#) 

13) **ADJOURNMENT (8:00 P.M.)**

Mayor Young adjourned the meeting at 8:02 p.m.

City Clerk



**AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 4, 2025
BUSINESS ITEM**

TO : City Manager

FROM : Public Works Director

SUBJECT : **CONFIRMING THE DISTRICT DIAGRAM AND ASSESSMENT AS PROPOSED IN THE ENGINEER'S REPORT FOR THE PARKS, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT, ORDERING THE IMPROVEMENTS AND FORMATION OF THE DISTRICT, AND ORDERING THE LEVY OF THE ASSESSMENT DISTRICT FOR FISCAL YEAR 2026/27**

EXECUTIVE SUMMARY:

The item scheduled at this meeting will declare the results of the property owner protest ballot proceedings, confirm the diagram and assessment as proposed in the Engineer's Report, order the improvements and formation of the Parks, Landscape and Lighting Assessment District (PLLAD), and order the levy and assessments for FY 26/27.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1), after accepting the ballot proceedings as certified by the City Clerk (Attachment 2), confirming the district diagram and assessment as proposed in the Engineer's Report (Attachment 3), ordering the formation of the PLLAD, and ordering the levy and assessments for FY 26/27.

BUDGET INFORMATION:

The PLLAD is projected to generate \$1,891,417 in revenue from assessments in Fiscal Year 2026/27 (FY27). The FY27 budget will be amended to reflect this change during mid-cycle budget review.

BACKGROUND:

The City of Benicia Parks, Landscaping and Lighting District was proposed to maintain the improvements that provide special benefits to properties within the District. The District consists of three zones, properties within each zone are assessed annually to pay the cost to maintain parks, landscaping along street rights-of-way, maintenance of open space areas and maintenance and energy costs of streetlights. District diagram is provided (Attachment 4).

Between July 1 and October 15, 2025, the City undertook a series of public actions related to proposed assessments under the Citywide PLLAD. This includes four previous City Council resolutions, summarized below.

- Resolution 25-93 dated July 1, 2025, initiated proceedings for the levy and collection of assessments.
- Resolution 25-98 dated July 15, 2025, established assessment setting procedures.
- Resolution 25-99 dated July 15, 2025, approved the Engineer's Report as required by the State of California Streets and Highways Code and set a public hearing for October 14, 2025, for consideration of a resolution to order the levy and collection of assessments for FY 2026-27.
- Resolution 25-105 dated August 19, 2025, authorized the City Manager to submit the ballots on behalf of the City for city-owned parcels.
- October 14, 2025, Council conducted a public hearing to receive oral statements and written comments concerning the PLLAD.
- October 15, 2025, ballots were tabulated and certified by the City Clerk.

NEXT STEPS:

Assessors roll will be submitted to Solano County to levy assessments for FY 26-27.

ALTERNATIVE ACTIONS:

Take no action, but direct staff to return with recommended next steps.

CEQA Analysis	Landscaping and lighting district assessments are exempt from the California Environmental Quality Act (CEQA) under Guidelines Section 15378 (b) (4), because government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment is not considered a project.
--------------------------	--

ATTACHMENTS:

1. Resolution - Certified Ballot Proceedings, District Diagram and Assessment, PLLAD Formation and Ordering Levy and Assessments
2. Certificate of Ballot Results
3. Engineer's Report
4. District Diagram

For more information contact: Danielle Bonham, Public Works Director

Phone: 707-746-4240

E-mail: PW@ci.benicia.ca.us

RESOLUTION NO. 25-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE DISTRICT DIAGRAM AND ASSESSMENT AS PROPOSED IN THE ENGINEER'S REPORT FOR THE PARKS, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT, ORDERING THE IMPROVEMENTS AND FORMATION OF THE DISTRICT, AND ORDERING THE LEVY OF THE ASSESSMENTS FOR THE DISTRICT FOR FISCAL YEAR 2026/27

WHEREAS, pursuant to the provisions of the Landscaping and Lighting Act of 1972 (Part 2 of Division 15 of the California Streets and Highways Code, particularly including Sections 22500 through 22679) ("the 1972 Act"), on July 1, 2025, the City Council adopted Resolution No. 25-93 ("Resolution of Initiation") to initiate proceedings including preparation of an Engineer's Report to support the formation of the Parks, Landscape and Lighting Assessment District ("PLLAD"); and

WHEREAS, on July 15, 2025, the City Council adopted Resolution No. 25-99 ("Resolution of Intention") to approve the Engineer's Report and declare the City's intention to form the PLLAD for the purpose of financing the cost of installation, maintenance and servicing of public park, landscaping and recreational improvements (the "Improvements") as specified in the Engineer's Report prepared by the Assessment Engineer; and

WHEREAS, the approved and filed Engineer's Report includes:

1. A description of the public improvements and services to be funded with assessment proceeds; and
2. An estimate of the annual cost of said improvements and services; and
3. A description of the assessable parcels of land within the proposed assessment district; and
4. A description of the general benefits that are not funded by assessments from the PLLAD, as distinguished from the proportionate special benefits conferred on property within the PLLAD that are funded by the proposed assessment; and
5. A diagram and boundary map for the Assessment; and
6. A specification of the amount to be assessed upon various types of assessable land within the Assessment to fund the cost of the Improvements.

WHEREAS, the Resolution of Intention also provided notice of the public hearing on the proposed assessments, stating that the hearing would be held on Tuesday, October 14, 2025, at the hour of 6:00 p.m., or soon thereafter as the matter may be heard, in the City Council Chambers, 250 East L Street, Benicia, CA 94510, for the purpose of this City Council's determination of whether the public interest, convenience, and necessity require the levy of the assessments; and

WHEREAS, in accordance with the requirements of “Proposition 218” (i.e., California Constitution Article XIII D, Section 4, as implemented by Government Code Sections 53750 – 53759.2, and the judicial decisions that interpret it), at least 45 days prior to the date of the public hearing, the City mailed a Notice of Public Hearing to each record owner of assessable parcels within the boundaries of the PLLAD, including an assessment ballot by which each property owner could express support or opposition to the proposed assessment; and

WHEREAS, On July 15, 2025, the City Council adopted Resolution 25-98 (“Procedural Resolution”) establishing Assessment Setting Procedures for the PLLAD consistent with the requirements of Proposition 218 for the purpose of considering assessment ballots, as well as implementing the requirements for property owners to exhaust administrative remedies by submitting “timely written objection” in accordance with “AB 2257” (i.e., Assembly Bill 2257, Chapter 561, Statutes of 2024; Government Code Sections 53759.1 and 53759.2); and

WHEREAS, consistent with the requirements of AB 2257 and the Procedural Resolution, the Notice of Public Hearing identified a deadline of October 2, 2025, for the submission of timely written objections for the PLLAD; and

WHEREAS, the City received 15 timely written objections from property owners within the PLLAD, and City staff presented the written objections and a written response to City Council during the public hearing on October 14, 2025; and

WHEREAS, on October 14, 2025, the City Council conducted a public hearing consistent with the Public Hearing Notice to consider the written objections, written response, a presentation from City staff, as well as spoken testimony and documents referenced in the record of the hearing, and the City Council determined that no clarifications or reductions will be made to the proposed assessments for the proposed PLLAD, as described in the Engineer’s Report; and

WHEREAS, after closing the public hearing on October 14, 2025, the City Council announced that all assessment ballots for the PLLAD that were received prior to the close of the public hearing would be publicly unsealed and tabulated at the Community Center Program Room 2, 370 East L Street, Benicia, on October 15, 2025, at 9:00 a.m.; and

WHEREAS, on October 15, 2025, the City Clerk publicly unsealed, canvassed, and tabulated the assessment ballots for the PLLAD and, based on a weighting of ballots certified that 52.88% of the ballots voted “yes” to approve the PLLAD, as summarized below:

Total Number of Valid Ballots Processed:	3,845
Total Assessment Amount of Valid Ballots:	\$808,829.69
Total Number of “Yes” Votes Processed:	2,056
Total Assessment Amount of “Yes” Votes Processed:	\$427,723.79

Percentage of “Yes” Votes, unweighted: 53.47%
Total Percentage of “Yes” Ballots, Weighted by Assessment: 52.88%

Total Number of “No” Votes Processed: 1,789
Total Assessment Amount of “No” Votes Processed: \$381,105.90
Percentage of “No” Votes, unweighted 46.53%
Total Percentage of “No” Ballots, Weighted by Assessment: 47.12%

Total Number of “Invalid” Ballots Processed: 28
Total Assessment Amount of “Invalid” Ballots Processed: \$4,579.38

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia finds, determines and orders as follows:

Section 1. The above recitals are true and correct. In adopting this resolution, the City Council has relied on the information included in the record in support of this resolution, including the oral and written record from prior City Council meetings referenced herein.

Section 2. As identified in the City Clerk’s certified Final Ballot Tabulation Results, 52.88% of the weighted assessment ballots are in support of the PLLAD. Therefore, the City Council hereby determines there was no “majority protest” as defined by Proposition 218, since the weighted value of ballots submitted in support of the PLLAD exceeded the weighted value of ballots submitted in opposition to the PLLAD. (see California Constitution Article XIID, Section 4(e).

Section 3. The City Council hereby confirms and approves the diagram, boundary map, and assessment identified in the Engineer’s Report, together with the proposed assessment roll for fiscal year 2026/2027.

Section 4. Based on the substantial evidence referenced in Resolution Section 1, the City Council hereby finds and determines that the proposed assessment for the PLLAD complies with the provisions of the 1972 Act and Proposition 218 (as defined herein), and each of the several assessed lots and parcels of land within the PLLAD will be specially benefited by the Improvements (as described in the Engineer’s Report) in at least the amount of the Assessment apportioned against such lots and parcels of land, respectively.

Section 5. The City Council hereby orders the improvements and the formation of the City of Benicia Parks, Landscape and Lighting Assessment District (“PLLAD”) as described in the Engineer’s Report. Pursuant to Streets and Highways Code Section 22594, the adoption of this resolution shall constitute the levy of assessments for the PLLAD for fiscal year 2026/2027.

Section 6. The assessment for fiscal year 2026/2027 shall be levied at the rate of TWO HUNDRED EIGHT DOLLARS AND TWENTY-SIX CENTS (\$208.26) for Zone A, ONE HUNDRED TWENTY-FOUR DOLLARS AND NINETY-SIX CENTS (\$124.96) for Zone

B, and FORTY-ONE DOLLARS AND SIXTY-FIVE CENTS (\$41.65) for Zone C per single family equivalent (SFE) benefit unit, with estimated total annual assessment revenues as set forth in the Engineer's Report.

Section 7. The authorized maximum assessment to be levied in future fiscal years shall be increased annually based on the San Francisco-Oakland-Hayward Consumer Price Index for All Urban Consumers ("CPI-U"), with an allowable increase of up to four percent (4%) per year. Any change in the CPI-U in excess of 4% shall be cumulatively reserved as the "Unused CPI-U" and shall be used to increase the maximum authorized assessment rate in years in which the CPI-U is less than 4%. The maximum authorized assessment rate is equal to the maximum assessment rate for fiscal year 2026/2027 adjusted annually by the lesser of 1) 4% or 2) the change in the CPI-U plus any Unused CPI-U as described above.

Section 8. Immediately upon adoption of this resolution, but no later than August 1, 2026, following its adoption, the City Clerk shall file a certified copy of this resolution with the County Auditor-Controller. Upon such filing, the County Auditor-Controller shall enter on the County assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the Assessment.

Section 9. The assessments shall be collected at the same time and in the same manner as County property taxes are collected, and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments. After collection, the net amount of assessments, after deduction of County collection costs, shall be paid to the City of Benicia.

Section 10. The monies representing assessments collected shall be deposited in a separate fund established under the distinctive designation for the PLLAD. Funds collected shall be expended only for the special benefit of parcels within the PLLAD.

Section 11. The Assessment, as it applies to any parcel, may be corrected, cancelled, or refunded as appropriate by order of the City Manager, or authorized designee, upon a written determination that the Assessment should be revised to be consistent with the method of assessment established in the Engineer's Report. This particularly includes the authority to determine the number of single-family equivalent ("SFE") units allocated to each parcel in accordance with the method of assessment established in the Engineer's Report, including: (a) the Special Zone A Designation for the Benicia Middle School Area; (b) the decreased number of SFEs for multi-family residential properties in excess of 20 dwelling units; and (c) vacant/undeveloped properties.

On motion of Council Member _____, and seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting held the 4th day of November 2025, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



CITY HALL • 250 EAST L STREET • BENICIA, CA 94510 • (707) 746-4200 • FAX (707) 747-8120

October 15, 2025

**RE: Final Ballot Tabulation Results
City of Benicia
Park, Landscape and Lighting Assessment**

The tabulation of all official ballots received by the close of the balloting period for the City of Benicia's proposed Park, Landscape and Lighting Assessment has been completed by the City Clerk.

The City Clerk hereby certifies the following tabulation totals for the ballots that were received by the close of the public input portion of the public hearing on October 14, 2025. In Summary, on an unweighted basis, **53.47%** of the valid ballots received were in support of the proposed assessments, and on the official weighted basis, **52.88 %** of the ballots, weighted by the assessment amounts, were in support.

Further ballot tabulation details are as follows:

Total Number of Valid Ballots Processed:	3,845
Total Assessment Amount of Valid Ballots:	\$808,829.69
Total Number of "Yes" Votes Processed:	2,056
Total Assessment Amount of "Yes" Votes Processed:	\$427,723.79
Percentage of "Yes" Votes, unweighted:	53.47%
Total Percentage of "Yes" Ballots, Weighted by Assessment:	52.88%
Total Number of "No" Votes Processed:	1,789
Total Assessment Amount of "No" Votes Processed:	\$381,105.90
Percentage of "No" Votes, unweighted:	46.53
Total Percentage of "No" Ballots, Weighted by Assessment:	47.12%
Total Number of "Invalid" Ballots Processed:	28
Total Assessment Amount of "Invalid" Ballots Processed:	\$4,579.38

The total number of ballots received by the end of the public input portion of the public hearing held on October 14, 2025 was 3845 This represents a 41% ballot return rate on the 9,233 ballots mailed.

Sincerely,

Lisa Wolfe
City Clerk

STEVE YOUNG, Mayor
Members of the City Council
KARI BIRDSEYE · LIONEL LARGAESPADA · TERRY SCOTT · TREVOR
MACENSKI, Vice Mayor

MARIO GIULIANI, City Manager
LISA WOLFE, City Clerk
KENNETH C. PAULK, City Treasurer

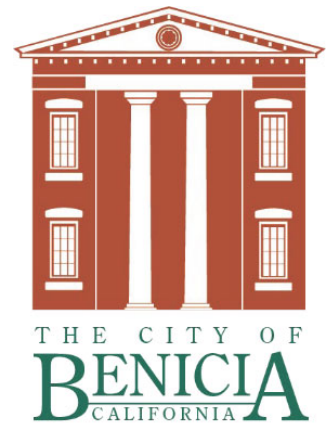
Fiscal Year 2026-27

ENGINEER'S REPORT

City of Benicia

Parks, Landscape and Lighting
Assessment District

August 2025
Final Report



Pursuant to the Landscape and Lighting Act of 1972 and Article XIID of the
California Constitution

Engineer of Work:



4745 Mangels Boulevard
Fairfield, California 94534
707.430.4300
www.sci-cg.com

(This page Intentionally left blank)

City of Benicia

City Council

Steve Young, Mayor

Trevor Macenski, Vice Mayor

Kari Birdseye, Council Member

Lionel Largaespada, Council Member

Terry Scott, Council Member

City of Benicia Staff

Mario Giuliani, City Manager

Danielle Bonham, Public Works Director

Engineer of Work

SCI Consulting Group

Table of Contents

Introduction.....	5
Overview	5
Assessment Process	6
Public Review Process Under AB 2257	8
Legislative Analysis	8
Plans and Specifications.....	11
Estimate of Cost and Budget	13
Method of Apportionment.....	14
Discussion of Benefit	15
Benefit Factors	16
General versus Special Benefit.....	18
Benefit Finding	19
Zones of Benefit	24
Method of Assessment.....	28
Residential Properties	29
Commercial/Industrial Properties.....	30
Vacant/Undeveloped Properties.....	32
Other Properties.....	32
Assessment Statement	33
Assessment Diagram.....	35
Assessment Roll.....	36

List of Tables

Table 1 - Fiscal Year 2026-27 Estimate of Cost and Budget..... 13

Table 2 - Residential Density and Assessment Factors 30

Table 3 - Commercial/Industrial Density and Assessment Factors..... 31

Table 4 – Fiscal Year 2026-27 Summary Cost Estimate 33

Introduction

Overview

The City of Benicia (“City”) currently provides limited landscaping and parks maintenance within the boundaries of the existing Landscape and Lighting Assessment District. This district consists of five zones, including one residential zone established in 1989. It provides funding for only five of Benicia’s 28 parks and lacks an annual inflation adjustment. As a result, funding has not kept pace with rising costs for materials, utilities, labor, and other essential services, making it increasingly difficult to maintain the level of service the community expects for landscaping, lighting, and park services in the areas it covers. Additionally, there are properties outside this existing district that do not contribute directly to the upkeep of shared public spaces, creating an inequitable funding structure.

In 2024, the City adopted an updated Parks, Trails, and Open Space Master Plan, which confirms that Benicia’s parks and landscaped areas face significant long-term funding challenges. The plan identifies widespread deferred maintenance and substantial capital needs that remain largely unfunded under current revenue sources. Without additional, reliable funding, the City will be unable to adequately maintain existing service levels, address infrastructure deficiencies, or meet evolving community expectations.

In response, the City is proposing the formation of a citywide Parks, Landscape and Lighting Assessment District (“Assessment District”) to replace the existing district. This new district would provide dedicated, sustainable, and locally controlled funding to support maintenance, rehabilitation, and improvements across all parks and landscaped areas in Benicia. The proposed assessment includes a cost-of-living adjustment to ensure funding keeps pace with increasing service costs over time. This Engineer’s Report (“Report”) documents the need for the proposed district, outlines the services and improvements to be funded, and presents the methodology for determining and apportioning the assessments to benefiting properties.

Assessment Process

This Engineer's Report 1.) Establishes the budget for the improvements, maintenance, and services to be undertaken by the Assessment District that will be funded by the proposed Fiscal Year 2026-27 assessments; 2.) Determines the benefits received from the improvements, maintenance, and services by property within the Assessment District; and 3.) Describes the method of assessment apportionment to lots and parcels. This Engineer's Report and the proposed assessments have been made pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (the "Act") and Article XIID of the California Constitution (the "Article").

Following the submittal of this Report to the City of Benicia City Council ("Council") for preliminary approval, the Council may, by Resolution, call for an assessment ballot proceeding and Public Hearing on establishing the Parks, Landscape and Lighting Assessment District.

If the Council approves such Resolution and calls for the mailing of notices and ballots, a notice of assessment and assessment ballot will be mailed to property owners at least 45 days prior to the date of the Public Hearing set by the Council. Such notice would include a description of the assessments as well as an explanation of the method of voting on the assessments. Each notice would include a ballot on which the property owner could mark his or her approval or disapproval of the assessments and a ballot return envelope.

After the ballots are mailed to property owners, a minimum 45-day time period must be provided for the return of the assessment ballots. Following this 45-day time period, a public hearing must be held for the purpose of allowing public testimony regarding the proposed assessments and services. At this hearing, the public would have the opportunity to provide input on this issue and would have a final opportunity to submit ballots. After the conclusion of the public input portion of the hearing, the hearing may be continued to a later time to allow time for the tabulation of ballots.

With the passage of Proposition 218 on November 6, 1996, The Right to Vote on Taxes Act, now Article XIIC and XIID of the California Constitution, the proposed assessments can be levied for Fiscal Year 2026-27 and future years, only if the ballots submitted in favor of the assessments are greater than the ballots submitted in opposition to the assessments. Each ballot is weighted by the amount of proposed assessment for the property that it represents.

If it is determined, when the tabulation results are announced, that the assessment ballots submitted in opposition to the proposed assessments do not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots are submitted) the Council may take action, by resolution, to approve the levy of the assessments for Fiscal Year 2026-27 and future fiscal years. If the assessments are so confirmed and approved, the levies will be submitted to the Solano County Auditor-Controller for inclusion on the property tax rolls for Fiscal Year 2026-27.

The authority granted by the ballot proceeding is for a maximum assessment rate of \$208.26 per single-family home for the first fiscal year. The assessment is subject to an annual increase tied to the increase, if any, in the Consumer Price Index-U for the San Francisco Bay Area as of December of each succeeding year (the "CPI"), with a maximum annual adjustment not to exceed 4%. Any change in the CPI in excess of 4% shall be cumulatively reserved as the "Unused CPI" and shall be used to increase the maximum authorized assessment rate in years in which the CPI is less than 4%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the assessment will be levied and adjusted annually by the lesser of 1) 4% or 2) the change in the CPI plus any Unused CPI as described above.

The procedures for levy of the assessments in future years commence with the creation of a budget for the upcoming fiscal year's costs and services, an updated assessment roll listing all parcels and their proposed assessments for the upcoming fiscal year, and the preparation of an updated Engineer's Report. After these documents are prepared and submitted, they could be reviewed and preliminarily approved by the Council at a public meeting. At this meeting, the Council could also call for the publication in a local newspaper of the intent to continue the assessment and set the date for a noticed public hearing. At the annual public hearing, members of the public could provide input to the Council prior to the Council's decision on continuing the services and assessments for the next fiscal year.

Public Review Process Under AB 2257

AB 2257, effective January 1, 2025, codifies Government Code §§ 53759.1 and 53759.2. Government Code § 53759.1 authorizes public agencies to implement an exhaustion of administrative remedies requirement in the context of a proposed Proposition 218 assessment. If the local agency complies with certain specified requirements, property owners are required to submit a written objection regarding a proposed assessment during the ratemaking process and by a specified deadline no less than 45 days after mailing of notice pursuant to Proposition 218, and prohibited from challenging the assessment in litigation if they did not submit a timely written objection. To implement this requirement, the local agency is required, among other things, to prepare written responses to the timely submitted objections and present them to the local agency governing body, which will make certain specified determinations prior to the close of the Proposition 218 public hearing. This process is intended to run concurrently with the Proposition 218 timeline and does not impact a property owner's ability to submit a protest pursuant to Proposition 218.

Government Code § 53759.2 specifies the scope of a Court's review of the administrative record of the underlying ratemaking proceeding, if the local agency complied with Government Code § 53759.1 in adopting the assessment being challenged.

The City of Benicia ("City") intends to comply with and implement Government Code § 53759.1 with respect to the proposed assessment. Property owners will be informed of the deadline and process to submit a written objection, and other dates related to the City's compliance with this provision.

Legislative Analysis

Proposition 218

This assessment is formed consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now Article XIIC and XIID of the California Constitution. Proposition 218 provides procedures and requirements for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement that benefits the assessed property.

Proposition 218 describes several important requirements, including a property owner balloting, for the formation and continuation of assessments, and these requirements are satisfied by the process used to establish this assessment.

Silicon Valley Taxpayers Association, Inc. v Santa Clara County Open Space Authority

In July of 2008, the California Supreme Court issued its ruling in Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority (“SVTA vs. SCCOSA”). This ruling is the most significant court case in further legally clarifying the substantive assessment requirements of Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special, not general, benefit.
- The services and/or improvements funded by assessments must be clearly defined.
- Special benefits are directly received by and provide a direct advantage to property in the assessment district.

Dahms v. Downtown Pomona Property

On June 8, 2009, the 4th District Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms, the court upheld an assessment that was 100% special benefit (i.e., 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. This Court also upheld discounts and exemptions from the assessment for certain properties.

Bonander v. Town of Tiburon

On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

Beutz v. County of Riverside

On May 26, 2010, the 4th District Court of Appeal issued a decision on the Steven Beutz v. County of Riverside (“Beutz”) appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified, and separated from the special benefits.

Golden Hill Neighborhood Association v. City of San Diego

On September 22, 2011, the 4th District Court of Appeal issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in *Beutz*, the court found the general benefits associated with services were not explicitly calculated, quantified, and separated from the special benefits. Second, the court found that the City had failed to record the basis for the assessment on its own parcels.

Compliance with Current Law

This Engineer's Report is consistent with the requirements of Article XIIC and XIID of the California Constitution and with the *SVTA* decision because the assessments are for special, not general, benefit; the improvements to be funded are clearly defined; the improvements are directly available to and will directly benefit property in the Assessment District; and the improvements provide a direct advantage to property in the Assessment District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with *Dahms* because, similar to the Downtown Pomona assessment validated in *Dahms*, the services will be directly provided to property in the Assessment District. Moreover, while *Dahms* could be used as the basis for a finding of 0% general benefits, this Engineer's Report establishes a more conservative measure of general benefits.

This Engineer's Report is consistent with *Beutz*, *Dahms*, and *Greater Golden Hill* because the improvements will directly benefit property in the Assessment District, and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer's Report is consistent with *Bonander* because the Assessments have been apportioned based on the overall cost of the improvements and proportional special benefit to each property.

Plans and Specifications

The improvements to be undertaken by the Parks, Landscape and Lighting Assessment District and the cost thereof paid from the levy of the annual assessment provide a special benefit to parcels within the City, as defined in the Method of Assessment herein. In addition to the definitions provided by the Landscaping and Lighting Act of 1972 (the “Act”), the work and Improvements are generally described as follows:

The installation, maintenance, and servicing of public areas and public facilities, including, but not limited to, landscaping, sprinkler systems, park grounds, park facilities, landscape corridors, ground cover, shrubs and trees, street frontages, playground equipment and hardcourt areas, community centers, drainage systems, lighting, fencing, entry monuments, basketball courts, tennis courts, other recreational facilities, graffiti removal and repainting, and labor, materials, supplies, utilities and equipment, as applicable, for property owned and/or maintained by the City.

“Installation” means the construction of recreational or landscape improvements, including, but not limited to, land preparation (such as grading, leveling, cutting and filling), sod, landscaping, irrigation systems, sidewalks and drainage, lighting, playground equipment, play courts, recreational facilities, and public restrooms.

“Maintenance” means the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of said improvements, as defined in Streets and Highways Code §22531, including: (a) repair, removal, or replacement of all or part of any improvement; (b) providing for the life, growth, health and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury; (c) the removal of trimmings, rubbish, debris, and other solid waste; and (d) the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

“Servicing” means the furnishing of utilities and resources necessary to operate and maintain improvements, as defined in Streets & Highways Code §22538, including: (a) electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements; and (b) water for the irrigation of any landscaping, the operation of any fountains or water features, or the maintenance of any other improvements.

Incidental expenses include all of the following, as defined in Streets & Highways Code §22526: (a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment; (b) the costs of printing, advertising, and the giving of published, posted, and mailed notices; (c) compensation payable to the County for collection of assessments; (d) compensation of any engineer or attorney employed to render services in proceedings pursuant to this part; (e) any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements; (f) any expenses incidental to the issuance of bonds or notes pursuant to Streets & Highways Code Section 22662.5; and (g) costs associated with any elections held for the approval of a new or increased assessment.

All assessment proceeds will be used exclusively for the Improvements described herein and incidental expenses within the Assessment District.

Estimate of Cost and Budget

The 1972 Act provides that the total costs for providing the improvements, maintenance, and services of the Assessment District can be recovered in the assessment spread, including incidental expenses. The latter can include engineering fees, legal fees, printing, mailing, postage, publishing, and all other costs identified with the Assessment District proceedings.

An estimate of Assessment District costs for Fiscal Year 2026-27 for maintenance and services is provided in Table 1 below.

Table 1 - Fiscal Year 2026-27 Estimate of Cost and Budget

City of Benicia Parks, Landscape and Lighting Assessment District ESTIMATE OF COST FISCAL YEAR 2026-27		
Maintenance, Service and Capital Expenditures		
Maintenance and Servicing	3,621,008	
Utilities (electric)	251,994	
Capital Outlay	788,413	
Total Maintenance, Service and Capital Expenditures		\$4,661,415
Incidental Expenses		
Assessment Collection, Professional Services and Administration		<u>\$27,436</u>
Total Budget		<u>\$4,688,851</u>
District Contribution from Other Sources		
City's Contribution for General Benefit		<u>(\$2,797,434)</u>
Total District Contribution from Other Sources		<u>(\$2,797,434)</u>
Balance to Assessment		<u>\$1,891,417</u>
Assessment District Budget Allocation to Parcels		
Total Assessment Budget		\$1,891,417
Single Family Equivalent Benefit Units in District		9,082
Assessment per Single Family Equivalent Unit (SFE)		\$208.26
Zone A (100% of SFE)		\$208.26
Zone B (60% of SFE)		\$124.96
Zone C (20% of SFE)		\$41.65

Note: As determined in the Benefit Findings section, at least 7% of the expenditures must be funded from sources other than the assessments to cover any general benefits from

the expenditures. Therefore, out of the total cost of \$4,688,851, the City must contribute at least \$328,220 from other sources. The City will contribute \$2,797,434, which more than covers any general benefits from the expenditures.

Method of Apportionment

This section includes an explanation of the special benefits to be derived from the improvement, maintenance, operations, and repair activities, the criteria for the expenditure of assessment funds and the methodology used to apportion the total assessments to properties within the proposed Assessment District. The proposed Assessment District area consists of all Assessor Parcels included within the City boundary.

Pursuant to Proposition 218, the method used for apportioning the assessment is based upon the proportional special benefits conferred to the properties over and above the general benefits conferred to real property in the proposed Assessment District, or to the public at large. Special benefit is calculated for each parcel in the District using the following process:

- 1.) Identification of all benefit factors derived from the Improvements.
- 2.) Calculation of the proportion of these benefits that are general.
- 3.) Determination of the relative special benefit within different areas (zones of benefit) of the Assessment District, if any.
- 4.) Determination of the relative special benefit per property type.
- 5.) Calculation of the specific assessment for each individual parcel based upon special vs. general benefit, zones, property type and other supporting attributes.

The Assessment District consists of certain assessor parcels within the boundaries as defined by the Assessment Diagram referenced in this report and the parcels identified by the Assessor Parcel Numbers listed with the levy roll. The parcel list includes all privately and publicly owned parcels as shown. The method used for apportioning the Assessment is based upon the relative special benefits to be derived by the properties in the District over and above general benefits conferred on real property or to the public at large. The Assessment is apportioned to lots and parcels in proportion to the relative special benefit from the improvements.

The apportionment of special benefit is a two-step process: the first step is to identify the types of special benefit arising from the improvements and the second step is to allocate the Assessments to property based on the estimated relative special benefit for each type of property.

Discussion of Benefit

In summary, the assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. With reference to the requirements for assessments, Section 22573 of the Landscaping and Lighting Act of 1972 states:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."

Proposition 218, as codified in Article XIII D of the California Constitution, has confirmed that assessments must be based on the special benefit to property and that the value of the special benefits must exceed the cost of the assessment:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

The following benefit categories summarize the types of special benefit to residential, commercial, industrial, and other lots and parcels resulting from the improvements to be provided with the assessment proceeds. These types of special benefit are summarized as follows:

1. Proximity to improved landscaped areas within the Assessment District
2. Access to improved landscaped areas within the Assessment District
3. Improved views within the Assessment District
4. Improved nighttime visibility and safety from streetlights
5. Creation of individual lots for residential and commercial use that, in absence of the assessments, would not have been created.

In this case, the SVTA v. SCCOSA decision provides enhanced clarity to the definitions of special benefits to properties from similar improvements in three distinct areas:

- Proximity
- Expanded or improved access
- Views

The SVTA v. SCCOSA decision also clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel and that indirect or derivative advantages resulting from the overall public benefits from a service or improvement are general benefits. The SVTA v. SCCOSA decision also provides specific guidance that park improvements are a direct advantage and special benefit to property that is proximate to a park that is improved by an assessment:

“The characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g. proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g. general enhancement of the district’s property values).”

Proximity, improved access, and views, in addition to the other special benefits listed above further strengthen the basis of these assessments.

Moreover, the Dahms decision further clarified that certain services and improvements funded by assessments, that are over and above what otherwise would be provided and that other property in general and the public do not share or receive are 100% special benefit. The assessment-funded services upheld by Dahms included streetscape maintenance and security services.

Benefit Factors

The special benefits from the improvements are further detailed below:

Proximity to improved landscaped areas within the Assessment District

The Assessment District is coterminous with the boundaries of the City of Benicia. All parcels included within the Assessment District have been determined to receive a direct and special benefit from the installation, maintenance, and servicing of public parks, landscaped areas, and lighting improvements funded by the assessments.

In absence of the assessments, the improvements and the landscaping areas in the Assessment District would be degraded due to insufficient funding for maintenance, upkeep, and repair. Therefore, the assessments provide improvements that are over and above what otherwise would be provided. Improvements that are over and above what otherwise would be provided do not by themselves translate into special benefits but when combined with the unique proximity and access enjoyed by parcels in the Assessment District, they provide a direct advantage and special benefit to property in the Assessment District.

Access to improved outdoor and landscaped areas within the Assessment District

Since the parcels in the Assessment District are the only parcels that enjoy close and convenient access to the improved parks and landscaped areas, they directly benefit from the network of maintained public spaces funded by the assessments. This access improves the usability, recreational value, and aesthetic environment of the surrounding community. This enhanced access represents a distinct and tangible advantage that is not available to the general public or properties outside the Assessment District, and therefore constitutes a special benefit to properties within the Assessment District.

Improved views within the Assessment District

The City, by maintaining permanent public improvements funded by the assessments in the Assessment District, provides improved views to properties throughout the City. The properties in the Assessment District enjoy proximity, access, and visibility to a distributed network of parks, landscaped areas, and public facilities that are maintained through the assessments. Therefore, the improved and protected views provided by the assessments are another direct and tangible advantage that is uniquely conferred upon property within the Assessment District.

Improved nighttime visibility and safety from streetlights

Well maintained, effective street lighting provides special benefit to proximate parcels, within the range of the light, because it allows for use of the property in the evenings and night. Street lighting also provides special benefit as it increases safety and reduces the likelihood of crime on the proximate parcels.

Since the parcels in the Assessment District are the only parcels that receive this direct benefit throughout the City, they enjoy improved nighttime visibility and safety resulting from streetlights funded by the assessments. These lighting improvements enhance the usability of adjacent public spaces and right-of-way areas and contribute to safer travel, recreation, and activity during non-daylight hours. This is a direct and tangible advantage uniquely conferred upon properties within the Assessment District.

Creation of Individual Lots for Residential Use that, in Absence of the Assessments, Would Not Have Been Created

In the proposed Assessment District, many residential parcels were originally created through subdivision and development processes that required the installation of landscaping, lighting, and other public improvements as conditions of approval. The proposed assessments would provide the necessary funding for the continued maintenance of these improvements, which support the development and habitability of those parcels.

As parcels are sold, new owners would be informed of the assessments through title reports and, in some cases, through Department of Real Estate “White Paper” reports indicating that the parcels are subject to assessment. Purchase of property within the proposed Assessment District would also constitute agreement to pay the assessment.

In the absence of the proposed assessments, the continued maintenance and servicing of improvements associated with many existing residential lots would not be adequately funded. These parcels, and the improvements that were constructed to serve them, receive a direct advantage and special benefit from the assessments.

General versus Special Benefit

Article XIIC of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to “separate the general benefits from the special benefits conferred on a parcel.” The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. An assessment can fund special benefits but cannot fund general benefits. Accordingly, a separate estimate of the special and general benefit is given in this section.

In other words:

Total Benefit	=	General Benefit	+	Special Benefit
--------------------------	----------	----------------------------	----------	----------------------------

There is no widely accepted or statutory formula for general benefit. General benefits are benefits from improvements or services that are not special in nature, are not “particular and distinct” and are not “over and above” benefits received by other properties. SVTA vs. SCCOSA provides some clarification by indicating that general benefits provide “an indirect, derivative advantage” and are not necessarily proximate to the improvements.

In this Report, the general benefit is liberally estimated and described, and then budgeted so that it is funded by sources other than the Assessment.

The starting point for evaluating general and special benefits is the current, baseline level of service. The Assessment will fund improvements “over and above” this general, baseline level and the general benefits estimated in this section are over and above the baseline.

A formula to estimate the general benefit is listed below:

General Benefit	=	Benefit to Real Property Outside the Assessment District	+	Benefit to Real Property Inside the Assessment District that is Indirect and Derivative	+	Benefit to the Public at Large
------------------------	---	---	---	--	---	---------------------------------------

Special benefit, on the other hand, is defined in the state constitution as “a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” The SVTA v. SCCOSA decision indicates that a special benefit is conferred to a property if it “receives a direct advantage from the improvement (e.g., proximity to a park).” In these Assessments, as noted, properties in the District have close and unique proximity, views and access to the improvements and uniquely improved desirability from the improvements and other properties and the public at large do not receive significant benefits because they do not have proximity, access, or views of the Improvements. Therefore, the overwhelming proportion of the benefits conferred to property is special and is only minimally received by property outside the Districts or the public at large.

Benefit Finding

Quantification of General Benefit

In this section, the general benefit from landscaping and other types of improvements is liberally estimated and described, and then budgeted so that it is funded by sources other than the Assessment.

Benefit to Property *Outside and Nearby* the Assessment Districts

Properties within the Assessment District receive special benefits from the improvements because they enjoy unique proximity, access, and visibility to parks, landscaped areas, and public facilities funded by the assessments. Because the boundaries of the Assessment District are coterminous with the boundaries of the City of Benicia, all of those special benefits accrue to City property owners. These Special benefits are not conferred upon the public at large or properties outside the City boundaries. Although general benefit is sometimes attributed to properties directly adjacent to an Assessment District, the parcels just outside Benicia's city limits are predominantly undeveloped open space. These parcels do not generate residents, employees, customers, or guests and are not reasonably accessed by the general public. Furthermore, they do not receive enhanced views, access, or property value from the improvements and have no anticipated future development that would result in such benefit.

Similarly, developed residential parcels in Vallejo, which is adjacent to Benicia to the west, have very limited direct access to Benicia's park and landscaping improvements, and this access is limited to automobile travel via Interstate 780 and the Columbus Parkway. Vallejo's (including Greater Vallejo Recreation District) facilities are far more accessible and convenient and provide offsetting benefit to Vallejo properties. Hence, even the nearby Vallejo parcels do not receive measurable benefit from Benicia's landscaping and parks.

Although several recreational trails (such as the Bay Area Ridge Trail) extend from City-managed lands into open space adjacent to the City limits, the affected parcels are undeveloped and receive no unique or parcel-specific advantage. Thus, under Article XIID of the California Constitution, which requires that assessments be based strictly on the special benefit conferred to a property above and beyond general benefits, these parcels receive no measurable special benefit and are not assessed. The minor public benefit to users of these trails is already included in the Benefit to the Public at Large section below.

Because these open space parcels lack any identifiable or quantifiable advantage from the improvements, they receive no measurable general benefit under Article XIID. Therefore, the general benefit to properties outside the City boundaries is determined to be negligible.

General Benefit that is Outside and

Nearby \approx **0.0%**

Benefit to Property *Inside* the Assessment Districts that is *Indirect and Derivative*

The “indirect and derivative” benefit to property within the Assessment District is particularly difficult to calculate. A solid argument can be presented that all benefit within the District is special because the other improvements are clearly “over and above” and “particular and distinct” when compared with the baseline level of service and the unique proximity, access and views of the other improvements enjoyed by benefiting properties in the Assessment District.

Nevertheless, the SVTA vs. SCCOSA decision indicates there may be general benefit “conferred on real property located in the district.” A measure of the general benefits to property within the Assessment area is the percentage of land area within or directly abutting the District that is publicly owned and used for regional purposes such as regional parks, major roads, rail lines and other regional facilities because such properties used for regional purposes could provide indirect benefits to the public at large.

In the City of Benicia, the District is citywide and includes the boundaries of the entire incorporated area. Regional-use lands located within the city include the Benicia State Recreation Area, Benicia Capitol State Historic Park, and the I-680 corridor including the Benicia–Martinez Bridge right of way. These public facilities are used by the general public and provide broad regional access and benefit.

However, most of these areas are either linear transportation corridors, passive open space, or isolated sites that serve limited recreational or historic functions. They are not located in close proximity to the types of residential and neighborhood-serving improvements that are funded through the Assessment District, nor do they benefit from or contribute to the ongoing maintenance of local streetscapes, lighting, or parks that provide direct special benefit to assessable parcels. The regional sites are also publicly owned and do not represent parcels that would otherwise receive a direct and particular benefit from the improvements funded by the assessments.

To estimate the portion of general benefit attributable to these regional facilities, the total land area of the City of Benicia, which is approximately 8,200 acres, is compared with the area of publicly owned regional-use lands located within the city. These include approximately 447 acres of the Benicia State Recreation Area, 150 acres of I-680 and bridge right of way, and 1 acre for the Benicia Capitol State Historic Park. This results in an estimated 598 acres of regional-use land. To account for the limited access, passive nature, weak connection to District-funded improvements, and the inclusion of corridors or sites that do not directly enhance adjacent properties, a 40% reduction is applied, yielding a net of approximately 359 acres. When compared to the total citywide land area, this results in an estimated general benefit to property inside the District of 4.4%.

Estimated publicly owned regional-use land	+ 598 acres
Limited relevance to improvements (-40%)	- <u>239 acres</u>
Adjusted publicly owned regional-use land	359 acres
Total land area of the City of Benicia:	<u>÷ 8,200 acres</u>
General Benefit Inside the District	≈ 4.4 %

Benefit To The Public At Large

The general benefit to the public at large can be estimated by the proportionate amount of time that the Assessment District's improvements are used and enjoyed by individuals who are not residents, employees, customers, or property owners in the Assessment District. It should be noted that the improvements maintained by the Assessment District do not attract the public at large in the same way as large regional parks or specialized destination venues, and they confer far less benefit to the general public than such facilities. In essence, the public does not visit an area to enjoy its outdoor landscaped improvements in the same way as they may visit a regional park or destination trailhead.

Approximately 15% of the City's publicly accessible landscaped frontage maintained by the Assessment District lies along major arterials that carry significant non-local traffic such as Military West, Rose Drive, and East Second Street. These corridors are commonly traveled by residents and non-residents alike, including visitors heading to the downtown area or marina. A generous assumption is made that 40% of trips along these arterials are by people who are not residents, employees, or customers of properties in the Assessment District. Of all the benefits provided by the improvements, it is estimated that only 10% of those benefits are conferred to passersby in the form of visual or aesthetic enjoyment.

$$\begin{aligned}
 &\text{Visibility Along Major Roadways} \\
 &= 15\% (\text{landscaped frontage}) \times 40\% (\text{non-local traffic}) \times 10\% (\text{visual benefit}) \\
 &\approx \mathbf{0.6\% \text{ General Benefit}}
 \end{aligned}$$

According to the City of Benicia's 2024 Parks, Trails, and Open Space Master Plan, Benicia is not considered a major regional park destination. However, Benicia hosts several events and public attractions that may draw regional visitors. Parks such as Benicia Community Park, Alvarez Park, and the Marina area have hosted sports tournaments, festivals, and public gatherings. The City's First Street Green and nearby waterfront areas, along with centrally located parks like City Park and Jack London Park, lie along popular routes frequented by tourists and regional trail users. Events such as the Peddler's Fair, the seasonal Farmers Market, and access to the Bay Trail system may lead to occasional use of these parks and facilities by individuals not associated with properties in the Assessment District. It is conservatively estimated that 1.5% of park usage originates from individuals who are not associated with parcels in the Assessment District.

Occasional Use of Parks by Regional

Visitors \approx 1.5% General Benefit

An additional 0.5% general benefit is included to conservatively account for incidental or untracked use of improvements maintained by the Assessment District. This includes occasional trail use, passive enjoyment of open spaces, and unquantified visits by non-residents who interact with the City's publicly accessible greenbelts, view corridors, and waterfront areas. For example, segments of the Bay Trail pass through Benicia and offer continuous pedestrian and bicycle access across City-managed landscapes, while several neighborhood parks and landscaped medians are visibly accessible from public sidewalks and roads. These types of untracked interactions are modest in scale but do exist, and the inclusion of a 0.5% factor ensures that the assessment calculations remain conservative and legally defensible by recognizing all potential public benefit, even when minimal or incidental.

Buffer for Unaccounted General Use \approx

0.5% General Benefit

Therefore, we find that the General Benefit to the Public at Large is the sum of the above components at 2.6%. This proportion will be funded by non-assessment sources.

Visibility Along Major Roadways		0.6%
Occasional Use of Parks by Regional Visitors	+	1.5%
Buffer for Unaccounted General Use	+	0.5%
General Benefit to the Public at Large		\approx 2.6%

Summary of General Benefit

Using a sum of these three measures of general benefit, we find that approximately 7.0% of the benefits conferred by the improvements may be general in nature and should be funded by sources other than the assessment.

<u>Landscaping General Benefit Calculation</u>		
	0.00%	Outside the District
	4.40%	Inside the District
	2.60%	Public At Large
≈	7.00%	Total General Benefit

Zones of Benefit

Defined Zones of Benefit and Criteria

The Benicia Parks, Landscape and Lighting Assessment District was formed to provide a funding source for the ongoing maintenance and servicing of parks, public landscaped areas, and street lighting throughout the City of Benicia. The boundaries of the Assessment District are coterminous with the City limits and include only those properties that receive a direct and particular benefit from the improvements funded by the assessments.

The SVTA decision indicates:

In a well-drawn district — limited to only parcels receiving special benefits from the improvement — every parcel within that district receives a shared special benefit. Under section 2, subdivision (i), these benefits can be construed as being general benefits since they are not “particular and distinct” and are not “over and above” the benefits received by other properties “located in the district.”

We do not believe that the voters intended to invalidate an assessment district that is narrowly drawn to include only properties directly benefiting from an improvement. Indeed, the ballot materials reflect otherwise. Thus, if an assessment district is narrowly drawn, the fact that a benefit is conferred throughout the district does not make it general rather than special. In that circumstance, the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g., proximity to park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g., general enhancement of the district’s property values).

Consistent with this precedent, the City of Benicia has designated three zones of benefit within the Assessment District based on the degree of special benefit conferred to each property. These zones are determined by both the parcel's proximity to parks and its practical access to those facilities. The zone boundaries account for barriers such as freeways, major roads, or terrain that may impede direct access.

- Zone A includes properties located within one-half mile of a public park with direct access. These parcels receive the highest level of benefit and are assessed at the full rate.
- Zone B includes parcels between one-half mile and one and one-half miles from a park, adjusted for physical accessibility. These properties receive a moderate level of benefit and are assessed at 60% of the Zone A rate.
- Zone C includes parcels more than one and one-half miles from a park or with significantly limited access. These parcels receive the least relative benefit and are assessed at 20% of the Zone A rate.

Each parcel in the Assessment District is assigned to one of these zones based on geographic information system (GIS) mapping and access analysis performed by the Assessment Engineer. This tiered approach ensures that assessment levels correspond to the relative degree of benefit received, as required by Article XIID of the California Constitution.

Special Zone A Designation for Benicia Middle School Area

Benicia Middle School is considered a park facility for the purposes of this assessment due to the extensive maintenance and recreational services provided by the City of Benicia. Although owned by the Benicia Unified School District, the site functions similarly to a public park because of the City's regular maintenance activities and the accessibility of its recreational amenities, including ballfields and pickleball courts. Currently, the City performs the following services at Benicia Middle School:

- Daily janitorial services for the ballfield restroom facility, trash removal, garbage can servicing, and opening/closing of pickleball courts
- Weekly turf mowing
- Quarterly irrigation system inspections and repairs
- Seasonal (November–March) ballfield maintenance, including aeration, sanding, overseeding, top dressing, fertilization, infield leveling, base peg inspection, and turf repair
- Citywide backflow preventer testing, which includes the site

Due to this level of City involvement, the recreational areas at Benicia Middle School are functionally equivalent to those in designated City parks and are therefore considered when determining proximity-based Zones of Benefit. Parcels within one-half mile of Benicia Middle School with direct access are currently assigned to Zone A, reflecting the highest level of relative benefit.

However, the City's current maintenance activities at the Middle School are authorized through an agreement with the Benicia Unified School District. That agreement is scheduled for review and possible renewal in Fiscal Year 2026–27. If the City does not renew or replace the agreement and ceases to provide maintenance services at the site, the recreational facilities at Benicia Middle School would no longer be maintained through City resources funded by this assessment.

As a result, if the City ceases to maintain the Benicia Middle School recreational areas, the City would remove the property from the identification as a City park, and the Zone designation for any parcel that currently relies on proximity to Benicia Middle School would be adjusted accordingly. That means all parcels currently designated as Zone A exclusively due to their proximity to Benicia Middle School would be reclassified to Zone B. A list of affected parcels is provided below:

0086301040	0086301190	0086303100	0086691030	0086691160	0086693120
0086301050	0086301200	0086303110	0086691040	0086691170	0086693130
0086301060	0086301210	0086303120	0086691050	0086693010	0086693140
0086301070	0086301220	0086303130	0086691060	0086693020	0086693150
0086301080	0086301230	0086303140	0086691070	0086693030	0086693160
0086301090	0086301280	0086311220	0086691080	0086693040	0086693170
0086301100	0086301290	0086311230	0086691090	0086693050	0086693180
0086301110	0086301300	0086311240	0086691100	0086693060	0086693190
0086301130	0086301310	0086313010	0086691110	0086693070	0086693200
0086301150	0086301320	0086394100	0086691120	0086693080	0086693210
0086301160	0086301330	0086394110	0086691130	0086693090	0086693220
0086301170	0086301340	0086691010	0086691140	0086693100	0086693230
0086301180	0086301350	0086691020	0086691150	0086693110	0086693240

0086693250	0086693460	0086694180	0086694400	0086695090	0086695300
0086693260	0086693470	0086694190	0086694410	0086695100	0086695310
0086693270	0086693480	0086694200	0086694420	0086695110	0086695320
0086693280	0086693510	0086694210	0086694430	0086695120	0086695330
0086693290	0086693530	0086694220	0086694440	0086695130	0086695340
0086693300	0086693540	0086694230	0086694450	0086695140	0086695350
0086693310	0086693550	0086694240	0086694460	0086695150	0086695360
0086693320	0086693560	0086694250	0086694470	0086695160	0086695370
0086693330	0086694050	0086694260	0086694480	0086695170	0086695380
0086693340	0086694060	0086694270	0086694490	0086695180	0086695390
0086693350	0086694070	0086694280	0086694500	0086695190	0086695400
0086693360	0086694080	0086694290	0086694510	0086695200	0086695410
0086693370	0086694090	0086694300	0086694520	0086695210	0086695420
0086693380	0086694100	0086694310	0086695010	0086695220	0086695430
0086693390	0086694110	0086694320	0086695020	0086695230	0086695440
0086693400	0086694120	0086694330	0086695030	0086695240	0086695450
0086693410	0086694130	0086694350	0086695040	0086695250	0086695460
0086693420	0086694140	0086694360	0086695050	0086695260	
0086693430	0086694150	0086694370	0086695060	0086695270	
0086693440	0086694160	0086694380	0086695070	0086695280	
0086693450	0086694170	0086694390	0086695080	0086695290	

Method of Assessment

As previously discussed, the proposed assessments will provide additional maintenance and services of existing improvements that will clearly confer special benefits to properties in the Assessment District. The allocation of special benefits to property is partially based on the type of property and the size of property. These benefits can also partially be measured by the occupants on property in the Assessment District because such parcel population density is a measure of the relative benefit a parcel receives from the improvements. It should be noted that many other types of “traditional” assessments also use parcel population densities to apportion the assessments. For example, the assessments for sewer systems, roads, and water systems are typically allocated based on the population density of the parcels assessed. Therefore, the apportionment of benefit is reasonably based on the type of parcel, the size of parcels, and the population density of parcels.

The primary step in apportioning assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a single-family home or, in other words, on the basis of Single Family Equivalents (SFE). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer’s Report, all properties are designated an SFE value, which is each property’s relative benefit in relation to a single-family home on one parcel. In this case, the “benchmark” property is the single-family detached dwelling which is one Single Family Equivalent or one SFE.

Finally, the special benefits to be derived from the proposed assessments will be conferred on property and are not based on a specific property owner’s use of the improvements, a specific property owner’s occupancy of property, or the property owner’s demographic status such as age or number of dependents. However, it is ultimately people who value the special benefits described above and use and enjoy the Assessment District’s landscaped areas. In other words, the benefits derived to property are related to the average number of people who could potentially live on, work at, or otherwise could use a property, not how the property is currently used by the present owner. Therefore, the number of people who could or potentially live on, work at, or otherwise use a property is one indicator of the relative level of benefit received by a property.

In conclusion, the Assessment Engineer determined that the appropriate method of assessment apportionment should be based on the type and use of property, the relative size of the property, its relative population and usage potential, and its proximity to landscaped areas. This method is further described below.

Residential Properties

Certain residential properties in the Assessment District that contain a single residential dwelling unit are assigned one Single Family Equivalent or 1.0 SFE. Detached or attached houses, zero-lot line houses and town homes are included in this category of single family residential property. If there is more than one single family detached dwelling on a parcel, it is charged one SFE per single family detached dwelling.

Properties with more than one residential unit (other than parcels with more than one detached single family dwelling as described above) are designated as multi-family residential properties. These properties benefit from the Improvements in proportion to the number of dwelling units that occupy each property, the average number of people who reside in multi-family residential units versus the average number of people who reside in a single family home and the relative size of each type of residential dwelling unit. The population density factors for the area in Solano County encompassing the Assessment District, as depicted in the following table, provide the basis for determining the SFE factors for residential properties. Using the total population in a certain property type in the area from the 2022 United States Census Bureau and dividing it by the total number of such households, finds that approximately 2.76 persons occupy each single family residence, whereas an average of 2.76 persons occupy each condominium. The ratio of 2.76 people on average for a single family residence and 2.76 people per dwelling unit in a condominium unit results in a population density equivalent of 1.00 for condominiums. Next, the relative building areas are factored into the analysis because special benefits are related to the average size of a property, in addition to average population densities. For a condominium, this calculation results in an SFE factor of 0.60 per dwelling unit. A similar calculation is used for the SFE Rates for other residential property types.

Table 2 - Residential Density and Assessment Factors

Type of Property	Total Population	Occupied Households	Persons per Household	Pop. Density Equivalent	SqFt Factor	Proposed Rate
Single Family Residential	19,636	7,124	2.76	1.00	1.00	1.00
Condominium	2,845	1,032	2.76	1.00	0.60	0.60
Duplex, Triplex, Fourplex	1,581	906	1.75	0.63	0.49	0.31
Multi-Family Residential (5+ Units)*	2,315	1,355	1.71	0.62	0.25	0.16
Mobile Home on Separate Lot	624	456	1.37	0.50	0.33	0.17

* For properties in excess of 20 units is determined to be 0.16 SFE per unit for the first 20 units and 0.10 SFE per each additional unit in excess of 20 dwelling units
Source: 2022 United States Census Bureau, City of Benicia, and property dwelling size information from the Solano County Assessor data and other sources.

The single family equivalency factor of 0.16 per dwelling unit for multifamily residential properties of 5 or more units applies to such properties with 20 or fewer units. Properties in excess of 20 units typically offer on-site recreational amenities and other facilities that tend to offset some of the benefits provided by the improvements. Therefore the benefit for properties in excess of 20 units is determined to be 0.16 SFE per unit for the first 20 units and 0.10 SFE per each additional unit in excess of 20 dwelling units.

Commercial/Industrial Properties

SFE values for commercial and industrial land uses are based on the equivalence of special benefit on a land area basis between single family residential property and the average commercial/industrial property. The SFE values for various commercial and industrial land uses are further defined by using average employee densities because the special benefit factors described previously can be measured by the average number of people who work at commercial/industrial properties.

In order to determine employee density factors, the findings from the San Diego Association of Governments Traffic Generators Study (the "SANDAG Study") are used because these findings were approved by the State Legislature as being a good representation of the average number of employees per acre of land area for commercial and industrial properties. As determined by the SANDAG Study, the average number of employees per acre for commercial and industrial property is 24.

In comparison, the average number of people residing in a single family home in the area is 2.76. Since the average lot size for a single family home in the Assessment District is approximately 0.20 acres, the average number of residents per acre of residential property is 13.8.

The employee density per acre is generally 1.7 times the population density of single family residential property per acre (24 employees per acre / 13.8 residents per acre). Therefore, the average employee density can be used as the basis for allocating benefit to commercial or industrial property since a commercial/industrial property with 1.7 employees receives generally similar special benefit to a residential property with 1 resident. This factor of equivalence of benefit between 1 resident to 1.7 employees is the basis for allocating commercial/industrial benefit. Table 3 below shows the average employees per acre of land area or portion thereof for commercial and industrial properties and lists the relative SFE factors per quarter acre for properties in each land use category.

Commercial and industrial properties in excess of 5 acres generally involve uses that are more land intensive relative to building areas and number of employees (lower coverage ratios). As a result, the benefit factors for commercial and industrial property land area in excess of 5 acres is determined to be the SFE rate per quarter acre for the first 5 acres and the relevant SFE rate per each additional acre over 5 acres.

Institutional properties that are used for residential, commercial or industrial purposes are also assessed at the appropriate residential, commercial or industrial rate.

Table 3 - Commercial/Industrial Density and Assessment Factors

<i>Type of Commercial/Industrial Land Use</i>	<i>Average Employees Per Acre ¹</i>	<i>SFE Units per Quarter Acre ²</i>	<i>SFE Units per Acre After 5</i>
Commercial	24	0.500	0.500
Office	68	1.420	1.420
Shopping Center	24	0.500	0.500
Industrial	24	0.500	0.500
Self Storage or Parking Lot	1	0.021	

* SFE rate shown is for the first 5 acres of parcel size. Additional acreage is benefited at the rate shown above per acre.

1. Source: San Diego Association of Governments Traffic Generators Study.

2. The SFE factors for commercial and industrial parcels are applied by the quarter acre of land area or portion thereof. (Therefore, the minimum assessment for any assessable parcel in these categories is the SFE Units listed herein.) The rates apply up to first 5 acres of parcel size. Additional acreage is benefited at the rate shown above per acre or portion thereof.

Vacant/Undeveloped Properties

The benefit to undeveloped properties is determined to be proportional to the corresponding benefits for similar type developed properties, but at a lower rate due to the lack of improvements on the property. A measure of the benefits accruing to the underlying land is the average value of land in relation to Improvements for developed property. An analysis of the assessed valuation data from the Solano County found that approximately 28% of the assessed value of improved properties is classified as the land value. It is reasonable to assume, therefore, that approximately 28% of the benefits are related to the underlying land and 72% are related to the improvements and the day-to-day use of the property. Using this ratio, the SFE factor for vacant/undeveloped parcels is 0.28 per parcel.

Other Properties

Article XIID of the Constitution stipulates that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment.

All public properties that are specially benefited are assessed. Public right-of-way parcels, well, reservoir or other water rights parcels that cannot be developed into other improved uses offer similar public resource and open space benefits and/or typically do not generate employees, residents, customers or guests. Moreover, many of these parcels have limited economic value and, therefore, do not benefit from specific enhancement of property value. Such parcels are, therefore, not specially benefited and are not assessed.

Open space parcels, watershed parcels, parks, properties used for educational purposes, greenbelt lands without improvements and common areas typically offer open space and recreational areas on the property that serve to offset the benefits from the Assessment District. Therefore, these parcels receive minimal benefit and are assessed an SFE factor of 0. If such parcels are converted to residential or commercial use they shall be classified to such new use category and shall be assessed as previously described in this Report.

Other publicly owned property that is used for purposes similar to private residential, commercial, industrial or institutional uses is benefited and assessed at the same rate as such privately owned property.

Assessment Statement

The City Council of the City of Benicia, County of Solano, California, pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIID of the California Constitution (collectively “the Act”), directed the formation of Parks, Landscape and Lighting Assessment District.

The Council directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the Assessment District and an assessment of the estimated costs of the maintenance and services upon all assessable parcels within the Assessment District, to which the description of the proposed maintenance and services are therein contained, reference is hereby made for further particulars.

The undersigned, by virtue of the power vested in me under the Act and the order of the City Council of the City of Benicia, hereby make the following assessment to cover the portion of the estimated cost of the maintenance and services, and the costs and expenses incidental thereto to be paid by the Assessment District.

The amount to be paid for the maintenance and services and the expense incidental thereto, to be paid by the Parks Landscaping and Lighting District for Fiscal Year 2026-27 is generally as follows:

Table 4 – Fiscal Year 2026-27 Summary Cost Estimate

City of Benicia Parks, Landscape and Lighting Assessment District	
Maintenance and Servicing	\$ 3,621,008
Utilities (electric)	\$ 251,994
Capital Outlay	\$ 788,413
Incidental Expenses	\$ 27,436
Total Expenditures	\$ 4,688,851
Less General Fund Contribution	\$ (2,797,434)
Net Amount to Assessments	\$ 1,891,417

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of the Parks, Landscape and Lighting Assessment District. The distinctive number of each parcel or lot of land in the District is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion the net amount of the cost and expenses of the improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within the City of Benicia, Parks, Landscape and Lighting Assessment District, in accordance with the special benefits to be received by each parcel or lot, from the improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessment is made upon the parcels or lots of land within the Parks, Landscape and Lighting Assessment District in proportion to the special benefits to be received by the parcels or lots of land, from the improvements.

The assessment is subject to an annual increase tied to the increase, if any, in the Consumer Price Index-U for the San Francisco Bay Area as of December of each succeeding year (the "CPI"), with a maximum annual adjustment not to exceed 4%. Any change in the CPI in excess of 4% shall be cumulatively reserved as the "Unused CPI" and shall be used to increase the maximum authorized assessment rate in years in which the CPI is less than 4%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the assessment was levied adjusted annually by the lesser of 1) 4% or 2) the change in the CPI plus any Unused CPI as described above.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the Solano County for Fiscal Year 2026-27. For a more particular description of the property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for Fiscal Year 2026-27 for each parcel or lot of land within the Parks, Landscape and Lighting Assessment District.

Dated: July 15, 2025

Engineer of Work



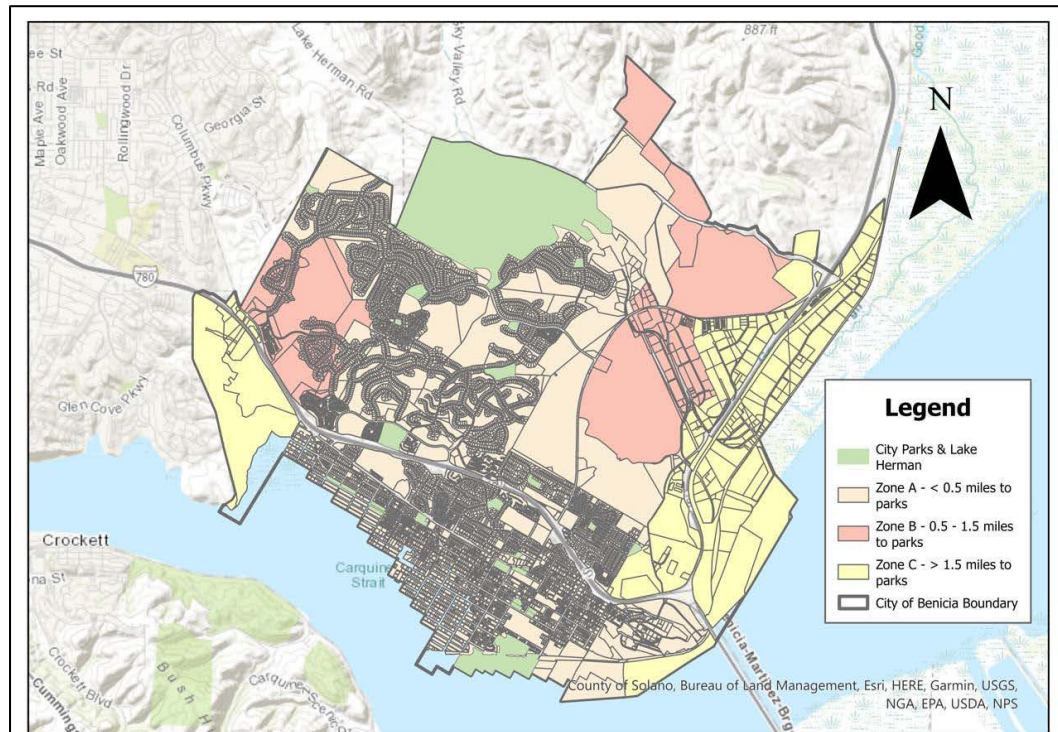
By

A handwritten signature in blue ink, appearing to read "Edric W. H. Kwan", written over a horizontal line.

Edric W. H. Kwan, P.E.
License No. C062829

Assessment Diagram

The boundaries of the Parks, Landscape and Lighting Assessment District in the City of Benicia are displayed on the following Assessment Diagram.



FILED IN THE OFFICE OF THE CLERK OF THE CITY OF BENICIA, CALIFORNIA, THIS ____ DAY OF ____, 2025.

CLERK

RECORDED IN THE OFFICE OF THE CLERK OF THE CITY OF BENICIA, CALIFORNIA THIS ____ DAY OF ____, 2025.

CLERK

AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE CITY OF BENICIA, ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE ____ DAY OF ____, 2025 FOR THE FISCAL YEAR 2025-26 AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF THE SOLANO COUNTY ON THE ____ DAY OF ____, 2025. REFERENCE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

CLERK

Note:
REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE SOLANO COUNTY FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCEL SHOWN HEREIN. THOSE MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS. EACH PARCEL IS IDENTIFIED IN SAID MAPS BY ITS DISTINCTIVE ASSESSOR'S PARCEL NUMBER.

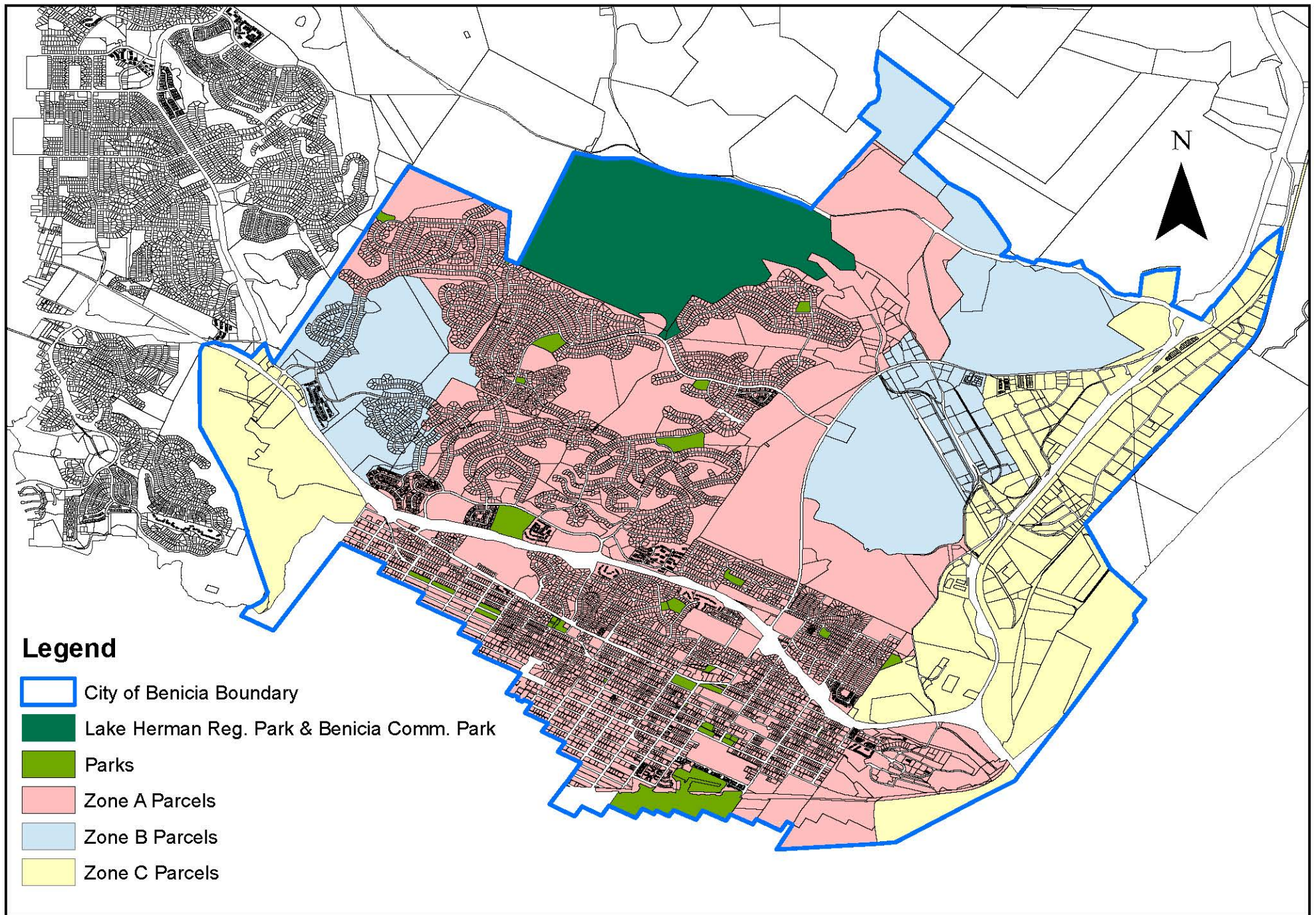
PREPARED BY SCI CONSULTING GROUP
4745 MANGELS BLVD
FAIRFIELD, CA 94534
707-430-4300

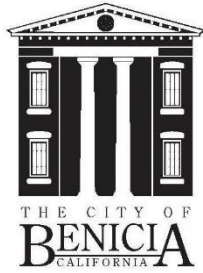
CITY OF BENICIA
PARK, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT
ASSESSMENT DIAGRAM

Assessment Roll

An Assessment Roll (a listing of all parcels assessed within the Parks, Landscape and Lighting Assessment District and the amount of the assessment) has been filed with the City Clerk and is, by reference, made part of this report and will be available for public inspection during normal office hours.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this report. These records shall govern for all details concerning the description of the lots or parcels.





**AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 4, 2025,
BUSINESS ITEM**

TO : City Manager

FROM : Assistant City Manager

SUBJECT : **FIRST READING AND INTRODUCTION OF AN ORDINANCE
ADOPTING THE 2025 CALIFORNIA BUILDING CODE AND
RELATED AMENDMENTS TO TITLE 15 OF THE BENICIA
MUNICIPAL CODE (BMC)**

EXECUTIVE SUMMARY:

State Building Codes (California Code of Regulations Title 24) will update as of January 1, 2026. Under State law, local jurisdictions are required to adopt local amendments to the most recent edition of the California Building Standards Code (CBC) every 3 years, prior to the effective date of the Building Codes update. The purposed Ordinance (Attachment 1) would adopt the 2025 Editions of the California Building Standards Code the 2024 International Swimming Pool and Spa Code and International Maintenance Code, with some local amendments. Any changes made to the California Building Standards Code must be supported by express findings that the changes are reasonably necessary because of local climate, geological, or topographical conditions. Additional modifications would be made to Title 15 of the Benicia Municipal Code (BMC) including the reorganization, formatting and substantive changes to implement ongoing restructuring of development engineering review and align with State law.

RECOMMENDATION:

Conduct the public hearing, introduce, and read by title only an Ordinance amending Title 15 (Buildings and Construction) of the BMC and adopting by reference the 2025 California Building Standards Code Title 24 as mandated by the State Building Standards Commission with local amendments and other updates and related construction requirements.

BUDGET INFORMATION:

There is no direct fiscal impact as a result of the recommended actions. Funding for enforcement of California Building Standards Code, and other state mandated regulations, as described herein, are generated solely from fees collected for plan review, inspections, and construction permits.

BACKGROUND:

The California Building Standards Commission has published the 2025 California Building Standards Code (California Code of Regulations Title 24) (CBC), which includes the Administrative Code, Building Code, Wildland-Urban Interface Code (WUI), Existing Building Code, Residential Code, Plumbing Code, Energy Code, Mechanical Code, Electrical Code, California Green Building Standards Code, Fire Code, Historical Building Code, and Referenced Standards Code. The International Code Council publishes the base codes in 2024, titled the 2024 International Building Code, the 2024 International Residential Code, etc. Then the various California regulating agencies such as the State Fire Marshal's office, OSHPD, DSA, and HCD review and amend these codes and re-publish them as the California Building Codes, Parts 1 through 13.

The California Building Standards Commission publishes tri-annual code updates, typically on July 1 of every third year, and State law mandates that these codes become effective throughout California 180 days after the publication date (on January 1 of the following year). For this latest cycle, the publication date was July 1, 2025, and the current cycle of State construction codes would become effective on January 1, 2026. Statewide codes foster uniformity in fire prevention, life/safety and construction standards. Local jurisdictions are permitted to review and amend the California construction codes based on findings related to local climate, geological, or topographical conditions. State law mandates that local jurisdictions implement the recently adopted codes by January 1, 2026.

The proposed ordinance would amend Title 15 (Building and Construction) of the BMC to incorporate by reference the updated California Building Standards Code which includes: The California Administrative Code; the California Building Code Volumes 1&2 including Appendices B, G, H, I, J and Q, as amended, the California Residential Code including Appendices AA, AB, BB, BF, BG, BH, BO and CJ, as Amended; the California Wildland-Urban Interface Code; the California Electrical Code; the California Mechanical Code; the California Plumbing Code including Appendices A, B, D, E, I, J, K, L and R, as Amended, the California Green Building Standards Code; the California Energy Code; the California Historical Code, the California Existing Building Code including Appendices and Chapters A, A1, A2, A3, A4, A5, B, D, E and Resource A as amended, the International Swimming Pool and Spa Code as amended, the International Maintenance Code; the California Referenced Standards Code and adopted administrative procedures by reference and make local amendments. In addition, the proposed ordinance would adopt the 2024 International Swimming Pool and Spa Code and the International Maintenance Code. Many existing Chapters in Title 15 would remain unchanged, such as streamlined permitting for residential solar, electric vehicle charging, and the standards for seismic hazards. Division IV of Title 15 would retain regulations for Storm Water, Grading and Erosion and Sediment Control to allow for expansion in the future. Administration of Division IV Storm Water, Grading, and Erosion Control would be under the authority of the Development Services Director of their representative. Division V Public Improvements Standards would be dedicated to Public Improvements, administered by the City Engineer.

A markup of current regulations in comparison to the proposed ordinance is provided for

reference as Attachment 2. The following key changes are proposed:

- The Mandatory Construction Waste Reduction, Disposal, and Recycling, and Water-Efficient Landscaping has been revised to update for consistency with the 2025 California Green Building Standards Code.
- The International Maintenance Code would be adopted to promote consistency, safety, and efficiency in maintaining existing buildings and properties by providing a uniform set of minimum standards. This includes addressing blight, substandard housing, and neglected properties, while establishing clear processes for inspections, notices, compliance timelines, and appeals, making enforcement more transparent and defensible. The adoption also supports Benicia's local ordinances and programs and encourages the rehabilitation and reuse of existing buildings, demonstrating a commitment to sustainability and community well-being.
- In accordance with AB 130 Housing, adopted on June 30, 2025, amendments to the Building Standards Code are frozen in place until June 1, 2031 unless certain exceptions apply. During this moratorium period local jurisdictions may not adopt new or more restrictive residential standards than those in place as of October 1, 2025, except under limited circumstances such as emergency measures or wildfire hardening. The proposed Ordinance carries forward the 2022 local amendments to the Building Standards Code from the previous cycle; however, administrative updates have been made for clarity and updated language.

NEXT STEPS:

The proposed ordinance is scheduled for a second reading and adoption at the City Council meeting on November 18, 2025, and would become effective upon the date the California Building Standards Commission (CBSC) accepts the ordinance for filing, but in no event before January 1, 2026. Because the proposed ordinance incorporates the California Building Standards Codes, the International Pool and Spa Code, and the International Maintenance Code by reference, the second reading must take place at a noticed public hearing. Notice will be published in accordance with Government Code Section 50022.3.

Due to the length of the ordinance, the City Council is asked to authorize a summary of the Ordinance be published five days in advance of the second reading and 15 days after adoption.

ALTERNATIVE ACTIONS:

If Council does not adopt the ordinance regarding the 2025 California Building Standards Code, the Building Standards Code prepared by the California Building Standards Commission will go into effect per state mandate; however, it will not allow for local amendments that specifically address the safety and well-being of the citizens of Benicia.

<p>CEQA Analysis</p>	<p>The project is Categorically Exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines in that it is not a project which has the potential for causing a significant effect on the environment under Title 14 of the California Code of Regulations.</p>
---------------------------------	--

ATTACHMENTS:

1. Ordinance – Adopting the 2025 California Building Code and related amendments to Title 15 of the BMC
2. Mark Up of Ordinance

*For more information contact: Rachel O'Shea, Deputy Development Services
Director Phone: 707.746.4280
E-mail: ROShea@ci.benicia.ca.us*

CITY OF BENICIA

ORDINANCE NO. 25-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTERS 15.01 THROUGH 15.27,15.30,15.33, 15.35,15.40,15.53,15.55,15.60,15.70 AND 15.73 OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2025 CALIFORNIA BUILDING STANDARDS CODE TITLE 24 AS MANDATED BY THE STATE BUILDING STANDARDS COMMISSION WHICH INCLUDES: THE CALIFORNIA ADMINISTRATIVE CODE; THE CALIFORNIA BUILDING CODE VOLUMES 1 & 2 INCLUDING APPENDICES B, G, H, I, J, AND Q AS AMENDED; THE CALIFORNIA RESIDENTIAL CODE INCLUDING APPENDICES AA, AB, BB, BF, BG, BH, BO AND CJ; THE CALIFORNIA WILDLAND-URBAN INTERFACE CODE, THE ELECTRICAL CODE; THE CALIFORNIA MECHANICAL CODE; THE CALIFORNIA PLUMBING CODE INCLUDING APPENDICES A, B, D, E, I, J, K, L, AND R AS AMENDED; THE CALIFORNIA GREEN BUILDING STANDARDS CODE; THE CALIFORNIA ENERGY CODE; THE CALIFORNIA HISTORICAL BUILDING CODE; THE CALIFORNIA EXISTING BUILDING CODE INCLUDING APPENDIX A, CHAPTERS A1, A2, A3, A4, A5, APPENDICES B, D, E, AND RESOURCE A AS AMENDED; THE CALIFORNIA REFERENCED STANDARDS CODE; THE 2024 INTERNATIONAL POOL AND SPA CODE; 2024 INTERNATIONAL PROPERTY MAINTENANCE CODE. AND MAKING OTHER MODIFICATIONS TO TITLE 15,

WHEREAS, the California Building Standards Commission has adopted a new Title 24 of the California Code of Regulations, also referred to as the 2025 California Building Standards Code, that will become effective statewide on January 1, 2026; and

WHEREAS, California Health and Safety Code Sections 17958, 17958.5, 17958.7 and 18941.5 establish the authority for a city to adopt and make local amendments and modifications to the building standards in the California Building Standards Code to establish more restrictive building standards than those contained in the California Building Standards Code; and

WHEREAS, California Health and Safety Code Sections 17958, 17958.5, 17958.7 and 18941.5 require a city, before making any amendments and modifications to the California Building Standards Code, to make an express finding that such amendments and modifications are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, Government Code Section 50022.2 permits enactment of city ordinances that adopt codes or statutes, including codes of the State of California, by reference; and

WHEREAS, notice of this Ordinance was published in accordance with Government Code Sections 50022.3 and 6066; and such notice was sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof.

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

Section 1.

Chapters 15.01 through 15.27, 15.30,15.33,15.35,15.40,15.53, 15.55,15.60, 15.70 and 15.73 of 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.

Chapters:

- 15.70 Storm Water Management and Discharge Control.
- 15.73 Grading and Erosion Control.

Division V. Public Improvement Standards.

Chapters:

- 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

Sections:

15.01.010 Purpose.

15.01.020 Findings.

15.01.010 Purpose.

- A. 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, Wildland-Urban Interface (WUI), Electrical, Mechanical, Plumbing, Energy, Historical Building, International Swimming Pool and Spa Code, International Maintenance Code, Fire, Existing Building, and Green Building Standards Codes. The purpose of the chapter codified in this Division I of Title 15 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.
- B. The purpose of this chapter codified in Divisions II, III, IV and V is to establish uniform regulations for construction within the City to protect life, safety, property, and the public welfare. To that end, the divisions pertaining to Flood Damage Prevention, Seismic Hazards, Storm Water Management, Grading and Erosion Control, and Public Improvement Standards are hereby incorporated into Title 15 of the Municipal Code under the Construction Codes.
- C. Title 15 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.

- A. 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.
1. 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”.
 2. 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”
 3. 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”.
 4. 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”.

The Council has reviewed the local amendments set forth herein and finds that they are consistent with and equivalent to changes or modifications previously filed by the City of Benicia with the State Building Standards Commission in 2022. Amending the 2022 Building Standards in effect in the City of Benicia as of September 30, 2025.

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 representative with the California Building Standards Commission.

15.03 Construction Code Adopted

Sections:

15.03.100 Construction Code Adopted.

15.03.010 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, 2025 edition, which is the 2024 International Building Code, with California amendments, consisting of Volumes 1 and 2, and the following appendices B, G, H, I, J, and Q are adopted in their entirety with amendments and additions set forth in this Title 15 as recommended by the building official.
- B. The California Residential Building Code, 2025 edition, which is the 2024 International Residential Code with California amendments and the following appendices AA, AB, BB, BF, BG, BH, BO, and CJ are adopted in their entirety with amendments and additions set forth in this Title 15 as recommended by the building official and which are amendments and additions that were made previously to the 2022 California Residential Building Code;
- C. The Wildland-Urban Interface Code, 2025 Addition is adopted in its entirety with no amendments, deletions, or additions;
- D. The California Electrical Code, 2025 edition, which is the 2024 National Electrical Code with California amendments, is adopted in its entirety with no amendments, deletions, or additions;

- E. The California Mechanical Code, 2025 edition, which is the 2024 Uniform Mechanical Code with California amendment is adopted in its entirety with no amendments, deletions, or additions;
- F. The California Plumbing Code, 2025 edition, which is the 2024 Uniform Plumbing Code with California amendments and the following appendices A, B, D, E, I, J, K, L, and R, are adopted in their entirety with amendments and additions as set forth in this Title 15 as recommended by the building official;
- G. The California Green Building Standards Code, 2025 edition, is adopted in its entirety with no amendments, deletions, or additions;
- H. The California Energy Code, 2025 edition, is adopted in its entirety with no amendments, deletions, or additions;
- I. The California Historical Building Code, 2025 edition, published by the International Code council, is adopted in its entirety with no amendments, deletions, or additions;
- J. The California Existing Building Code, 2025 edition, and the following appendices and chapters: appendix A, chapter A1, chapter A2, chapter A3, chapter A4, and chapter A5, and Appendices B, D, E, and Resource A are adopted in their entirety with amendments and additions as set forth in this Title 15 as recommended by the building official;
- K. The International Swimming Pool and Spa Code, 2024 edition, is adopted in its entirety with amendments and additions as set forth in this Title 15 as recommended by the building official;
- L. The International Maintenance Code, 2024 edition, is adopted in its entirety with no amendments, deletions, or additions;
- M. The California Administrative Code, 2025 edition, is adopted with no amendments, deletions, or additions;
- N. The California Referenced Standards Code, 2025 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.

Chapter 15.05 Amendments and Additions to the California Building Code

Sections:

15.05.010 Amendments and Additions to the California Building Code.

15.05.010 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, 2025 edition, which is the 2024 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.

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 within 180 days if it is a reactivated previously expired permit)** 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 **30** 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)

3. Add section 105.5.2 to read as follows:

105.5.2 Incomplete application expiration. Permit applications are valid for thirty (30) days after submittal. Applications that are incomplete or do not conform to the provisions of this code and relevant laws, ordinances, rules, and regulations, as determined by the building official prior to the thirty (30) day expiration shall be deemed expired and a new application shall be required. Incomplete applications shall not be granted extensions of time.

4. 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. For any reactivated permits that require only a final inspection, the reactivation fee shall be set by the building official for cost recovery based on the hourly rate in the current Benicia Master Fee Schedule as adopted by City Council. Reactivation of a permit shall become invalid unless work on the site authorized by such permit is commenced and a building inspection is received by the building official or their deputy within thirty (30) days after reactivation. A maximum of three (3) 30-day extensions of time are allowed for the life of the permit at the building officials discretion.

5. Add section 107.6 to read as follows:

107.6 Standard Plans. The building official may review for compliance a set of plans for a building or structure as a “standard 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 as adopted by City Council. When it is desired to use an approved “standard plan” for an identical structure, a plot plan and or floor plan shall

be submitted by application and a plan-review fee paid based on an hourly rate but no less than one (1) hour per the current Benicia Master Fee Schedule as adopted by City Council for such identical work. In case of any deviation whatsoever from this standard 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 plans shall be valid for a period of one (1) year from the date of approval or as mandated by law. 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.

6. 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.

7. Add section 107.8 to read as follows:

107.8 Commercial Owner-Builder Applications. In the City of Benicia, commercial owner-builder building permits are not permitted unless the applicant meets the specific licensing requirements established under the Contractors State License Law (Business and Professions Code §7044). Construction for commercial and multi-family projects shall be performed by an appropriately licensed California contractor and must comply with all provisions of the California Business and Professions Code Section 7044. All commercial projects within the City of Benicia require a licensed contractor to be identified on the permit application, and the permit must be obtained under that contractor’s license.

8. Amend section 109.3 to read as follows:

109.3 Permit Valuations. The applicant for a permit shall provide an estimated value of the work for which the permit is being issued at the

time of application. Such estimated valuations shall include the total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems. Where, 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 Benicia Master Fee Schedule building value table as adopted by City Council.** The building official shall have the authority to adjust the final valuation for permit fees.

9. 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 at time of permit application. 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.**

10. 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 fees collected shall not be subject to refund past thirty (30) days from date of issuance. Permit application, technology, and general maintenance fees collected shall not be subject to refund. An administrative fee**

established by the Benicia Master Fee Schedule as adopted by City Council will be assessed for any permit refund request unless fees were charged in error by City staff. Fees collected for other departments or divisions shall be refunded and processed by and at the discretion of those departments or divisions.

11. Add section 109.7 to read as follows:

109.7 Plan review fees. Plan review fees established by the Benicia Master Fee Schedule as adopted by City Council, 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 including one-on-one consultations from an outside contract service company are considered pass-through fees and shall be paid at each cycle of plan review 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.

12. Add section 109.8 to read as follows:

109.08 Reactivation or renewal of expired permit fees. Expired permits that have been approved for reactivation by the building official shall pay fees based on the Benicia Master Fee Schedule as adopted by City Council calculated based on the valuation of all remaining work 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. If the reactivated permit only requires a final inspection, fees shall be set by the building official for cost recovery based on the hourly rate of the current Benicia Master Fee Schedule as adopted by City Council.

13. 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. Whichever is higher.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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).

19. 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)

20. Building code appendices to be adopted. The 2025 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.
- f. Appendix Q – Emergency Housing.

Sections:

15.08.010 Amendments and Additions to the California Residential Code.

15.08.010 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, 2025 edition, which is the 2024 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 within 180 days if it is a reactivated previously expired permit), 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 **thirty (30) days each** prior to the expiration date of such permit **with a maximum of three (3) 30-day extensions of time for the life of the permit at the building officials' discretion.** The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6)

2. Add section R105.5.2 to read as follows:

R105.5.2 Incomplete application expiration. Permit applications are valid for thirty (30) days after submittal. Applications that are incomplete or do not conform to the provisions of this code and relevant laws, ordinances, rules, and regulations as determined by the building official prior to the thirty (30) day expiration shall be deemed expired and a new application shall be required. Incomplete applications shall not be granted extensions of time.

3. 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 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. For any reactivated permits that require only a final inspection, the reactivation fee shall be set by the building official for cost recovery based on the hourly rate in the current Benicia Master Fee Schedule as adopted by City Council. Reactivation of a permit shall become invalid unless work on the site authorized by such permit is commenced and a building inspection is received by the building official or their deputy with thirty (30) days after reactivation. A maximum of three (3) 30-day extensions of time are allowed for the life of the permit at the building officials discretion.

4. Add section R106.6 to read as follows:

R106.6 Standard plans. The building official may review for compliance a set of plans for a building or structure as a “standard 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 plan” for an identical structure, a plot plan and or floor plan shall be submitted by application and a plan-review fee paid based on the hourly rate but no less than one (1) hour per the current Benicia Master Fee Schedule as adopted by City Council for such identical work. In case of any deviation whatsoever from this standard plan, complete plans, together with a full plan-review fee required by the Benicia Master Fee Schedule as adopted by City Council, shall be submitted for the proposed work. Standard plans shall be valid for a period of one (1) year from the date of approval or as mandated by law. 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.

5. 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 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 whichever is higher.**

6. 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 valuation shall include the total value of the work for which a permit is

being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems including materials and labor. **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 building value date table for the Benicia Master Fee Schedule as adopted by City Council. The building official shall have the authority to adjust the final valuation for permit fees.**

7. 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 fees collected shall not be subject to refund past thirty (30) days from the date issuance. Permit application, technology, and general maintenance fees collected shall not be subject to refund. An administrative fee established by the Benicia Master Fee Schedule as adopted by City Council will be assessed for any permit refund request unless fees were charged in error by City staff. Fees collected for other departments or divisions shall be refunded and processed by and at the discretion of those departments and divisions.

8. 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 at time of application. 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.

9. Add section R108.7 to read as follows:

R108.7 Plan review fees. Plan review fees established by the Benicia Master Fee Schedule as adopted by City Council 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 including one-on-one consultations from an outside contract service company are considered pass-through fees and shall be paid at each cycle of review 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.

10. Add section R108.8 to read as follows:

R108.8 Reactivation of expired permit fees. Expired permits that have been approved for reactivation by the building official shall pay fees based on the valuation of all remaining work 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. If the reactivated permit only requires a final inspection, fees shall be set by the building official for cost recovery based on the hourly rate of the current Benicia Master Fee Schedule as adopted by City Council.

11. Add section R108.9 to read as follows:

R108.9 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.

12. Amend section R308 to read as follows:

R308 Premise Identification. 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. **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.**
- b. **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.

13. Amend Section R902.1.2 to read as follows:

R902.1.2 Roof coverings in all other areas other than fire hazard severity zones or in the wildland-urban interface (WUI) area. 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)

14. Add section R902.5 to read as follows:

R902.5 All new roof coverings in all areas other than fire hazard severity zones or in wildland-urban interface (WUI) area shall be a class B or better roof covering assembly as defined by section 902 Fire Classification. (Climate III)

15. 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)

16. California Residential Code appendices to be adopted.

The 2025 California Residential Code is further amended by adopting with

amendments the following appendix chapters.

- a. Appendix AA – Board of Appeals.
- b. Appendix AB – Permit Fees.
- c. Appendix BB – Tiny Houses.
- d. Appendix BF – Patio Covers.
- e. Appendix BG – Sound Transmission.

17.Amend Section BG101.1 to read as follows:

BG101.1 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 BG 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 BG requirements at their discretion.**

- f. Appendix BH – Automatic Gates.
- g. Appendix BO – Existing Buildings and Structures.
- h. Appendix CJ – Emergency Housing.

Chapter 15.11 Amendments and Additions to the California Plumbing Code

Sections:

15.11.010 Amendments and Additions to the California Plumbing Code.

15.11.010 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, 2025 edition, which is the 2024 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 within 180 days if it is a reactivated previously expired permit)**, 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 **thirty (30)** 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)

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 including one-on-one consultations 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.

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.

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.

4. Plumbing code appendices to be adopted. The 2025 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 D – Sizing Storm Water Drainage Systems.

- d. Appendix E – Manufactured/Mobile Home Parks and Recreational Vehicle Parks.
- e. Appendix F – Combination of Indoor and Outdoor Combustion and Ventilation Design.
- f. Appendix I – Installation Standards
- g. Appendix K – Potable Rainwater Catchment Systems
- h. Appendix L – Sustainable Practices
- i. Appendix R – Tiny Houses.

**Chapter 15.16 Amendments and Additions to the
California Existing Building Code**

Sections:

15.16.010 Amendments and Additions to the California Existing Building Code.

15.16.010 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, 2025 edition, which is the 2024 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 within 180 days if it is a reactivated previously expired permit)**, 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 **thirty (30)** 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) (

2. Add section 105.5.2 to read as follows:

105.5.2 Incomplete application expiration. Permit applications are valid for thirty (30) days after submittal. Applications that are incomplete or do not

conform to the provisions of this code and relevant laws, ordinances, rules, and regulations, as determined by the building official prior to the thirty (30) day expiration shall be deemed expired and a new application shall be required. Incomplete applications shall not be granted extensions of time.

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. 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. For any reactivated permits that require only a final inspection, the reactivation fee shall be set by the building official for cost recovery based on the hourly rate in the Benicia Master Fee Schedule as adopted by City Council. Reactivation of a permit shall become invalid unless work on the site authorized by such permit is commenced and a building inspection is received by the building official or their deputy within thirty (30) days after reactivation. A maximum of three (3) 30-day extensions of time are allowed for the life of the permit at the building officials discretion.

4. Add section 107.7 to read as follows:

107.7 Commercial Owner-Builder Applications. In the City of Benicia, commercial owner-builder building permits are not permitted unless the applicant meets the specific licensing requirements established under the Contractors State License Law (Business and Professions Code §7044). Construction for commercial and multi-family projects shall be performed by an appropriately licensed California contractor and must comply with all provisions of the California Business and Professions Code Section 7044. All commercial projects within the City of Benicia require a licensed contractor to be identified on the permit application, and the permit must be obtained under that contractor's license.

5. Amend section 108.3 to read as follows:

108.3 Permit Valuations. The applicant for a permit shall provide an estimated value of the work for which the permit is being issued at the time of application. Such estimated valuations shall include the total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment, and permanent systems.

Where, in the opinion of the building official, the valuation is underestimated, 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 Benicia Master Fee Schedule building valuation data table as adopted by City Council.** The building official shall have the authority to adjust the final valuation for permit fees.

6. 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 at time of application. 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.

7. 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 past thirty (30) days from the date of issuance. Permit application, technology, and general maintenance fees collected shall not be subject to refund. An administrative fee established by the Benicia Master Fee Schedule as adopted by City Council will be assessed for any permit refund request unless fees were charged in error by City staff. Fees collected for other departments or divisions shall be refunded and processed by and at the discretion of those departments and divisions.**

8. Add section 108.7 to read as follows:

108.7 Plan review fees. Plan review fees established by the Benicia Master Fee Schedule as adopted by City Council 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 whichever is higher. All fees incurred during plan review including one-on-one consultations from an outside contract service company are considered pass-through fees and shall be paid at each cycle of plan review 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.

9. Add section 108.8 to read as follows:

108.08 Reactivation or renewal of expired permit fees. Expired permits that have been approved for reactivation by the building official shall pay fees based on the Benicia Master Fee Schedule as adopted by City Council based on the valuation of all remaining work 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. If the reactivated permit only requires a final inspection, fees shall be set by the building official for cost recovery based on the hourly rate of the current Benicia Master Fee Schedule as adopted by City Council.

10. 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.

11. 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.

12. 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.

13. 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).

14. 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 Board of Appeals by filing a written appeal in accordance with Chapter 1.44 of the Benicia Municipal

Code.

15. Add section 1404 Plumbing.

16. Add section 1404.1 to read as follows:

1404.1 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.

17. Existing Building Code Appendix and Chapters to be Adopted. The 2025 California Existing Building Code is further amended by adopting by reference the following appendices and chapters:

A. Appendix A

1. Chapter A1 – Seismic strengthening provisions for unreinforced masonry bearing wall buildings.
2. Chapter A2 – Earthquake hazard reduction in existing reinforced concrete and reinforced masonry wall buildings with flexible diaphragms.
3. Chapter A3 – Prescriptive provisions for seismic strengthening of cripple walls and sill plate anchorage of light, wood-framed residential buildings.
4. Chapter A4 – Earthquake risk reduction in wood-framed residential buildings with soft, weak, or open front walls.
5. Chapter A5 – Referenced Standards.

B. Appendix B – Supplementary accessibility requirements for existing buildings and facilities.

C. Appendix D – Board of appeals

D. Appendix E – Temporary Emergency Uses

E. Resource A – Guidelines on Fire Rating of Archaic Material and Assemblies.

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

Sections:

15.020.010 Amendments and Additions to the International Swimming Pool and Spa Code.

15.020.010 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, 2024 edition.

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.

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- F1346 shall be considered in compliance with Pool Enclosure Requirements.

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.
- 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.
- 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.

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

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.

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.

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.

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.

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.

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 development services 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 development services 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.

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

“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 approved plan submitted before the issuance of a building and/or demolition permit, approved by the development services department for the purpose of compliance with this chapter.

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

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 or representative, which may be the development services director or their representative entity, legal counsel, or combination thereof.
2. Enforcement may also be undertaken by an enforcement official or their representative, designated by the City of Benicia, in consultation with the Benicia enforcement official or representative.
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 representative 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;
- 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 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 or a permit valuation of \$200,000 or above; and
- F. Additions or alterations of existing residential buildings where the addition or alteration increases the building's conditioned area, volume or size. The requirements shall apply only to and/or within the specific area of the addition or alteration.

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

D. 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 building official);

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

F. Abandonment of in-ground pools; and

G. 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 (65) percent of nonhazardous construction, demolition debris, and noninfectious land clearing debris generated from every applicable construction, renovation, grading, demolition, or project deemed applicable by the building official shall be diverted from going to landfills by using recycling, reuse, and diversion programs. 100% of non-residential excavated soils must be recycled and verified, exempting all residential projects from this requirement. 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 development services department has approved the waste management plan. The development services department shall only approve a waste management plan if they determine that it contains all the information set forth in subsection (A) of this section. If the development services department determines that all the above conditions have been met, they shall mark the waste management plan “Approved,” return a copy of the plan to the applicant and notify the building safety division that it has been approved.

C. If the development services 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 development services 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 development services department.
5. It is unlawful for any person to submit documentation to the development services 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 (MWEL0).

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 MWEL0, 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 MWEL0 are now also included as requirements of this chapter. Other requirements of the MWEL0 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 MWEL0 compliance outlined in subsection (A) of this section shall:

1. Comply with Sections 492.6(a)(3)(B), (C), (D) and (G) of the MWEL0, 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 development services department, a penalty of \$1,000 or one percent of the project valuation, whichever is greater, will be assessed to all construction and demolition projects. For projects determined to have a “good faith effort,” the development services department has the discretion to reduce the minimum penalty by 50 percent for first-time offenders. Repeat offenders, three (3) 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 representative 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 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 Building Official, or their

representative.

“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 development services 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 subsection (E) of this section. 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. 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.
- E. 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](#).
- F. 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 15.33 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 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 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.

“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 current 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 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 through internet, 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 safety 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 safety division shall issue a building permit or other nondiscretionary permit the same day for express applications, or within one (1) to three (3) working days when in receipt of a complete application that meets the requirements of the approved checklist and standard plan. The 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 safety 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.

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 current 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 current 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 15.53 Variances

Sections:

15.53.010 Variance – General.

15.53.010 Variance – General.

A. The 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 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 [15.49.030](#).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 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 board of appeals shall become final if not appealed pursuant to Chapter [15.55](#) 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 Board of Appeals.

15.55.020 Appeals to the City Council.

15.55.010 Appeals to the board of appeals.

Any interested person may appeal an alleged error in any requirement, decision or determination of the floodplain administrator hereunder to the 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 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.

Division III. Seismic Hazards

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:

"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.

"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.

"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.

"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.

"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](#).

"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 safety division 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 safety division 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 safety division 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 safety division 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 safety division 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 safety division 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

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.**
- 15.70.240 Notification of rainy season.**

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 officer” or “authorized enforcement officer” is the development services director or their representative and those individuals designated by the development services director as authorized enforcement officer.

“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.

"Rainy season means the time-period between October 15th and April 15th, inclusive.

"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 development services director. In administering this chapter, the development services director 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 their 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 development services director.

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 development services director 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 development services director.

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 code enforcement officer may order the work stopped by notice through the building official in writing served on any persons engaged in doing or causing the work to be done. Such work shall stop until the building official authorizes the work to proceed. An investigation fee or citation established by the Benicia Master Fee

schedule as adopted by City Council shall be collected. 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 prior and 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 development services director in preparing the ESCP. At a minimum, the ESCP shall include:
 - i. ESCP checklist
 - ii. Description of the proposed project and soil disturbing activity;
 - iii. Site-specific construction-phase BMPs;
 - iv. Rationale for selecting the BMPs, including, if needed, soil loss calculations;

- v. 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);
- vi. 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
- vii. 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 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 code enforcement officer may order through the building official 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 building 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 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. 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 development services director 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:

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 officer 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 officer 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 officer 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 officer 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 officer may, within the limitations of law, enter such premises at reasonable times to conduct sampling and monitoring operations; provided, that the officer 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 officer 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 emailing and telephoning development services during normal business hours. Outside of normal business hours, in addition to email a 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 officer 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 officer.

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 officer 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 of Benicia 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 officer has the authority to utilize the following administrative remedies:

A. Cease and Desist Orders. When an authorized enforcement officer finds that a discharge has taken place or is likely to take place in violation of this chapter, the officer 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 officer, 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 officer 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 officer 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 development services director within 10 days following the effective date of the decision by writing the development services director in accordance with Chapter [1.44](#) BMC. Upon receipt of such request, the development services director 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 development services director 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.

15.70.240 Notification of rainy season.

A letter shall be sent to notify the applicant of the upcoming rainy season, and any additional enforcement required during that time-period.

Appeals of violations of Chapter 15.70 and 15.73 : Any person, firm, corporation, or organization required to perform monitoring, analyses, reporting/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 development services director within 10 days following the effective date of the decision by writing the development services director in accordance with Chapter 1.44 BMC. Upon receipt of such request, the development services director 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 development services director 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.

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 development services director, 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).

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 development services director 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 development services director 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.
 - 8. Grading is conducted by an agency of the federal government, the state government, or the city.
 - 9. 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.

10. Construction of fire trails, access roads to public utilities, and gas and electric transmission lines provided the drainage pattern remains the same.
11. Clearing of vegetation when all 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.
12. Construction of water wells.
13. 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.
14. 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.
15. Grading within a street to conform to elevations approved by the development services director and for which a permit has been issued under the provisions of chapter 12.12 (Encroachments).
16. Refuse disposal sites controlled by other regulations.
17. Excavation for utilities when performed by a public utility.
18. Exploratory excavations of 50 cubic yards or less under the direction of soil engineers or engineering geologists.
19. 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.
20. 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.

21. 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 development services director.

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 development services director 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 development services director 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.

“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.

“Development Services Director” shall mean the development services director of the City of Benicia or their authorized representative.

“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 development services director.

“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 division 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 or as established by the contract of support services, whichever is higher. All fees incurred including one-on-one consultations from an outside contract service company are considered pass-through fees to the applicant.

B. Fees are nonrefundable.

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

D. Before issuing a grading permit, the development services director 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.

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 development services director; and
5. Soil report when required by the development services director; and
6. Geologic report when required by the development services director; 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 development services 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 development services director.
12. Erosion and sediment control plan (ESCP) checklist

B. Grading plan. The grading plan shall conform to the guideline(s) provided by the City. The grading plan shall be prepared, stamped, and signed by a civil engineer licensed in the State of California, and shall be subject to review and approval by the City.

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 will review the application and related documents. Applications may be approved, conditionally approved, or denied.

1. Issuance. When the City 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 development services director 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 of Benicia 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 development services director 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 development services director such an extension is warranted, the development services director may grant an extension, adding such conditions to ensure compliance with this article.
4. Permit conditions. The City 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 development services director, 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, 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 development services director. The development services director 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 development services director may suspend the permit. If the development services director determines that work will potentially cause injuries to persons or damage to properties or improvements, the development services director shall suspend the work. Upon notice of such suspension, the permittee shall immediately cease all work except for work required by the development services director to eliminate hazardous

conditions or nuisances. The development services director may reinstate or revoke suspended permits.

- b. Revocation of permit. The development services director 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 development services director 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 (5) 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 thirty (30) days of the conclusion of the hearing, the development services director 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 development services director may require a geologic report prior to approval of a grading permit. A geologic report when required by the City 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.
10. Authority to require geotechnical/soil report. The development services director 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 California State Licensed 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. Supplemental reports and data may be required as deemed necessary. Recommendations included in the reports and approved by the City 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 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 the California Environmental Quality Act. 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 development services director, 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 of Benicia 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. 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 development services director. The engineer of record for a grading permit shall provide an estimated cost for corrective grading work and erosion and sediment control measures at time of application. These estimated costs shall reflect the total value of work, including materials and labor for which the grading permit is being issued. If, in the opinion of the development services director these costs are underestimated on the application, the grading permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the development services director. The development services director shall have the authority to adjust the final valuation for permit fees.

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 development services director and city attorney. Among other appropriate provisions, every surety bond shall include the following conditions to which the principal and surety shall each be bound:

4. Comply with the applicable provisions of this article and all other applicable laws, ordinances, rules, and regulations; and
5. Comply with all of the terms and conditions of the permit to the satisfaction of the City; and
6. Complete the work proposed under the permit within the time specified in the permit. The City may for sufficient cause, extend the time specified in the permit. Such extension shall not release the surety; and
7. 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 development services director 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.
8. City of Benicia shall be named as obligee on bonds.

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 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 may order the work required by the permit to be completed to their 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 development services director may, in their 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 development services director 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 of Benicia 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 development services director or their representative shall first make a reasonable effort to locate the owner, the owners authorized agent, or other person having charge or control of the parcel and request entry. If refused, the development services director shall have recourse to every remedy provided by law to secure entry. 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 180 days of the date of issuance, or as otherwise indicated on the face of the permit shall expire and become null and void. Extensions of time shall be at the discretion of the development services director.

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, Monday through Friday, unless other times are specifically authorized in writing by the City.

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 development services director. 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., Department of Fish and Wildlife, etc.) and the necessary environmental review and approvals are received from the development services director, Planning Commission, or City Council as the case may be.

E. “100 percent of trees, stumps, rocks, and associated vegetation and soils resulting primarily from land clearing shall be reused or recycled. For a phased project, such materials may be stockpiled on site until the storage site is developed.

1. Exception: Reuse, either on-or-off site, of vegetation or soil contaminated by disease or pest infestation. California Green Building Code 2022 section 5.408.3 Excavated Soil and Land Clearing Debris.

F. 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 their 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.

G. Sediment controls and other best management practices shall be constructed on all developments, as determined by the development services director, 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 development services director 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.

H. 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 the current California Building Code.

I. 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 development services director. Boundary markers shall be maintained throughout the grading operation. Temporary barriers and/or protective fencing shall be used when necessary to protect adjacent properties.

J. Proper soil stabilization is required for all graded areas. Slopes, both cut and fill, shall be provided with subsurface drainage as necessary for stability.

K. 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 development services director may permit placement of larger rock only upon receipt and approval of a method of placement prepared by a soil engineer and under their 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 development services director. In-place density shall be determined in accordance with the requirements of the development services director.

L. 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.

M. Cut and fill slopes shall be contour-rounded unless the development services director finds special circumstances applicable to the property that would require deviation from the requirement.

N. Variable slopes shall be used to mitigate environmental and visual impacts of grading unless the development services director finds special circumstances applicable to the property that would require deviation from this requirement.

O. 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 development services director.

P. 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 as adopted by City Council, 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.

Q. 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.

R. 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.

S. No fill material shall be placed, spread, or rolled during unfavorable weather conditions as determined by the soil engineer or development services director. 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.

T. 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 development services director 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 development 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 development services director.

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, unless otherwise approved by the development services director. 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 development services director. 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 development services director or their 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 development services director.
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 development services director. 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 development services director 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. They shall also be responsible for the professional inspection and approval of the grading within their 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 development services director. 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 development services director 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. They shall report their findings to the soil engineer and the civil engineer for engineering analysis.

The development services director 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 development services director, at their 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 development services director. 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 development services director 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 their 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 development services director 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.

15.73.170 Appeal procedures.

Any person under this chapter who may be dissatisfied with the action of the development services director 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 code enforcement officer in conjunction with the building safety division may issue a stop-work order until violation of any provision of this chapter is corrected. If, in the opinion of the development services director, a grading operation creates a dangerous or hazardous condition, the development services director 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.

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.

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 become effective upon the date the California Building Standards Commission (CBSC) accepts the ordinance for filing, but in no event before January 1, 2026. Before the expiration of fifteen (15) days after its adoption, 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 City Council voting for and against its passage.

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the 4th day of November 2025, and adopted at a regular meeting of the Council held on the 18th day of November 2025, by the following vote:

Ayes:

Noes:

Absent

:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

Section 1.

Chapters 15.01 through 15.27, 15.30, 15.33, 15.35, 15.40, 15.53, 15.55, 15.60, 15.70 and 15.73 of Title 15 (Building and Construction) of the Benicia Municipal Code are hereby amended and replaced with the following:

TITLE 15 BUILDINGS AND CONSTRUCTION ¹

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.~~

Division V. Public Improvement Standards.

Chapters:

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.

15.01.020 Findings.

15.01.010 Purpose.

A. 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, Wildland Urban-Interface Code, Historical Building, Fire, Existing Building, and Green Building Standards Codes, International Swimming Pool and Spa Code, International Maintenance Code, ~~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.

B. 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.

A.C. Title 15 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.

- A. 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.
1. 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”.
 2. 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”
 3. 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”.
 4. 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”.
 - ~~5. 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”.~~

- ~~6. 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”.~~

The Council has reviewed the local amendments set forth herein and finds that they are consistent with and equivalent to changes or modifications previously filed by the City of Benicia with the State Buildings Standards Commission in 2022 amending the 2022 Building Standards in effect in the City of Benicia as of September 30, 2025.

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 representative with the California Building Standards Commission.

15.03 Construction Code Adopted

Sections:

15.03.10 Construction Code Adopted.

15.03.010 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, ~~2025~~2022 edition, which is the ~~2024~~2021 International Building Code, with California amendments, consisting of Volumes 1 and 2, and the following appendices~~x~~ chapters: ~~appendix B~~, ~~appendix G~~, ~~appendix H~~, ~~appendix I~~ and ~~appendix J~~, and ~~Q~~ 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, ~~2025~~2022 edition, which is the ~~2024~~2021

International Residential Code with California amendments and the following appendix chapters: AA Appendix AL, AB Appendix AH, BB Appendix AJ, BF Appendix AK, BG Appendix AQ, BH Appendix AT, BO and Appendix AV, and CJ are adopted in their entirety with amendments and additions set forth in this Title 15 as recommended by the bBuilding oOfficial and which are amendments and additions that were made previously to the 2022 California Residential Building Code;

B.C. The Wildland-Urban Interface Code, 2025 Addition is adopted in its entirety with no amendments, deletions, or additions;

C.D. The California Electrical Code, 20252022 edition, which is the 20242021 National Electrical Code with California amendments, is adopted in its entirety with no amendments, deletions, or additions;

D.E. The California Mechanical Code, 20252022 edition, which is the 20242021 Uniform Mechanical Code with California amendment is adopted in its entirety with no amendments, deletions, or additions;

E.F. The California Plumbing Code, 20252022 edition, which is the 20242021 Uniform Plumbing Code with California amendments and the following appendix chapters: ~~chapter A, chapter B, D, chapter E, chapter I, J, chapter K, and chapter L,~~ and R, are adopted in their entirety with amendments and additions as set forth in this Title 15 as recommended by the bBuilding oOfficial;

F.G. The California Green Building Standards Code, 20252022 edition, is adopted in its entirety with no amendments, deletions, or additions;

G.H. The California Energy Code, 20252022 edition, is adopted in its entirety with no amendments, deletions, or additions;

H.I. The California Historical Building Code, 20252022 edition, published by the International Code council, is adopted in its entirety with no amendments, deletions, or additions;

I.J. The California Existing Building Code, 20252022 edition, and the following appendix and chapters: appendix A, chapters A1, chapter A2, chapter A3, chapter A4, and chapter A5, and Aappendices B, appendixD, E and Resource A are adopted in their entirety with amendments and additions as set forth in this Title 15 as recommended by the bBuilding oOfficial;

K. The International Swimming Pool and Spa Code, 20242021 edition, is adopted in its entirety with amendments and additions as set forth in this Title 15 as recommended by the bBuilding oOfficial;

J.L. The International Maintenance Code, 2024 edition, is adopted in its entirety with no amendments, deletions, or additions;

K.M. The California Administrative Code, 20252022 edition, is adopted with no

amendments, deletions, or additions;

L.N. The California Referenced Standards Code, ~~2025~~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 Ceity bBBuilding oOfficial 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

Sections:

15.05.010 Amendments and Additions to the California Building Code.

15.05.010 Amendments and additions to the California Building Code.

A. The following amendments and additions as recommended by the bBBuilding oOfficial are adopted to the California Building Code, ~~2025~~2022 edition, which is the ~~2024~~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 D)~~

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 bBuilding oOfficial or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months of after its issuance, (or within 180 days if it is a reactivated previously expired permit). 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 ~~30+80~~ 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 D)~~

3 Add section 105.5.2 to read as follows:

105.5.2 Incomplete application expiration. Permit applications are valid for thirty (30) days after submittal. Applications that are incomplete or do not conform to the provisions of this code and relevant laws, ordinances, rules, and regulations, as determined by the building official prior to the thirty (30) day expiration shall be deemed expired and a new application shall be required. Incomplete applications shall not be granted extensions of time.

34 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 ~~b~~Building ~~o~~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 ~~b~~Building ~~o~~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. For any reactivated permits that require only a final inspection, the reactivation fee shall be set by the building official for cost recovery based on the hourly rate in the current Benicia Master Fee Schedule as adopted by City Council. Reactivation of a permit shall become invalid unless work on the site authorized by such permit is commenced and a building inspection is received by the building official or their deputy within thirty (30) days after reactivation. A maximum of three (3) 30-day extensions of time are allowed for the life of the permit at the building officials discretion (~~Local conditions 1~~)

45 Add section 107.6 to read as follows:

107.6 Standard ~~or Master~~ Plans. The ~~b~~Building ~~o~~fficial 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 based on an hourly rate but no less than one (1) hour that is equal to one-half of the full plan-review fee as required by per the current Benicia Master Fee Schedule adopted by City Council for such identical work or as mandated by law. 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 (1) year from the date of approval or as mandated by law. This period may be extended by the ~~b~~Building ~~o~~fficial 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~~)

56 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 ~~b~~Building ~~o~~fficial may require string lines at the time of first inspection, at their discretion. Additionally, this documentation requirement may be partially waived by the ~~b~~Building ~~o~~fficial or the ~~p~~Planning ~~m~~anager if multiple adjacent parcels under single ownership are being developed or have previously been developed as a single site. (~~Local conditions 1~~)

67 Add section 107.8 to read as follows:

107.8 Commercial Owner-Builder Applications. In the City of Benicia, commercial owner-builder building permits are not permitted unless the applicant meets the specific licensing requirements established under the Contractors State License Law (Business and Professions Code §7044). Construction for commercial and multi-family projects shall be performed by an appropriately licensed California contractor and must comply with all provisions of the California Business and Professions Code Section 7044. All commercial projects within the City of Benicia require a licensed contractor to be identified on the permit application, and the permit must be obtained under that contractor's license.

78 Amend section 109.3 to read as follows:

109.3 Permit Valuations. ~~Building permit valuations.~~ The applicant for a permit shall provide an estimated value of the work for which the permit is being issued ~~value~~ at the time of application. Such estimated a~~Permit~~ valuations shall include ~~reflect~~ the total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems. Where ~~If~~, in the opinion of the b~~B~~uilding o~~O~~fficial, 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 Benicia Master Fee Schedule building value table as adopted by City Council. International Code Council Building Value data table (BVD) with regional calculator.** ~~The building official shall have the authority to adjust the final valuation for permit fees. Final building permit valuation shall be set by the Building Official. (Local conditions I)~~

89 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** at time of permit application. 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 ~~b~~Building ~~o~~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)~~

~~910~~ Amend section 109.6 to read as follows:

109.6 Refunds. The ~~b~~Building ~~o~~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 fees collected shall not be subject to refund past thirty (30) days from the date of issuance. Permit application, technology document retention, and general maintenance 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 Ceity staff. Fees collected for other departments or divisions shall be refunded and processed by and at the discretion of those departments and divisions. ~~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)~~

~~1011~~ Add section 109.7 to read as follows:

109.7 Plan review fees. Plan review ~~more than 15 minutes requires a plan check fees~~ 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 including one-on-one consultations from an outside contract service company are considered pass-through fees and shall be paid at each cycle of plan review 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)~~

~~1112~~ 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 ~~b~~Building ~~o~~Official shall pay ~~a new full permit application fees based on the Benicia Master Fee Schedule as adopted by City Council and calculated based on the valuation of all remaining work 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. If the reactivated permit only requires a final inspection, fees shall be set by the building official for cost recovery based on the hourly rate of the current Benicia Master Fee Schedule as adopted by City Council. ~~(Local conditions I)~~

~~1213~~ 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 whichever is higher. ~~(Local conditions I)~~

~~1314~~ 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)~~

~~1415~~ 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 ~~b~~Building ~~o~~Official, city staff may cause the dangerous building to be abated by city personnel or private contract. In furtherance of this section, the ~~b~~Building ~~o~~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)~~

~~1516~~ Add section 114.6 to read as follows:

114.6 Cost of Abatement. The ~~b~~Building ~~o~~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 I)~~

~~16~~17 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 Ccity may bring civil suit to enjoin violation of its provisions, or use any other remedy provided by law. ~~(Local conditions I)~~

~~17~~18 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)~~

~~18~~19 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)

~~19~~20 Building code appendices to be adopted.

reference the following appendix chapters:

- ~~19.49~~20.49 Appendix B – Board of Appeals
- ~~19.50~~20.50 Appendix G – Flood-Resistant Construction
- ~~19.51~~20.51 Appendix H – Signs
- ~~19.52~~20.52 Appendix I – Patio Covers
- ~~20.53~~ Appendix J – Grading
- ~~19.53~~20.54 Appendix Q – Emergency Housing

Chapter 15.08 Amendments and Additions to the California Residential Code

Sections:

15.08.010 Amendments and Additions to the California Residential Building Code.

15.08.010 Amendments and additions to the California Residential Building Code.

A. The following amendments and additions as recommended by the ~~b~~Building ~~o~~Official are adopted to the California Residential Code, ~~2025~~2022 edition, which is the ~~2024~~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 ~~b~~Building ~~o~~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~~ **within 180 days if it is a reactivated previously expired permit**), ~~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 ~~b~~Building ~~o~~Official is authorized to grant, in writing, one or more extensions of time, for periods not more than ~~thirty (30)~~thirty (30) days each prior to the expiration date of such permit **with a maximum of three (3) extensions of time for the life of the permit at the building officials' discretion.** 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 R105.5.2 to read as follows:

R105.5.2 Incomplete application expiration. Permit applications are valid for thirty (30) days after submittal. Applications that are incomplete or do not conform to the provisions of this code and relevant laws, ordinances, rules, and regulations, as determined by the building official prior to the thirty (30) day expiration shall be deemed expired and a new application shall be required. Incomplete applications shall not be granted extensions of time.

~~2.3.~~3. 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 ~~b~~Building ~~o~~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 ~~b~~Building ~~o~~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. For any reactivated permits that require only a final inspection, the reactivation fee shall be set by the building official for cost recovery based on the hourly rate in the current Benicia Master Fee Schedule as adopted by City Council. Reactivation of a permit shall become invalid unless work on the site authorized by such permit is commenced and a building inspection is received by the building official or their deputy within thirty (30) days after reactivation. A maximum of three (3) 30-day extensions of time are allowed for the life of the permit at the building officials discretion (~~Local conditions I~~)

~~3.4.~~ Add section R106.6 to read as follows:

R106.6 Standard ~~or master~~ plans. The ~~b~~Building ~~o~~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 based on an hourly rate but no less than one (1) hour per that is equal to one-half of the full plan-review fee as required by the current Benicia Master Fee Schedule as 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 (1) year from the date of approval or as mandated by law. This period may be extended by the ~~b~~Building ~~o~~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~~)

~~4.5.~~ 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 whichever is higher. ~~(Local conditions I)~~

5.6. 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 ~~include reflect~~ the total value of the work for which a permit is being issued, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems including materials and labor. **If, in the opinion of the ~~b~~Building ~~o~~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 building valuation data table from the Benicia Master Fee Schedule as adopted by City Council.~~International Code Council Building Value data table (BVD) with regional calculator. Final building permit valuation shall be set by the Building Official. The building official shall have the authority to adjust the final valuation for permit fees.~~ ~~(Local conditions I)~~**

6.7. Amend section R108.5 to read as follows:

R108.5 Refunds. The ~~b~~Building ~~o~~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 fees collected shall not be subject to refund past thirty (30) days from the date of issuance.** Permit application, Technology document retention, and general maintenance 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 Ceity staff. Fees collected for other departments or divisions shall be refunded and processed by and at the discretion of those departments or divisions. ~~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)~~

7.8. 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 at time of application. 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 ~~b~~Building ~~o~~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~~)

~~8.9.~~Add section R108.7 to read as follows:

R108.7 Plan review fees. Plan review ~~more than 15 minutes requires a plan check~~ fees 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 including one-on-one consultations are considered pass-through fees and shall be paid at each cycle of plan review 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.~~89~~ to read as follows:

R108.~~89~~ Reactivation of expired ~~valuation-based~~ permit fees. Expired ~~valuation-based~~ permits that have been approved for reactivation by the ~~b~~Building ~~o~~Official shall pay fees based on the valuation of all remaining work 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. If the reactivated permit only requires a final inspection, fees shall be set by the building official for cost recovery based on the hourly rate of the current Benicia Master Fee Schedule 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.~~11. Add section R108.~~944~~ to read as follows:

R108.~~944~~ 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.~~12. Amend section R3~~0849~~ to read as follows:

R3~~0849~~ Premise Identification 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.~~

e.a. 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.b. 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)~~

~~14.13.~~ Amend Section R902.1.2 to read as follows:

R902.1.2 Roof coverings in all other areas other than fire hazard severity zones or in wildland-urban interface (WUI) area. 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)

~~15.14.~~ Add section R902.5 to read as follows:

R902.5 All new roof coverings in all other areas other than fire hazard severity zones or in wildland-urban interface (WUI) area shall be a class B or better roof covering assembly as defined by section 902 Fire Classification. (Climate III)

~~16.15.~~ 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)

~~17.16.~~ California Residential Code appendices to be adopted.

The ~~2025~~2022 California Residential Code is further amended by adopting with amendments the following appendix chapters.

- a. Appendix AA – Board of Appeals.
- b. Appendix ~~AB~~ – Permit Fees.
- a.c. Appendix BB - Tiny Houses.
- b.d. Appendix ~~BFAH~~ – Patio Covers.
- Appendix ~~AJ~~ – Existing Buildings and Structures
- e.e. Appendix ~~BGAK~~ – Sound Transmission.

~~18.17.~~ Amend Section ~~BGAK~~101.1 to read as follows:

~~BGAK~~101.1 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 ~~b~~Building ~~o~~fficial that some or all of appendix ~~BGAK~~ requirements are infeasible or will affect the historic fabric of the structure, the ~~b~~Building ~~o~~fficial shall have the**

authority to waive some or all of appendix ~~BGAK~~ requirements at their discretion.

~~Appendix AQ—Tiny Houses~~

~~Appendix AT—Solar Ready Provisions—Detached One—and Two-Family Dwellings and Townhouses~~

~~Appendix AV—Board of Appeals~~

f. Appendix BH – Automatic Gates.

g. Appendix BO – Existing Buildings and Structures.

~~f.h.~~ Appendix CJ – Emergency Housing.

Chapter 15.11 Amendments and Additions to the California Plumbing Code

Sections:

15.11.010 Amendments and Additions to the California Plumbing Code.

15.11.010 Amendments and additions to the California Plumbing Code.

A. The following amendments and additions as recommended by the ~~b~~Building ~~o~~Official are adopted to the California Plumbing Code, ~~2025~~~~2022~~ edition, which is the ~~2024~~~~2024~~ 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 ~~b~~Building ~~o~~Official or their deputy. The inspection is required to have been approved or a correction list issued** within 12 months after its issuance, **(or within 180 days if it is a reactivated previously expired permit)**, 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 **thirty (30)**~~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 including one-on-one consultations 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 ~~2025~~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 D – Sizing Storm Water Drainage Systems
- ~~d.~~ Appendix E – Manufactured/Mobile Home Parks and Recreational Vehicle Parks.
- ~~b.e.~~ Appendix F – Combination of Indoor and Outdoor Combustion and Ventilation Opening Design
- ~~e.f.~~ Appendix I – Installation Standards
- ~~d.g.~~ Appendix K – Potable Rainwater Catchment Systems
- ~~h.~~ Appendix L – Sustainable Practices
- ~~e.i.~~ Appendix R - Tiny Houses

Chapter 15.16 Amendments and Additions to the California Existing Building Code

Sections:

15.16.010 Amendments and Additions to the California Existing Building Code.

15.16.010 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, ~~2025~~2022 edition, which is the ~~2024~~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 within 180 days if it is a reactivated previously expired permit)**, 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 **thirty (30)+80** 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 105.5.2 to read as follows:

105.5.2 Incomplete application expiration. Permit applications are valid for thirty (30) days after submittal. Applications that are incomplete or do not conform to the provisions of this code and relevant laws, ordinances, rules, and regulations, as determined by the building official prior to the thirty (30) day expiration shall be deemed expired and a new application shall be required. Incomplete applications shall not be granted extensions of time.

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 ~~b~~Building ~~o~~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 ~~b~~Building ~~o~~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. For any reactivated permits that require only a final inspection, the reactivation fee shall be set by the building official for cost recovery based on the current hourly rate in the Benicia Master Fee Schedule as adopted by City Council. Reactivation of a permit shall become invalid unless work on the site authorized by such permit is commenced and a building inspection is received by the building official or their deputy within thirty (30) days after reactivation. A maximum of three (3) 30-day extensions of time are allowed for the life of the permit at the building officials discretion ~~(Local conditions I)~~

4. Add section 107.7 to read as follows:

107.7 Commercial Owner-Builder Applications. In the City of Benicia, commercial owner-builder building permits are not permitted unless the applicant meets the specific licensing requirements established under the Contractors State License Law (Business and Professions Code §7044). Construction for commercial and multi-family projects shall be performed by

an appropriately licensed California contractor and must comply with all provisions of the California Business and Professions Code Section 7044. All commercial projects within the City of Benicia require a licensed contractor to be identified on the permit application, and the permit must be obtained under that contractor's license.

5. Amend section 108.3 to read as follows:

108.3 Permit Valuations. The applicant for a permit shall provide an estimated value of the work for which the permit is being issued at the time of application. Such estimated valuations shall include the total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems. Where , in the opinion of the building official, the valuation is underestimated , 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 Benicia Master Fee schedule building valuation data table as adopted by City Council . The building official shall have the authority to adjust the final valuation for permit fees.

4.6.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 at the time of application. 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)~~

5.7.Amend section 108.6 to read as follows:

108.6 Refunds. The ~~b~~B~~u~~ilding ~~o~~fficial **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 fees collected shall not be subject to refund past thirty (30) days from the date of issuance. Permit application, technology document retention, and general maintenance processing fees collected shall not be subject to refund. An administrative fee established by the Benicia Master Fee Schedule asnd adopted by City Council will be assessed for any permit refund request unless fees were charged in error by Ceity staff. Fees collected for other departments or divisions shall be refunded and processed by and at the discretion of those departments and divisions. 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)~~

~~6.8.~~Add section 108.7 to read as follows:

108.7 Plan review fees. Plan review ~~more than 15 minutes requires a plan check~~ fees 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 whichever is higher. All fees incurred during plan review including one-on-one consultations from an outside contract service company are considered pass-through fees and shall be paid at each cycle of plan review 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)~~

~~7.9.~~Add section 108.8 to read as follows:

108.08 Reactivation or renewal of expired ~~valuation-based~~ permit fees. Expired ~~valuation-based~~ permits that have been approved for reactivation by the ~~b~~Building ~~o~~Official shall pay fees based on the Benicia Master Fee Schedule as adopted by City Council based on the valuation of all remaining work. 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. If the reactivated permit only requires a final inspection, fees shall be set by the building official for cost recovery based on the hourly rate of the Benicia Master Fee Schedule as adopted by City Council. ~~(Local conditions I)~~

~~8. 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)~~

~~9.10.~~ 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)~~

~~10.11.~~ 11.11. 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)~~

~~11.12.~~ 12.12. 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 Ccity 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 Ccity 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 I)~~

~~12.13.~~ 13.13. 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)~~

~~13.~~14. Add section 1401.3 to read as follows:

1401.3 Appeal procedure. If the ~~b~~Building ~~o~~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)~~

~~14. 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)~~

~~15. 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)~~

~~16. 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)~~

~~17. 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)~~

~~18. 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)~~

~~19. 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)~~

~~20. 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)~~

~~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:~~

~~25. 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)~~

15. Add section 1404 Plumbing.

~~16. 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)~~

~~17.~~16. Add section ~~1404.1~~1404.2 to read as follows:

~~1404.1~~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 ~~b~~Building ~~o~~Official. ~~(Local conditions I)~~

~~30.~~17. Existing Building Code ~~A~~Appendix and ~~C~~Chapters to be ~~A~~Added.

The ~~2025~~2022 California Existing Building Code is further amended by adopting by reference the following appendices and chapters:

a. Appendix A

- i. Chapter A1 – Seismic strengthening provisions for unreinforced masonry bearing wall buildings.
- ii. Chapter A2 – Earthquake hazard reduction in existing reinforced concrete and reinforced masonry wall buildings with flexible diaphragms.
- iii. Chapter A3 – Prescriptive provisions for seismic strengthening of cripple walls and sill plate anchorage of light, wood-framed residential buildings.
- iv. Chapter A4 – Earthquake risk reduction in wood-framed residential buildings with soft, weak, or open front walls.
- v. Chapter A5 – Referenced Standards.

b. Appendix B – Supplementary accessibility requirements for existing buildings and facilities.

c. Appendix D – ~~Building B~~oard of ~~A~~ppeals

d. Appendix E – Temporary Emergency Uses

e. Resource A – Guidelines on Fire Rating of Archaic Materials and Assemblies.

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

Sections:

15.020.010 Amendments and Additions to the International Swimming Pool and Spa Code.

15.20.010 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, 2024~~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-F1346 ~~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~~
~~b.a./Safety I)~~
- ~~e.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)~~
- ~~d.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 Ccity Council finds as follows:

A. The purpose of this chapter is to appoint and designate the ~~community~~ services 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 services 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 or 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-~~approved plan provided form~~ submitted before the issuance of a building and/or demolition permit, approved by the ~~community~~ development services department for the purpose of compliance with this chapter.

“Waste management report” shall mean a completed ~~Ceity-approved 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 services 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 Ccity 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.B. Responsible Entity for Enforcement.

1. Enforcement pursuant to this chapter may be undertaken by the Benicia enforcement official or representative, which may be the development services director ~~city manager~~ or their representative ~~designated~~ entity, legal counsel, or combination thereof.
2. Enforcement may also be undertaken by an enforcement official or representative, designated by the Ccity of Benicia, in consultation with the Benicia enforcement official or representative.
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 representative ~~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 or a permit valuation of \$200,000 or above; and
- F. ~~Commercial and residential projects with construction costs estimated at \$100,000 or greater (labor and materials).~~ Additions or alterations of existing residential buildings where the addition or alteration increases the building's conditioned area, volume or size. The requirements shall apply only to and/or within the specific area of the addition or alteration.

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;

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

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

D. 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);

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

F. Abandonment of in-ground pools; and

G. 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 ~~(65)~~ percent of nonhazardous construction, ~~and~~ demolition debris, ~~and 100 percent of excavated soil~~ and noninfectious land clearing debris generated from every applicable construction, renovation, grading, or ~~or~~ demolition, or project deemed applicable by the building official shall be diverted from going to landfills by using recycling, reuse and diversion programs. 100% on non-residential excavated soils must be recycled and verified, exempting all residential projects from this requirement. 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 ~~services~~ department has approved the waste management plan. The ~~community~~ development ~~services~~ department shall only approve a waste management plan if ~~they~~ ~~he or she~~ determines that it contains all the information set forth in subsection (A) of this section. If the ~~community~~ development ~~services~~ department determines that all the above conditions have been met, ~~they~~ ~~he or she~~ shall mark the waste management plan “Approved,” return a copy of the plan to the applicant and notify the building ~~safety~~ division that it has been approved.

C. If the ~~community~~ development ~~services~~ 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 ~~services~~ 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 services department.
5. It is unlawful for any person to submit documentation to the ~~community~~ development services 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 services department, a penalty of \$1,000 or one percent of the project valuation, whichever is greater less, will be assessed to all construction and demolition projects. For projects determined to have a “good faith effort,” the ~~community~~ development services 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 ~~(3)~~-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 ~~representative 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 representative 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 ~~services~~ 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 ~~b~~Building ~~o~~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 ~~b~~Building ~~o~~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 Ceity Ceouncil 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 ~~b~~Building ~~o~~fficial 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 ~~b~~Building ~~o~~fficial 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 ~~b~~Building ~~o~~fficial'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 ~~b~~Building ~~o~~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 ~~b~~Building ~~o~~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.

E. 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](#).

F. 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.

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

~~“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 by-pass tee).~~

~~“Downstream of gas utility meter” refers to all customer-owned gas piping.~~

~~“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 if 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.~~

~~“Gas shut-off device” means either a seismic gas shut-off device or excess flow gas shut-off device.~~

~~“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.~~

~~“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.~~

~~“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.~~

~~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:~~

~~A. 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.~~

~~B. 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:~~

- ~~1. Such building has gas piping supplying the existing building or the addition to the building; and~~
- ~~2. 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~~
- ~~3. 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.~~
 - ~~a. With respect to residential buildings, the requirements set forth in subsections 1. and 2. 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 1. and 2. herein.~~
 - ~~b. With respect to commercial or industrial buildings, the requirements set forth in subsections 1. and 2. 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.~~

~~A. 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.~~

~~B. 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.~~

~~C. 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.~~

~~D. 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.~~

~~E. 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.~~

~~F. 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:~~

~~A. Be installed by a contractor licensed in the appropriate classification by the State of California and in accordance with the manufacturer's instructions.~~

~~B. 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.~~

~~C. 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.~~

~~D. 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.~~

~~E. 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 ~~C~~city of Benicia. The ~~c~~city ~~C~~ouncil 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 ~~B~~building ~~o~~fficial 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 ~~b~~Bbuilding ~~o~~fficial, or their authorized representative. Safety assessment teams shall be authorized to enter these buildings with permission from the ~~b~~Bbuilding ~~o~~fficial. 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 ~~C~~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 ~~eh~~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:~~

~~Email;~~

~~1. The internet;~~

~~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 current 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 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 Ceity of Benicia website.

B. Electronic submittal of the required permit application and documents ~~by email, through~~ 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 safety 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 safety division shall issue a building permit or other nondiscretionary permit ~~(the same day for express ~~over-the-counter~~ applications or within one to three business days for electronic applications)~~ or within one (1) to three (3) days when in receipt of a complete application and that meets the requirements of the approved checklist and standard plan. ~~The~~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 Ccity on another similarly situated application in a prior successful application for a permit. The Ccity 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 safety 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:~~

~~Electronic mail or email.~~

~~1. The internet.~~

~~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 Ceity’s adopted checklist shall be published on the Ceity’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 Ceity’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 Ceity. 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 current 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 current 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 letters of map revision (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 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 15.51.040.~~

~~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 15.49.030.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 15.51.040.~~

~~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 15.51.060.~~

~~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, V1-30 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 15.51.010 and the elevation and anchoring requirements for manufactured homes in BMC 15.51.040.~~

~~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 15.51.060.~~

~~15.51.050 Floodways.~~

~~Located within areas of special flood hazard established in BMC 15.47.070 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 15.47.070, 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 [15.49.030](#).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 ~~C~~city ~~C~~ouncil 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 [15.55](#) 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~~ ~~B~~oard of ~~A~~ppeals.

15.55.020 Appeals to the ~~C~~city ~~C~~ouncil.

15.55.010 Appeals to the ~~building department~~ board of appeals.

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.

Division III. Seismic

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:

"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.

"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.

"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.

"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.

"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](#).

"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 ~~safety division 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 ~~safety division inspection department~~ of the ~~Ceity~~ 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 ~~safety division inspection department~~ of the ~~Ceity~~ 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 ~~C~~eity ~~C~~ouncil.

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 ~~safety division inspection department~~ of the Ceity 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.

15.70.240 Notification of rainy season.

15.70.010 Purpose.

The Ceity Ceouncil 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 Ceity’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 Ceity Ceouncil in enacting this chapter to ensure the future health, safety, and general welfare of Ceity 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 development services director or their representative city engineer and those individuals designated by the city engineer/development services director as authorized enforcement officer 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 Ccity 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 Ceity’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 Ceity.

“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.

“Rainy season means the time-period between October 15th – April 15th inclusive.

“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 Ceity 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 Ceity by the development services director city-engineer. In administering this chapter, the development services director 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 Ceity’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 ~~their 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 ~~Ceity Ce~~ouncil 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~~
development services director.

B. The discharge of storm water from premises or an activity that causes or contributes to a violation of receiving water limitations in the ~~Ceity~~'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 Ccity 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 development services director 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 development services director.

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 Ccity.

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 Ceity 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 Ceity 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 Ceity. 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 code enforcement officer~~ may order the work stopped by notice through the building official in writing served on any persons engaged in doing or causing the work to be done. Such work shall stop until the building official authorized enforcement official authorizes the work to proceed. An investigation fee or citation established by the Benicia Master Fee Schedule as adopted by City Council shall be collected. This remedy is in addition to, and does not supersede or limit, any and all other remedies, both civil and criminal, provided in the Ceity of Benicia Municipal Code.
- 5. The Ceity 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 prior and 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~~ development services director in preparing the ESCP. At a minimum, the ESCP shall include:

i. ESCP checklist

~~iv.~~ii. Description of the proposed project and soil disturbing activity;

~~v.~~iii. Site-specific construction-phase BMPs;

~~vi.~~iv. Rationale for selecting the BMPs, including, if needed, soil loss calculations;

~~vii.~~v. 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);

~~viii.~~vi. 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

~~ix.~~vii. 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.

~~b.~~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.

~~e.~~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 Ceity, 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 Ceity-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 Ceity. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the Ceity.
- g. When any work is being done contrary to the provisions of this chapter, the authorized code enforcement officer official may order through the building official 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 building official 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 Ceity 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 Ceity 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~~ development services director 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 Ceity ~~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-~~h~~-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 ~~officer 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 ~~officer official~~ shall first present proper credentials and request entry; (2) if the building or premises is unoccupied, the enforcement ~~officer 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 ~~officer 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 Ceity. The authorized enforcement ~~officer official~~ may, within the limitations of law, enter such premises at reasonable times to conduct sampling and monitoring operations; provided, that the ~~officer 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 ~~officer 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 Ceity 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 Ceity 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 email and telephoning the development services city engineer during normal business hours ~~and confirming the notification by correspondence~~. Outside of normal business hours, in addition to email a telephone notice shall be made to the Benicia Fire Department.

G. The Ceity 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 ~~officer 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 ~~officer~~ 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 ~~officer 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 ~~C~~city ~~C~~ouncil 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 ~~C~~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 Ceity of Benicia 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 officer official has the authority to utilize the following administrative remedies:

A. Cease and Desist Orders. When an authorized enforcement officer official finds that a discharge has taken place or is likely to take place in violation of this chapter, the officer 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 Ceity 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 officer 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 officer 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 ~~officer 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~~ development services director within 10 days following the effective date of the decision by writing the ~~city-engineer~~ development services director in accordance with Chapter 1.44 BMC. Upon receipt of such request, the development services director ~~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 development services director ~~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.

~~15.70.220 Remedies not exclusive.~~

~~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.~~

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.

15.70.240 Notification of the rainy season.

A letter shall be sent to notify the applicant of the upcoming rainy season, or any additional enforcement required during that time-period.

Appeals of violations of chapter 15.70 and 15.73: Any person, firm, or 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 development services director within ten (10) days following the effective date of the decision by writing the development services director in accordance with chapter 1.44 BMC. Upon receipt of such request, the development services director shall request a report and recommendation from the authorized enforcement officer and shall set the matter for hearing within fourteen (14) days. At said hearing, the development services director 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.

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 development services director ~~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.~~

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~~ development services director 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~~ development services director 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.
 - 8. Grading is conducted by an agency of the federal government, the state government, or the city.
 - 9. 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.
 - 10. Construction of fire trails, access roads to public utilities, and gas and electric transmission lines provided the drainage pattern remains the same.
 - 11. 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.

12. Construction of water wells.

12.13. 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.

13.14. 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.

14.15. Grading within a street to conform to elevations approved by the ~~City Engineer~~ development services director and for which a permit has been issued under the provisions of chapter 12.12 (Encroachments).

15.16. Refuse disposal sites controlled by other regulations.

16.17. Excavation for utilities when performed by a public utility.

17.18. Exploratory excavations of 50 cubic yards or less under the direction of soil engineers or engineering geologists.

18.19. 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.

19.20. 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.

20.21. 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~~ development services director.

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~~ development services director 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~~ development services director 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~~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 ~~C~~eity 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 ~~S~~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.

“Development Services Director” Shall mean the development services director or their representative.

“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~~ development services director.

“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 ~~division~~ 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 or as established by the contract of support services, whichever is higher. All- fees incurred including one-on-one consultations from an outside contract service company are considered pass-through fees to the applicant.

B. Fees are nonrefundable.

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

D. Before issuing a grading permit, the ~~city engineer~~ development services director 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.

~~D. 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~~ development services director; and
5. Soil report when required by the ~~city-engineer~~ development services director; and
6. Geologic report when required by the ~~city-engineer~~ development services director; 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 services 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~~ development services director.
12. Erosion and sediment control plan (ESCP) checklist.

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 licensed in the State of California, 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~~ development services director 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 of Benicia 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 development services director 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 development services director such an extension is warranted, the City-Engineer development services director 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 development services director, 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 development services director. The city-engineer development services director 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~~ development services director determines that work will potentially cause injuries to persons or damage to properties or improvements, the ~~city engineer~~ development services director shall suspend the work. Upon notice of such suspension, the permittee shall immediately cease all work except for work required by the ~~city engineer~~ development services director to eliminate hazardous conditions or nuisances. The ~~city engineer~~ development services director may reinstate or revoke suspended permits.
 - b. Revocation of permit. The ~~city engineer~~ development services director 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~~ development services director 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 (5) 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 ~~thirty~~ (30) days of the conclusion of the hearing, the ~~city engineer~~ development services director 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 development services director~~ may require a geologic report prior to approval of a grading permit. A geologic report when required by the ~~Ceity 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 ~~Ceity engineer~~.
10. Authority to require geotechnical/soil report. The ~~city-engineer development services director~~ 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 California State Licensed 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 ~~Ceity engineer~~. Supplemental reports and data may be required as deemed necessary. Recommendations included in the reports and approved by the ~~Ceity 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 ~~Ceity 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 the California Environmental Quality Act. 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 development services director~~, after receiving all required bonds, permit fees, agreements and deeds (if applicable), and after approval of the tentative map by the planning commission or ~~Ceity Ceouncil~~, 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 ~~Ceity engineer of Benicia~~ 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 ~~Ceity~~ 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 ~~Ceity 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 development services director~~. The engineer of record for a grading permit shall provide an estimated cost for corrective grading work and erosion and sediment control measures at time of application. These estimated costs shall reflect the total value of work, including materials and labor for which the grading permit is being issued. If, in the opinion of the development services director, these costs are underestimated on the application, the grading permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the development services director. The development services director shall have the authority to adjust the final valuation for permit fees.

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 development services director and city attorney. Among other appropriate provisions, every surety bond shall include the following conditions to which the principal and surety shall each be bound:

4. Comply with the applicable provisions of this article and all other applicable laws, ordinances, rules, and regulations; and
5. Comply with all of the terms and conditions of the permit to the satisfaction of the City engineer; and
6. 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
7. 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 development services director 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.

7.8. City of Benicia shall be named as obligee on bonds.

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 their 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 development services director may, in their 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~~ development services director 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 ~~Ceity or Benicia 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~~ development services director or their ~~designees representative 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. shall first~~ make a reasonable effort to locate the owner, the owner's authorized agent, or other person having charge or control of the parcel and request entry. If entry is refused, the development services director shall have recourse to every remedy provided by law to secure entry. 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 ~~Ceity~~ 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 180 days ~~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. Extensions of time shall be at the discretion of the development services director.

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 ~~C~~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~~ development services director. 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., Department of Fish and Wildlife, etc.) and the necessary environmental review and approvals are received from the ~~community~~ development services director, ~~P~~planning ~~C~~ommission, or ~~C~~city ~~C~~ouncil as the case may be.

~~E.~~ “100 percent of trees, stumps, rocks, and associated vegetation, and soils resulting primarily from land clearing shall be reused or recycled. For phased projects, such material may be stockpiled on site until the storage site is developed.”

1. Exception: Reuse, either on or off site, of vegetation, or soil contaminated by disease, or pest infestation. “California Green Building Code 5.408.3 Excavated Soil and Land Clearing Debris”.

~~D.F.~~ 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 their authorized representative in a form acceptable to the ~~C~~city. A copy of such fully executed right of entry shall be filed with the ~~C~~city prior to the issuance of the grading permit and/or approval of the grading plans.

~~E.G.~~ Sediment controls and other best management practices shall be constructed on all developments, as determined by the ~~city engineer~~ development services director, 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~~ development services director pursuant to BMC 15.73.140 and ~~c~~Chapter 15.70 BMC, Storm Water Management and Discharge Control. Permanent siltation basins may be required in biologically sensitive areas.

~~F.H.~~ 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 18-1-1~~ of the current California Building Code.

G.I. 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~~ development services director. Boundary markers shall be maintained throughout the grading operation. Temporary barriers and/or protective fencing shall be used when necessary to protect adjacent properties.

H.J. Proper soil stabilization is required for all graded areas. Slopes, both cut and fill, shall be provided with subsurface drainage as necessary for stability.

I.K. 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~~ development services director 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.
 - b.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~~ development services director.

J.L. 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.

K.M. Cut and fill slopes shall be contour-rounded unless the ~~city engineer~~ development services director finds special circumstances applicable to the property that would require deviation from the requirement.

L.N. Variable slopes shall be used to mitigate environmental and visual impacts of grading unless the ~~city engineer~~ development services director finds special circumstances applicable to the property that would require deviation from this requirement.

M.O. 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~~ development services director.

N.P. All drainage facilities shall be designed to carry waters to the nearest practical drainage way approved by the ~~C~~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 as adopted by City Council, 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.

O.Q. 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 ~~C~~city may require the installation of trash racks at other locations as deemed necessary for proper maintenance and safety.

P.R. 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.

~~Q.S.~~ No fill material shall be placed, spread, or rolled during unfavorable weather conditions as determined by the soil engineer or ~~city engineer~~ development services director. 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.

~~R.T.~~ Modification of the specific grading regulations contained in this chapter may be approved or required by the ~~Ceity~~ 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 ~~Pp~~ Planning Commission or ~~Ceity~~ Ceouncil 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~~ development services director 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 ~~Ceity~~ 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 ~~Ceity~~ 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 ~~Ceity~~.
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 Ceity, and are kept continuously maintained and in place.
4. Adequate security has been provided to the Ceity.

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 Ceity 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 Ceity or as a condition of approval of the tentative map, the planting plan shall be approved by the Ceity'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~~ development services director.

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~~development services director. 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~~development services director. 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~~ development services director or their 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~~ development services director.
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 ~~c~~Chapter 15.70 BMC, Storm Water Management and Discharge Control, shall be subject to inspection by the ~~city engineer~~ development services director. 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~~ development services director 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. They shall also be responsible for the professional inspection and approval of the grading within their 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~~ [development services director](#) 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. They shall report their findings to the soil engineer and the civil engineer for engineering analysis.

The ~~city engineer~~ [development services director](#) 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~~ [development services director](#), at their 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~~ [development services director](#). 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~~ development services director 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 their 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~~ development services director 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~~ development services director 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 code enforcement officer in conjunction with the building safety division ~~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~~ development services director, a grading operation creates a dangerous or hazardous condition, the ~~city-engineer~~ development services director 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 they 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.

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 become effective upon the date the California Building Standards Commission (CBSC) accepts the ordinance for filing, but in no event before

January 1, 2023. Before the expiration of fifteen (15) days after its adoption, 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 City Council voting for and against its passage.

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the ~~4th~~^{1st} day of November, ~~2025~~²⁰²², and adopted at a regular meeting of the Council held on the 18th day of _____~~November, 2025~~^{November, 2022}, by the following vote:

Ayes:

Noes:

Absent:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 4, 2025
BUSINESS ITEM

TO : City Manager

FROM : Fire Chief

SUBJECT : **FIRST READING AND INTRODUCTION OF THE 2025 CALIFORNIA FIRE CODE AND CHAPTER AMENDMENTS TO TITLE 8 OF THE BENICIA MUNICIPAL CODE**

EXECUTIVE SUMMARY:

The State of California Building Standards Commission has adopted the 2025 California Fire Code and has set a mandatory implementation date of January 1, 2026. Implementing the 2025 California Fire Code, with staff recommended amendments and additions, will address specific needs within the City of Benicia, while maintaining compliance with the State of California Building Standards Commission.

RECOMMENDATION:

Conduct the public hearing, introduce, and read by title only an Ordinance (Attachment 1) amending Chapter 8.28 (Fire Prevention and Life Safety Code) of Title 8 (Health and Safety) of the Benicia Municipal Code to repeal Chapter 8.28 in its entirety and adopting by reference the 2025 California Fire Code as prepared by the California Building Standards Commission with recommended local amendments and additions.

BUDGET INFORMATION:

There is no fiscal impact as a result of the recommended actions. Funding for enforcement of California Fire Codes, and other state mandated regulations, as described herein, are generated solely from fees collected for plan review and building permits.

BACKGROUND:

The California Building Standards Commission has published the 2025 California Building Standards Code (Title 24 of the California Code of Regulations), which includes the Administrative Code, Building Code, Existing Building Code, Residential Code, Plumbing Code, Mechanical Code, Electrical Code, Energy Code, Historical Building Code, Green Building Standards Code, Referenced Standards 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, 2026. Cities may adopt local amendments to the state code upon making findings that the amendments are needed to address specific local climatic, geological, or topographical conditions.

The proposed ordinance would repeal and replace Chapter 8.28 (Fire Prevention and Life Safety Code) of Title 8 (Health and Safety) of the City of Benicia Municipal Code to reflect the newly published California Fire Code and adopt administrative procedures and local amendments or appendices relating to those standards. A markup of current regulations in comparison to the proposed ordinance is provided for reference as Attachment 2. The changes recommended include:

- Clerical, grammar, and formatting corrections
- Removed duplicative language provided in other sections of California Fire Code

NEXT STEPS:

The proposed ordinance is scheduled for a second reading and adoption at the City Council meeting on November 18, 2025, and would become effective upon the date the California Building Standards Commission accepts the ordinance for filing, but in no event before January 1, 2026. Because the proposed ordinance incorporates the California Fire Code by reference, the second reading must take place at a noticed public hearing. Notice will be published in accordance with Government Code Section 50022.3.

Due to the length of the ordinance, the City Council is asked to authorize a summary of the Ordinance to be published five days in advance of the second reading and 15 days after adoption.

ALTERNATIVE ACTIONS:

If Council does not adopt the Ordinance regarding the 2025 California Fire Code, the Fire Code prepared by the California Building Standards Commission will go into effect per state mandate; however, it will not allow for local amendments to said codes that specifically address the safety and well-being of the citizens of Benicia.

CEQA Analysis	The project is Categorically Exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines in that it is not a project which has the potential to cause a significant effect on the environment.
--------------------------	---

ATTACHMENT:

1. Ordinance – Adopting 2025 California Fire Code and Amendments
2. California Fire Code Update Ordinance – with Redline Markup

For more information contact: Josh Chadwick, Fire Chief

Phone: (707) 746-4275

E-mail: jchadwick@ci.benicia.ca.us

CITY OF BENICIA

ORDINANCE NO. 25-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 8.28 (FIRE PREVENTION AND LIFE SAFETY CODE) OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE TO REPEAL CHAPTER 8.28 IN ITS ENTIRETY AND ADOPTING BY REFERENCE THE 2025 CALIFORNIA FIRE CODE

THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN AS FOLLOWS:

Section 1.

The City of Benicia adopts the 2025 Edition of the California Fire Code (2024 International Fire Code as amended by the State of California), regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Benicia; providing for the issuance of permits and collection of fees therefor; and repealing Chapter 8.28 of the Benicia Municipal Code and all other ordinances and parts of the ordinances in conflict therewith.

Chapter 8.28 (Fire Prevention and Life Safety Code) of Title 8 (Health and Safety) of the Benicia Municipal Code is hereby repealed in its entirety and replaced with a new Chapter 8.28 as set forth in this Section to read as follows:

Chapter 8.28

FIRE PREVENTION AND LIFE SAFETY CODE

Sections:

- | | |
|----------|--|
| 8.28.010 | Adoption by reference. |
| 8.28.020 | Establishment and duties of the division of fire and life safety. |
| 8.28.030 | Definitions. |
| 8.28.040 | Establishment of limits within the City of Benicia where materials regulated by this code are prohibited or limited. |
| 8.28.050 | Amendments made in the California Fire Code. |
| 8.26.060 | Penalties. |

8.28.010 Adoption by Reference.

A. Fire Code Adopted. The City of Benicia adopts the 2025 Edition of the California Fire Code (2024 International Fire Code as amended by the State of California), Appendix B, C, D, F, H, I and N in their entirety, as modified and amended by this chapter, by this reference into this chapter, and are hereby collectively declared to be the fire code of the City of Benicia for the purpose of regulating and governing the safeguarding of life, property and public welfare to a reasonable degree from the hazards of fire, hazardous materials release and explosion(s) arising from the storage, use and handling of dangerous and hazardous materials, substances and devices, and conditions hazardous to life or property in the occupancy and use of buildings and premises, the operation, installation and maintenance of adequate means of egress not provided for by the building code, and providing for the issuance of permits and collection of fees therefor.

B. The City of Benicia adopts the 2025 Edition of the California Fire Code (2024 International Fire Code as amended by the state of California), regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the city of Benicia; providing for the issuance of permits and collection of fees therefor; and repealing Chapter [8.28](#) of the BMC and all other ordinances and parts of the ordinances in conflict therewith.

C. Findings. This code adopts changes, modifications and requirements not mandated by the California Fire Code (CFC) and International Fire Code (IFC) because of local climatic, geological or topographical conditions. The modifications are needed due to the following local conditions that exist in Benicia and on the following findings:

1. The city is geographically situated in an area subject to frequent periods of strong, gusty winds from the southwest and north. In addition, temperatures during the summer months range from 80 to 100-plus degrees. During this period, the relative humidity can fall below 20 percent. The city contains a significant amount of hilly, undeveloped acreage designated as permanent open space. This wildland/urban interface, in conjunction with the hot, dry and windy climatic conditions, creates a hazardous situation that has led to extensive grass and brush fires in recent years. With more development extending into and adjacent to the open space areas, heat- and wind-driven fires could lead to serious consequences. This reason is herein referred to as "Climatic".

2. The city is divided by several topographic features, including Interstates 680 and 780. As a result, the city is primarily divided into three parts. Traffic within and between the parts of the city is channeled onto several major thoroughfares that must cross freeways by way of underpasses and overpasses. In addition, it is bordered on two sides by the Carquinez Straits. Periodic heavy traffic congestion on the city's major streets and interstates acts as a barrier to timely response for fire and emergency service vehicles. Because of traffic or accidents, there could

be times that fire equipment could be sufficiently slowed to increase the risk of substantial structural damage. With the possibility of fire services unable to guarantee rapid response to various sections of the city during these times, it is necessary to mitigate this problem by requiring adequate access, road construction allowing apparatus approach, and other features to aid mitigation efforts. This reason is herein referred to as “Topographic”.

3. The city is subject to ground tremors from seismic events on the San Andreas, Concord/Green Valley, Hayward, and/or other major active faults in the greater San Francisco Bay area. The Concord/Green Valley fault is immediately adjacent to the city to the north. Seismological evidence indicates the probability of an earthquake in the region capable of doing significant damage to buildings is high. A major seismic event would create a citywide demand on fire protection services, which would be beyond the response capability of the fire department. This problem can be lessened or mitigated by requiring initial fire control through the installation of automatic fire protection systems. This reason is herein referred to as “Geologic”.

The Council has reviewed the local amendments set forth herein and finds that they are consistent with and equivalent to changes or modifications previously filed by the City of Benicia with the State Building Standards Commission in 2022 amending the 2022 Fire Code and there is no material change in regulatory effect to the standards in effect in the City of Benicia as of September 30, 2025.

8.28.020. Establishment and duties of the division of fire and life safety.

The California Fire Code as adopted and amended herein shall be enforced by the fire and life safety division in the fire department of the City which is hereby established, and which shall be operated under the supervision of the fire chief of the fire department. All members of the fire department may enforce the California Fire Code as adopted and amended herein.

8.28.030. Definitions.

Section 202, General Definitions, of the California Fire Code is amended to add the following:

“Bureau of fire prevention,” or “bureau,” means the fire and life safety division.

“Fire code official” means the fire chief or designee.

“Jurisdiction” means the city of Benicia.

8.28.040 Establishment of limits within the city of Benicia where materials regulated by this code are prohibited or limited.

A. Establishment of Limits in Which Storage of Liquefied Petroleum Gases Is to Be Restricted. The limits referred to in Section 6104.2 of the California Fire Code, in which

storage of liquefied petroleum gas is restricted, are hereby established as follows: The bulk storage of liquefied petroleum gas in excess of 2,000 gallons is prohibited in all residentially zoned areas of the city, excluding public and public safety facilities.

B. Establishment of Limits in Which the Storage of Stationary Tanks of Flammable Cryogenic Fluids Is to Be Prohibited. The limits referred to in Section 5806.2 of the California Fire Code in which the storage of flammable cryogenic fluids in stationary containers is prohibited are hereby established as follows: Any area which is zoned for other than industrial use.

C. Establishment of Limits in Which Storage of Flammable or Combustible Liquids in Outside Aboveground Tanks; Bulk Plants or Terminals; and Bulk Transfer Operations Is to Be Prohibited. The limits referred to in Section 5704.2.9.6.1 of the California Fire Code in which storage of Class I and II liquids in outside aboveground tanks is prohibited are hereby established as follows:

1. Storage of flammable or combustible liquids in excess of 2,000 gallons shall be limited to refineries or bulk storage plant locations.
2. Storage shall be limited to public, limited industrial (IL), general industrial (IG), and water-related industrial (IW) zoned districts or public safety facilities.
3. Aboveground storage tanks for any flammable liquid shall be allowed only at refineries or bulk storage locations with the approval of the fire chief.

8.28.050 Amendments made in the California Fire Code

The California Fire Code is amended and changed in the following respects:

A. Section 101.1 – Title. Section 101.1 of Chapter 1 is amended to read as follows:

101.1 Title. These regulations shall be known as the Fire Code of the City of Benicia, hereinafter referred to as “this code.”

B. Section 103.2 is deleted in its entirety.

C. Section 104.3.2 – Fire Clearance. Section 104.3.2 of Chapter 1 is added to read:

104.3.2 Fire Clearance. It shall be unlawful for any person, firm or corporation to operate a business unless a fire clearance inspection has been made and such businesses are in compliance with all fire department requirements.

D. Section 104.10.1 – Assistance from Other Agencies. Section 104.10.1.1 of Chapter 1 is added to read:

104.10.1.1 Fire Prevention Bureau Personnel and Police. All sworn safety personnel assigned to the Fire and Life Safety Division, or such other full-time

Fire Department officers or fire prevention personnel including the Community Preservation Officer(s), as may be authorized by the Chief, shall be peace officers as described in Section 830.37 of the California Penal Code and shall enforce the Penal Code, California Fire Code, and where necessary and appropriate, any sections of the Benicia Municipal Code, California Health and Safety Code, and any other county or state fire-related laws or codes not specifically covered in any part of this Code. These police powers include the issuance of misdemeanor citations (Notice to Appear), and as approved by the Chief, carrying and use of firearms.

When requested to do so by the Fire Chief, the Chief of Police is authorized to assign such available police officers as necessary to assist the Fire Department in enforcing the provisions of this Code.

E. Section 112.1- Board of appeals established, Section 112.1 of Chapter 1 is amended to read as follows:

112.1- Board of appeals established. Appeals of orders, decisions, interpretations or determinations made by the Fire Code Official relative to the application and interpretation of this code shall be heard by the City of Benicia Building Board of Appeals. The Fire Code Official shall serve as an ex officio member of the board when the board is hearing matters related to this code but shall have no vote on any matter before the board. The board shall render all decisions and findings in writing to the appellant with a copy to the Fire Code Official.

F. Section 112.3 - Qualifications, Section 112.3 of Chapter 1 is amended to read as follows:

The qualifications for the Building Board of Appeals are defined in the BMC 2.96.020.

G. Section 113.4 – Violation Penalties. Section 113.4 of Chapter 1 is amended to read as follows:

113.4 Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under provisions of this code, shall be guilty of an Infraction or Misdemeanor as specified in the California Penal Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

H. Section 114.4 – Failure to comply. Section 114.4 of Chapter 1 is amended to read as follows:

114.4 Failure to Comply. 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 liable to a fine of not less than (\$500.00) dollars or more than (\$1,500.00) dollars.

I. Section 202 – General Definitions. Section 202 is amended by adding the following:

202 Fire Watch: Qualified individual(s) shall mean an employee of an acceptable security guard/patrol service or employee approved by the fire code official.

202. All Weather Driving Surface: A roadway designed to carry the imposed weight loads of fire apparatus complete with all underground utilities, curbs, gutters, and a minimum surface finish of one layer of asphalt or concrete or road pavers. (Topographic)

J. Section 307.6 – Open Burning, Outdoor Fireplaces, Fire Pits, Fire Rings, or similar devices at Residential Occupancies. Section 307.6 of Chapter 3 is added to read as follows:

307.6- Open Burning, Outdoor Fireplaces, Fire Pits, Fire Rings, or similar devices at Residential Occupancies. Outdoor fireplaces, fire pits, fire rings, or similar exterior devices used for recreational heating at residential occupancies shall comply with this section.

1. Gas-fueled devices. Permanent outdoor fire places, fire pits and similar devices fueled by natural gas or liquefied-petroleum gas are allowed when approved by the Building Department and the device is designed to only burn a gas flame and not wood or other solid fuel. At one and two-family dwellings, combustible materials and vegetation shall not be located within three feet of the device. At other residential occupancies, the minimum distance shall be ten feet.

2. Devices using wood or fuels other than natural gas or liquefied-petroleum gas. Permanent outdoor fireplaces, fire pits, and similar devices designed to burn wood shall be approved by the Building Department. Fire in fireplaces shall be contained in a firebox with an attached chimney with a spark arrestor.

3. Portable outdoor fire places using gas or wood fuel used at one and two-family dwellings shall be used in accordance with the manufactures instructions.

4. Open burning in devices other than permanent fireplaces are prohibited within 20 feet of structures and 15 feet of combustible materials.

Exceptions:

- i. Open burning in fire rings/pits equipped with a spark arrester that are located at least 15 feet from combustible structures and material at one and two-family dwellings.
 - ii. Open burning in portable fireplaces, and fire pits/rings equipped with a spark arrester that are located at least 15 feet from combustible structures and material at all other residential occupancies.
 - iii. Home-built outdoor portable fireplaces, fire pits, and similar devices used at one and two-family dwellings shall be constructed of non-combustible materials and have a total fuel area of 3 feet or less in diameter and 2 feet or less in height. These devices shall be provided with a cover or spark arrester with openings no greater than ¼" and be operated no closer than 15 feet from combustible materials or structures.
5. Open burning, including recreational fires and fires within portable outdoor fireplaces, shall not be permitted on "red-flag" or other days which pose a high fire risk as determined by the Fire Code Official. (Climatic)

K. Section 503.2.1 – Dimensions. Section 503.2.1 is amended to add subsection 503.2.1.1 as follows:

503.2.1.1 Parking of vehicles on fire apparatus access roads. For the parking of vehicles on a fire apparatus access road, roadway widths shall be increased to accommodate the parking of vehicles as follows:

1. Roadways 20-27 feet (6096 mm) in width, no parking permitted.
2. Roadways 28-36 feet (8534 mm) in width, parking is permitted on one side only. Parking is permitted on the side of the street absent of fire hydrants.
3. Roadways greater than 36 feet (10 973 mm) in width, parking is not restricted. (Topographic)

L. Section 503.2.7 – Grade. Section 503.2.7 is amended in its entirety and replaced as follows:

503.2.7 Grade. A fire department access road having a grade of between 12% and 15% shall be designed to have a finished surface of grooved concrete to hold a 74,000-pound traction load. Design for grooved concrete shall be 1/4 inch (6 mm) wide by 1/4 inch (6 mm) deep and 3/4 inch (19 mm) on center. Grades exceeding 15% are not permitted.

Exception: Other approved all weather surfaces may be used if the skid resistance is equivalent to or greater than grooved concrete as certified by a registered engineer and approved by the Fire Code Official. (Topographic)

M. Section 503.2 – Specifications. Section 503.2 is further amended to add Section 503.2.9 as follows:

503.2.9 Roadway minimum design weight load capacity. A fire department access road shall be designed and maintained to support a minimum load of 74,000 pounds (HS-20-44 Cal-Trans Design Standard) and shall be provided with an all-weather driving surface as specified in this standard. (Geologic)

N. Section 503.3 – Access-Parking Prohibited. Section 503.3 is further amended to add subsection 503.3.1 as follows:

503.3.1 Access-parking Prohibited. If, in the judgment of the Fire Code Official, it is necessary to prohibit vehicular parking along public or private driveways and other access ways devoted to public use in order to maintain clear and unobstructed access, the Fire Code Official may require the owner, lessee, or other person in charge of the premises to paint the curbs red, install signs, or give other appropriate notice that parking is prohibited. It shall thereafter be unlawful for any such owner, lessee, or other person in charge to fail to install and maintain in good condition the painted curbs, signs, or other appropriate notice so prescribed. When such areas are marked or signed as provided herein, it shall be unlawful for any person to park or leave standing a vehicle adjacent to any such curb marking or contrary to such sign(s).

It shall be unlawful to park any vehicle or in any other way obstruct or block any “Fire Lane”, general access road to any building or complex, fire department connection, access roads or areas to any open space, no parking zones at fire stations or within 10 feet of any fire hydrant. (Topographic)

O. Section 503.4 – Obstruction of fire apparatus access roads. Section 503.4 is amended to add subsection 503.4.2. as follows:

503.4.2 Access to Open Spaces. When access to open land/space or fire trail systems maintained for public or private use is obstructed by vehicles of any kind, or other obstructions both within the access or the road or street access to the open space, the vehicle or obstruction may be removed, and the cost of such removal will be assessed to the responsible party or vehicle owner. (Topographic)

P. Section 505.1- Address identification. Section 505.1 is amended to read as follows:

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:

1. Industrial- Industrial buildings with one or 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.
2. 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.
3. 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.
4. Lighting of building addresses – The building address for all new buildings constructed after October 1, 2022, shall be internally or externally illuminated at night. (Topographic)

Q. Section 505 – Premises Identification. Section 505 is amended to add subsection 505.1.2 and 505.1.3 as follows:

505.1.2 Address Identification. Any business or building that affords vehicular access to the rear through a driveway, alleyway, or parking lot, shall also display the building identification or address numbers on the rear of the building.

505.1.3 Multiple dwelling Complex. At the main entrance driveway to each newly constructed multiple dwelling complex having 12 or more units, there shall be positioned an illuminated diagram (map) of the complex, which lists all individual addresses of each unit in the complex. The design and location of the map shall be approved by the Code Official. Address identification shall be maintained. (Topographic)

R. Section 507.5.1 – Where Required. Section 507.5.1 of Chapter 5 is amended to read:

507.5.1 Where Required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 300 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by Appendix C.

Fire hydrants, if required, shall be placed as approved by the Fire Code Official within fifty (75') feet of fire department connections on new construction. (Topographic)

S. Section 903.2 – Where Required. Section 903.2 of Chapter 9 is amended to read:

Section 903.2 Where Required. An approved automatic fire sprinkler system shall be installed and maintained in each new building, within the City requiring a building permit according to the following criteria:

1. A Building occupied or used for any purpose including occupancy group A, B, E, F, H, I, M, R, S, (as defined in the California Fire Code), where the fire flow requirements for the building are one thousand gallons per minute or more based on Appendix B requirements.

Exceptions: The fire code official is authorized to modify this requirement based on site-specific constraints.

2. A building more than two stories or thirty-five feet in height; (Geologic)

T. Section 903.4.2.1 – Alarms in Group R-3 Occupancies. Section 903.4.2.1 of Chapter 9 is added to read:

Section 903.4.2.1 Alarms in Group R-3 Occupancies. Where a residential fire sprinkler system is installed, actuation of the automatic sprinkler system shall result in an audible alarm on the premise meeting the following criteria:

1. An approved exterior audible alarm shall be installed on the front of the building or within 4 feet of the front-facing public or private street access. (Topographic)

U. Section 1103.5 – Sprinkler Systems Where Required. Section 1103.5 is amended to read as follows:

Section 1103.5 – Sprinkler Systems Where Required. An approved automatic fire sprinkler system shall be installed and maintained in each new building and addition to an existing building and in the case of the major remodeling of an existing building, with the City requiring a building permit according to the following criteria:

1. Each building existing on January 1, 2017 is exempt from this section until such time as:

a. Structural changes are made which increase the gross floor area by 40% or more (in such cases, the automatic sprinkler system shall protect the existing portions of the structure as well as the addition).

b. The building adds, or changes occupancy classification as defined in the California Building Code. (Topographic)

V. Section 5601.1.3 Fireworks. Section 5601.1.3 is amended to read as follows:

Section 5601.1.3 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited. Exception 4 is deleted in its entirety. (Climatic)

W. Appendix B, Fire Flow Requirements for Buildings, is amended as follows:

Appendix B, Table B105.1(1) is amended to read as follows:

TABLE B105.1(1)

REQUIRED FIRE-FLOW FOR ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES

FIRE-FLOW CALCULATION AREA (square feet)	AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE-FLOW (Gallons per Minute)	FLOW DURATION (Hours)
0-4800	Section 903.3.1.3 of the California Fire Code or Section 313.3 of the California Residential Code	1,000	1
4801 and greater	Section 903.3.1.3 of the California Fire Code or Section 313.3 of the California Residential Code	½ the value in Table B105.1(2)	1

For SI: 1 square foot = 0.0929 m², 1 gallon per minute = 3.785 L/m.

Appendix B, Table B105.2 is amended to read as follows:

TABLE B105.2

REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES

AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE- FLOW (Gallons per Minute)	FLOW DURATION (Hours)
Section 903.3.1.1 of the California Fire Code	50% of the value in Table B105.1(2) ^a	Duration in Table B105.1(2) at the reduced flow rate

For SI: 1 gallon per minute = 3.785 L/m.

a. The reduced fire-flow shall be not less than 1,500 gallons per minute. (Topographic)

X. Appendix C, Fire Hydrant Locations and Distribution, is amended as follows:

Section C103.1, Hydrant spacing, is amended to read:

Section C103.1.1 One- and two-family dwellings. The average spacing between fire hydrants shall not exceed 500 feet on center between hydrants in one- and two-family dwellings.

Section C103.1.2 Occupancies other than one- and two-family dwellings. The average spacing between fire hydrants shall not exceed 300 feet on center between hydrants or the spacing as specified in Table C102.1. (Topographic)

Y. Appendix D, Fire Apparatus Access Roads, is amended as follows:

Section D103.1 is deleted in its entirety.

Section D103.2—Grade. Section D103.2 is amended to read as follows:

D103.2-Grade. Fire apparatus access roads shall not exceed 15% in grade.
Exception: Deleted

Section D103.2.1 —Angles of approach and departure. Section D103.2.1 is added to read as follows:

D103.2.1 Angles of approach and departure. The angles of approach and departure for any means of access shall not exceed 11 percent at 10 feet-6 inches of the grade break.

Section D103.3 is deleted in its entirety and replaced by the following to read:

D103.3 Turning radius. Based on a minimal unobstructed width of 20 feet, a fire apparatus access roadway shall be capable of providing a minimum standard turning radius of 25 feet (7620 mm) inside and 45 feet (13 716 mm) outside.

Table D103.4 is amended to read:

Table D103.4

**REQUIREMENTS FOR DEAD-END FIRE
APPARATUS ACCESS ROADS**

LENGTH (feet)	MINIMUM WIDTH (feet)	TURNAROUNDS REQUIRED
0 – 150	20 ^a	None required
151 – 750	20 ^a	100-foot Hammerhead, 50-foot “Y”, or 90-foot-diameter cul-de-sac in accordance with figure D103.1
Over 750	Special approval required ^b	

a. A driveway with a minimum width of 16 feet is acceptable for access to no more than two single-family dwellings.

b. Any fire apparatus access roadway or driveway that is approved to be less than 20 feet wide and to exceed 750 feet in length shall have outsets or turnouts every 300 feet along the length of the road or driveway, or at locations approved by the fire code official. Each outset or turnout shall be of the following dimensions: an 8 foot wide turnout that extends at least 40 feet in length.

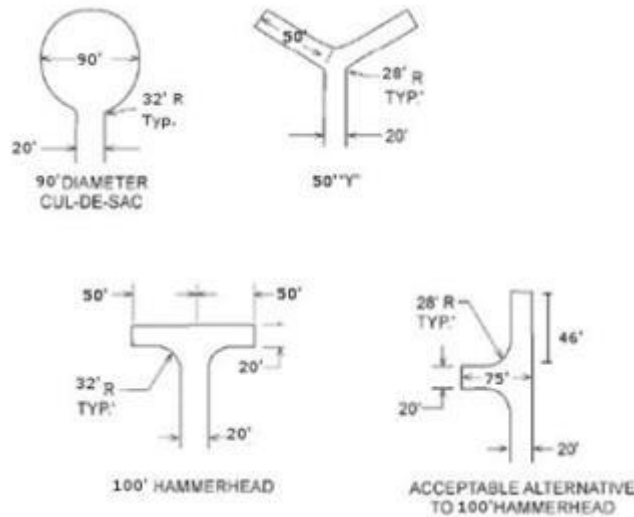


Figure D103.1 is amended to read:

D103.5 is amended by amending criterion 1 and adding criterion 9 to read:

D103.5.1. The minimum clear width shall be 20 feet (6096 mm).

Exception: The minimum clear shall be 16 feet for access to one and two single-family dwellings.

D103.5.9. All gates shall be installed and located a minimum of 30 feet off the street.

Section D103.6.1 is amended to read:

D103.6.1 Roads less than 28 feet in width. Fire apparatus access roads less than 28 feet wide shall be posted on both sides as a fire lane.

Section D103.6.2 is amended to read:

D103.6.2 Roads 28 feet in width or greater, but less than 36 feet in width. Fire apparatus access roads 28 feet wide or greater, but less than 36 feet wide, shall be posted on one side of the road as a fire lane.

Section D105.3 is amended to read:

D105.3 Proximity to building. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (45 772 mm) and a maximum of 30 feet (9 144 mm) from the building and shall be positioned parallel to one entire side of the building with the largest vertical dimension while allowing access to each floor of the building.

Section D106.1 is amended to read:

Section D106.1 Projects having more than 100 dwelling units. Multiple-family residential projects having more than 100 dwelling units shall be provided with two separate and approved fire apparatus access roads and shall meet the requirements of Section D106.3. Exception: Deleted.

Section D106.2 is deleted in its entirety. (Topographic)

8.28.060 Penalties.

Penalties for violation of this chapter shall be as set forth in Chapter 1.08.

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 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 upon the date the California Building Standards Commission (CBSC) accepts the ordinance for filing, but in no event before January 1, 2026. 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.

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the 4th day of November, 2025, and adopted at a regular meeting of the Council held on the _____ day of _____, 2025, by the following vote:

Ayes:

Noes:

Absent:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

CITY OF BENICIA

ORDINANCE NO. 25-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ~~AMENDING TO REPEAL~~ CHAPTER 8.28 (FIRE PREVENTION AND LIFE SAFETY CODE) OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE ~~TO REPEAL CHAPTER 8.28 IN ITS ENTIRETY AND ADOPTING BY REFERENCE REPLACE WITH~~ THE 2025 CALIFORNIA FIRE CODE

THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN AS FOLLOWS:

Section 1.

The City of Benicia adopts the 202~~52~~ Edition of the California Fire Code (202~~41~~ International Fire Code as amended by the State of California), regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Benicia; providing for the issuance of permits and collection of fees therefor; and repealing Chapter 8.28 of the Benicia Municipal Code and all other ordinances and parts of the ordinances in conflict therewith.

Chapter 8.28 (Fire Prevention and Life Safety Code) of Title 8 (Health and Safety) of the Benicia Municipal Code is hereby repealed in its entirety and replaced with a new Chapter 8.28 as set forth in this Section to read as follows:

Chapter 8.28

FIRE PREVENTION AND LIFE SAFETY CODE

Sections:

- | | |
|----------|--|
| 8.28.010 | Adoption by reference. |
| 8.28.020 | Establishment and duties of the division of fire and life safety. |
| 8.28.030 | Definitions. |
| 8.28.040 | Establishment of limits within the City of Benicia where materials regulated by this code are prohibited or limited. |
| 8.28.050 | Amendments made in the California Fire Code. |
| 8.26.060 | Penalties. |

8.28.010 Adoption by Reference.

A. Fire Code Adopted. The City of Benicia adopts the 202~~5~~² Edition of the California Fire Code (202~~4~~⁴ International Fire Code as amended by the State of California), Appendix B, C, D, F, H, I and N in their entirety, as modified and amended by this chapter, by this reference into this chapter, and are hereby collectively declared to be the fire code of the City of Benicia for the purpose of regulating and governing the safeguarding of life, property and public welfare to a reasonable degree from the hazards of fire, hazardous materials release and explosion(s) arising from the storage, use and handling of dangerous and hazardous materials, substances and devices, and conditions hazardous to life or property in the occupancy and use of buildings and premises, the operation, installation and maintenance of adequate means of egress not provided for by the building code, and providing for the issuance of permits and collection of fees therefor.

B. The City of Benicia adopts the ~~2022-2025~~ Edition of the California Fire Code (~~2024~~²⁰²⁴ International Fire Code as amended by the state of California), regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the city of Benicia; providing for the issuance of permits and collection of fees therefor; and repealing Chapter 8.28 of the BMC and all other ordinances and parts of the ordinances in conflict therewith.

C. Findings. This code adopts changes, modifications and requirements not mandated by the California Fire Code (CFC) and International Fire Code (IFC) because of local climatic, geological or topographical conditions. The modifications are needed due to the following local conditions that exist in Benicia and on the following findings:

1. The city is geographically situated in an area subject to frequent periods of strong, gusty winds from the southwest and north. In addition, temperatures during the summer months range from 80 to 100-plus degrees. During this period, the relative humidity can fall below 20 percent. The city contains a significant amount of hilly, undeveloped acreage designated as permanent open space. This wildland/urban interface, in conjunction with the hot, dry and windy climatic conditions, creates a hazardous situation that has led to extensive grass and brush fires in recent years. With more development extending into and adjacent to the open space areas, heat- and wind-driven fires could lead to serious consequences. This reason is herein referred to as "Climatic".

2. The city is divided by several topographic features, including Interstates 680 and 780. As a result, the city is primarily divided into three parts. Traffic within and between the parts of the city is channeled onto several major thoroughfares that must cross freeways by way of underpasses and overpasses. In addition, it is bordered on two sides by the Carquinez Straits. Periodic heavy traffic congestion on the city's major streets and interstates acts as a barrier to timely response for fire and emergency service vehicles. Because of traffic or accidents, there could

be times that fire equipment could be sufficiently slowed to increase the risk of substantial structural damage. With the possibility of fire services unable to guarantee rapid response to various sections of the city during these times, it is necessary to mitigate this problem by requiring adequate access, road construction allowing apparatus approach, and other features to aid mitigation efforts. This reason is herein referred to as “Topographic”.

3. The city is subject to ground tremors from seismic events on the San Andreas, Concord/Green Valley, Hayward, and/or other major active faults in the greater San Francisco Bay area. The Concord/Green Valley fault is immediately adjacent to the city to the north. Seismological evidence indicates the probability of an earthquake in the region capable of doing significant damage to buildings is high. A major seismic event would create a citywide demand on fire protection services, which would be beyond the response capability of the fire department. This problem can be lessened or mitigated by requiring initial fire control through the installation of automatic fire protection systems. This reason is herein referred to as “Geologic”.

The Council has reviewed the local amendments set forth herein and finds that they are consistent with and equivalent to changes or modifications previously filed by the City of Benicia with the State Building Standards Commission in 2022 amending the 2022 Fire Code and there is no material change in regulatory effect to the standards in effect in the City of Benicia as of September 30, 2025.

8.28.020. Establishment and duties of the division of fire and life safety.

The California Fire Code as adopted and amended herein shall be enforced by the fire and life safety division in the fire department of the City which is hereby established, and which shall be operated under the supervision of the fire chief of the fire department. All members of the fire department may enforce the California Fire Code as adopted and amended herein.

8.28.030. Definitions.

Section 202, General Definitions, of the California Fire Code is amended to add the following:

“Bureau of fire prevention,” or “bureau,” means the fire and life safety division.

“Fire code official” means the fire chief or designee.

“Jurisdiction” means the city of Benicia.

8.28.040 Establishment of limits within the city of Benicia where materials regulated by this code are prohibited or limited.

A. Establishment of Limits in Which Storage of Liquefied Petroleum Gases Is to Be Restricted. The limits referred to in Section 6104.2 of the California Fire Code, in which

storage of liquefied petroleum gas is restricted, are hereby established as follows: The bulk storage of liquefied petroleum gas in excess of 2,000 gallons is prohibited in all residentially zoned areas of the city, excluding public and public safety facilities.

B. Establishment of Limits in Which the Storage of Stationary Tanks of Flammable Cryogenic Fluids Is to Be Prohibited. The limits referred to in Section 5806.2 of the California Fire Code in which the storage of flammable cryogenic fluids in stationary containers is prohibited are hereby established as follows: Any area which is zoned for other than industrial use.

C. Establishment of Limits in Which Storage of Flammable or Combustible Liquids in Outside Aboveground Tanks; Bulk Plants or Terminals; and Bulk Transfer Operations Is to Be Prohibited. The limits referred to in Section 5704.2.9.6.1 of the California Fire Code in which storage of Class I and II liquids in outside aboveground tanks is prohibited are hereby established as follows:

1. Storage of flammable or combustible liquids in excess of 2,000 gallons shall be limited to refineries or bulk storage plant locations.
2. Storage shall be limited to public, limited industrial (IL), general industrial (IG), and water-related industrial (IW) zoned districts or public safety facilities.
3. Aboveground storage tanks for any flammable liquid shall be allowed only at refineries or bulk storage locations with the approval of the fire chief.

8.28.050 Amendments made in the California Fire Code

The California Fire Code is amended and changed in the following respects:

A. Section 101.1 – Title. Section 101.1 of Chapter 1 is amended to read as follows:

101.1 Title. These regulations shall be known as the Fire Code of the City of Benicia, hereinafter referred to as “this code.”

B. Section 103.2 is deleted in its entirety.

C. Section 104.3.2 – Fire Clearance. Section 104.3.2 of Chapter 1 is added to read:

104.3.2 Fire Clearance. It shall be unlawful for any person, firm or corporation to operate a business unless a fire clearance inspection has been made and such businesses are in compliance with all fire department requirements.

D. Section 104.4110.1 – Assistance from Other Agencies. Section 104.4110.1.1 of Chapter 1 is added to read:

104.4110.1.1 Fire Prevention Bureau Personnel and Police. All sworn safety personnel assigned to the Fire and Life Safety Division, or such other full-time

Fire Department officers or fire prevention personnel including the Community Preservation Officer(s), as may be authorized by the Chief, shall be peace officers as described in Section 830.37 of the California Penal Code and shall enforce the Penal Code, California Fire Code, and where necessary and appropriate, any sections of the Benicia Municipal Code, California Health and Safety Code, and any other county or state fire-related laws or codes not specifically covered in any part of this Code. These police powers include the issuance of misdemeanor citations (Notice to Appear), and as approved by the Chief, carrying and use of firearms.

When requested to do so by the Fire Chief, the Chief of Police is authorized to assign such available police officers as necessary to assist the Fire Department in enforcing the provisions of this Code.

~~E. Section 105.3.1—Expiration. Section 105.3.1 of Chapter 1 is amended to read as follows:~~

~~105.3.1—Expiration. Every permit issued shall become invalid (expired) unless the work authorized by such permit is commenced within 365 days after its issuance or after commencement of work if more than 365 days pass between inspections. The Fire Code Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.~~

~~F. Section 105.5 is amended to add new subsections 105.5.55, as set forth below.~~

~~55. Indoor Growing Operation. An operational permit is required for a commercial indoor growing operation.~~

~~Exception: Agricultural greenhouses in an agricultural zone.~~

~~GE. Section 144112.1- Board of appeals established, Section 144112.1 of Chapter 1 is amended to read as follows:~~

~~144112.1- Board of appeals established. Appeals of orders, decisions, interpretations or determinations made by the Fire Code Official relative to the application and interpretation of this code shall be heard by the City of Benicia Building Board of Appeals. The Fire Code Official shall serve as an ex officio member of the board when the board is hearing matters related to this code but shall have no vote on any matter before the board. The board shall render all decisions and findings in writing to the appellant with a copy to the Fire Code Official.~~

~~HE. Section 144112.3 - Qualifications, Section 144112.3 of Chapter 1 is amended to read as follows:~~

The qualifications for the Building Board of Appeals are defined in the BMC 2.96.020.

~~I~~G. Section ~~442113~~.4 – Violation Penalties. Section ~~442113~~.4 of Chapter 1 is amended to read as follows:

~~442113~~.4 Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under provisions of this code, shall be guilty of an Infraction or Misdemeanor as specified in the California Penal Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

~~J~~H. Section ~~443114~~.4 – Failure to comply. Section ~~443114~~.4 of Chapter 1 is amended to read as follows:

~~443114~~.4 Failure to Comply. 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 liable to a fine of not less than (\$500.00) dollars or more than (\$1,500.00) dollars.

~~K~~I. Section 202 – General Definitions. Section 202 is amended by adding the following:

202 Fire Watch: Qualified individual(s) shall mean an employee of an acceptable security guard/patrol service or employee approved by the fire code official.

202. All Weather Driving Surface: A roadway designed to carry the imposed weight loads of fire apparatus complete with all underground utilities, curbs, gutters, and a minimum surface finish of one layer of asphalt or concrete or road pavers. (Topographic)

~~L. Section 307.4.3 – Portable outdoor fireplaces. Section 307.4.3 of Chapter 3 is amended to read as follows:~~

~~Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.~~

~~Exceptions:~~

~~1. Portable outdoor fireplaces used at one and two family dwellings when used in accordance with section 307.6.~~

MJ. Section 307.6 – Open Burning, Outdoor Fireplaces, Fire Pits, Fire Rings, or similar devices at Residential Occupancies. Section 307.6 of Chapter 3 is added to read as follows:

307.6- Open Burning, Outdoor Fireplaces, Fire Pits, Fire Rings, or similar devices at Residential Occupancies. Outdoor fireplaces, fire pits, fire rings, or similar exterior devices used for recreational heating at residential occupancies shall comply with this section.

1. Gas-fueled devices. Permanent outdoor fire places, fire pits and similar devices fueled by natural gas or liquefied-petroleum gas are allowed when approved by the Building Department and the device is designed to only burn a gas flame and not wood or other solid fuel. At one and two-family dwellings, combustible materials and vegetation shall not be located within three feet of the device. At other residential occupancies, the minimum distance shall be ten feet.

2. Devices using wood or fuels other than natural gas or liquefied-petroleum gas. Permanent outdoor fireplaces, fire pits, and similar devices designed to burn wood shall be approved by the Building Department. Fire in fireplaces shall be contained in a firebox with an attached chimney with a spark arrestor.

3. Portable outdoor fire places using gas or wood fuel used at one and two-family dwellings shall be used in accordance with the manufactures instructions.

4. Open burning in devices other than permanent fireplaces are prohibited within 20 feet of structures and 15 feet of combustible materials.

Exceptions:

i. Open burning in fire rings/pits equipped with a spark arrester that are located at least ~~10~~15 feet from combustible structures and material at one and two-family dwellings.

ii. Open burning in portable fireplaces, and fire pits/rings equipped with a spark arrester that are located at least 15 feet from combustible structures and material at all other residential occupancies.

iii. Home-built outdoor portable fireplaces, fire pits, and similar devices used at one and two-family dwellings shall be constructed of non-combustible materials and have a total fuel area of 3 feet or less in diameter and 2 feet or less in height. These devices shall be provided with a cover or spark arrestor with openings no greater than ¼" and be operated no closer than ~~10~~15 feet from combustible materials or structures.

5. Open burning, including recreational fires and fires within portable outdoor fireplaces, shall not be permitted on "red-flag" or other days which pose a high fire risk as determined by the Fire Code Official. (Climatic)

NK. Section 503.2.1 – Dimensions. Section 503.2.1 is amended to add subsection 503.2.1.1 as follows:

503.2.1.1 Parking of vehicles on fire apparatus access roads. For the parking of vehicles on a fire apparatus access road, roadway widths shall be increased to accommodate the parking of vehicles as follows:

1. Roadways 20-27 feet (6096 mm) in width, no parking permitted.
2. Roadways 28-36 feet (8534 mm) in width, parking is permitted on one side only. Parking is permitted on the side of the street absent of fire hydrants.
3. Roadways greater than 36 feet (10 973 mm) in width, parking is not restricted. (Topographic)

QL. Section 503.2.7 – Grade. Section 503.2.7 is amended in its entirety and replaced as follows:

503.2.7 Grade. A fire department access road having a grade of between 12% and 15% shall be designed to have a finished surface of grooved concrete to hold a 74,000-pound traction load. Design for grooved concrete shall be 1/4 inch (6 mm) wide by 1/4 inch (6 mm) deep and 3/4 inch (19 mm) on center. Grades exceeding 15% are not permitted.

Exception: Other approved all weather surfaces may be used if the skid resistance is equivalent to or greater than grooved concrete as certified by a registered engineer and approved by the Fire Code Official. (Topographic)

PM. Section 503.2 – Specifications. Section 503.2 is further amended to add Section 503.2.9 as follows:

503.2.9 Roadway minimum design weight load capacity. A fire department access road shall be designed and maintained to support a minimum load of 74,000 pounds (HS-20-44 Cal-Trans Design Standard) and shall be provided with an all-weather driving surface as specified in this standard. (Geologic)

QN. Section 503.3 – Access-Parking Prohibited. Section 503.3 is further amended to add subsection 503.3.1 as follows:

503.3.1 Access-parking Prohibited. If, in the judgment of the Fire Code Official, it is necessary to prohibit vehicular parking along public or private driveways and other access ways devoted to public use in order to maintain

clear and unobstructed access, the Fire Code Official may require the owner, lessee, or other person in charge of the premises to paint the curbs red, install signs, or give other appropriate notice that parking is prohibited. It shall thereafter be unlawful for any such owner, lessee, or other person in charge to fail to install and maintain in good condition the painted curbs, signs, or other appropriate notice so prescribed. When such areas are marked or signed as provided herein, it shall be unlawful for any person to park or leave standing a vehicle adjacent to any such curb marking or contrary to such sign(s).

It shall be unlawful to park any vehicle or in any other way obstruct or block any "Fire Lane", general access road to any building or complex, fire department connection, access roads or areas to any open space, no parking zones at fire stations or within 10 feet of any fire hydrant. (Topographic)

RO. Section 503.4 – ~~Additional Access~~Obstruction of fire apparatus access roads. Section 503.4 is amended to add subsection 503.4.2. as follows:

503.4.2 Access to Open Spaces. When access to open land/space or fire trail systems maintained for public or private use is obstructed by vehicles of any kind, or other obstructions both within the access or the road or street access to the open space, the vehicle or obstruction may be removed, and the cost of such removal will be assessed to the responsible party or vehicle owner. (Topographic)

SP. Section 505.1- ~~Address~~Premises identification. Section 505.1 is amended to read as follows:

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:

1. Industrial- Industrial buildings with one or 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.
2. 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.
3. 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.

4. Lighting of building addresses – The building address for all new buildings constructed after October 1, 2022, shall be automatically lighted internally or externally illuminated at night. (Topographic)

TQ. Section 505 – Address-Premises Identification. Section 505.4 is amended to add subsection 505.1.2 and 505.1.3 as follows:

505.1.2 Address Identification. Any business or building that affords vehicular access to the rear through a driveway, alleyway, or parking lot, shall also display the building identification or address numbers on the rear of the building.

505.1.3 Multiple dwelling Complex. At the main entrance driveway to each newly constructed multiple dwelling complex having 12 or more units, there shall be positioned an illuminated diagram (map) of the complex, which lists all individual addresses of each unit in the complex. The design and location of the map shall be approved by the Code Official. Address identification shall be maintained. (Topographic)

UR. Section 507.5.1 – Where Required. Section 507.5.1 of Chapter 5 is amended to read:

507.5.1 Where Required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 300 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by Appendix C.

Fire hydrants, if required, shall be placed as approved by the Fire Code Official within fifty (75') feet of fire department connections on new construction. (Topographic)

VS. Section 903.2 – Where Required. Section 903.2 of Chapter 9 is amended to read:

Section 903.2 Where Required. An approved automatic fire sprinkler system shall be installed and maintained in each new building, within the City requiring a building permit according to the following criteria:

1. A Building occupied or used for any purpose including occupancy group A, B, E, F, H, I, M, R, S, (as defined in the California Fire Code), where the fire flow requirements for the building are one thousand gallons per minute or more based on Appendix B requirements.

Exceptions: The fire code official is authorized to modify this requirement based on site-specific constraints.

2. A building more than two stories or thirty-five feet in height; (Geologic)

WT. Section 903.4.2.1 – Alarms in Group R-3 Occupancies. Section 903.4.2.1 of Chapter 9 is added to read:

Section 903.4.2.1 Alarms in Group R-3 Occupancies. Where a residential fire sprinkler system is installed, actuation of the automatic sprinkler system shall result in an audible alarm on the premise meeting the following criteria:

1. An approved exterior audible alarm shall be installed on the front of the building or within 4 feet of the front-facing public or private street access.

(Topographic)

XU. Section 1103.5 – Sprinkler Systems Where Required. Section 1103.5 is amended to read as follows:

Section 1103.5 – Sprinkler Systems Where Required. An approved automatic fire sprinkler system shall be installed and maintained in each new building and addition to an existing building and in the case of the major remodeling of an existing building, with the City requiring a building permit according to the following criteria:

1. Each building existing on January 1, 2017 is exempt from this section until such time as:

a. Structural changes are made which increase the gross floor area by 40% or more (in such cases, the automatic sprinkler system shall protect the existing portions of the structure as well as the addition).

b. The building adds, or changes occupancy classification as defined in the California Building Code. (Topographic)

YV. Section 5601.1.3 Fireworks. Section 5601.1.3 is amended to read as follows:

Section 5601.1.3 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited. Exception 4 is deleted in its entirety.

(Climatic)

ZW. Appendix B, Fire Flow Requirements for Buildings, is amended as follows:

Appendix B, Table B105.1(1) is amended to read as follows:

TABLE B105.1(1)

**REQUIRED FIRE-FLOW FOR ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3
AND R-4 BUILDINGS AND TOWNHOUSES**

FIRE-FLOW CALCULATION AREA (square feet)	AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE-FLOW (Gallons per Minute)	FLOW DURATION (Hours)
0-4800	Section 903.3.1.3 of the California Fire Code or Section 313.3 of the California Residential Code	1,000	1
4801 and greater	Section 903.3.1.3 of the California Fire Code or Section 313.3 of the California Residential Code	½ the value in Table B105.1(2)	1

For SI: 1 square foot = 0.0929 m², 1 gallon per minute = 3.785 L/m.

Appendix B, Table B105.2 is amended to read as follows:

TABLE B105.2

**REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND TWO-FAMILY
DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES**

AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE- FLOW (Gallons per Minute)	FLOW DURATION (Hours)
Section 903.3.1.1 of the California Fire Code	50% of the value in Table B105.1(2) ^a	Duration in Table B105.1(2) at the reduced flow rate

For SI: 1 gallon per minute = 3.785 L/m.

a. The reduced fire-flow shall be not less than 1,500 gallons per minute.
[\(Topographic\)](#)

AAX. Appendix C, Fire Hydrant Locations and Distribution, is amended as follows:

Section C103.1, Hydrant spacing, is amended to read:

Section C103.1.1 One- and two-family dwellings. The average spacing between fire hydrants shall not exceed 500 feet on center between hydrants in one- and two-family dwellings.

Section C103.1.2 Occupancies other than one- and two-family dwellings. The average spacing between fire hydrants shall not exceed 300 feet on center between hydrants or the spacing as specified in Table C102.1.

ABY. Appendix D, Fire Apparatus Access Roads, is amended as follows:

Section D103.1 is deleted in its entirety.

Section D103.2–Grade. Section D103.2 is amended to read as follows:

D103.2-Grade. Fire apparatus access roads shall not exceed 15% in grade.
Exception: Deleted

Section D103.2.1 –Angles of approach and departure. Section D103.2.1 is added to read as follows:

D103.2.1 Angles of approach and departure. The angles of approach and departure for any means of access shall not exceed 11 percent at 10 feet-6 inches of the grade break.

Section D103.3 is deleted in its entirety and replaced by the following to read:

D103.3 Turning radius. Based on a minimal unobstructed width of 20 feet, a fire apparatus access roadway shall be capable of providing a minimum standard turning radius of 25 feet (7620 mm) inside and 45 feet (13 716 mm) outside.

Table D103.4 is amended to read:

Table D103.4

**REQUIREMENTS FOR DEAD-END FIRE
APPARATUS ACCESS ROADS**

LENGTH (feet)	MINIMUM WIDTH (feet)	TURNAROUNDS REQUIRED
0 – 150	20 ^a	None required
151 – 750	20 ^a	100-foot Hammerhead, 50-foot “Y”, or 90-foot-diameter cul-de-sac in accordance with figure D103.1
Over 750	Special approval required ^b	

- a. A driveway with a minimum width of 16 feet is acceptable for access to no more than two single-family dwellings.
- b. Any fire apparatus access roadway or driveway that is approved to be less than 20 feet wide and to exceed 750 feet in length shall have outsets or turnouts every 300 feet along the length of the road or driveway, or at locations approved by the fire code official. Each outset or turnout shall be of the following dimensions: an 8 foot wide turnout that extends at least 40 feet in length.

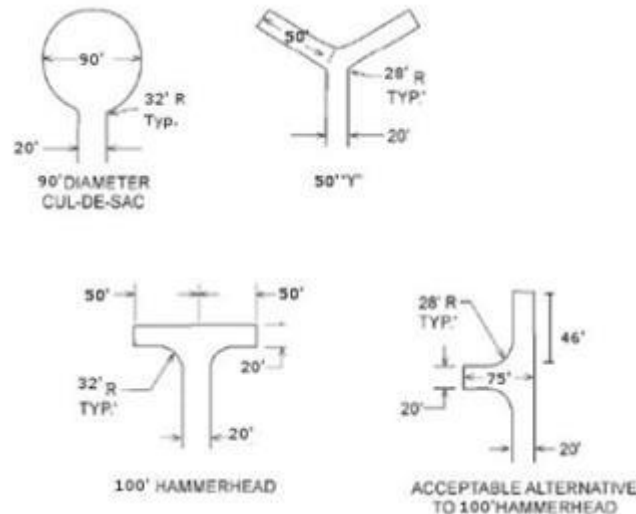


Figure D103.1 is amended to read:

D103.5 is amended by amending criterion 1 and adding criterion 9 to read:

D103.5.1. The minimum clear width shall be 20 feet (6096 mm).

Exception: The minimum clear shall be 16 feet for access to one and two single-family dwellings.

D103.5.9. All gates shall be installed and located a minimum of 30 feet off the street.

Section D103.6.1 is amended to read:

D103.6.1 Roads less than 28 feet in width. Fire apparatus access roads less than 28 feet wide shall be posted on both sides as a fire lane.

Section D103.6.2 is amended to read:

D103.6.2 Roads 28 feet in width or greater, but less than 36 feet in width. Fire apparatus access roads 28 feet wide or greater, but less than 36 feet wide, shall be posted on one side of the road as a fire lane.

Section D105.3 is amended to read:

D105.3 Proximity to building. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (45 772 mm) and a maximum of 30 feet (9 144 mm) from the building and shall be positioned parallel to one entire side of the building with the largest vertical dimension while allowing access to each floor of the building.

Section D106.1 is amended to read:

Section D106.1 Projects having more than 100 dwelling units. Multiple-family residential projects having more than 100 dwelling units shall be provided with two separate and approved fire apparatus access roads and shall meet the requirements of Section D106.3. Exception: Deleted.

Section D106.2 is deleted in its entirety. [\(Topographic\)](#)

8.28.060 Penalties.

Penalties for violation of this chapter shall be as set forth in Chapter 1.08.

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 upon the date the California Building Standards Commission (CBSC) accepts the ordinance for filing, but in no event before January 1, 2026~~30 days following its adoption by the City of Benicia.~~ 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 4, 2025 and was therefore adopted at the regular meeting of the City Council on _____ by the following vote of the City Council:~~

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the 4th day of November, 2025, and adopted at a regular meeting of the Council held on the _____ day of _____, 2025, by the following vote:

Ayes:

Noes:

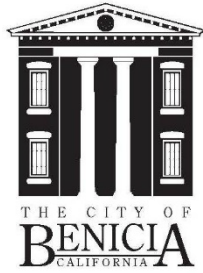
Absent:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 4, 2025
BUSINESS ITEM

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF THE DEDICATION OF 2,320 FEET OF THE BAY AREA RIDGE TRAIL**

EXECUTIVE SUMMARY:

The Bay Area Ridge Trail is a planned 550-mile multi-use trail that circles the San Francisco Bay along the ridgelines, connecting parks and open spaces for pedestrians and cyclists. Benicia and the Bay Area Ridge Trail Council have been in partnership for over 35 years for the management and maintenance of the trail segment through the City. This dedication is for 2,320 feet along Military East, from East 5th Street to Jefferson Street, which will complete the Ridge Trail through Benicia.

RECOMMENDATION:

Adopt a resolution approving the dedication of 2,320 feet of Bay Area Ridge Trail on Military East between East 5th Street and Jefferson Street.

BUDGET INFORMATION:

There is negligible cost to the City for the dedication. Public Works staff will install the Bay Area Ridge Trail signs that are provided by the Bay Area Ridge Trail Council on existing posts.

BACKGROUND:

The Bay Area Ridge Trail is a trail route that weaves among the ridgelines of the hills and mountains that surround the San Francisco Bay. The trail will eventually be 550 miles long and connect existing public open spaces and park lands in the nine Bay Area counties.

The first Bay Area Ridge Trail segment in Benicia, along the Carquinez Strait Waterfront, was dedicated in October 1989. Subsequent dedications occurred in 1993 (along the Benicia/Vallejo Buffer Trail), 2005 (West F Street and Semple Court, through the Marina to East H Street and East 5th Street), 2010 (Rose Drive from Columbus Parkway to the Benicia State Recreation Area), 2012 (Park Road from the Benicia Martinez Bridge pathway to Jefferson Street), and 2014 (East H Street to Military East).

The remaining segment in Benicia that has not been dedicated yet is along Military East, between East 5th Street and Jefferson Street. In 2022, this segment of Military

East was resurfaced, and shared-lane bicycle markings (“sharrows”) were installed, making this segment a Class III Bicycle Route and qualifying it for inclusion in the Bay Area Ridge Trail system.

NEXT STEPS:

This segment of the Bay Area Ridge Trail will be included on the Ridge Trail’s web map (www.ridgetrail.org) and City crews will install appropriate signage provided by the Bay Area Ridge Trail Council.

ALTERNATIVE ACTIONS:

Council may choose to not dedicate this segment of Bay Area Ridge Trail along Military East.

CEQA Analysis	This action is exempt under CEQA Guidelines §15301(c) (Existing Facilities) which exempts minor modifications to existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities involving negligible or no expansion of use.
--------------------------	--

ATTACHMENT:

1. Resolution - Dedication of 2,320 Feet of the Bay Area Ridge Trail

For more information contact: Danielle Bonham, Public Works Director

Phone: 707-746-4240

E-mail: pw@ci.benicia.ca.us

RESOLUTION NO. 25-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING
THE DEDICATION OF 2,320 FEET OF BAY AREA RIDGE TRAIL IN BENICIA**

WHEREAS, the City of Benicia and the Bay Area Ridge Trail Council have been partners in providing public recreational trails for the residents and visitors of Benicia for over 35 years; and

WHEREAS, the first Bay Area Ridge Trail segment in Benicia was dedicated in October 1989 and subsequent dedications occurred in 1993, 2005, 2010, 2012, and 2014; and

WHEREAS, as planned, the Bay Area Ridge Trail Council is working to further complete the Bay Area Ridge Trail, a spectacular trail route weaving among the ridgelines of the hills and mountains surrounding the San Francisco Bay that will connect existing public open spaces and park lands in the nine Bay Area counties and will provide over 550 miles of ridgeline vistas; and

WHEREAS, the only remaining segment in Benicia that has not been dedicated yet is along Military East, between East 5th Street and Jefferson Street; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the dedication of 2,320 feet of Bay Area Ridge Trail in Benicia along Military East between East 5th Street and Jefferson Street.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 4th day of November 2025 by the following vote:

Ayes:

Noes:

Absent:

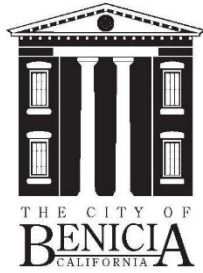
Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



AGENDA ITEM
CITY COUNCIL MEETING DATE – November 4, 2025
BUSINESS ITEM

TO : City Manager

FROM : Finance Director

SUBJECT : **ESTABLISH A PENSION RESERVE FUNDING POLICY**

EXECUTIVE SUMMARY:

The City's participation in CalPERS exposes it to investment and actuarial volatility that can materially increase required contributions. These unplanned increases can erode liquidity and force trade-offs in service delivery.

The proposed Pension Reserve Funding Policy establishes a disciplined yet flexible framework to manage these risks. It defines reserve targets, annual funding guidelines and replenishment tiers that can be paused or adjusted under fiscal duress. The policy is not intended to constrain the City's ability to meet other community priorities. Instead, it provides a structured yet adaptive mechanism for managing pension volatility, one that can be temporarily relaxed in the face of extraordinary events, such as a recession or the potential fiscal impacts of major economic disruption.

RECOMMENDATION:

Move to adopt a Resolution (Attachment 1) establishing a Pension Reserve Funding Policy (Attachment 2).

BUDGET INFORMATION:

No additional appropriation is required. The policy codifies current practice of budgeted contributions, provides guidance on discretionary contributions, provides conditions on use of the reserve, and adds a structured replenishment framework that can be adjusted or paused, subject to Council discretion, in periods of financial stress.

As of June 30, 2025, the City's Section 115 Trust (§115 Trust) held approximately \$8.18 million invested under a Moderate Strategic Blend portfolio, returning 10.1% over the prior 12 months (Attachment 3). The §115 Trust balance and performance are included in the quarterly investment reports to Council. Prior to the current fiscal year, contributions have been made on an ad-hoc basis since the inception of the §115 Trust. The current FY2025/26 and next fiscal year FY2026/27 adopted budgets include annual contributions of \$500,000 in the non-departmental appropriations. Inclusion of budgeted contributions is not intended to preclude discretionary contributions, including any balance in the General Fund Reserve pension designation. Contributions to the §115 Trust are non-revocable and restricted to pension expenses.

BACKGROUND:

The City participates in a pension program through CalPERS, has established a Pension Volatility Reserve with the creation of a Section 115 Trust, and the General Fund reserve policy includes a Pension Designation.

As a member of CalPERS, the City has faced recurring volatility in employer contribution rates driven by investment return cycles and actuarial adjustments. Required contribution spikes can coincide with broader economic challenges, such as a recession or significant local events, amplifying fiscal stress and threatening service stability.

In June 2019, the City Council authorized the establishment of a \$115 Post-Employment Benefits Trust to pre-fund pension obligations and stabilize contribution rates (Attachment 4). This trust is administered by PARS, with U.S. Bank as trustee and Public Funds Management (PFM) as investment manager and has grown to over \$8 million through contributions and investment returns.

In April 2022, the City Council adopted a new General Fund - Fund Balance Reserve Policy that includes a Pension Designation (Attachment 5). When the financial year is closed if unassigned fund balance exists, after filling the Designation for Fiscal Uncertainty, the policy calls for the remaining unassigned balance to be allocated to specific designations, including pension designation at 10% of the remaining unassigned balance.

The proposed Pension Reserve Funding Policy provides the next logical step: a defined, transparent, and Council-controlled framework that guides when and how the City contributes to, draws from, and replenishes the Pension Volatility Reserve (§115 Trust).

Key Elements of the Policy:

Since the City's exposure to its accrued pension volatility increases as its Accrued Liability (AL) grows over time, the proposed policy's reserve targets are based on the AL to remain relevant and effective. It defines reserve targets of the AL, annual funding guidelines, eligible uses, and replenishment tiers that can be paused or adjusted under fiscal duress.

Reserve Targets

- Minimum (3% of AL): Calculated on the current AL equates to approximately \$9.4M and is intended to ensure liquidity for short-term stabilization.
- Target (5% of AL): Calculated on the current AL equates to approximately \$15.7M and balances protection with fiscal flexibility.
- Maximum (10% of AL): Calculated on the current AL equates to \$31.4M and is intended to provide full coverage for severe investment losses.

Funding & Replenishment

- Annual routine contributions are recommended at 4% of payroll (base salary), which equates to approximately \$1.1M annually with current budgeted payroll.

- Tiered replenishment after use is (1–5% of payroll) based on depletion severity. Council-approved pauses allowed for up to three years during fiscal duress.

Eligible Uses

- Defensive: mitigate unforeseen CalPERS cost spikes or short-term liquidity stress.
- Strategic: fund discretionary UAL paydowns to reduce long-term interest costs and
- Safeguarded: all uses require Council authorization.

Governance

Annual review of reserve balance, trust performance, and projected UAL trajectory integrated into the City's budget cycle.

Fiscal and Service Delivery Risks:

Sharp CalPERS rate increases can coincide with reduced General Fund revenue, forcing reductions in staffing, deferred maintenance, or postponed investments. A single market downturn can increase the City's annual pension contribution by millions, creating tension between long-term obligations and near-term service priorities.

Policy Mitigations and Flexibility:

The Pension Reserve Funding Policy embeds flexibility mechanisms ("policy outs") that protect service delivery and maintain budget agility. Examples include temporarily pausing contributions during economic downturns, drawing on reserves during emergencies, and adjusting funding rates based on fiscal conditions. This ensures that the policy does not crowd out core services but instead enhances the City's ability to maintain stability through market cycles.

Why Maintain Reserves Outside CalPERS:

Maintaining reserves outside of CalPERS within a §115 trust offers liquidity and local control unavailable within the CalPERS retirement plans. Funds can be accessed by Council action, ensuring flexibility for local needs while preserving a prudent investment strategy emphasizing liquidity and moderate growth.

NEXT STEPS:

If adopted, staff will:

1. Incorporate the Pension Reserve Funding Policy to analysis of discretionary contributions to the §115 Trust.
2. Include funding and replenishment recommendations in future budget development policies.
3. Provide annual Council updates on trust performance and reserve adequacy.

ALTERNATIVE ACTIONS:

Council may choose to modify policy targets or replenishment parameters or take no action, maintaining current practice without formal governance which would leave the City more vulnerable to CalPERS volatility and fiscal shocks.

<p>CEQA Analysis</p>	<p>This action is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the “general rule” exemption which states that where it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment, the activity is exempt from CEQA.</p>
---------------------------------	--

ATTACHMENTS:

1. Resolution - Adoption of the Pension Reserve Funding Policy
2. Pension Reserve Funding Policy
3. PARS §115 Trust Balance Statement as of June 30, 2025
4. 2019 Staff Report - PARS §115 Trust Authorization
5. 2022 Staff Report - General Fund - Fund Balance Reserve Policy

For more information contact: Jeff Tschudi, Finance Director

Phone: 707-746-4222

E-mail: jtschudi@ci.benicia.ca.us

RESOLUTION NO. 25 -

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING
THE CITY OF BENICIA PENSION RESERVE FUNDING POLICY**

WHEREAS, the City Council has determined that it is in the City's best interest to adopt and periodically review the City's Pension Reserve Funding Policy (Exhibit A); and

WHEREAS, the City is a CalPERS member for pension benefits and desires to mitigate volatility in required contributions due to investment and actuarial changes; and

WHEREAS, on June 6, 2019 the City Council approved the establishment of a Section 115 Post-Employment Benefits Trust (§115 Trust) to pre-fund pension obligations and stabilize contribution rates with resolution 19-48; and

WHEREAS, on April 19, 2022 the City Council approved revisions to the General Fund – Fund Balance Reserve Policy with resolution 22-48 which includes a pension designation which may be used to increase funding with the §115 Trust; and

WHEREAS, the Pension Reserve Funding Policy codifies current practice of budgeted contributions, provides guidance on discretionary contributions, provides conditions on use of the reserve, and adds a structured replenishment framework that can be adjusted or paused, subject to Council discretion, in periods of financial stress; and

WHEREAS, the Pension Reserve Funding Policy requires annual review of reserve balance, trust performance, and projected unfunded accrued liability.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the City's Pension Reserve Funding Policy as presented.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 4th day of November 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

Exhibit A
Pension Reserve Funding Policy
[see next page]

CITY OF BENICIA

Pension Reserve Funding Policy

Revised: November 4, 2025

PURPOSE

The purpose of this policy is to establish a risk-based capital (RBC) approach to managing the pension liabilities. By implementing this RBC-based pension funding policy, the agency aims to create a more resilient and risk-informed pension management framework consistent with the best practices of the Government Finance Officers' Association (GFOA). This approach ensures that the agency can meet its long-term pension obligations while maintaining financial stability in the face of market volatility and other external risks. The minimum, target, and maximum funding thresholds will serve as guideposts for ongoing fiscal management and long-term pension sustainability.

The policy focuses on building external capital reserves that act as a liquidity buffer, stabilizing the budget during times of market volatility and ensuring that UAL repayments are met without compromising essential services.

BACKGROUND

The City participates in CalPERS and relies on the Public Employers Retirement Fund (PERF), which assumes a long-term return. On a short-term basis, the investment results can deviate from the expected return significantly. The short-term volatility can significantly impact the funded status of the agency's pension obligations, leading to large fluctuations in contribution requirements.

To address these risks, the agency will maintain a Pension Volatility Reserve (PVR) in a §115 trust, held outside the pension fund to provide a financial buffer during periods of market downturns. These reserves will be used to support pension contributions when necessary and to stabilize the agency's overall pension funding strategy.

STRATEGY

The pension funding strategy centers on maintaining volatility reserves that provide a balance between protecting against investment losses and preserving financial flexibility. The strategy includes gradual reserve growth and cautious management of liquidity.

Key elements of the strategy include:

1. **Range Reserve Approach:** To address the inherent volatility of pension funding, particularly its reliance on investment return, the use of a reserve range offers a more flexible and effective approach than a fixed target. A range allows the agency to navigate periods of uncertainty while maintaining fiscal discipline, supports multi-year financial planning, and promotes informed decisions about reserve use and replenishment. This strategy avoids the rigidity of a single threshold and instead enables strategic, risk-aware financial management over time. It also allows the agency to absorb temporary declines or make intentional drawdowns, while maintaining a long-term commitment to fiscal sustainability and reserve restoration.

2. **Reserve Funding & Replenishment:** The City shall make **annual contributions** to the Pension Volatility Reserve as part of its long-term commitment to prudent governance and sustainable pension funding. To the extent feasible, the City shall budget approximately 4% of payroll (base salary) each year until the target balance is achieved. While the specific funding amount may be periodically reviewed and adjusted, annual contributions to the reserve are a core component of the City's fiscal strategy and will be incorporated into the annual budget process to ensure continued progress toward established reserve targets.

The target balance shall be express as a % of the accrued pension liability (AL). When funds from the Pension Volatility Reserve are used for defensive or strategic purposes, such as mitigating spikes in required employer contributions, absorbing market losses or deriving interest savings, the City shall restore the reserve in a systematic fashion. Unless otherwise directed by Council, replenishment contributions shall be budgeted annually at a rate of **1% to 5% of payroll**, depending on the extent of reserve use and the City's financial capacity. This plan will be incorporated into the annual budget process to ensure disciplined, transparent, and sustainable reserve management.

3. **Cost Equity:** All City departments, funds, functions, and programs with pensionable positions shall participate in the funding and maintenance of the Pension Volatility Reserve. In alignment with sound accounting and cost recovery practices, the costs associated with pension reserve contributions should be allocated to the benefiting departments and appropriately reflected in program budgets, overhead charges, and applicable cost recovery models. The Finance Director shall exercise professional judgment in equitably allocating reserve funding obligations across the organization, ensuring that all service areas bear an appropriate share of the long-term cost of pension benefits.

POLICY PARAMETERS

To support long-term pension sustainability and mitigate contribution volatility, the City embraces the following policy parameters governing the funding, use, and replenishment of the Pension Volatility Reserve. These include defined reserve target levels, thresholds for additional discretionary contributions, and tiered replenishment strategies. Together, these parameters provide a structured yet flexible framework for managing pension-related risk in alignment with the City's fiscal capacity and strategic priorities.

RESERVE TARGET POLICY

The reserve targets are defined as follows:

1. **Minimum Reserve: 3% of accrued pension liability (AL).** This minimum level is liquidity focused and allows for modest cushion for short-term needs and to preserve budget flexibility. While intended as a minimum amount on reserve, with Council approval, the minimum reserve level may be deployed to make required employer contributions to CalPERS when a confluence of factors such as experience losses and revenue shortfalls would otherwise strain operations. Replenish the minimum reserve promptly to restore a liquidity buffer for future pension volatility.
2. **Target Reserve: 5% of accrued liability (AL).** This target offers a balanced level of protection while maintaining flexibility in budget management. Funds accumulated between the 3% and 10% maximum range may be deployed more strategically to reshape the UAL payment curve or otherwise pay down the UAL balance more efficiently to stop negative amortize amortization and/or derive additional interest savings.

3. **Maximum Reserve: 10% of accrued liability (AL).** The upper limit provides sufficient coverage to manage a significant experience loss. Once this level of external reserves is reached, funds could be used to pay the minimum required, employer contributions. Once the maximum balance is reached, excess balances and investment earnings shall be used to make the required employer contributions. Policy goals, adequacy of reserves and strategy should be periodically revisited for effectiveness.

ELIGIBLE USES OF THE PENSION VOLATILITY RESERVE

The Pension Volatility Reserve (PVR) is established as a financial risk management tool to strengthen the Agency's resilience to pension cost volatility and to provide a source of funding for strategic actions that reduce long-term employer contribution costs to CalPERS. Eligible uses are limited to the following:

1. Defensive Buffer Against Contribution Volatility

- **Mitigating Unanticipated Cost Increases:** To offset unbudgeted increases in CalPERS required employer contributions arising from adverse investment returns, actuarial assumption changes, or other systemic events.
- **Smoothing Contribution Volatility:** To fund temporary shortfalls in years where CalPERS' employer contributions materially exceed budgeted levels, thereby avoiding sudden service reductions.
- **Liquidity Cushion:** To ensure adequate resources are available in the event of cash flow stress caused by sharp increases in required UAL or Normal Cost contributions.

2. Strategic Funding Applications

- **Accelerated UAL Payments:** To make additional discretionary payments (ADPs) to CalPERS to reduce outstanding Unfunded Accrued Liability (UAL) balances, thereby lowering future interest costs, shortening amortization schedules, or lowering future required employer's contributions.
- **Restructuring UAL Amortization:** To fund "fresh start" or consolidation opportunities offered by CalPERS that provide more predictable or level payment streams.
- **Improving Funded Status:** ADPs from reserve balances may be made to CalPERS via ADP to improve funded status. This may be considered when funded status at CalPERS falls below 70%. Without explicit approval, ADPs to CalPERS that would improve the funded status at CalPERS beyond 90% since employer rate holidays are no longer permitted under the Public Employers Pension Reform Act (PEPRA).

3. Conditions and Safeguards

- **Policy Alignment:** Use of reserve funds must be consistent with the Agency's reserve target ranges (minimum, target, and maximum) and overall financial policies.

- **Council Authorization:** Expenditures from the Pension Volatility Reserve require budget authorization or other explicit approval by the City Council, supported by staff analysis of fiscal impact and consistency with this policy.
- **Transparency and Reporting:** All uses of the PVR shall be reported in the Agency's annual budget documents and audited financial statements, including the amount, purpose, and projected fiscal impact.

RESERVE FUNDING & REPLENISHMENT POLICY

Funding and Replenishment of the Pension Volatility Reserve shall be incorporated into the City's annual budget process when reserves are below the target reserve balance. Replenishment is structured as a percentage of covered payroll but can be augmented by one-time allocations from annual budget surpluses. The following guidelines shall apply unless otherwise directed by the City Manager:

- **Mild Reserve Depletion:** Target Reserve balance is between the minimum threshold and the target level (e.g., 3%–8% of the accrued liability). *Suggested Replenishment:* 2% to 4% of covered payroll annually. If the reserve shortfall resulted from a strategic allocation of reserves that led to voluntary contributions exceeding the required employer contributions, the replenishment cycle may be deferred for up to one year, or as otherwise approved by Council.
- **Moderate Depletion:** The Target Reserve balance is below the minimum threshold but remains above 50% of that minimum (>1.5% but less than 3% of AL). *Recommended Replenishment:* 4% of covered payroll annually.
- **Significant Depletion:** Target Reserve is under 50% of the minimum threshold (<1.5% of AL). *Suggested Replenishment:* Contribute 5% of covered payroll to the PVR, along with any surplus reserves that may be available for reallocation.
- **Replenishment Pause:** Reserve replenishment may be suspended during fiscal duress, as recommended by the City Manager and approved by Council. The reasons for fiscal duress should be externally imposed and should be made sufficiently clear to the Council during a public meeting. The pension reserve "contribution pause" shall not exceed three years and shall resume with a well-defined replenishment plan.

These contribution levels are intended as flexible guidelines to ensure the reserve is restored over a reasonable period based on financial capacity and long-term funding goals.

GOVERNANCE PROCEDURES:

The City will conduct an annual review of both the CalPERS-funded percentage and the external capital reserve levels. This review will ensure that reserves remain adequate and aligned with the agency's funding objectives and risk tolerance. This section describes the governance protocols related to the management, communication, and oversight of the pension funding policy.

ANNUAL COMMUNICATION AND REPORTING

1. **Annual Progress Reports:** Staff should annually communicate relevant known information necessary to assess progress towards pension reserve funding objectives.

2. **Three-Year Historical Analysis:** A comprehensive summary of the plan's funded status for the preceding three years should be presented annually. This analysis facilitates the identification of trends, evaluation of current strategic effectiveness, assessment of market condition changes, and supports data-driven decision-making for necessary adjustments.
3. **Projected Funded Status and Investment Returns:** Once CalPERS investment returns are known, the City should estimate next year's funded status to identify possible funding challenges early.
4. **Stress test scenarios** will be conducted and reported to assess the potential effects of different market conditions on pension funding and reserve adequacy.
5. **Long-term Forecast of UAAL Costs:** A 7–20-year forecast of the Unfunded Actuarial Accrued Liability (UAAL) costs provides information useful for strategic planning and future budgeting.

STRATEGIC EVALUATION AND BUDGET RECOMMENDATIONS

1. **Annual Strategy Analysis:** Each year, the Finance Director is tasked with evaluating the pension fund's status and recommending strategies to the City Manager and City Council during the Budget Process. These strategies should focus on efficiently allocating funds to preserve budget flexibility, reduce interest costs, reduce negative amortization associated with Unfunded Actuarial Liability (UAL) repayment and/or improve the funded status of the pension plan(s) as identified in the Funding Guidelines and Policy Parameters section of this policy.
2. **Review of Fiscal Year End Surplus/Deficit:** After the completion of the annual financial audit, if unassigned fund balance exists, Finance staff will present to Council the unassigned fund balance allocations consistent with the General Fund-Fund Balance Reserve Policy. Allocations to the Pension Designation may be used for contributions to the PVR, CalPERS payments, or targeted pension related strategic goals.
3. **Budget Appropriation Recommendations:** Each year, the City Manager and/or Finance Director shall propose appropriations within the annual budget that include the Actuarially Determined Contribution (ADC) to the pension fund, as well as any additional contributions required under the "Funding Policy" section of this policy. This practice is essential to ensure that pension funding remains a consistent and integral part of the city's overall financial planning process.
4. **Unforeseen Circumstances:** The City Manager may recommend using part of the pension reserve for the annual ADC if keeping the minimum balance would harm community services. Staff must then present a structured plan to replenish the reserve, aligning with policy intent. This approach balances financial flexibility with long-term fiscal responsibility.

GLOSSARY

CORE FUNDING MEASURES

Accrued Liability (AL)

The present value of pension benefits already earned by employees and retirees, based on service to date, as calculated using CalPERS actuarial assumptions. This represents the total pension obligation for past service, whether or not it is currently funded.

Market Value of Assets (MVA)

The fair market value of pension plan assets held by CalPERS for the agency's plan as of the valuation date. This reflects actual investment performance and is used to determine the plan's funded status.

Unfunded Accrued Liability (UAL)

The portion of the Accrued Liability not covered by the Market Value of Assets. UAL represents the shortfall between benefits earned to date and the assets available to pay them. CalPERS amortizes this shortfall over time through additional employer contributions.

DEFAULT FUNDING MECHANISMS

ADC (Actuarially Determined Contribution): The ADC is the employer's annual required contribution to a pension plan, as calculated by actuaries. It typically includes two main components: the Normal Cost, which is the cost of pension benefits accruing in the current year, and an Amortization Payment towards the Unfunded Actuarial Accrued Liability (UAAL). The ADC is designed to cover the cost of benefits earned in the current year and to systematically eliminate any existing funding shortfall over an appropriate period. This contribution is crucial for maintaining the financial health and sustainability of the pension plan.

Normal Cost: is a key actuarial concept representing the cost of pension benefits accrued during a fiscal period, based on the present value of these future benefits. It is a crucial component in determining how much an employer and employee need to contribute to a pension plan each year together with assumed investment earnings to adequately fund the promised benefits.

UAL Payment: A payment made towards the Unfunded Actuarial Accrued Liability (UAAL) of a pension plan. It represents contributions specifically intended to address the deficit between the plan's current assets and the present value of its future pension obligations. This deficit arises due to various reasons, such as changes in actuarial assumptions, investment performance, or alterations in plan benefits. While Normal Cost looks forward, focusing on the current period's service, UAL payments address past service costs that have not been fully funded.

UAL GAIN LOSS AMORTIZATION

Fixed (Closed) Amortization Periods: Consistent with GFOA recommendations CalPERS uses a closed amortization period based on fixed periods, meaning the timeframe over which the liability is to be paid off does not change with time. This contrasts with open amortization periods, which reset, potentially extending the payoff indefinitely.

Amortization Period Length: Consistent with GFOA recommendations the period should not exceed 25 years, with a preference for 15-20 years. This range is considered optimal for balancing the need to pay off liabilities in a reasonable timeframe without causing excessive short-term financial strain.

Layered Amortization Approach: Consistent with GFOA recommendations, CalPERS uses a layered amortization approach which involves separately tracking and amortizing different components of the unfunded liability as they arise. By treating each component (such as changes in actuarial assumptions, benefit changes, or investment gains/losses) separately, the plan can more accurately align costs with the causes of unfunded liabilities. This approach can lead to more transparent and manageable funding strategies.

“Ramping” vs “Non-Ramping” Amortization Bases: CalPERS amortizes different portions of the total unfunded liability two different direct smoothing technique, depending upon the type of event that created the particular portion of unfunded liability:

Investment Gains & Losses:

Investment Gains and Losses can, at times, be significant. To smooth gain and losses gradually into the aggregate UAL payment schedule, Investment Gains and losses are phased-in over a 5-year ramping period but are fully amortized over a fixed 20-Yr period as follows:

- Year 1: 20% of base payment
- Year 2: 40% of base payment
- Year 3: 60% of base payment
- Year 4: 80% of base payment
- Years 5 through 20: base payment

While the 5-Yr Ramping mechanism is necessary for extraordinary market losses, this schedule is slow amortizing, includes negative amortization and ultimately adds interest cost. It is advisable to evaluate more efficient amortization options.

Non-Investment Gains & Losses: With a few exceptions, all other gains and losses are amortized over the same fixed 20-year period on a level-dollar basis.

OPTIONAL FUNDING MECHANISMS

Additional Discretionary Payments (ADPs): ADPs may made to CalPERS at any time. Within the constraints of this policy and appropriation by City Council, the City may make ADPs to CalPERS to achieve one or more of the objectives above, especially when components of the UAL (gain/loss bases) are negatively amortizing, or other opportunities exist that would likely result in an economic benefit to the City. Unless explicitly authorized by Council, ADPs to CalPERS should not be made if it can reasonably expect that assets with CalPERS would exceed 90% of the City’s accrued liability.

Full or Partial “Fresh Start”

An optional CalPERS amortization policy action that consolidates and re-amortizes all or at least two existing Unfunded Accrued Liability bases into a single base with a new amortization period. A Fresh Start can result in higher near-term payments but may reduce long-term interest costs. The City may

also consider full or partial Fresh Start UAL payment schedule (Fresh Start) to achieve one or more of the objectives above including preserving future financial flexibility or avoiding slow or negative amortization.

Prepayment of ADC: At the beginning of each fiscal year, the City may prepay their UAL payment discounted at the current discount rate for roughly ½ the year, since payments are otherwise due on a monthly basis.

FUNDING CONSIDERATIONS

Balancing Goals of Rapid UAL Amortization (Paydown):

Intergenerational Equity: This refers to equitably allocating the cost of pension liabilities among different generations. The idea is to ensure that each generation pays its fair share of the pension costs without unduly burdening future generations.

Liquidity and Budget Flexibility: Before executing any of the pension payment strategies and tactics above, careful consideration should be made so that the resulting transaction should not adversely impact on the liquidity, budget flexibility and general operations of the City.

Pension Volatility Reserve(s):

Pension Reserve: In a prudent effort to preserve financial liquidity and budget flexibility the City shall maintain a pension reserve within the constraints and limitations of this policy. The primary purpose of the reserve is to act as a “Pension Stabilization” fund acknowledging the CalPERS investment portfolio is volatile, the funded status can swing dramatically from one year to the next and may result in future budgetary challenges to meet sharp increases in required employer contributions. A pension volatility reserve can be accomplished by maintaining a reserve within the City’s reserve structure or in a §115 trust or both.

115 Trust

An Internal Revenue Code §115 governmental trust established by a public agency to set aside assets for specific governmental purposes, such as pension or prefunding Other Post-Employment Benefits (OPEB). Assets in a 115 Trust can be invested for long-term growth and may be used to pay future CalPERS contributions or reduce budgetary volatility.

CITY OF BENICIA
PARS Post-Employment Benefits Trust

Account Report for the Period
6/1/2025 to 6/30/2025

Jeff Tschudi
Finance Director
City of Benicia
250 East L Street
Benicia, CA 94510

Account Summary

Source	Balance as of 6/1/2025	Contributions	Earnings	Expenses	Distributions	Transfers	Balance as of 6/30/2025
PENSION	\$7,449,052.48	\$500,000.00	\$235,307.58	\$3,427.32	\$0.00	\$0.00	\$8,180,932.74
Totals	\$7,449,052.48	\$500,000.00	\$235,307.58	\$3,427.32	\$0.00	\$0.00	\$8,180,932.74

Investment Selection

Source	
PENSION	Moderate - Strategic Blend

Investment Objective

Source	
PENSION	The dual goals of the Moderate Strategy are growth of principal and income. It is expected that dividend and interest income will comprise a significant portion of total return, although growth through capital appreciation is equally important. The portfolio will be allocated between equity and fixed income investments.

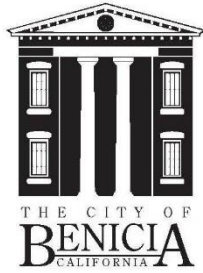
Investment Return

Source	1-Month	3-Months	1-Year	Annualized Return			Plan's Inception Date
				3-Years	5-Years	10-Years	
PENSION	3.03%	5.62%	10.11%	9.80%	-	-	10/14/2020

Information as provided by US Bank, Trustee for PARS; Not FDIC Insured; No Bank Guarantee; May Lose Value

Past performance does not guarantee future results. Performance returns may not reflect the deduction of applicable fees, which could reduce returns. Information is deemed reliable but may be subject to change.
Investment Return: Annualized rate of return is the return on an investment over a period other than one year multiplied or divided to give a comparable one-year return.
Account balances are inclusive of Trust Administration, Trustee and Investment Management fees

Headquarters - 4350 Von Karman Ave., Suite 100, Newport Beach, CA 92660 800.540.6369 Fax 949.250.1250 www.pars.org



AGENDA ITEM
CITY COUNCIL MEETING DATE – JUNE 6, 2019
CONSENT CALENDAR

TO : City Manager

FROM : Finance Director

SUBJECT : **RESOLUTION TO APPROVE A POST-EMPLOYMENT BENEFITS TRUST ADMINISTERED BY PUBLIC AGENCY RETIREMENT SERVICES (PARS) TO PRE-FUND PENSION BENEFIT OBLIGATIONS**

EXECUTIVE SUMMARY:

CalPERS has adopted new assumptions and methodologies with regard to calculating the cost of defined pension benefits for past, current and future employees and their survivors. As a result, the City's unfunded actuarial accrued liability (UAAL) - the difference between the City's total pension liabilities and actual plan assets - has increased and is expected to continue to increase in the near future.

One option for funding the increasing pension costs is the utilization of a third-party trust established under Section 115 of the Internal Revenue Code to hold assets set aside to fund future pension liabilities and expenditures. Staff is recommending that the City utilize the PARS Public Agencies Post-Employment Benefit Trust to pre-fund future pension benefit obligations.

RECOMMENDATION:

Move to adopt resolution (Attachment 1) authorizing the City to enter into an agreement with Public Agency Retirement Services (PARS) to administer a Public Agencies Post-Employment Benefits Trust as a pension rate stabilizing fund to pre-fund pension benefit obligations.

BUDGET INFORMATION:

Establishing the Section 115 Trust Program to pre-fund pension obligations will have no direct fiscal impact. Once funds are deposited into the trust account, administrative, trustee, and investment management fees totaling 0.60 percent on the first \$5 million deposited will be incurred. These fees would be paid from the trust assets. The annual fees associated with an initial deposit of \$1.5 million would be \$9,000.

BACKGROUND:

The City of Benicia has two defined benefit pension plans with the California Public Employees' Retirement System (CalPERS) - one Miscellaneous Plan and one Safety Plan (Police and Fire).

All qualified permanent and probationary employees are eligible to participate in the pension plan for which they are an eligible member based on their employment position with the City. Like most California public agencies, the City of Benicia is facing the financial challenges associated with rising pension costs. As of the June 30, 2016 CalPERS actuarial valuation, the City's unfunded pension liability was \$57.2 million. The City's required annual contribution to CalPERS is projected to increase by \$3 million over the next five-year period from \$6.8 million to \$9.8 million up to an estimated high of \$14 million in 12 years. This is a conservative estimate with the likelihood that the increase will be significantly higher due to changes in CalPERS funding policies and poor investment returns.

Staff has been exploring options to address the City's pension liability with the goal of reducing the impact of future pension cost increases and reducing the unfunded pension liability. One option would be to continue to fund pension costs on a "pay-as-you-go" basis with the City making the minimum required contribution each year. As costs continue to increase, a larger burden would be placed on the City's operating budget. A second option would be to make additional payments to CalPERS above the minimum required amount. The risk of this option is that the additional funds placed with CalPERS would be subject to the same investment volatility as other CalPERS funds. A third option, which has been implemented by many California municipalities, would be the establishment of a pension trust authorized under Section 115 of the Internal Revenue Code to accumulate funds to offset the unfunded liability and to smooth the impact of future cost increases.

The advantage of this option over depositing additional funds with CalPERS is that the City would retain control over management of the funds invested in the trust. The funds would also be available to reduce the impact of future cost increases in those years where the City might be experiencing budget shortfalls.

A Request for Proposals (RFP) for Section 115 Pension Trust Services was issued in January. Two proposals were received. The proposals were evaluated based upon the experience of the firms in providing Section 115 pension trust services to other California municipalities, the performance history of the funds managed and costs. Based upon that analysis, Public Agency Retirement Services (PARS) was selected as the preferred plan administrator.

PARS currently administers Section 115 Trust plans for over 330 public agencies with \$2.3 billion in assets. PARS will handle all recordkeeping, reporting and compliance monitoring for the City's account. U.S. Bank serves as trustee/custodian for the PARS program with HighMark Capital Management providing investment management services. The program has been established as a multiple employer trust so that public agencies, regardless of size, can join the program to receive the necessary economies of scale to keep administrative fees low and avoid any setup costs.

Funds are set aside in an exclusive benefit irrevocable trust that cannot be accessed by creditors or used by the City for non-pension related purposes. The trust offers an opportunity for the City to invest in a more diversified array of investments to maximize investment returns long term and reduce the City's pension liability. PARS offers five investment program options based upon risk tolerance levels.

Over the past ten years, the average rate of return for the five programs has ranged from 3.0% to 9.9%. This rate of return is considerably higher than the rate which the City has realized on its investment portfolio and is another reason why many public agencies choose to participate in the PARS 115 Trust program. Contributions to the trust fund are strictly voluntary by the City and can be accessed at any time for pension related expenditures. Fees are charged when assets are added to the trust.

NEXT STEPS:

Adopt the resolution allowing for the execution of PARS 115 Trust legal and administrative documents. The initial funding amount will be determined during the FY2019-21 budget process and will be funded in July 2019.

ALTERNATIVE ACTIONS:

Council can choose not to fund a PARS 115 Trust which will place a larger burden on future operating budgets.

General Plan	Goal 1: Creating a sustainable community in Benicia.
---------------------	--

Strategic Plan	Strategic Issue #3: Strengthening Economic and Fiscal Conditions
	Strategy #4: Manage City finances prudently.

CEQA Analysis	The Post-Employment Benefit Plan Trust Report is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the “general rule” exemption which states that where it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. The City has determined that the proposed changes will not have an impact on the environment and therefore are exempt from CEQA under the general rule
----------------------	--

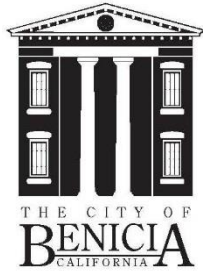
ATTACHMENT:

1. Resolution

For more information contact: Cindy Mosser, Finance Director

Phone: 707.746.4217

E-mail: cmosser@ci.benicia.ca.us



AGENDA ITEM
CITY COUNCIL MEETING DATE – APRIL 19, 2022
BUSINESS ITEM

TO : City Manager

FROM : Finance Director

SUBJECT : **NEW FUND BALANCE RESERVE POLICY AND RECOMMENDED USE OF UNASSIGNED FUND BALANCE**

EXECUTIVE SUMMARY:

Staff is recommending a replacement of the current fund balance policy with the recommended General Fund - Fund Balance Policy. Although the previous policy met the basic level of fund balance reserves, it did not articulate a prescriptive allocation for unassigned fund balance, nor did the policy identify the long-term strategic areas which would require one-time multi-year funding accumulation. The recommended policy allows for reserves to cover short term cash flow needs, fiscal uncertainty funding (to smooth out a short-term revenue slow down or local emergency/natural disaster) coupled with additional prescriptive and intentional funding allocations for unassigned fund balance that matches the current Council priority funding needs.

Staff is also recommending separating the General Fund policy from the Internal Service Funds, Water, and Wastewater funds. Staff will return to the Council later this year to address those specific fund balance policies once additional time can be taken to review the longer-term needs. The Water/Wastewater funds do not have the urgency of policy change that existed with the General Fund.

Staff is also recommending the use of an unaudited \$6.2 million in unassigned fund balance and recommending any remaining unassigned fund balance, once the financial audit is completed, follow the distribution as outlined in the recommended General Fund - Fund Balance Policy.

RECOMMENDATION:

Move to adopt a Resolution (Attachment 1) for the following actions:

1. removing the City's Fund Balance Policy, in whole, and replacing it with the revised General Fund - Fund Balance Policy (Exhibit A); and
2. approve the recommended use of the unassigned fund balance, authorizing the Finance Director to make the necessary appropriation changes within the FY 2021/22 budget to utilize the unassigned fund balance recommendations.

BUDGET INFORMATION:

Staff is recommending two actions:

Specifically, as it relates to the unaudited FY 2020/21 \$6.2 million in unassigned fund balance staff is recommending the following actions for the one-time funding:

- \$2.5M to make necessary repairs to the Marina (funding reserve to address estimated final cost with contingencies for unknown issues)
- \$1M to fund the capital project related to Fitzgerald Field
- \$500K for software changes related to the Tyler Munis Enterprise Resource Planning (ERP)
- \$1.2M related to initial funding to address boat yard clean up pursuant to the direction from the Bay Conservation and Development Commission (BCDC)
- \$1M for initial funding for assessment (\$300K) and future savings for potential repairs related to the 5th Street Pier

Staff is recommending any remaining unassigned fund balance, once the financial audit is completed, follow the distribution as outlined in the recommended General Fund - Fund Balance Policy.

As it relates to the policy recommendations, those in it of themselves do not create a financial impact although the long-term benefit of the policy will allow for improved financial planning in the future as one-time end-of-year fund balance is available.

Since the above-mentioned unassigned fund balance total is unaudited, the Finance Director will make proportional changes if the audited total changes. If a material change occurs, more than a 5% change in the total figure, staff will return to Council for additional direction.

BACKGROUND:

Staff is recommending the unaudited FY 2020/21 \$6.2 million in unassigned fund balance be utilized as follows:

- \$2.5M to make necessary repairs to the Marina (funding reserve to address estimated final cost with contingencies for unknown issues)
- \$1M to fund the capital project related to Fitzgerald Field
- \$500K for software changes related to the Tyler Munis Enterprise Resource Planning (ERP)
- \$1.2M related to initial funding to address boat yard clean up pursuant to the direction from the Bay Conservation and Development Commission (BCDC)
- \$1M for initial funding for assessment (\$300K) and future savings for potential repairs related to the 5th Street Pier

Staff is recommending any remaining unassigned fund balance, once the financial audit is completed, follow the distribution as outlined in the recommended General Fund - Fund Balance Policy.

Staff is also recommending the revision, in whole, of the Fund Balance Policy. Staff believes it would provide more clarity to replace in whole the previous policy with the revised policy due to the significant change being recommended.

The previous policy achieved some of the similar objectives to the recommended but did not specifically identify percentages to designate unassigned fund balance when available. Additionally, staff is recommending simplifying the uncertainty reserve designations from multiple designations to one Designation for Fiscal Uncertainty. Although the amount required will be the same and is already funded (20% of expenses, approximately \$9.7M) the revised policy provides simplicity as staff does not believe there is a benefit to have various smaller reserves for this purpose which could essentially be used for similar purposes.

The highlights of the new policy are below.

Designation for Fiscal Uncertainty

Designation for Fiscal Uncertainty of 20%. A Designation for Fiscal Uncertainty will be maintained to primarily mitigate the effects of local disasters, and other financial hardships resulting from changes in revenues and/or expenditures, or the need to address immediate actions required to address a local emergency prior to any Federal or State financial support. The City Council may release these reserves to fund operational costs and other non-emergency capital costs to facilitate the stable and efficient delivery of City services or facility maintenance. Any use of this reserve below the 20% minimum shall be accompanied by findings articulating the need for the use of the reserves and a plan for the replenishment of the reserves within a reasonable time.

Before funds are added to any other General Fund reserve, the Designation for Fiscal Uncertainty must be funded to its 20% policy minimum. This reserve shall be calculated at 20% of the General Fund annual appropriations excluding transfers to capital project funds.

Unassigned Fund Balance Reserves.

To create a thoughtful and intentional process for unassigned fund balance, when the financial year is closed, if unassigned fund balance exists, after filling the Designation for Fiscal Uncertainty at policy level, the remaining unassigned fund balance shall be allocated to the following reserves by the percentages noted.

- 75% Capital/Maintenance Projects Designation
- 10% Pension Designation
- 5% Employee Recruitment/Retention Designation
- 5% Sustainability/ Community Based Projects Designation
- 5% General Plan Maintenance Designation

NEXT STEPS:

If Council approves the recommended actions, staff will make the one-time funding financial transactions and put in place the new General Fund - Fund Balance Policy.

ALTERNATIVE ACTIONS:

Council can recommend to staff changes to the revised policy or specific changes of the use of the one-time unassigned fund balance.

General Plan	Goal 2.28 Improved and maintain public facilities and services
---------------------	--

Strategic Goals	Strategic Goal Impacted by this Agenda Item The City Council and community identified six (6) strategic goals for which the City of Benicia aspires to achieve with our programs and services. Please select the strategic goal impacted by this Agenda Item.
	<input type="checkbox"/> Protect Community Health & Safety <input type="checkbox"/> Maintain & Enhance A High Quality of Life <input type="checkbox"/> Preserve & Enhance Infrastructure <input checked="" type="checkbox"/> Strengthen Economic & Fiscal Conditions <input type="checkbox"/> Protect & Enhance the Environment <input checked="" type="checkbox"/> High Performing Government

CEQA Analysis	This action is Categorical Exempt per CEQA Section 21080(b)(9);15300 which applies to any project that has been determined not to have significant effect on the environment and exempt from this division.
----------------------	---

ATTACHMENTS:

1. Resolution - General Fund - Fund Balance Policy and Unassigned Fund Balance Designations
Exhibit A - General Fund - Fund Balance Policy

For more information contact: Bret Prebula, Finance Director

Phone: 707-746-4217

E-mail: brpebula@ci.benicia.ca.us