

**BENICIA CITY COUNCIL
CITY COUNCIL MEETING AGENDA**

**November 18, 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 an open office 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

8. APPOINTMENTS

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 OF THE OCTOBER 21, 2025 AND NOVEMBER 4, 2025 REGULAR AND SPECIAL MEETINGS

[October 21, 2025 Regular City Council Meeting Minutes](#)
[November 4, 2025 Special City Council Meeting Minutes](#)
[November 4, 2025 Regular City Council Meeting Minutes](#)

14.B AUTHORIZE PURCHASE OF REPLACEMENT FIRE DEPARTMENT VEHICLE

RECOMMENDED ACTION: Move to adopt a resolution (Attachment 1) authorizing the purchase of one 2026 Ford F-550, upgraded for off-road wildland firefighting by Rebel Brush Trucks and equipped with necessary emergency vehicle outfitting (Attachment 2); and authorizing the City Manager and Finance Director to execute the related purchase orders on behalf of the City, and to make any necessary budget amendments to complete the transaction.

[Staff Report - Fire Department Vehicle Replacement](#)
[1. Resolution - Fire Department Vehicle Replacement](#)
[2. Quote - Rebel Brush Trucks F-550](#)

14.C APPROVAL OF AGREEMENT WITH BENNETT ENGINEERING SERVICES, INC. FOR DESIGN SERVICES OF THE 2026-2028 CITYWIDE PAVEMENT REHABILITATION PROJECT

RECOMMENDED ACTION: Move to adopt a resolution (Attachment 1) approving a professional engineering design services agreement with Bennett Engineering Services, Inc. (Attachment 2) in the amount of \$1,598,100 for the 2026-2028 Citywide Pavement Rehabilitation Project (Project) and authorize the Finance Director to make any necessary fund transfers and authorize the City Manager to execute the agreement on behalf of the City.

[Staff Report - Approval of Agreement for 2026-2028 Citywide Pavement Rehab Project](#)
[1. Resolution - Approval of Agreement for 2026-2028 Citywide Pavement Rehab Project](#)
[2. Agreement - Bennett Engineering Services, Inc.](#)

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

15. BUSINESS ITEMS

15.A SECOND READING AND ADOPTION OF THE 2025 CALIFORNIA FIRE CODE AND CHAPTER AMENDMENTS TO TITLE 8 OF THE BENICIA MUNICIPAL CODE

RECOMMENDED ACTION: Conduct the public hearing and move to adopt 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 - Second Reading and Adoption 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.B SECOND READING 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 and move to adopt by title only an Ordinance repealing and replacing Title 15 (Building and Construction) of 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 after a determination that the project is exempt from CEQA.

[Staff Report - Second Reading of Building Code & Title 15 Amendments](#)

- [1. Ordinance - Amending Title 15 of the Benicia Municipal Code](#)
- [2. Mark Up of Ordinance](#)

16. CITY COUNCIL TASK FORCE GROUPS: ADVOCACY, COLLABORATION AND TRANSITION (ACT)

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

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

17. COUNCIL MEMBER COMMITTEE REPORTS

(Council Members serve on various internal and external committees on behalf of the City. Links to current agendas, minutes and meeting schedules, as available, from these various committees are included in the agenda packet. Oral reports by the Council Members are made only by exception.)

17.A COUNCIL MEMBER COMMITTEE REPORTS

[Council Member Committee Reports](#)

18. ADJOURNMENT (8:00 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

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MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
OCTOBER 21, 2025
6:00 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 TO ORDER (6:00 P.M.)

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

2) CONVENE OPEN SESSION

3) ROLL CALL

Present: Council Member Largaespada, Vice Mayor Macenski, Council Member Scott,
Mayor Young

Absent: Council Member Birdseye

4) PLEDGE OF ALLEGIANCE

5) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

6) ANNOUNCEMENTS

6.A MAYOR'S OFFICE HOURS

7) PROCLAMATIONS

7.A PROCLAMATION - DOMESTIC VIOLENCE AWARENESS MONTH

Proclamation - Domestic Violence Awareness Month 

7.B PROCLAMATION - UNITED AGAINST HATE WEEK

Proclamation - United Against Hate Week - October 19-25, 2025 

8) APPOINTMENTS

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9) PRESENTATIONS

9.A RAW WATER TRANSMISSION LINE UPDATE

9.B BAY DELTA PLAN

10) ADOPTION OF AGENDA

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

Ayes: Council Members Largaespada, Macenski, Scott, and Mayor Young

Noes: (None)

Absent: Council Member Birdseye

11) OPPORTUNITY FOR PUBLIC COMMENTS

12) WRITTEN COMMENT

13) PUBLIC COMMENT

1. Gregg Horton - Mr. Horton discussed concern regarding the Flock automatic license plate reader cameras used by the City.
2. Lori Grundman - Ms. Grundman discussed concern regarding the Flock automatic license plate reader cameras and policies surrounding their use.

14) CONSENT CALENDAR

14.A **RECOGNIZING THE POTENTIAL ECONOMIC BENEFIT OF SHIPBUILDING IN THE REGION AND EXPRESSING SUPPORT FOR CONTINUED EXPLORATION OF ESTABLISHING A NAVAL SHIPBUILDING PRESENCE**

RESOLUTION NO. 25- 120 - RESOLUTION EXPRESSING SUPPORT FOR CONTINUED REGIONAL DIALOGUE AND EXPLORATION OF OPPORTUNITIES TO ATTRACT INVESTMENT IN NAVAL AND COMMERCIAL SHIPBUILDING, REPAIR, AND MARITIME INDUSTRIAL DEVELOPMENT WITHIN SOLANO COUNTY

Public Comment:

1. Monica Brown - Supervisor Brown discussed the need to work with Dr. Hook at the California Maritime Academy.
2. Lori Grundman - Ms. Grundman asked for clarification on the fiscal impacts.
3. Michael Hayes - Mr. Hayes spoke in support of establishing a shipbuilding presence.

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Council and Staff discussed concern regarding the proposed resolution, removing a paragraph that indirectly references Collinsville, Mare Island inability to the larger scale ship building, and support for the resolution as written.

Council Member Scott made a motion to approve an amended resolution removing the paragraph that relates to the two-mile long stretch. The motion was seconded by Mayor Young. (The motion was not voted on due to the following substitute motion)

Vice Mayor Macenski made a substitute motion to approve the resolution, as presented, with no changes, which was seconded by Council Member Largaespada. The motion passed with a 3/1 vote.

[Staff Report - Shipbuilding Support](#) 

[1. Resolution - Shipbuilding Support](#) 

On motion of Vice Mayor Macenski, seconded by Council Member Largaespada, Council approved the adoption of Resolution 25-120, as presented, on a roll call by the following vote:

Ayes: Council Members Largaespada, Macenski, and Mayor Young

Noes: Council Member Scott

Absent: Council Member Birdseye

14.B FY 2024/25 FOURTH QUARTER BUDGET REPORT STATUS

[Staff Report - FY25 Q4 Budget Report Status](#) 

Council and Staff discussed the budget process and timing.

Public Comment:

None

On motion of Vice Mayor Macenski, seconded by Council Member Scott, Council approved authorizing the Council Budget Subcommittee to receive the unaudited Fiscal Year 2024/25 Fourth Quarter Budget Report on behalf of the Council, on a roll call by the following vote:

Ayes: Council Members Largaespada, Macenski, Scott, and Mayor Young

Noes: (None)

Absent: Council Member Birdseye

14.C RESOLUTION TERMINATING THE EMERGENCY PROCUREMENT FOR THE GOODYEAR ROAD MAJOR WATER LINE REPAIR

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Staff Report - Terminating Emergency Procurement 

1. Resolution Terminating Emergency Procurement 
2. September 16 2025 Regular City Council Meeting Minutes 

RESOLUTION NO. 25 – 121 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA TERMINATING THE DECLARATION OF EMERGENCY PROCUREMENT

14.D APPROVAL OF AN INCREASED CONSTRUCTION CONTINGENCY AMOUNT FOR THE MILITARY WEST PEDESTRIAN BRIDGE PROJECT

Staff Report - Ped Bridge Project 

1. Resolution - Ped Bridge Project 

RESOLUTION NO. 25- 122 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA FOR APPROVAL OF AN INCREASED CONSTRUCTION CONTINGENCY AMOUNT FOR THE MILITARY WEST PEDESTRIAN BRIDGE PROJECT

14.E AMENDMENT TO CITY MANAGER'S CONTRACT AND REVISION TO SALARY SCHEDULES

Staff Report - Amendment to City Manager Agreement 

1. Resolution - Amendment to City Manager Agreement 

RESOLUTION NO. 25- 123 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AMENDMENT TO THE CITY MANAGER'S CONTRACT

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

Council pulled items 14.A, 14.B for discussion.

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

Ayes: Council Members Largaespada, Macenski, Scott, and Mayor Young

Noes: (None)

Absent: Council Member Birdseye

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15) **BUSINESS ITEMS**

None

16) **ADJOURNMENT (7:30 P.M.)**

Mayor Young adjourned the meeting at 7:31 p.m.

City Clerk

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MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
NOVEMBER 4, 2025
5:30 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 5:30 p.m.

2) **CONVENE OPEN SESSION**

3) **ROLL CALL**

All Council Members were present.

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 5:30 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 Council met in Closed Session on one item and took no reportable action.

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9) ADJOURNMENT

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

City Clerk

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MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
NOVEMBER 4, 2025
6:00 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 TO ORDER (6:00 P.M.)

Mayor Young called the Regular 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) ANNOUNCEMENTS

6.A MAYOR'S OFFICE HOURS

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 Committee](#) 

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3. Resolution - Mayor's Appointment - Rachel Bhagwat - SolTrans Public Advisory Committee

RESOLUTION NO. 25- 124 - 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

RESOLUTION NO. 25- 125 - 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

RESOLUTION NO. 25- 126 - 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

Public Comment:
None

On motion of Mayor Young, seconded by Vice Mayor Macenski, Council approved Resolutions 25-124, 25-125, and 25-126, 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)

9) **PRESENTATIONS**

10) **ADOPTION OF 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)

11) **OPPORTUNITY FOR PUBLIC COMMENTS**

12) **WRITTEN COMMENT**

13) **PUBLIC COMMENT**

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1. Dan Smith - Mr. Smith discussed the 'Playground of Dreams' in the City Park.
2. Mayor Young - Mayor Young discussed the BAAD settlement funds.

14) 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

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: Council Member Birdseye, Council Member Largaespada, Vice Mayor Macenski, Council Member Scott, Mayor Young

Noes: (None)

Public Comment:

None

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

[Staff Report - PLLAD Ballot Results](#) 

RESOLUTION NO. 25- 127 - 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

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

Public Comment:

None

Council discussed this being the next step in the process, and the appeal period.

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

On motion of Vice Mayor Macenski, seconded by Council Member Birdseye, Council approved the adoption of Resolution 25-127, 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)

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)

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

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PROPERTY MAINTENANCE CODE. AND MAKING OTHER MODIFICATIONS TO TITLE 15

Suzanne Thorsen, Development Services Director, Assistant City Manager, and Josh Chadwick, Fire Chief, reviewed the staff report.

Public Comment:

None

Council and Staff discussed 'zone zero', the permitting and approval process and timing, extensions and exemptions, and state law 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](#) 

On motion of Vice Mayor Macenski, seconded by Council Member Birdseye, Council approved the Introduction and First Reading of the above Ordinance, 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)

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

[1. Ordinance - Adopting 2025 California Fire Code and Amendments](#) 

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

[2. California Fire Code Update Ordinance - with Redline Markup](#) 

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 staff report and discussion on this item was combined with agenda item 15.B. See above for comments.

On motion of Vice Mayor Macenski, seconded by Council Member Birdseye, Council approved the Introduction and First Reading of the above Ordinance, as presented, on a roll call by the following vote:

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

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

Staff Report - Dedication of Bay Area Ridge Trail 
1. Resolution - Dedication of Bay Area Ridge Trail 

RESOLUTION NO. 25- 128 - 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

Derek Lindsley, Senior Engineer, reviewed the staff report and Kyvan Elep, Bay Area Ridge Trail, reviewed a PowerPoint presentation.

Council and Staff discussed the improvements for Columbus Parkway, and how future development might affect the trail.

Public Comment:

1. Bob Berman - Mr. Berman spoke in support of the proposed dedication.

On motion of Vice Mayor Macenski, seconded by Council Member Birdseye, Council approved the adoption of Resolution 25-128, 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)

15.E ESTABLISH A PENSION RESERVE FUNDING POLICY

Staff Report - Pension Reserve Funding Policy 

RESOLUTION NO. 25 - 129 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE CITY OF BENICIA PENSION RESERVE FUNDING POLICY

Jeff Tschudi, Finance Director, and Dan Matusiewicz, TrueComp, reviewed the staff report and a PowerPoint presentation.

Council and Staff discussed the proposed Pension Reserve Funding Policy.

Public Comment:

1. Greg Gendron - Mr. Gendron discussed the proposed item.

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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 

On motion of Vice Mayor Macenski, seconded by Council Member Birdseye, Council approved the adoption of Resolution 25-129, as presented, on a roll call by the following vote:

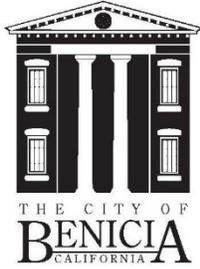
Ayes: Council Member Birdseye, Council Member Largaespada, Vice Mayor Macenski, Council Member Scott, Mayor Young

Noes: (None)

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

Mayor Young adjourned the meeting at 8:46 p.m.

City Clerk



AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 18, 2025
CONSENT CALENDAR

TO : City Manager

FROM : Fire Chief

SUBJECT : **AUTHORIZE PURCHASE OF REPLACEMENT FIRE DEPARTMENT VEHICLE**

EXECUTIVE SUMMARY:

In June 2025, Fire Department vehicle E-511 sustained damage during a required off-road, four-wheel-drive training exercise. Given the vehicle's age and the extent of its service-related deterioration, the City's insurance provider determined it to be a total loss. As a result, the Fire Department must now move forward with the replacement of vehicle E-511.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) authorizing the purchase of one 2026 Ford F-550, upgraded for off-road wildland firefighting by Rebel Brush Trucks and equipped with necessary emergency vehicle outfitting (Attachment 2); and authorizing the City Manager and Finance Director to execute the related purchase orders on behalf of the City, and to make any necessary budget amendments to complete the transaction.

BUDGET INFORMATION:

The total cost of the proposed replacement vehicle is \$286,600, with an additional \$35,536 to cover sales tax, freight and delivery, and required emergency vehicle outfitting, for a total project cost of \$322,136. A budget amendment is therefore necessary to increase expense appropriations by \$322,136 for the Fire Department in the Vehicle and Equipment Replacement Internal Service Fund (ISF) in 6306000-7430 Vehicles offset by fund balance. There are sufficient funds available in the ISF to support this purchase.

The City's insurance provider has determined the previous vehicle to be a total loss and has issued a claim payment of \$81,375, less a \$5,000 deductible, resulting in \$76,375 in available insurance proceeds. A budget amendment is necessary to increase the revenue budget in 6306000-5505 Settlements. These funds will be deposited back to the ISF.

BACKGROUND:

On June 14, 2025, fire department vehicle E-511 was damaged during a required off-road, four-wheel-drive training exercise. The vehicle was a 2008 Ford F-550 upgraded for off road wildland firefighting by Danko Emergency Equipment. Based on the damage to the vehicle along with the age, 17 years old, and condition, the City's insurance carrier determined it to be a total loss. While it had just under 50,000 miles, it was considered high mileage for an emergency response vehicle. Additionally, the vehicle has been used for the last 17 years in very rough conditions. The majority of its use is off road in relatively rugged terrain while fighting vegetation fires. The City's insurance provides Actual Cash Value (ACV) coverage, which pays only what the vehicle is currently worth, rather than the Replacement Cost that would cover a brand-new unit. Therefore, the Actual Cash Value for the vehicle is \$81,376. Less the City's \$5,000 deductible, \$76,376 will be received.

After a comprehensive evaluation process, staff has selected a 2026 Ford F-550 upgraded for off road wildland firefighting by Rebel Brush Trucks to replace the 2008 Danko. While the department has historically purchased this type of vehicle as a custom build from the chassis up, Rebel Brush Trucks supply pre-built stock units ready for delivery at a significant cost savings.

As with prior vehicle acquisitions, staff evaluated the potential for an electric or hybrid-powered alternative to the proposed F-550-based vehicle. While electric technology continues to advance in the consumer and light-duty fleet sectors, there are currently no commercially available, factory-produced electric or hybrid options for Ford F-550 class vehicles that meet the operational and emergency response requirements of the Benicia Fire Department. Although some aftermarket companies have developed limited pilot conversions, these options remain cost-prohibitive, unproven in real-world fire service applications, and present challenges in terms of charging infrastructure, reliability, and regional service support. Staff will continue to monitor developments in electric fleet technologies and evaluate future opportunities for integration where feasible.

Staff recommends proceeding with a sole source procurement based on operational necessity and market availability. The proposed vendor, Rebel Brush Trucks, is the only known manufacturer currently offering a fully built, stock wildland firefighting apparatus on a Ford F-550 chassis that meets the Fire Department's specifications and is available for immediate delivery. Other vendors contacted indicated that they only build these vehicles on a custom-order basis, with lead times ranging from 12 to 18 months after contract execution. Given the Department's current lack of a Type-5 brush engine following the loss of E-511, waiting this duration would leave the City without critical response capability for wildland and off-road operations. These extended lead times reflect current market conditions affecting the availability of Ford F-550 chassis and the production capacity of wildland apparatus manufacturers.

While one other vendor, Outback Firefighting Equipment, has a similar pre-built unit in stock, it is built on a Dodge chassis. The City's Fleet Maintenance staff and mechanics have strongly advised against acquiring a Dodge-based heavy-duty vehicle due to long-term maintenance concerns, parts availability, and lack of service uniformity within the existing City fleet, which is standardized around Ford platforms.

Immediate replacement of E-511 is also necessary due to ongoing wildfire risk, even during the winter months in California. Benicia continues to experience vegetation fires year-round, and this type of vehicle provides the versatility and off-road capability required to safely and effectively respond to such incidents. Delaying replacement would compromise operational readiness and increase risk to the community.

For these reasons, staff has determined that Rebel Brush Trucks qualifies as a sole source provider under Benicia Municipal Code Section 3.08.070 Bidding for Purchase of Supplies and Equipment – Use of Not Required When, as the only vendor capable of meeting the City’s operational and delivery requirements for this vehicle type. This procurement meets the definition of ‘sole source’ under Benicia Municipal Code Section 3.08.020, as the required equipment can only be obtained from a single vendor capable of meeting the City’s operational requirements. This determination is consistent with California Public Contract Code Section 3400(c), which allows specification of products when required for compatibility with existing City equipment or operations.

NEXT STEPS:

If approved, the City Manager will execute the purchase agreement and related purchase order. The Fire Department will coordinate with Rebel Brush Trucks to finalize the purchase and arrange for delivery and outfitting.

ALTERNATIVE ACTIONS:

The City Council could choose not to approve the purchase of the replacement vehicle. This option would leave the Fire Department without a critical response unit for wildland and off-road operations, limiting operational flexibility and potentially impacting response capability during vegetation fires. Delaying replacement would also increase maintenance costs associated with the aging fleet and may reduce overall service reliability.

CEQA Analysis	This activity does not meet the definition of a project as described in Title 14 of the California Code of Regulations, §15378(a).
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ATTACHMENTS:

1. Resolution - Fire Department Vehicle Replacement
2. Quote - Rebel Brush Trucks F-550

For more information contact: Josh Chadwick, Fire Chief
Phone: (707) 746-4275
E-mail: jchadwick@ci.benicia.ca.us

RESOLUTION NO. 25-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE OF ONE 2026 FORD F-550, UPGRADED FOR OFF-ROAD WILDLAND FIREFIGHTING BY REBEL BRUSH TRUCKS AND EQUIPPED WITH NECESSARY EMERGENCY VEHICLE OUTFITTING, AND AUTHORIZING THE CITY MANAGER AND FINANCE DIRECTOR TO EXECUTE THE RELATED PURCHASE ORDERS ON BEHALF OF THE CITY, AND TO MAKE ANY NECESSARY BUDGET AMENDMENTS TO COMPLETE THE TRANSACTION

WHEREAS, on June 14, 2025, fire department vehicle E-511, a 2008 Ford F-550, was damaged during a required off-road, four-wheel-drive training exercise; and

WHEREAS, based on the damage to the vehicle and its 17-year age, the City's insurance carrier determined it to be a total loss; and

WHEREAS, the City's insurance provided \$76,376 in Actual Cash Value coverage towards the purchase of a replacement vehicle; and

WHEREAS, after a comprehensive evaluation process, staff have identified a 2026 Ford F-550 upgraded for off road wildland firefighting by Rebel Brush Trucks to replace the 2008 Danko; and

WHEREAS, the department has historically purchased this type of vehicle as a custom build from the chassis up, but Rebel Brush Trucks supply pre-built stock units ready for delivery at a significant cost savings; and

WHEREAS, other vendors contacted indicated that they only build these vehicles on a custom-order basis, with lead times ranging from 12 to 18 months after contract execution; and

WHEREAS, given the Department's current lack of a Type-5 brush engine following the loss of E-511, waiting this duration would leave the City without critical response capability for wildland and off-road operations; and

WHEREAS, immediate replacement of E-511 is also necessary due to ongoing wildfire risk, as Benicia continues to experience vegetation fires year-round, and this type of vehicle provides the versatility and off-road capability required to safely and effectively respond to such incidents; and

WHEREAS, extended lead times reflect current market conditions affecting the availability of Ford F-550 chassis and the production capacity of wildland apparatus manufacturers; and

WHEREAS, the proposed procurement method for this vehicle is through sole source procurement permitted by Benicia Municipal Code Section 3.08.070 Bidding for

Purchase of Supplies and Equipment – Use of Not Required When based on operational necessity and market availability because the proposed vendor, Rebel Brush Trucks, is the only known manufacturer currently offering a fully built, stock wildland firefighting apparatus on a Ford F-550 chassis that meets the Fire Department’s specifications and is available for immediate delivery; and

WHEREAS, this procurement meets the definition of ‘sole source’ under Benicia Municipal Code Section 3.08.020, as the required equipment can only be obtained from a single vendor capable of meeting the City’s operational requirements; and

WHEREAS, this determination is consistent with California Public Contract Code Section 3400(c), which allows specification of products when required for compatibility with existing City equipment or operations; and

WHEREAS, a budget amendment is therefore necessary to increase expense appropriations by \$322,136 for the Fire Department in the Vehicle and Equipment Replacement Internal Service Fund (ISF) in 6306000-7430 Vehicles offset by fund balance, and a budget amendment is needed to increase revenue budget by \$76,375 in 6306000-5505 Settlements.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby authorize the purchase of one 2026 Ford F-550, upgraded for off-road wildland firefighting by Rebel Brush Trucks and equipped with necessary emergency vehicle outfitting, and authorizes the city manager and finance director to execute the related purchase orders on behalf of the city, and to make any necessary budget amendments to complete the transaction.

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 18th day of November 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



REBEL

PROPOSAL

LIFTED TYPE-6

REBEL BRUSH TRUCK

Version 2.3

Prepared By: James Caldwell, COO

James@rebelbrushtrucks.com

719-351-3401

Prepared For:

Benicia Fire Department

October 16th, 2025

Vendor:

Rebel Strike

1179 Center Point Dr Building B, Henderson, NV 89074

<https://Rebelbrushtrucks.com>

REBEL BRUSH TRUCKS DELIVER AWESOME PERFORMANCE IN EVERY APPLICATION. FROM RAPID RESPONSE TO RUGGED TERRAIN, WE'VE GOT YA COVERED!

REBEL brush trucks are the perfect solution for your department's wildland and rapid response needs. Our nation's largest fire departments trust their *REBELS* to perform in the most extreme situations year after year. When you choose *REBEL*, you get a solid brush truck that goes where Class A pumper just can't, and for a fraction of the price!

HOW IT WORKS

Customize Your Truck: We work with you to customize your truck to meet the specific needs of your department.

EVTs Build Your Truck: Our certified EVT's build your truck at our facility. Your Project Coordinator will be in constant contact to update you on the progress of your *REBEL*.

Final Inspection & Delivery: Your team may visit our facility near Las Vegas to inspect your finished *REBEL*.

Ongoing Support: You can count on REBEL Strike for support before, during and after the project. Every *REBEL* comes with a one-year warranty and any issues you may have will be immediately addressed by our support team.

WHY CHOOSE REBEL BRUSH TRUCKS?

Best Price

You get the most value for your money when you choose REBEL for your brush truck needs. Our goal is to have an ongoing relationship with your department, so we always give you the best price.

Specialized Facilities

Our facilities are specially designed for emergency vehicle builds and upfits which results in higher quality, faster turnaround, and lower costs for our customers.

Top Equipment Brands

We're partnered with all the industry leading equipment brands. The equipment on your *REBEL* will be top of the line!

Best Warranty

Your *REBEL* comes with an industry leading one-year warranty. In addition, all warranties offered by the manufacturers of new components are extended to you. Our nationwide service capabilities ensure any warranty claims you may have will be addressed asap.

CONDITION AND SCOPE

50.01 General Information

The proposed apparatus will be constructed to withstand severe and continuous circumstances encountered during emergency firefighting operations. The apparatus shall be designed and constructed with consideration to the nature and distribution of the load to be sustained. This proposal details the general design criteria of the cab and chassis, fire body, fire pump, water tank, electrical components, paint and graphics, and equipment. All proposed items shall conform to NFPA 1906, latest edition. The Seller shall furnish satisfactory evidence of the ability to construct, supply service parts, and technical assistance for the proposed apparatus.

CHASSIS

51.01 Seller Provided Chassis

The Seller shall provide the following chassis:

2026 Ford 550 Dually Crew-Cab/Chassis XL, 60" CA, 4X4, Diesel, OEM Red

Package:

Vinyl seats

173.4" WB

6.7L Powerstroke Diesel and Torqshift 10 speed automatic transmission

~ 48 Gallon Rear Fuel Tank

Remote Keyless Entry Remote Keyless Entry

WolfBox G900 4k Backup Camera which includes 170 degree front angle viewing in 4k, 150 degree rear viewing in 2.5k, 12" touchscreen, Loop Recording, and Impact Activated G Sensor

6 x 265 Toyo tires and wheels with a 3.5" lifted suspension

1 x Spare 265 Dually tire and wheel

51.02 Front Bumper & Brush Guard

A heavy-duty bumper with brush guard shall be installed on the front of the apparatus. The complete assembly shall follow the chassis body lines and encompass the perimeter of the chassis front. The bumper shall be coated with a black powder coat finish. The bumper shall provide a solid mounting area for warning lights, speakers, and other specified equipment.

51.03 Electric Winch 12,500 lbs.

A 12-volt electric powered winch shall be permanently installed at the front center bumper extension area. The unit shall include the following:

- 12,500 lbs. load rating
- Thermo-metric indicator for motor temperature monitoring
- Cable roller guide assembly
- At least 90 feet of 7/16" diameter galvanized cable and hawse fairlead & safety hook assembly shall be supplied.
- Winch speed shall be constant with forward and reverse modes controlled with a push button device at the end of a 12 feet (12') minimum control cable which connects to the winch through a weatherproof receptacle.

51.04 Nerf Bars

Two (2) 3" black nerf bars shall be installed on the chassis.

51.05 Chassis Protection

Air Intake Ember Guards: The chassis air intake and cabin air filter shall be protected by an ember guard of 18 Mesh, 0.017-inch wire diameter, and a maximum mesh opening of 0.039 inches. The ember guard shall be sized to fit and located at the intake opening. The screen shall be readily accessible for inspection and maintenance.

Fuel Line & Harness Protection: Any fuel lines or electrical harnesses below the chassis frame rails shall be protected with a fireproof sleeving, loom, or protective material.

REBEL shall install undercarriage protection consisting 1/4" aluminum plating, designed to safeguard the oil pan and transmission casing.

Additional: A heavy-duty, off road skid plate shall be expertly installed to protect the vital underbody components from punctures, blunt damage or additional heat.

BODY & ACCESSORIES

52.01 Fire Apparatus Body REBEL ATX

Body Mounting: Rubber Rail Cushion shall be 1" X 4" X 11" with a 65-durometer hardness rating. Attached cushion to the frame with 12 countersunk bolts 2.50" x 0.375" NC washers and Nylocks. A four position (2 springs each) springer body mounting system shall be used to mount the platform to the chassis. This system shall be designed to allow independent movement between the platform frame and the chassis frame protecting the module from the stresses and twisting rendered by the

flexing of the chassis frame. The 2-spring top modules will be attached to the platform long sill with an electrolysis/corrosion barrier. The spring collapse shall be rated at 1250-lbs and 2" of collapse travel. All of the mounting hardware (nuts, bolts, washers) required for complete body installation shall be Grade 8. All nuts shall be self-locking style. All mounting components shall be painted black.

Flatbed Construction: The apparatus body shall consist of a flatbed aluminum construction with overall dimensions of approximately 96" W X 111" L. The body shall be flat with +/- 0.125" deviation over the entire length or width and shall be square with 0.125" or less offset from the opposite parallel side.

Long Sills (LS): Two (2) Long Sills shall run full length in alignment with and perpendicular to the chassis frame rails. LS on bodies shall be rectangular c-channel aluminum alloy 4" H X 2" W X 0.25" wall thickness material.

Cross Sill Member (CSM): CSM on bodies shall be rectangular C-channel aluminum alloy 4" H X 1.50" W X 0.18" wall thickness material. CSM shall be located on maximum 12" centers. CSM to LS welds shall be 100% of the length of the contact edges on two opposing sides of the LS.

Outer Rail: The outer rail shall be rectangular C-channel aluminum alloy 6" tall X 1.90" wide minimum 0.20" wall thickness material. The outer rail shall form the complete bed perimeter without any open or offset seams. The outer rail shall consist of square rear corners.

Rear Cab Protection (RCP): One (1) RCP headboard shall be fabricated and installed at the forward end of the apparatus body, directly behind the cab. The RCP frame perimeter shall be rectangular C-channel aluminum alloy 4" tall X 1.5" wide minimum 0.18" wall thickness material. The material will be tapered in a similar fashion to the shape of the chassis cab.

One horizontal cross-member located at approximately 0.33" height with 0.125" aluminum diamond tread plate shall be perimeter welded with the tread plate surface forward to the rearward side of the framework on the lower segment. The upper segment shall include a protective framework of 1" X 1" tubing effectively safeguarding the rear window of the chassis cab. The unit shall be attached by a welded rearward gusset and to the lower frame itself by grade 5 bolts. The unit also has twin light bar perches on the top of the bar for easy mounting of emergency light products.

Tailboard: The tailboard shall consist of a framed tail apron integrated with the platform. The apron frame shall be rectangular C-channel aluminum alloy 3" tall X 1.40" wide minimum 0.17" wall thickness material. The interior flat surface of the apron shall consist of 0.125" aluminum smooth plate. The tailboard shall finish with the outside edge of the apron frame even with the corners of the platform. The apron shall house all referenced lighting, steps, and draft tube storage. The apron shall be sufficient in design to grant a departure angle of 24 degrees. The completed tailboard assembly shall meet all other requirements of NFPA 1906 for angle of departure.

Fuel Tank Filler: The fuel filler-neck and urea filler-neck bezels shall be incorporated into the bed channel outer rail unless using an OEM standalone system. Fuel cap shall not protrude past the outer rail. The fuel tank filler shall be mounted in accordance with FMVSS 301. The fuel filler hose shall not touch any rough or sharp surfaces and will have no kinks or restrictions. Hose shall be supported by no more than 16" centers, have at least 6 inches clearance from the rear tire with any amount of suspension travel, and if closer than 12" to the tires, have a shield to protect it from objects that may be thrown from the tires.

Draft Line Storage: Draft hose storage shall be mounted under the platform, between the frame rails of the truck. The draft hose box shall be a minimum of 4.75" tall, 24" wide and 100" deep. The opening is covered with a drop hinged, slam shut, Stainless Steel door with push button latches.

Receiver Hitch: A receiver hitch and attached under the bar shall be installed on the chassis frame. The under bar is integrated with the lower section of the rear springer mounting system. Trailer wiring and factory brake controller shall be included.

52.02 Compartments REBEL ATX

TRIPLE-DOUBLE (ONE REEL)

Driver's Side:

Top Front Compartment(s): This compartment shall have approximate dimensions of 72"L X 30"H X 18"D and shall include two (2) inner compartments with vertical hinged doors. The front sections shall have approximate dimensions of 24"L X 30"H X 18"D with a single vertical hinged door. The rear section shall have approximate dimensions of 48"L X 30"H X 18"D with double vertical hinged doors.

Top Rear Compartment(s): This compartment shall have approximate dimensions of 36"L X 30"H X 18"D.

Lower Front Compartment: This compartment shall have approximate dimensions of 36"L X 12"H X 18"D with a horizontal hinged drop door. This compartment shall be attached to the platform by its top.

Passenger's Side:

Top Front Compartment(s): This compartment shall have approximate dimensions of 72"L X 30"H X 18"D and shall include one (1) compartment with double horizontal hinged doors. This compartment is designed for the storage of long handled tools.

Top Rear Compartment(s): This compartment shall have approximate dimensions of 36"L X 12"H X 18"D and shall include a slide out tray.

Lower Front Compartment: This compartment shall have approximate dimensions of 36"L X 12"H X 18"D with a horizontal hinged drop door. This compartment shall be attached to the platform by its top.

Storage Cages: Two (2) storage cages shall be provided and installed above the top front compartments with approximate dimensions of 72"L X 10"H X 18"D. The storage cage shall be constructed of 0.125" aluminum with a punched open mesh material as to allow free air flow from all sides, double folded top 1" section for strength and a solid bottom. Outboard surface on both sides shall be un-punched approximately 5" to accommodate application of vinyl lettering. It shall be open at the top. They will be mounted by rubber cushion leaving a .125" gap underneath and stainless bolts with Nylocks.

Compartment Shelves: Four (4) adjustable shelves shall be installed in the top body compartments. The shelving system shall be mounted on a punched finger style slim-line track to allow the change of elevation. Shelves shall be 17.5" in depth, width of the box, with a 2" peripheral lip. Shelves shall be constructed of aluminum and be capable of supporting 250 lbs. of live load without being damaged or permanently distorted. The shelf locations shall be as follows:

-Two (2) in the D/S top front compartment

-Two (2) in the P/S top front compartment

Compartment Doors: All compartment doors shall be recessed into the compartment body sides. All doors shall be weatherproof and maintain contact with all points of the weather stripping. Weather stripping shall be bulb type, attached to the opening flange of the compartment opening. The doors shall have a cross style break in each door for strength.

Door Latches and Hardware: All compartment door latch assemblies shall be installed with threaded stainless-steel fasteners, shall not be welded, and shall be easily removable for servicing or replacement. All door latch assemblies shall be of a flush-mount, "D-handle" design, with all external components fabricated from polished, corrosion resistant stainless steel. All latches shall be of a two-position twist latch type design latching operation.

Stainless steel nuts shall be the self-locking type. All latch assemblies shall be keyed alike to 1250. Ten spare keys shall be provided.

Door Hold Devices: All vertically hinged, outward-opening compartment doors shall be provided with an over center door check to hold the door in the open position. The door check is spring type that when door latch is released the door "springs" to an open position. To release, the spring is moved from the straight position, and it folds into the "ready" to open position. It shall be attached to the top of the door and fastened to a plate bolted onto the door. All vertically hinged, outward opening compartment doors shall be capable of being closed with one hand, allowing a free hand to hold equipment or supplies.

Each vented compartment shall have one vent in the door face and one vent in the exterior wall to allow air circulation and aid in reduction of fumes caused by fuel. Vented compartments shall have block off plates included and installed that are the same size as the vents. Designated fuel compartments shall contain a removable stainless steel tray with at least a 1 inch lip on all sides to function as a catch for spilled fuel.

All horizontally hinged, drop-down, outward-opening compartment doors shall open flat to the surface below. All horizontally hinged, overhead lift-up, outward opening compartment doors shall be provided with two (2) extending, gas cylinder type hold open devices, one (1) mounted vertically on each side of the compartment door opening. The pressure rating of the gas cylinders shall be carefully matched to the size and weight of the compartment door and shall hold the compartment door securely open to a greater than 90-degree angle without additional support. The gas cylinder hold openers shall dampen the upward movement of the compartment door while opening and will permit closing of the box door without need to release any type of manual locking devices.

The rear tailboard shall meet Department of Transportation (DOT) requirements. The rear bumper shall be capable of supporting a 300 pound individual standing at any location without flexing or

becoming distorted. The tailboard includes a step with a permanently affixed non-skid walking surface. The rear tailboard shall not interfere with or detract from the angle of departure.

Additional: One Large Coffin box shall be mounted on top of the water tank closest to the headache rack. The compartment shall have a weather tight lid with a sealed hinge, 2 gas shocks, and a latch to keep the lid secured.

52.03 Body Accessories REBEL ATX

Dri-Dek: Dri-Dek shall be installed in all compartment floors and shelves. Dri-Dek provides surface protection and is resistant to fungus, mold, grease, solvents, and most common chemicals.

Mud Flaps: Two (2) flexible rubber mud flaps shall be installed on both sides of the apparatus body behind the rear wheels unless otherwise specified by the Purchaser.

Reflectors: Four (4) Truck-Lite #98034R red reflectors or equal shall be installed on the apparatus. Two (2) on each side, rear corners at the outermost practical location.

Rear Step: One (1) NFPA-compliant fold down step shall be provided and installed at the rear of the apparatus via the receiver hitch. The step shall be fabricated from heavy duty cast aluminum with spring assisted hinges. The stepping surface shall be diamond point and skid resistant so water may flow off without ice formation in cold weather use.

Grab Handles: Two (2) NFPA-compliant chrome-plated grab handles shall be provided and mounted at the rear. Location: vertical right side on manifold enclosure, horizontal top on pump panel.

Nozzle, Nozzle Clips, and Holder: One (1) Akron forestry nozzle shall be included per hose reel. A nozzle clip and tool holder shall be installed on the rear of the apparatus body.

Hydrant Wrench Holder: One (1) Equivalent three position captive latching type/hydrant/spanner wrench holder shall be permanently affixed to the pump-facing wall of the rear driver-side compartment unless otherwise specified by the Purchaser.

Drip Torch: One (1) drip torch with a heavy-duty 15-GA aluminum canister, welded double-bottom, and full-length handle shall be provided. The torch will meet D.O.T. approval for transport of flammable fuel UN#1B1-Y-150 and is painted red to comply with OSHA regulations 29 CFR 1910.144 while meeting USDA Spec 5100-614 and is USFS approved. The torch shall be mounted behind the rear facing wall of the rear compartment unless otherwise specified by the Purchaser.

Wheel Chocks: Two (2) ZICO wheel chocks shall be mounted rearward of the rear wheels. One (1) wheel chock will be mounted on each side of the apparatus.

Hose Hooks: Two (2) Hose hooks shall be provided and installed on the front and rear of the apparatus body for a total of four (4).

ELECTRICAL

53.01 Electrical System & Testing

Chassis Electrical System: The Commercial chassis electrical system shall be provided as furnished by the original manufacturer. A customized interface shall be provided and designed, so as not to disturb any of the required chassis functions. The necessary interfaces shall only be provided in areas where load management is allowed or with accessory components provided on the chassis.

Body Electrical System: All electrical lines in the body shall be protected by automatic circuit breakers, conveniently located to permit ease of service. Wiring shall be carefully protected from weather elements and snagging. Heavy duty loom shall be used for the entire length. To minimize the risk of thermal damage, wires run in the engine compartment area shall be carefully installed and suitably protected by the installation of heat resistant shielded loom. All electrical equipment shall be installed to conform to the latest federal standards as outlined in NFPA 1901.

Junction boxes: Two (2) electrical fuse boxes (battery and ignition), for all apparatus modules, connections, relays, circuit breakers, etc. shall be located in the console between the driver and the passenger seats. All connection points shall be labelled according to function.

12-Volt Electrical System Testing and Certification: The apparatus low voltage electrical system shall be tested and certified by the manufacturer. The certification shall be provided with the apparatus. All tests shall be performed with air temperature between 0 and 110 degrees Fahrenheit. The following three (3) tests shall be performed in order:

Test #1-Reserve Capacity Test: The engine shall be started and kept running until the engine and the engine compartment temperatures are stabilized at normal operating temperature and the battery system is fully charged. The engine shall be off and the minimum continuous electrical load shall be activated for 10 minutes. All electrical loads shall be turned off prior to attempting to restart the engine. The battery system shall then be capable of restarting the engine. Failure to restart the engine shall be considered a test failure.

Test #2-Alternator Performance Test at Idle: The maximum continuous electrical load shall be activated with the engine running at idle speed. The engine temperature shall be stabilized at normal operating temperature. The battery system shall be tested to detect the presence of battery discharge current. The detection of battery discharge current shall be considered a test failure.

Test #3-Alternator Performance Test at Full Load: The total continuous electrical load shall be activated with the engine running up to the engine manufacturer's governed speed. The test duration shall be a minimum of 2 hours. Activation of the load management system shall be permitted during this test. However, an alarm sounded due to excessive battery discharge, as detected by the system, or a system voltage of less than 11.8-volts DC for a 12-volt system, for more than 120 seconds, shall be considered a test failure.

Low Voltage Alarm Test

Following completion of the preceding tests, the engine shall be shut off. The total continuous electrical load shall be activated and shall continue to be applied until the excessive battery discharge alarm is activated. The battery voltage shall be measured at the battery terminals. With the load still applied, a reading of less than 11.8-volts shall be considered a test failure. The battery system shall then be able to restart the engine.

At time of delivery, documentation shall be provided with the following information:

- Each component load comprising the minimum continuous electrical load
- Additional loads that, when added to the minimum continuous load, determine the total connected load.
- An alternator rating at idle while meeting the minimum continuous electrical load
- Nameplate rating of the alternator
- Electrical system performance test

53.02 Center Console

The cab shall be equipped with an angled, form-fitted control console located between the front driver's and officer's seats. This console shall be sized to accommodate the installation of a switch panel for the control of the emergency and general illumination lighting, siren controller, and customer-mounted radios. The console shall contain the following components:

- One (1) 12V indicator and 2-position 12v power points
- Two (2) USB charging outlet
- One (1) Bracket, pre-wiring and standard radio faceplate (BK, Kenwood, or Motorola) for customer-mounted radio
- One (1) Grilled area for below surface emergency radio speaker mounting
- One (1) Two position cup holder
- Two (2) Mic clip brackets
- One (1) Pocket storage compartment
- One (1) Siren & lighting controller

Electronic Siren, Speaker, & Lighting Controls: A Tomar 948L warning light controls shall be installed in the center console. The siren shall feature a public address feature with a hardwired microphone. One Tomar SPK100 siren speaker shall be installed behind the chassis grill. The electronic siren and speaker shall meet the NFPA required SAE certification. The entire warning light package shall be actuated by the Tomar siren controller located in the center console. The wiring for the warning light package shall engage all lights required for "Clearing Right of Way" mode when the vehicle parking brake is not engaged. An automatic control system shall be provided to switch the warning lights to the "Blocking Right of Way" mode when the vehicle parking brake is engaged.

53.03 Warning Light Package TOMAR

A TOMAR premium dual-mode warning and scene lighting package shall be installed on the apparatus, as standard. All lights will be controlled from switches in the center console. The package includes the following:

Zone A Upper:

Lightbar w/Traffic Advisor, Take Down & Alley Spots Part # 970L-53D1-1201R7 TOMAR "Scorpion", 53" fully populated dual color warning lightbar shall be rigidly mounted on the top of rear cab protection headboard. The lightbar will be raised another 2-3 inches to accommodate the additional storage box mounted atop the water tank.

The lightbar shall be equipped with the following:

- Dual color 24 LED Corner Flood W/ Alley spots
- (6) Dual color front facing red/white 12 LED warning modules
- (2) High powered front-facing take downs
- (1) 6 LED front-facing steady-burn red
- (9) Rear facing 6 LED red and amber warning modules Built-in traffic advisor
- Aluminum chassis 15' Cable

Zone A Lower: Four (4) TOMAR iLED, dual color and dual-mode red/white LED lamps w/mounting flanges shall be installed on the front of the apparatus, forward facing, two (2) per side in the Hammerhead front bumper. Pre-programmed to 75 neobe flash and pre-phased. Secondary mode will override to white scene light, controlled from TOMAR 948L-SIREN-R

Zone B/D Front Lower: Two (2) TOMAR iLED dual color and dual-mode emergency warning and scene lights w/ mounting flanges shall be installed over the wheel well of the apparatus chassis, side facing, one (1) per side for use as "forward intersection" lights in red. Pre-programmed to 75 neobe flash and pre-phased. Secondary mode will override to white scene light, controlled from TOMAR 948L-SIREN-R

Zone B/D Rear Lower: Two (2) TOMAR Revolution 3x7 dual color and dual-mode emergency warning and scene lights w/ mounting flanges shall be installed on the rear sides of the apparatus body, over the rear wheel, side facing one (1) per side, for use as "rear intersection" lights in red. Pre-programmed to 75 neobe flash and pre-phased. Secondary mode will override to white scene light, controlled from TOMAR 948L-SIREN-R

Zone B/D Upper: Four (4) TOMAR Revolution 3x7 dual color and dual-mode emergency warning and scene lights w/ mounting flanges shall be installed on the upper storage basket on the apparatus body, side facing, two (2) per side for use as "rear intersection" lights in red. Pre-programmed to 75 neobe flash and pre-phased. Secondary mode will override to white scene light, controlled from TOMAR 948L-SIREN-R

Zone C Upper: Two (2) TOMAR Revolution 3x7 dual color and dual-mode emergency warning and scene lights w/ mounting flanges shall be installed on the upper storage basket on the apparatus body, rear facing in red. Pre-programmed to 75 neobe flash and pre-phased. Secondary mode will override to white scene light, controlled from TOMAR 948L-SIREN-R.

Zone C Lower: Two (2) TOMAR Revolution 3x7 dual color and dual-mode emergency warning and scene lights w/ mounting flanges shall be installed on the lower rail of the apparatus body, rear facing in red. Pre-programmed to 75 neobe flash and pre-phased. Secondary mode will override to white scene light, controlled from TOMAR 948L-SIREN-R.

Warning Light System Certification: The warning light system(s) specified above shall not exceed a combined total amperage draw of 45-amps with all lights activated in either the "Clearing Right of Way" or the "Blocking Right of Way" mode. The warning light system(s) shall be certified by the light system manufacturer(s), to meet all of the requirements in the current revision of the NFPA 1900 Fire Apparatus Standard as noted in the General Requirements section of these specifications. The NFPA required "Certificate of Compliance" shall be provided with the completed apparatus.

53.04 Apparatus Body Lighting

LED Strip Compartment Lights: One (1) 12" LED cargo light, or equivalent shall be provided to illuminate the compartment. Lighting shall be plastic encapsulated, shock resistant, continuous LED light segments. The LED strip lights shall be attached securely on top of each compartment opening. Each compartment light shall be switched with a compartment lighting mechanical door switch. Each compartment light sets shall be switched with a compartment magnetic switch and relay combination. The switch trigger wire shall run up front to the console to the compartment door open warning system on the console. The system shall also hook to the parking brake switch as a stop gap initiation.

Ground/Perimeter Lights - Front Bumper & body: One (1) E-10 Tecniq clear LED shall or equal shall be provided under the front bumper housed within an enclosure sufficient to protect from damage. This light shall operate from one of the chassis upfitter switches. Four (4) E-10 Tecniq clear LED lights or equal shall be provided under the apparatus body, one (1) forward and one (1) aft of the rear wheel wells, both sides of the body. Two (2) 4" Maxxima round LED lights shall be provided under the rear of the apparatus body. The lights shall be housed within an enclosure sufficient to protect from damage. The cab and body ground lights shall be equipped with an activation switch on the pump operator's panel.

Cluster/Clearance Lights: Three (3) round ICC LED clearance lights shall be installed at the rear of the apparatus above the bumper. Additional clearance lights shall be provided to conform to DOT, Federal, and NHTSA specifications for vehicles of 80" wide. All lighting shall be compatible with the 12-volt chassis electrical system. Lighting shall be located according to ICC regulations.

Back-Up Lights: Two (2) Truck-lite LED Oval Sealed 24 Diode Pattern, or equivalent, white LED back up lights shall be provided at the rear of the body, one (1) each side, above the rear step. The backup lights shall illuminate when the chassis is placed in reverse gear and/or when the rear flood light switch is activated in the cab.

Turn Signal Lights: Two (2) Truck-lite LED Oval Sealed 24 Diode Pattern, or equivalent, amber LED arrow style turn signal lights shall be provided at the rear of the body, one (1) each side, above the rear step.

Brake/Tail Lights: Two (2) Truck-lite LED Oval Sealed 24 Diode Pattern, or equivalent, red LED combination tail/ brake lights shall be provided at the rear of the body, one (1) each side, above the rear step.

License Plate Bracket and Light: A license plate mounting bracket with LED lighting shall be installed at the rear of the body.

Additional: Additional: Two (2) Firetech off-road spot/food lights or similar shall be added mid-basket facing outward.

53.05 LED Driving Light

Two (2) TOMAR TRX-06W-AC LED driving lights shall be mounted to the forward face of the bumper.

53.06 Battery System

Battery Charger System: One (1) Iota DLS-45/IQ4 12 Volt 45 AMP 4 Stage Automatic Smart Battery Charger shall be provided and installed behind the rear bucket seat on the driver's side. The charger is ruggedized to withstand the shock and vibration encountered by vehicle mounted equipment.

Auto-Eject: One (1) Kussmaul Super Auto Eject shall be provided and installed. The Super auto Eject is a completely sealed automatic power line disconnect. This prevents contamination of the mechanism by road dirt and ensures long reliable life even when mounted in the most severe environment. A novel internal switch arrangement closes and opens the 120-Volt AC circuit after the mating connector is inserted, and before the connector is removed. This eliminates arcing at the connector contacts and assures long contact life. The Super Auto Eject is connected to the starter circuit so that ejection occurs when the engine is cranked. The unit is mounted in the rail of the rear cab protection. The cover will be red unless otherwise specified by the Purchaser.

Shoreline Power Inlet Plate: A shoreline power receptacle information plate shall be permanently affixed at or near the power inlet. The plate shall indicate the following:

- Type of Line Voltage
- Current Rating in Amps Power Inlet Type (DC or AC)

Battery Disconnect Switch: One (1) Solid State battery cutoff switch shall be provided in the cab. The switch shall be located on the floorboard to the left side of the driver's seat and placed as far aft as possible to prevent accidental actuation. One (1) "Battery On" indicator lights, with a green lens, shall be provided on the center console, located forward on the left side. This light shall illuminate when the battery switch is turned to the "ON" position.

53.07 Alarms

Back-Up Alarm: One (1) solid state back up alarm shall be installed at the rear of the apparatus. The backup alarm shall be wired to the reverse circuit of the transmission and shall provide an audible alarm to the rear of the apparatus when reverse gear is selected. The alarm shall have a volume of 87 to 112 DBA while in operation.

"Do Not Move Apparatus" Warning Light with Audible Alarm & Marker Lights: A 1" round, red flashing warning light with an integral audible alarm, shall be functionally located in the cab to signal when an unsafe condition is present such as an open cab door or body compartment door which may cause damage to the apparatus if moved. This light shall be activated when the parking brake is engaged. The labeled shall read "DO NOT MOVE TRUCK."

Cab marker lights and signaling devices shall be as provided on the commercial chassis cab from the original chassis manufacturer. Truck-Lite Model #30 or equal red LED marker lights with integral reflectors shall be provided at the lower side rear, one (1) each side and two (2) each on driver and passenger sides. Truck-Lite Model # 30 LED 3-lamp identification bar or equal will be provided on the apparatus rear center. The lights shall be red in color.

FIRE FIGHTING SYSTEM

54.01 Hale Pump, Primer, Engine & Foam System

Pump: One (1) Hale Model HPX200-KBD24 pump shall be installed and will perform to the standards of NFPA 1906 low pressure pump rating. Maximum pump performance from 5' draft at sea level shall be: 100 GPM @ 150 PSI, 175 GPM @ 100 PSI and 250 GPM @ 50 PSI. Note: These performance points are for the pump as supplied from the pump manufacturer without any manifold. The actual flow may be decreased slightly when installed on the unit.

Engine: One (1) Briggs and Stratton gasoline engine shall be installed. Engine rating shall be 23 hp @ 3600 rpm and shall be designed to meet current CARB (California Air Resources Board) and EPA (Environmental Protection Agency) Tier 4 standards. A 12-volt electric system shall be installed with an electric starter and 45A alternator. Engine shall be equipped with a muffler and USDA approved spark arrestor. The engine and pump shall be isolation mounted.

Engine Fuel Supply: The pump engine shall siphon fuel from the chassis fuel tank via an electric fuel pump. Siphoning shall occur at a level 1.50" above the chassis siphon system.

Primer: One (1) positive displacement, oil-less, rotary vane, electric motor-driven priming pump, conforming to the NFPA requirements, shall be provided and installed on the cross member at the left rear of the body. The primer pump body shall be fabricated from heat-treated anodized aluminum for wear and corrosion resistance. The primer pump electric motor shall be of a 12 VDC totally enclosed design. The priming pump shall not require lubrication from an external source. The priming pump shall be operated by a single push-pull control valve mounted on the pump operator's panel. The control valve shall be constructed of bronze.

Foam System: One (1) Scotty Through-the-Pump foam system shall be installed on the completed unit. The unit shall consist of an eductor and proportioning valve between the inlet and discharge side of the pump. When in operation, it shall draw water flow from the discharge side, route it through the eductor and proportioning valve, draw foam concentrate through the proportioning valve, and provide foam solution back into the inlet side of the pump. Note: When the foam system is in operation, all discharges, including the tank fill, shall be supplied with foam solution. The foam system shall be capable of adjusting the foam concentration up to .5%.

54.02 Water & Foam Tank

Water Tank: One (1) **450 gallon water tank** shall be provided and installed. Foam Tank: One (1) **12 gallon foam tank** shall be integrated with the water tank.

Tank Construction: The tank shall have a footprint of 59.50" W x 75.50" L. The tank shall be designed to be completely independent of the platform structure and compartments and shall be equipped with removable lifting eyes to facilitate ease of removal. All exposed edges on the tank and fill tower shall be rounded off to a 0.25" radius. The tank shall be fabricated with 0.50" thick, non-corrosive stress relieved polypropylene, gloss black in color and U.V. stabilized for maximum protection. Materials

used shall be compatible with firefighting foams, retardants, and wetting agents. All joints and seams shall be extrusion double welded and tested for maximum strength and integrity. The transverse baffle partitions shall be manufactured of the same material as the main body and extend from the floor of the tank to the cover to allow for positive welding and maximum integrity. Baffling will meet or exceed NFPA 1901. All baffle partitions shall interlock with one another and be welded to each other, as well as to the walls of the tank. All partitions shall be equipped with vent and air holes to permit movement of air and water between compartments. All internal piping shall be constructed of schedule 80 polypropylene pipe. The tank shall have a vent overflow pipe that extends through the tank and exits under the vehicle. The tank sump shall have a plate welded approximately 2" above the sump to prevent water swirl. There shall be piping inside the tank with a suction tube to the sump. The suction tube shall extend down through the anti-swirl plate and baffles. All fittings in the tank shall be heavy duty polypropylene and shall be welded inside and outside using industry acceptable practices. Tank inlets shall have flow deflectors inside the tank. The end wall of the tank, closest to the pump mount location shall have vertical translucent panel sight gauges for water and foam.

Fill Towers: The tank shall have two (2) manual fill towers with vents. One (1) fill tower shall be for water. One (1) fill tower shall be for foam. The towers shall be constructed of 0.50" polypropylene and shall be a minimum dimension of 8" x 8" outer perimeter. The towers shall be located at the rear corners of the tank. The towers shall have 0.25" thick removable polypropylene screens and a PT3 polypropylene hinged cover. A combination vent and overflow pipe shall be fastened inside the fill towers, approximately 1.50" down from the top.

Tank Outlets: One (1) 3" female NPT tank to pump suction fitting shall be located on the driver's side rear facing wall of the tank.

Tank Inlets: One (1) 1" female NPT tank fill fitting with flow deflector shall be located on the driver's side rear facing wall of the tank.

54.03 Intake/Discharge Plumbing & Valves

Plumbing Specifications: All plumbing shall be stainless-steel pipe or high-pressure hose. High-pressure hose and hump hose connections shall be installed where vibration or chassis flexing may damage or loosen piping. Victaulic fittings shall be utilized to join plumbing.

Valves: All valves shall be designed to operate under normal conditions up to 500 PSI and shall have dual seats to work in both pressure and vacuum environments. All valves and controls shall be easily accessible for service, repair, or replacement. The discharge and intake valves shall be either direct actuated quarter turn type or control rods directly connected to the valve handle from the rear mounted pump panel.

Caps: All discharges and intakes shall have NST thread brass chrome rocker lug style caps with chains unless designed to be pre-connected or otherwise specified.

Suction:

Intake Manifold: One (1) 3" stainless-steel manifold shall be connected to the inlet side of the pump.

Tank to Pump: One (1) 3" tank to pump valve labeled "TANK TO PUMP" shall be attached to the intake manifold. The valve shall be plumbed to the tank by 3" stainless-steel pipe and hump hose.

Primary Suction: One (1) 2.5" primary suction valve labeled "SUCTION 2.5" shall be attached to the intake manifold. The valve shall be plumbed to the intake by 2.5" stainless-steel pipe. The intake will terminate with a NHM fitting. A removable intake screen shall be installed to prevent debris from entering the pump.

Discharge:

Discharge Manifold: One (1) 2.5" stainless-steel manifold shall be connected to the discharge outlet of the pump. Discharge valves shall be attached to the discharge manifold by welded pipe nipples. The manifold shall include a quarter turn petcock drain valve at the base.

Rear Discharge: One (1) 1.5" valve labeled "REAR DISCHARGE 1.5"" shall be attached to the discharge manifold. The discharge shall face the rear of the apparatus and terminate with a NHM fitting.

Mid Body Discharge(s): One (1) 1.5" valve labeled "MID BODY DISCHARGE 1.5"" shall be attached to the discharge manifold. The discharge shall be plumbed with stainless steel pipe through the water tank and shall connect to the two (2) operational valves one (1) on each side of the body via T-adapter. The discharge shall terminate with a NHM fitting.

Tank Recirculation: One (1) 1" valve labeled "RECIRCULATE" shall be attached to the discharge manifold. The valve allows for recirculation of water when discharge valves are closed and for the pump to be used to refill the water tank.

54.04 Hose Reel(s) & Booster Hose

Hose Reel Location: One (1) Hannay brand model # EPF 30-23-24 shall be provided and installed at the rear of the apparatus body on the passenger side.

Hose Reel Specifications: The hose reel shall have capacity for 150' of 1" booster hose. The hose reel outlet connection shall be 1" NPSH thread. The hose reel shall include a 2/3 HP 12V electric motor for rewinding the hose. The rewind control shall be located on the rear section of the hose reel frame. The hose reel shall include a 70-amp breaker. The hose reel shall also include manual rewind capability. The pinion shaft for the manual rewind gear shall have an adjustable tension brake controlled at the reel. One (1) FH3 captive roller assembly, or equivalent, shall be included with the reel. The frame and drum shall be fabricated of steel with aluminum powder coat finish and the sprocket shall be chrome plated to minimize maintenance.

Booster Hose: 150' of Reel Lite 1" booster hose shall be provided and installed on the hose reel. The booster hose shall be well suited for fighting applications. The booster hose shall be non-collapsible and extremely kink resistant, even at low pressure, with a bend radius of less than 3.5". The booster hose shall include circular woven construction, single jacket, and combined with a helical interior reinforcement.

54.05 Front Turret

Akron Model 3462 Bumper Turret with Forrestry Nozzle shall be installed on the Front Discharge and remote operating control system installed in the Center Console.

54.06 Instrument Panel

The instrument panel shall include the following components:

- Pump Engine OFF/RUN/START Control
- Engine Ignition ON Warning Light
- Primer Control
- Throttle Control
- Oil Pressure Warning Light
- Coolant Temperature Warning Light
- One (1) E-03 Tecniq LED Light and Switch for Panel Illumination
- Tachometer/Hour Meter

Intake & Discharge Pressure Gauges: One (1) 2.5" compound pressure gauge shall be provided and installed on the pump panel. The gauge shall display 30 inHg to 400 PSI. The gauge shall be Class 1 brand or equivalent.

Water & Foam Level Gauges: One (1) water level gauge and (1) foam level gauge shall be provided and installed. The gauges shall be FRC "TANKVISION PRO" model or equivalent. The gauges include ultra-bright LEDs for sunlight readability and two wide-viewing lenses for 180 degrees of clear viewing. The gauges include a self-calibration feature to allow for use on tanks of different shapes and sizes. The gauges shall flash when the tank level reaches 25% capacity. The gauge level indicators shall be driven by a pressure transducer mounted low on the tank to sense static water pressure.

PAINT, GRAPHICS & LABELS

55.01 Cab Paint

The chassis cab shall be painted Red at the OEM.

55.02 Compartment Door Paint

The compartment door shall be painted to match the chassis cab unless otherwise specified by the Purchaser.

55.03 Data & Safety Labels

The following labels and signs shall be affixed to the apparatus:

Apparatus Fluid Type and Quantities: A permanently mounted label displaying the following information shall be installed in the apparatus interior near the driver's seat.

- Pump Engine Oil
- Pump Transmission Lubrication Fluid

- Pump Primer Fluid (if applicable)
- Chassis Engine Oil
- Chassis Engine Coolant
- Chassis Transmission Fluid
- Chassis Drive Axle(s) Lubrication Fluid Chassis Air Conditioning Refrigerant Chassis Air
- Conditioning Lubrication Oil Chassis Power Steering Fluid
- Chassis Front Tire Cold Pressure Chassis Rear Tire Cold Pressure
- Chassis Maximum Tire Speed Rating Chassis Manufacturer
- Chassis Production Number
- Chassis Year, Month Manufactured Chassis Vehicle Identification Number

Unit Identification Placard: A unit identification placard shall be installed on the center console. The placard shall state the name and address of the apparatus manufacturer and the apparatus unit number.

Pump Operating Instructions & Specifications: An identification plate shall be provided near the instrument panel with step-by-step pump operating instructions and pump specifications.

Component Labels: All controls, valves, gauges, ports, drains, and other components shall be labeled.

Warning Labels: The following warning labels shall be installed in the chassis cab and be visible from the driver's seating position.

- "Maximum number of personnel the vehicle is designed to carry (5)."
- "DANGER: Personnel must be seated and seat belts must be fastened while the vehicle is in motion. Death or serious injury may result when the apparatus is in motion."
- "DO NOT MOVE APPARATUS WHEN LIGHT IS ON"
- "This apparatus is equipped with an air filter ember protection screen. Routine inspection is required."
- "WARNING: Noise hazards occur during siren operation."

55.04 Chevrons The exterior diamond plate surface of the tailboard apron shall be covered with standard red and lime diamond grade reflective chevrons.

55.05 Graphics

Department specific graphics to include driver and passenger side logos, striping, and unit number will be installed

OTHER

56.01 Detailing & Finalization

The apparatus shall be tested to ensure proper operation of all systems. The finalization process includes paint touch up, caulking, washing and detail, checking fluid levels, etc.

Optional: Included in this quote is a price of \$2,950, which is included in the Total Price

56.02 Operation, Service, & Certification Material

The following materials shall be provided with the completed apparatus:

- Operator Safety Information
- Pump Operation and Troubleshooting Instructions
- Maintenance and Lubrication Information
- Component Literature
- Replacement Parts List
- Electrical Diagrams
- Pump Test Certificate
- Weight Certificate
- Warranty Information

56.03 Warranty

The apparatus shall be covered by a 1-year limited warranty. Warranty includes parts and workmanship.

REBEL ATX Brush Truck Premium (Ford Forge)

Optional, *Line-haul* delivery to your department's location as part of this quote within 2 weeks of completion: \$2,950

Unit Subtotal \$294,550

Salestax to be added to final price: 9.625%

Las Vegas Pickup \$0

October signing discount: -\$5,000

Total Unit Price with line-haul: \$289,550 + 9.625% sales tax = \$317,419.19

Total Unit Price without Line-haul: \$286,600 + 9.625% sales tax = \$314,185.25

Terms & Conditions:

Quote Valid Until Nov 15th 2025

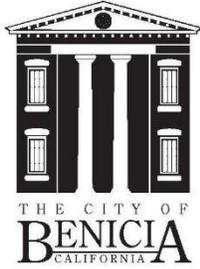
Payment Terms: **\$10,000 due within 15 business days upon Signing (non-refundable), with the remaining Due Upon Final Inspection.** Tax Exemption: Tax exemption requires submission of a tax exemption form. Freight Services May be Quoted Separately Upon Request

The parties hereto agree to, from time-to-time, but in no event more than once per quarter, adjust upward the price to Buyer in the event of a Significant Cost Increase of the truck

chassis to be provided, as defined below, in an equitable amount to such increase, for so long as such Significant Cost Increase is occurring. A “Significant Cost Increase” for purposes of this Agreement and any purchase order or similar issued hereunder shall be an increase of 4% or more of the then-prevailing cost to Supplier of the chassis procured for the project. In the event a Significant Cost Increase does not occur, the price of the project hereunder shall remain that of the applicable purchase order.

Accept & Sign

Signature: _____ Date _____



AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 18, 2025
CONSENT CALENDAR

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF AGREEMENT WITH BENNETT ENGINEERING SERVICES, INC. FOR DESIGN SERVICES OF THE 2026-2028 CITYWIDE PAVEMENT REHABILITATION PROJECTS**

EXECUTIVE SUMMARY:

In November 2024, Benicia residents passed Measure F, a 0.5% sales tax on retail purchases. Revenue from Measure F will be earmarked exclusively for repairing Benicia’s streets, potholes, and sidewalks. As a result, the City of Benicia is able to implement a long-term, comprehensive plan to fix the City’s roads and reverse a multi-decade decline in roadway condition. The first five years of the plan was presented to Benicia City Council on May 6, 2025. City Staff issued a Request for Proposals for engineering design services for the first three years (2026-2028) of this plan.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) approving a professional engineering design services agreement with Bennett Engineering Services, Inc. (BENEN) (Attachment 2) in the amount of \$1,598,100 for the 2026-2028 Citywide Pavement Rehabilitation Projects and authorize the City Manager to execute the agreement on behalf of the City.

BUDGET INFORMATION:

Design services for the 2026 Pavement Rehabilitation Project is already included in the adopted budget in Fund 311 Road Maintenance and Rehabilitation Account (RMRA), which acts as the City’s streets fund. Design Services are one component of the 2026 Pavement Rehabilitation Project, and the Projects in whole are funded by a variety of sources including RMRA allocations, Measure F, General Fund, and Republic Services franchise fees. Fund 311 is used for primarily street-related capital projects. RMRA allocations are deposited into this fund and other transfers fund the remainder of the projects. The design costs for each annual project are as follows:

- 2026 Citywide Pavement Rehabilitation: \$413,005
- 2027 Citywide Pavement Rehabilitation: \$569,003
- 2028 Citywide Pavement Rehabilitation: \$616,092

Public Works will include the 2028 Project cost as part of budget development for the next FY2027/28 and FY2028/29 budget cycle.

BACKGROUND:

The City of Benicia operates and maintains 198 lane miles (98 centerline miles) of roadways that connect commuters safely in, out and around the City. This amounts to approximately 390 acres of paved surface. The condition of Benicia’s road network has been declining in recent decades. The average Pavement Condition Index (PCI) of Benicia’s roadways is 52 out of 100, or fair.

Staff have developed a long-term pavement maintenance strategy that will allow for treatment of every residential street in the City within approximately 12 years, bringing the network PCI above 70.

Pavement Zones

To maximize design and construction efficiency of future paving projects and to minimize construction disruption to the City’s residents and visitors, Staff separated the City’s residential streets into 24 pavement zones. The pavement zones are geographic areas that are bounded by arterials and collectors (major roadways). The City’s pavement zones map is available for download on the City’s Roads webpage (www.ci.benicia.ca.us/roads).

Zones are similar in size and include between 300,000 to 500,000 square feet of pavement. The estimated cost to treat each pavement zone is dependent on the pavement area and the condition of the streets within the zone. This cost presently ranges from \$250,000 (Zone 9) to \$3,450,000 (Zone 14) because of the highly variable condition of our residential streets.

Each year, two to four pavement zones will be selected for treatment. Zones will be selected based on pavement condition, proximity to other selected zones (i.e. to avoid adjacent zones), potential conflict or integration with planned public works projects (i.e. underground utility replacements), and other factors in order to maximize project benefit. Every zone will receive treatment before any zones are selected for re-treatment. Approximately \$1 million per year will be dedicated to maintaining major roadways that aren’t included in the residential pavement zones.

2026-2028 Plan

On May 6, 2025, Staff presented a 5-year pavement treatment plan to the Benicia City Council. The plan for years 2026 through 2028 is shown in the table below.

Year	Zones/Streets List
2026	Zone 17 Zone 6 Cabridge Drive (Rose to Hastings) Rose Drive (Columbus to Palace/Bolton)

2027	Zone 2 Zone 13 Arterials/collectors within Zone 2
2028	Zone 3 Arterials/collectors within Zone 3 1 st Street Zone 20 Solano Drive (Hastings to Larkin) Hastings Drive (Zinnia to Rose)

Request for Proposal Process

The City solicited consultant proposals for engineering design of the 2026-2028 pavement treatment plan by publishing a Request for Proposals on July 24, 2025. A pre-proposal meeting was held on August 5, 2025. On August 21, 2025, the City received three proposals from qualified firms. After a comprehensive selection process that included an in-person interview with a three-person panel of City Staff, an agreement with Bennett Engineering Services, Inc. is recommended for this Project.

Scope of Work

BENEN's scope of work is summarized below. Additional details are provided in their proposal that is attached to the consultant Agreement (Attachment 2).

- Project Management
 - Coordinate meetings, schedules, budgets, and quality control for all project phases
- Utility Coordination
 - Identify and resolve conflicts with existing utilities; coordinate relocations where needed
- Surveying and Data Collection
 - Gather field data on pavement conditions, curb ramps, and right-of-way
 - Prepare detailed base maps
- Geotechnical Investigations
 - Perform pavement coring and lab testing each year to guide rehabilitation methods
- Parking and Traffic Analysis
 - Evaluate downtown parking, circulation, and potential reconfigurations (e.g., diagonal parking, one-way streets)
- Public and Stakeholder Engagement
 - Conduct downtown business and community meetings, gather feedback, and present proposed improvements
- Planning and Preliminary Design
 - Develop 35% design reports for each construction year identifying pavement rehab strategies, ADA and drainage improvements, and cost estimates
 - Prepare presentations for Economic Development Board and City Council

- Final Design and Construction Support
 - Prepare complete plans, specifications, and cost estimates for each year's projects (2026, 2027, and 2028)
 - Provide bid phase assistance, respond to contractor inquiries during construction, and produce final as-built drawings

NEXT STEPS:

If approved, the agreement will be routed for signatures and design work will commence per the approach outlined in BENEN's proposal. Once design of the 2026 Project is complete, the City will issue a formal bid for construction services. Construction of the 2026 Project is scheduled to begin in Summer of 2026. Staff will return to Council each spring to present the list of streets proposed for construction the following year for approval, typically in May, meeting Senate Bill 1 requirements for RMRA funding.

ALTERNATIVE ACTIONS:

If Council chooses not to award the Project, Staff could reissue a Request for Proposals for this project. Staff will not be able to prepare the design of the Project in time to solicit bids in Spring of 2026.

CEQA Analysis	Staff has determined that this Project is Categorical Exempt per CEQA Section 15301 (c), which applies to repair and maintenance of existing roadways.
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ATTACHMENTS:

1. Resolution – Approval of Agreement for FY26-28 Pavement Design Services
2. Agreement with Bennett Engineering Services, Inc.

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 AN AGREEMENT WITH BENNETT ENGINEERING SERVICES, INC. FOR DESIGN SERVICES OF THE 2026-2028 CITYWIDE PAVEMENT REHABILITATION PROJECTS

WHEREAS, in November 2024, Benicia voters approved Measure F, a 0.5% sales tax on retail purchases that will be used to repair and maintain Benicia's streets and sidewalks; and

WHEREAS, on May 6, 2025, City Staff presented to the Benicia City Council the first five (5) years of a comprehensive pavement maintenance plan to reverse the decline of the City's pavement condition; and

WHEREAS, City Staff publicly advertised a consultant Request for Proposals for the engineering design for the 2026-2028 Citywide Pavement Rehabilitation Projects on July 24, 2025, held a pre-proposal conference on August 5, 2025, and received a total of three proposals on August 21, 2025; and

WHEREAS, City Staff reviewed the proposals, held interviews with the consultant teams, and recommended awarding to Bennett Engineering Services, Inc. for a not-to-exceed amount of \$1,598,100; and

WHEREAS, the design services for the 2026 and 2027 Pavement Rehabilitation Projects are included in the budget in Fund 311,

WHEREAS, the City's purchasing policy requires Council approval when a Public Works contract for services exceeds \$200,000 (Benicia Municipal Code: 3.10.030 Procurement of Services); and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the agreement with Bennett Engineering Services, Inc. for the 2026-2028 Citywide Pavement Rehabilitation Projects in the amount of \$1,598,100 and authorizes the City Manager to execute the agreement on behalf of the City.

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 18th day of November 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

PROFESSIONAL SERVICES AGREEMENT

(\$50,000 OR MORE)

BETWEEN

CITY OF BENICIA AND

Bennett Engineering Services, Inc.

This Professional Services Agreement (the "Agreement") is dated November 18, 2025, and is by and between the City of Benicia, a political subdivision of the State of California ("City") and Bennett Engineering Services, Inc., located at 1082 Sunrise Avenue, Suite 100, Roseville, CA 95661, a California Corporation, licensed to do business in California, ("Consultant") relating to 2026-2028 Citywide Pavement Rehabilitation Projects - Design and Construction Support Services ("Services").

Recitals

WHEREAS, City wishes to retain Consultant to provide 2026-2028 Citywide Pavement Rehabilitation Projects - Design and Construction Support Services and related services;

WHEREAS, Consultant was selected by means of City's consultant selection process, and represents that they possess all necessary training, licenses and permits to perform the services required by City as set forth in this Agreement, and that their performance of such services will conform to the standard of practice consistent with a firm having experience, expertise and skill in performing professional services of like nature and complexity working on similar, successfully completed projects;

WHEREAS, Government Code section 53060 permit the City to enter into agreements for professional temporary services with individuals specially trained, licensed, experienced and competent to perform those services; and

WHEREAS, the services proposed in this Agreement are professional and temporary in nature.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulated and agreed, the parties agree as follows:

1. Agreement

1.1. Definitions

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

- A. **Agreement:** This Agreement consists of this Agreement, together with all exhibits and appendices and other documents incorporated herein by reference.

- B. **Consultant:** Bennett Engineering Services, Inc.
- C. **City:** City of Benicia
- D. **Project:** 2026-2028 Citywide Pavement Rehabilitation Projects - Design and Construction Support Services, 26-125
- E. **Services:** All work, labor, materials and services required under the terms and conditions of this Agreement, provided pursuant to the terms and conditions of this Agreement, including without limitation architectural, engineering, building information modeling, coordination, and administrative services. Services that may be required, dependent on Project needs, are further described in the appendices.
- F. **Subconsultants:** Consultant's subconsultants, contractors and subcontractors, of any tier.

1.2. Term of Agreement

- A. This Agreement will conclude on November 18, 2027 unless it is extended in accordance with paragraph B below.
- B. This Agreement may be extended by mutual agreement of the parties hereto. Any extension shall be in written form, signed by both parties, and shall specify the length of the extension and compensation.

1.3. Services Consultant Agrees to Perform

- A. Consultant shall perform all Services described in Exhibit A, and provide all Deliverables described in Exhibit A, attached hereto and incorporated by reference as though fully set forth herein.
- B. Consultant may recover compensation for extended services as set forth in Exhibit A, in conformance with the City's Purchasing Policy and Benicia Municipal Code.
- C. Should the progress of the Services under this Agreement at any time fall behind schedule for any reason other than Excusable Delays, Consultant shall apply such additional manpower and resources as necessary without Additional Services Compensation to bring progress of the Services under this Agreement back on schedule and consistent with the standard of professional skill and care required by this Agreement. Time is of the essence in the performance of this Agreement. Excusable Delays include acts of God, acts of the public enemy, and delays beyond Consultant's reasonable control as determined at the sole discretion of City.

1.4. Compensation

- A. City shall compensate Consultant according to the policies and procedures established by City. Compensation shall not exceed **\$1,598,100** dollars without a fully approved and executed contract amendment or change order.

- B. Billing will occur upon completion of work. Payment is expected within 30 days. Consultant has the option to invoice for services or reimbursables no more than once a month. Payment shall be in accordance with the project-specific scope of work for work performed, not a retainer or equal monthly payments. Statement will generally describe the services performed and applicable rate or rates. Statements for reimbursement should include a reasonable itemization of requested compensation.
- C. City shall not incur any charges under this Agreement, nor shall any payments become due to Consultant for any payment period on the Project, until City receives all deliverables required under Exhibit A, for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where Consultant has partially completed one or more deliverables due during a payment period, and if Consultant demonstrates diligent progress thereon, then City may make a partial progress payment based upon percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon City. City shall not be liable for, and Consultant shall not be entitled to, any payment for Services performed before this Agreement's execution.
- D. City will not withhold entire payment if a questioned amount is involved, but will issue payment in the amount of the total invoice less any questioned amount(s). City will make payment for questioned amounts(s) upon City's receipt of any requested documentation verifying the claimed amount(s) and City's determination that the amount is due under the terms of this Agreement. City shall advise Consultant, in writing, within 15 calendar days of receipt of the requested documentation. Final payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of City including, without limitation, Consultant's transmittal of all deliverables to City required by Exhibit A, and services required by Exhibit A.
- E. Invoices furnished by Consultant under this Agreement must be in a form acceptable to City. All amounts paid by City to Consultant shall be subject to audit by City. Payment shall be made by City to Consultant at the address stated in Section 1.6, Qualified Personnel below.
- F. City may set off against payments due Consultant under this Agreement any sums that City determines that Consultant owes to City because of their errors, omissions, breaches of this Agreement, delays or other acts that caused City monetary damages. Prior to exercising such right, City must demand and attend mediation pursuant to Section 1.21, Disputes: Paragraph C below of this Agreement, to be attended by City, Consultant, and any applicable insurance carriers; such mediation to occur within 30 calendar days of demand. If the parties cannot agree upon the time, place, and mediator, within one week of the City's demand, then the Solano City Superior Court may upon application by any party make such selection for the parties. If a party other than City refuses to mediate under this Compensation: Paragraph E, then City shall have satisfied its obligations under this Paragraph.

- G. Consultant shall pay prevailing wages to its employees on any contract in excess of \$1,000.00. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at the City's Public Works Department and may be obtained from the California Department of Industrial Relations website [<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>]. Consultant shall comply with the 8-hours per day/40 hours per week/overtime/working hours restrictions for all employees, pursuant to the California Labor Code. Consultant and all subcontractors shall keep and maintain accurate employee payroll records for Work performed under the Agreement. The payroll records shall be certified and submitted as required by law, including Labor Code Sections 1771.4 (if applicable) and 1776, including to the Labor Commissioner no less frequently than monthly. Consultant shall comply fully with Labor Code Section 1777.5 in the hiring of apprentices for work relating to the Agreement. If the Agreement exceeds \$2,000 and is funded with federal funds, then Consultant shall pay federal Davis Bacon wages and comply with applicable federal requirements.
- H. Pursuant to Labor Code Section 1771(a), Consultant represents that it and all of its Subcontractors are currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant covenants that any additional or substitute Subcontractors will be similarly registered and qualified.

1.5. Maximum Costs

- A. City's obligation hereunder shall not at any time exceed the amount approved by City for payment to the Consultant pursuant to the terms of this Agreement.
- B. Except as may be provided by applicable law governing emergency conditions, City has not authorized its City Council, supervisors, employees, officers and agents to request Consultant to perform Services or to provide materials, equipment and supplies that would result in Consultant performing Services or providing materials, equipment and supplies that exceed the scope of the Services, materials, equipment and supplies agreed upon in the Agreement unless the City amends the Agreement in writing and approves the amendment as required by law to authorize the additional Services, materials, equipment or supplies.
- C. City shall not reimburse Consultant for Services, materials, equipment or supplies provided by Consultant beyond the scope of the Services, materials, and office equipment and supplies agreed upon in the Agreement and unless approved by a written amendment to the Agreement having been executed and approved in the same manner as this Agreement.

1.6. Qualified Personnel

For purposes of this Agreement, except for notices specified under Notices to the Parties below, City and Consultant shall direct all communications to each other as follows:

City:

Derek Linsley
Senior Civil Engineer
City of Benicia
250 East L Street
Benicia, CA 94510
Phone: (707) 746-4237
Email: dlinsley@ci.benicia.ca.us

Consultant:

Leo Rubio
President and CEO
1082 Sunrise Avenue, Suite 100, Roseville, CA 95661

Phone: 916-397-4481

Email: "lrubio@ben-en.com"

Services under this Agreement shall be performed only by qualified, competent personnel under the supervision of and/or in the employment of Consultant. Consultant shall conform with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, shall be supervised by Consultant.

Consultant agrees that professional personnel assigned to the Project will be those listed in Exhibit A, and by this reference incorporated herein, and that the listed personnel will continue their assignments on the Project during the entire term of this Agreement. It is recognized that the listed personnel may in the future cease to be employed by Consultant and because of the termination of such employment no longer able to provide Services. However, Consultant agrees that replacement of any of the listed personnel during the Agreement period shall only be with other professional personnel who have equivalent experience and shall require the prior written approval of City, which shall not be unreasonably withheld. Any costs associated with replacement of personnel shall be borne exclusively by Consultant.

Consultant agrees that should the above personnel not continue their assignments on the Project during the entire term of this Agreement, then Consultant shall not charge City for the cost of training or "bringing up to speed" replacement personnel. City may condition its reasonable approval of substitution personnel upon a reasonable transition period wherein new personnel will learn the Project and get up to speed at Consultant's cost.

1.7. Representations

- A. Consultant represents that it has reviewed Exhibit A, and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the Compensation Schedule of \$1,598,100 and within the times specified for each individual Project.

- B. Consultant represents that it is qualified to perform the Services and it possesses, and will continue to possess at its sole cost and expense, the necessary licenses and/or permits required to perform the Services or will obtain such licenses and/or permits prior to time such licenses and/or permits are required. Consultant also represents that it has knowledge of, and will comply with, all applicable building codes, laws, regulations and ordinances.
- C. Consultant represents that it possesses all necessary training, licenses and permits to perform the Services and that its performance of the Services will conform to the standards of practice of a professional having experience and expertise in performing professional services of like nature and complexity of the Services working on similar, successfully completed projects.
- D. The granting of any progress payment by City, or the receipt thereof by Consultant, or any inspection, review, approval or oral statement by any representative of City or any other governmental entity, shall in no way waive or limit the obligations in this Representations or lessen the liability of Consultant for unsatisfactory Services, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

1.8. Indemnification and General Liability

- A. To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), Consultant shall defend, indemnify, and hold harmless City, its officers, City Council, directors, officials, agents employees, and volunteers (collectively "Indemnitees") from and against any and all claims, suit, action, loss, cost, damage, injury (including, without limitation, economic harm, injury to or death of an employee of Consultant or its Subconsultants) expense and liability of every kind, nature, and description, at law or equity, that arises out of, pertain to, or relate to (including without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) any negligence, recklessness, or willful misconduct of Consultant, any Subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify an Indemnitee shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence active negligence, or willful misconduct of such Indemnitee but shall apply to all other Liabilities.
- B. Intellectual Property Indemnification: Consultant represents that professional services provided by Consultant pursuant to this Agreement does not infringe on any other copyrighted work or intellectual property owned by others. Consultant shall defend, indemnify and hold harmless the City from all Liabilities, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in arising from or relating to Consultant's services provided to the City under this Agreement.

- C. City shall include a provision in the construction contract with the general contractor on the Project requiring the general contractor to indemnify Consultant for damages resulting from the negligence of the general contractor and its subcontractors. City shall also include a provision in the construction contract with the general contractor on the Project requiring the general contractor to name Consultant as an additional insured on its Comprehensive General Liability insurance coverage. If the Consultant has the opportunity to review the construction contract prior to bidding, the City shall have no responsibility for the inadvertent omission of such provisions.
- D. Consultant shall place in its agreements with Subconsultants and cause its Subconsultants to agree to the indemnification and insurance provisions in this Agreement in favor of the City and the Indemnitees in the exact form and substance as those contained in this Agreement.
- E. City acknowledges that the discovery, presence, handling or removal of asbestos products, polychlorinated biphenyl (PCB) or other hazardous substances which may presently exist at the any Project site is outside of Consultant's responsibilities and is not included in the scope of Services Consultant is to perform nor included in Consultant's insurance. City shall hire hazardous materials consultants if the Project requires the testing or remediation of hazardous substances. Consultant shall not be responsible or be involved in any way with the discovery, presence, handling or removal of such materials. Consultant shall, however, be responsible for the coordination of Consultant's services and work with the work of the City's hazardous materials consultants.
- F. Duty to Cooperate: Consultant shall notify City immediately in writing of any claim or damage related to activities or services performed under this Agreement. Consultant shall cooperate with City in the investigation and disposition of all Liabilities arising out of the activities or services under this Agreement. Without limiting the foregoing, Consultant shall take all steps necessary to assist the City in the defense of any and all Liabilities brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project. Any additional services or work under this paragraph shall be compensated as Additional Services.
- G. Consultant shall defend (including providing legal counsel reasonably acceptable to City at no cost to City), indemnify and hold harmless the Indemnitees from all loss, cost, damage, expense, suit, liability or claims, in law or in equity, including attorneys' fees, court costs, litigation expenses and fees of expert consultants or expert witnesses, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by City, or any of the other Indemnitees, of articles or Services to be supplied in the performance of this Agreement.

1.9. Liability of City

- A. Except as provided in Exhibit A, City's obligations under this Agreement shall be limited to the payment of the compensation provided for in Services Consultant Agrees to Perform, Compensation, and Maximum Costs of this Agreement.
- B. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special, consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.
- C. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Consultant, or by any of its employees, even though such equipment be furnished, rented or loaned to Consultant by City. The acceptance or use of such equipment by Consultant or any of its employees shall be construed to mean that Consultant accepts full responsibility for and shall exonerate, indemnify, defend and save harmless City from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the Consultant, its employees, City employees or third parties, or to property belonging to any of the above.
- D. Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which City or Consultant may have under this Agreement or any applicable law. All rights and remedies of City or Consultant, whether under this Agreement or other applicable law, shall be cumulative.

1.10. Independent Contractor; Payment of Taxes and Other Expenses

- A. Consultant shall be deemed at all times to be independent contractors and shall be wholly responsible for the manner in which Consultant perform the Services required by the terms of this Agreement. Consultant shall be fully liable for the acts and omissions of it their Subconsultants, employees and agents.
- B. Nothing contained herein shall be construed as creating an employment, agency or joint venture relationship between City and Consultant. Consultant acknowledge that neither they nor any of their employees or agents shall, for any purpose whatsoever, be deemed to be City employees, and shall not be entitled to receive any benefits conferred on City employees, including without limitation workers' compensation, pension, health, insurance or other benefits.
- C. Consultant shall be solely responsible for payment of any required taxes, including California sales and use taxes, city business taxes and United States income tax withholding and social security taxes, levied upon this Agreement, the transaction, or the Services delivered pursuant hereto.

- D. Consultant shall make its designated representative available as much as reasonably possible to City staff during the City's normal working hours or as otherwise requested by City. Terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Consultant's Services only and not as to the means by which such a result is obtained.

1.11. Insurance

Prior to execution of this Agreement, Consultant shall furnish to City Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in the **Insurance Requirements Section**, which are included and made a part of this Agreement. Consultant shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in the Insurance Requirements. In the event Consultant fails to maintain any required insurance, City may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due Consultant under this Agreement (or Consultant shall promptly reimburse City for such expense).

1.12. Suspension of Services

- A. City may, without cause, order Consultant to suspend, delay or interrupt Services pursuant to this Agreement, in whole or in part, for such periods of time as City may determine in its sole discretion. City shall deliver to Consultant written notice of the extent of the suspension at least seven (7) calendar days before the commencement thereof. Suspension shall be treated as an Excusable Delay and Consultant shall be compensated for such delay to the extent provided under this Agreement.
- B. Notwithstanding anything to the contrary contained in this Suspension of Services, no compensation shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by a cause for which Consultant is responsible.

1.13. Termination of Agreement for Cause

- A. If at any time City believes Consultant may not be adequately performing their obligations under this Agreement, that Consultant may fail to complete the Services as required by this Agreement, or that City has provided written notice of observed deficiencies in Consultant's performance, City may request from Consultant prompt written assurances of performance and a written plan, acceptable to City, to correct the observed deficiencies in Consultant's performance ("Cure Plan"). The Cure Plan must include, as applicable, evidence of necessary resources, correction plans, Subconsultant commitments, schedules and recovery schedules, and affirmative commitments to correct the asserted deficiencies, must meet all applicable requirements and show a realistic and achievable plan to cure the breach. Consultant shall provide such written assurances and Cure Plan within ten (10) calendar days of the date of notice of written request. Consultant acknowledges and agrees that any failure to provide written assurances and Cure Plan to correct observed deficiencies, in the required time, is a material breach under this Agreement.

- B. Consultant shall be in default of this Agreement and City may, in addition to any other legal or equitable remedies available to City, terminate Consultant's right to proceed under the Agreement, in whole or in part, for cause:
1. Should Consultant make an assignment for the benefit of creditors, admit in writing its inability to pay its debts as they become due, file a voluntary petition in bankruptcy, be adjudged a bankrupt or insolvent, file a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, file any answer admitting or not contesting the material allegations of a petition filed against Consultant in any such proceeding, or seek, consent to, or acquiesce in, the appointment of any trustee, receiver, custodian or liquidator of Consultant or of all or any substantial part of the properties of Consultant, or if Consultant, its directors or shareholders, take action to dissolve or liquidate Consultant; or
 2. Should Consultant commit a material breach of this Agreement and not cure such breach within ten (10) calendar days of the date of notice from City to Consultant demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Consultant to avail themselves of this time period in excess of ten (10) calendar days, Consultant must provide City within the ten (10) calendar day period a written Cure Plan acceptable to City to cure said breach, and then Consultant must diligently commence and continue such cure according to the written Cure Plan); or
 3. Should Consultant violate or allow a violation of any valid law, statute, regulation, rule, ordinance, permit, license or order of any governmental agency in effect at the time of performance of the Services and applicable to the Project or Services and does not cure such violation within ten (10) calendar days of the date of the notice from City to Consultant demanding such cure; or, if such failure is curable but not curable within such ten (10) calendar day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Consultant to avail themselves of this time period in excess of ten (10) calendar days, Consultant must provide City within the ten (10) calendar day period a written Cure Plan acceptable to City to cure said breach, and then Consultant must diligently commence and continue such cure according to the written Cure Plan.)
- C. In the event of termination by City as provided herein for cause:
1. City shall compensate Consultant for the value of the Services delivered to City upon termination as determined in accordance with the Agreement, subject to all rights of offset and back charges, but City shall not compensate Consultant for its costs in terminating the Services or any cancellation charges owed to third parties.

2. Consultant shall deliver to City possession of all tangible aspects of the Services in their then condition including, but not limited to, all copies (electronic, CAD, and PDF format, and hard copy) of designs, engineering, Project records, cost data of all types, drawings and specifications and contracts with vendors and Subconsultants, and all other documentation associated with a Project, and all supplies and aids dedicated solely to performing Services which, in the normal course of the Services, would be consumed or only have salvage value at the end of the Services period.
 3. Consultant shall remain fully liable for the failure of any Services completed and drawings and specifications provided through the date of such termination to comply with the provisions of the Agreement. The provisions of this Paragraph shall not be interpreted to diminish any right that City may have to claim and recover damages for any breach of this Agreement, but rather, Consultant shall compensate City for all loss, cost, damage, expense, and/or liability suffered by City as a result of such termination and failure to comply with the Agreement, including without limitation City's costs incurred in connection with finding a replacement.
- D. In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience pursuant to Termination of Agreement of Convenience below, and Consultant shall have no greater rights than they would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by Consultant.

1.14. Termination of Agreement for Convenience

- A. City may terminate performance of the Services under the Agreement in accordance with this Termination of Agreement for Convenience in whole, or from time to time in part, whenever City shall determine that termination is in the City's best interests. Termination shall be effected by City delivering to Consultant, at least seven (7) calendar days prior to the effective date of the termination, a Notice of Termination ("Notice of Termination") specifying the extent to which performance of the Services under the Agreement is terminated.
- B. After receipt of a Notice of Termination, and except as otherwise directed by City, Consultant shall:
 1. Stop Services under the Agreement on the date and to the extent specified in the Notice of Termination;
 2. Place no further orders or subcontracts (including agreements with Subconsultants) for materials, Services, or facilities except as necessary to complete the portion of the Services under the Agreement which is not terminated;

3. Terminate all orders and subcontracts to the extent that they relate to performance of Services terminated by the Notice of Termination;
 4. Assign to City in the manner, at times, and to the extent directed by City, all right, title, and interest of Consultant under orders and subcontracts so terminated. City shall have the right, in its discretion, to settle or pay any or all claims arising out of termination of orders and subcontracts;
 5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with approval or ratification of City to the extent City may require. City's approval or ratification shall be final for purposes of this clause;
 6. Transfer title and possession of Consultant's and their Subconsultants' work product to City, and execute all required documents and take all required actions to deliver in the manner, at times, and to the extent, if any, directed by City, completed and uncompleted designs and specifications, Services in process, completed Services, supplies, and other material produced or fabricated as part of, or acquired in connection with performance of, Services terminated by the Notice of Termination; City acknowledges that said documents were prepared for the purpose of the Project.
 7. Complete performance of any part of the Services that were not terminated by the Notice of Termination; and
 8. Take such action as may be necessary, or as City may direct, for the protection and preservation of property related to this Agreement which is in Consultant's possession and in which City has or may acquire an interest.
- C. After receiving a Notice of Termination, Consultant shall submit to City a termination claim, in the form and with the certification City prescribes. The claim shall be submitted promptly, but in no event later than three months from the effective date of the termination, unless one or more extensions in writing are granted by City upon Consultant's written request made within such three month period or authorized extension. However, if City determines that facts justify such action, it may receive and act upon any such termination claim at any time after such three-month period or extension. If Consultant fails to submit the termination claim within the time allowed, City may determine, on basis of information available to it, the amount, if any, due to Consultant because of the termination. City shall then pay to Consultant the amount so determined.
- D. Subject to provisions of Termination of Agreement for Convenience: Paragraph C above, Consultant and City may agree upon the whole or part of the amount or amounts to be paid to Consultant because of any termination of Services under this Paragraph. The amount or amounts may include a reasonable allowance for profit on Services done. However, such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement

price of Services terminated. The Agreement may be amended accordingly, and Consultant shall be paid the agreed amount.

- E. If Consultant and City fail, under Termination of Agreement for Convenience: Paragraph D above, to agree on the whole amount to be paid to Consultant because of termination of Services under this Agreement for Convenience: Paragraph E, then Consultant's entitlement to compensation for Services specified in the Agreement which are performed before the effective date of Notice of Termination, shall be the total (without duplication of any items) of:
1. Reasonable value of Consultant's Services performed prior to Notice of Termination, based on Consultant's entitlement to compensation under Exhibit A, Payments to Consultant. Such amount or amounts shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement value of Services terminated. Deductions against such amount or amounts shall be made for deficiently performed Services, rework caused by deficiently performed Services, cost of materials to be retained by Consultant, amounts realized by sale of materials, and for other appropriate credits against cost of Services. Such amount or amounts may include profit, but not in excess of ten (10) percent of Consultant's total costs of performing the Services.
 2. When, in opinion of City, the cost of any item of Services is excessively high due to costs incurred to remedy or replace defective or rejected Services (including having to re-perform Services), reasonable value of Consultant's Services will be the estimated reasonable cost of performing Services in compliance with the requirements of the Agreement, and any excessive actual cost shall be disallowed.
 3. Reasonable cost to Consultant of handling material returned to vendors, delivered to City or otherwise disposed of as directed by City.
- F. Except as provided in this Agreement, in no event shall City be liable for costs incurred by Consultant (or Subconsultants) after receipt of a Notice of Termination. Such non-recoverable costs include, but are not limited to, anticipated profits on the Agreement or subcontracts, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, costs of preparing and submitting claims or proposals, attorney's fees or other costs relating to prosecution of the claim or a lawsuit, pre-judgment interest, or any other expense that is not reasonable or authorized under Agreement for Convenience: Paragraph E above.
- G. This Paragraph shall not prohibit Consultant from recovering costs necessary to discontinue further Services under the Agreement as provided for in Agreement for Convenience: Paragraph B above or costs authorized by City to settle claims from Subconsultants.
- H. In arriving at amounts due Consultant under this Agreement for Convenience, there shall be deducted:

1. All unliquidated advance or other payments on account theretofore made to Consultant, applicable to the terminated portion of Agreement,
 2. Any substantiated claim that City may have against Consultant in connection with this Agreement, and
 3. The agreed price for, or proceeds of sale of, any materials, supplies, or other things kept by Consultant or sold under the provisions of this Agreement for Convenience, and not otherwise recovered by or credited to City.
- I. If the termination for convenience hereunder is partial, before settlement of the terminated portion of this Agreement, Consultant may file with City a request in writing for equitable adjustment of price or prices specified in the Agreement relating to the portion of this Agreement that is not terminated. City may, but shall not be required to, agree on any such equitable adjustment. Nothing contained herein shall limit the right of City and Consultant to agree upon amount or amounts to be paid to Consultant for completing the continued portion of the Agreement when the Agreement does not contain an established price for the continued portion. Nothing contained herein shall limit City's rights and remedies pursuant to this Agreement or at law.

1.15. Conflicts of Interest/Other Agreements

- A. Consultant represents that it is familiar with Section 1090 and Section 87100, et seq., of the Government Code of the State of California, the Conflict of Interest Code, Resolution 06-23, adopted by the City on October 3, 2006, and that it does not know of any facts that constitute a violation of those sections.
- B. Consultant represents that it has completely disclosed to City all facts bearing upon any possible interests, direct or indirect, which Consultant believes any member of City, or other officer, agent or employee of City or any department presently has, or will have, in this Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute ground for termination of this Agreement by City for cause. Consultant shall comply with the City's conflict of interest codes and their reporting requirements.
- C. Consultant covenants that it presently has no interest, and during the term of this Agreement shall not have any interest, direct or indirect, that would conflict in any manner with the performance of Services required under this Agreement. Without limitation, Consultant represents to and agrees with the City that Consultant has no present, and in the future during the term of this Agreement will not have any, conflict of interest between providing the City the Services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity (including, but not limited to, any federal or state wildlife, environmental or regulatory agency) that has any interest adverse or potentially adverse to the City, as determined in the reasonable judgment of the City.

1.16. Proprietary or Confidential Information of City; Publicity

- A. Consultant acknowledges and agrees that, in the performance of the Services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information that may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Consultant agree that all private, confidential, or proprietary information disclosed by City to or discovered by Consultant in the performance of the Services shall be held in strict confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would use to protect its own proprietary data, and shall not accept employment adverse to the City's interests where such confidential information could be used adversely to the City's interests. Consultant shall notify the City immediately in writing if it is requested to disclose any information made known to or discovered by Consultant during the performance of or in connection with the Services pursuant to this Agreement.
- B. Any publicity or press releases with respect to the Project or Services shall be under the City's sole discretion and control. Consultant shall not discuss the Services, the Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without City's prior written consent. Consultant shall have the right, however, without City's further consent, to include representations of Services among Consultant's promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this Agreement.
- C. The provisions of this Proprietary or Confidential Information of City; Publicity shall remain fully effective indefinitely after termination of Services to the City hereunder.

1.17. Notices to the Parties

- A. All notices (including requests, demands, approvals or other communications other than ordinary course Project communications) under this Agreement shall be in writing and shall include the word "NOTICE" in the subject line.
- B. Notice shall be sufficiently given for all purposes as follows:
 - 1. When personally delivered to the recipient, notice is effective on delivery.
 - 2. When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
 - 3. When delivered by reputable delivery service, with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.
 - 4. Notice by facsimile or electronic mail shall not be allowed or constitute "Notice" under this Notice to the Parties.

- C. Any correctly-addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service,
- D. Addresses for the purpose of giving notice are set forth in Qualified Personnel: Paragraph A above. Either party may, by written notice given at any time or from time to time require subsequent notices to be given to another individual person, whether a party or an officer or a representative, or to a different address or fax number, or both, by giving the other party notice of the change in any manner permitted by this Notice to the Parties.

1.18. Record Keeping and Audit Requirements

- A. Consultant shall keep such full and detailed accounting records as are necessary for proper financial management of the Project. Consultant shall maintain a complete and current set of all books and records relating to the construction of the Project. City shall be entitled, upon forty-eight (48) hour written notice, to inspect all books, records, and accounts kept by Consultant relating to the work contemplated by this Contract. Within 90 calendar days after Final Completion, Consultant shall deliver to City those records necessary for City to perform a financial audit of the Project ("Final Audit").
- B. Invoice and progress/final reports and all required audit reports shall be submitted to City in a timely manner.
- C. Consultant shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photo static, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.
- D. Any authorized representative of the City shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Consultant. Further, the City has the right at all reasonable times to audit, inspect or otherwise evaluate the services and work performed or being performed under this Agreement.

1.19. Subcontracting/Assignment/City Employees

- A. Consultant and City agree that Consultant's unique talents, knowledge and experience form a basis for this Agreement and that the Services to be performed by Consultant under this Agreement are personal in character. Therefore, Consultant shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder unless approved by City in a written instrument executed and approved by the City in writing. Neither party shall,

on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Subcontracting/Assignment/City Employees: Paragraph A shall confer no rights on any party and shall be null and void.

- B. Consultant shall not employ or engage, or attempt to employ or engage, any person who is or was employed by City or any department thereof at any time that this Agreement is in effect, and for a period of two years after the termination of this Agreement or the completion of the Services, without the written consent of City.

1.20. Other Obligations

- A. Discrimination, Equal Employment Opportunity and Business Practices. Consultant shall not discriminate against any employee or applicant for employment, nor against any Subconsultant or applicant for a subcontract, because of race, color, religious creed, age, gender, actual or perceived sexual orientation, national origin, disability as defined by the ADA (as defined below) or veteran's status. To the extent applicable, Consultant shall comply with all federal, state and local laws (including, without limitation, City ordinances, rules and regulations) regarding non-discrimination, equal employment opportunity, affirmative action and occupational-safety-health concerns, shall comply with all applicable rules and regulations thereunder, and shall comply with same as each may be amended from time to time.
- B. Drug-Free Workplace Policy. Consultant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Consultant agrees that any violation of this prohibition by Consultant, its employees, agents or assigns shall be deemed a material breach of this Agreement.
- C. Compliance with Americans with Disabilities Act and Rehabilitation Act. Consultant acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Consultant shall provide the Services specified in this Agreement in a manner that complies with the standard of care established under this Agreement regarding the ADA and any and all other applicable federal, state and local disability rights legislation. Consultant agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Consultant, its employees, agents or assigns shall constitute a material breach of this Agreement. Consultant shall comply with §504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- D. Violation of Non-Discrimination Provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Consultant to

penalties, including but not limited to: (a) termination of this Agreement; (b) disqualification of the Consultant from bidding on or being awarded a City contract for a period of up to 3 years; (c) liquidated damages of \$2,500 per violation; and/or (d) imposition of other appropriate contractual and civil remedies and sanctions. To effectuate the provisions of this section, the City shall have the authority to examine Consultant's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Consultant under this Agreement or any other agreement between Consultant and City. Consultant shall report to the City the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 calendar days of such filing, provided that within such 30 days such entity has not notified Consultant that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Consultant shall provide City with a copy of their response to the complaint when filed.

- E. Employee Wages; Records; Apprentices: Consultant shall pay prevailing wages to its employees on any agreement in excess of \$1,000.00. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Agreement, as determined by the Director of the State of California Department of Industrial Relations, are on file at the County's Capital Projects Office and may be obtained from the California Department of Industrial Relations website [<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>]. Consultant shall comply with the 8-hours per day/40 hours per week/overtime/working hours restrictions for all employees, pursuant to the California Labor Code. Consultant and all subconsultants shall keep and maintain accurate employee payroll records for Work performed under the Agreement. The payroll records shall be certified and submitted as required by law, including Labor Code Sections 1771.4 (if applicable) and 1776, including to the Labor Commissioner no less frequently than monthly. Consultant shall comply fully with Labor Code Section 1777.5 in the hiring of apprentices for work relating to the Agreement. If the Agreement exceeds \$2,000 and is funded with federal funds, then Consultant shall pay federal Davis Bacon wages and comply with applicable federal requirements.

1.21. Disputes

- A. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Project Manager and a principal of the Consultant who shall attempt, in good faith, to resolve the dispute. Such referral shall be initiated by written request from either party, and a meeting between the Project Manager and principal of the Consultant shall then take place within five (5) calendar days of the date of the request.

- B. Provided that City continues to compensate Consultant in accordance with this Agreement, Consultant shall continue its Services throughout the course of any and all disputes. Nothing in this Agreement shall allow Consultant to discontinue Services during the course of any dispute. Consultant's failure to continue Services during any and all disputes shall be considered a material breach of this Agreement. Consultant agrees that the existence or continued existence of a dispute does not excuse performance under any provision of this Agreement including, but not limited to, the time to complete the Services. Consultant also agrees that should Consultant discontinue Services due to a dispute or disputes, City may terminate this Agreement for cause as provided herein.
- C. In the event of claims exceeding \$50,000, as a precondition to commencing litigation, the parties shall first participate in non-binding mediation pursuant to the construction mediation procedures of JAMS (Judicial Arbitration and Mediation Services), in Benicia, California, before a mediator mutually agreeable to the parties, and in the event the parties are unable to agree, selected by a judge of the Solano City Superior Court from an approved list of JAMS qualified construction mediators. The parties may initially agree to engage in discovery prior to mediation. Should parties proceed with discovery, they shall follow the procedures prescribed in the California Code of Civil Procedure, Section 201.9, et seq., and discovery so conducted shall apply in any subsequent litigation as if conducted in that litigation.

1.22. Agreement Made in California; Venue

- A. This Agreement shall be deemed to have been executed in the City of Benicia, County of Solano. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. The exclusive venue for all disputes or litigation arising out of this Agreement shall be in the Superior Court of the County of Solano unless the parties agree otherwise in a written amendment to this Agreement.

1.23. Compliance with Laws

- A. Consultant shall comply with the Standard of Care in the interpretation and application of all applicable laws in the performance of the Services, regardless of whether such laws are specifically stated in this Agreement and regardless of whether such laws are in effect on the date hereof. Consultant shall comply with all security requirements imposed by authorities with jurisdiction over any Project, and will provide all information, work histories and/or verifications as requested by such authorities for security clearances or compliance.
- B. Consultant represents that all plans, drawings, specifications, designs and any other product of the Services will comply with all applicable laws, codes and regulations and be consistent with the Standard of Care.

1.24. Miscellaneous

- A. All section and paragraph captions are for reference only and shall not be considered in construing this Agreement.
- B. As between the parties to this Agreement: as to all acts or failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run on the date of issuance by City of the final Certificate for Payment, or termination of this Agreement, whichever is earlier. This Miscellaneous: Paragraph B shall not apply to latent defects as defined by California law or negligence claims, as to which the statute of limitations shall commence to run on discovery of the defect and its cause. However, the applicable statutes of repose, California Code of Civil Procedure, Sections 337.1 and 337.15, shall continue to apply.
- C. Any provisions or portion thereof of this Agreement that is prohibited by, unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting other provisions of this Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding agreement enforceable in accordance with its terms. If any provisions or portion thereof of this Agreement are prohibited by, unlawful, or unenforceable under any applicable law and are therefore stricken or deemed waived, the remainder of such provisions and this Agreement shall be interpreted to achieve the goals or intent of the stricken or waived provisions or portions thereof to the extent such interpretation is consistent with applicable law. In dispute resolution arising from this Agreement, the fact finder shall receive detailed instructions on the meaning and requirements of this Agreement.
- D. Either party's waiver of any breach, or the omission or failure of either party, at any time, to in force in force any right reserved to it, or to require performance of any of the terms, covenants, conditions or other provisions of this Agreement, including the timing of any such performance, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to in force or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.
- E. Except as expressly provided in this Agreement, nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement. Time is of the essence in the performance of this Agreement.
- F. Consultant acknowledges that Consultant, and all Subconsultants hired by Consultant to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Consultant is and shall remain in compliance with the IRCA and shall ensure that any Subconsultants hired by Consultant to perform services under this Agreement are in compliance with the IRCA. In addition, Consultant agrees to indemnify, defend and hold harmless the City, its agents, officers and employees, from any liability, damages or causes of

action arising out of or relating to any claims that Consultant's employees, or the employees of any Subconsultant hired by Consultant, are not authorized to work in the United States for Consultant or its Subconsultant and/or any other claims based upon alleged RCA violations committed by Consultant or Consultant's Subconsultant(s).

1.25. Entire Agreement; Modifications

- A. The Agreement, and any written modification to the Agreement, shall represent the entire and integrated Agreement between the parties hereto regarding the subject matter of this Agreement and shall constitute the exclusive statement of the terms of the parties' Agreement. The Agreement, and any written modification to the Agreement, shall supersede any and all prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement or written modification, and the parties represent and agree that they are entering into this Agreement and any subsequent written modification in sole reliance upon the information set forth in the Agreement or written modification and the parties are not and will not rely on any other information. All prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement, shall not be admissible or referred to hereafter in the interpretation or enforcement of this Agreement.
- B. To the extent this Agreement conflicts with the terms of any proposal, invoice, or other document submitted to or by either party, the terms of this Agreement shall control.
- C. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by a fully authorized representative of City, Consultant expressing such an intention in the case of a modification or by the party waiving in the case of a waiver.
- D. Consultant, in any price proposals for changes in the Services that increase the Agreement amount, or for any additional Services, shall break out and list its costs and use percentage markups. Consultant shall require their Subconsultants (if any) to do the same, and the Subconsultants' price proposals shall accompany Consultant's price proposals.
- E. Consultant and its Subconsultants shall, upon request by City, permit inspection of all original unaltered Agreement bid estimates, subcontract Agreements, purchase orders relating to any change, and documents substantiating all costs associated with all cost proposals.
- F. Changes in the Services made pursuant to this Entire Agreement; Modifications and extensions of the Agreement time necessary by reason thereof shall not in any way release Consultant's representations and agreements pursuant to this Agreement.
- G. Whenever the words "as directed", "as required", "as permitted", or words of like effect are used, it shall be understood as the direction, requirement, or permission of City. The words

"approval", "acceptable", "satisfactory", or words of like import, shall mean approved by, or acceptable to, or satisfactory to City, unless otherwise indicated by the context.

2. Insurance Requirements

2.1. INSURANCE REQUIREMENTS

This is an Appendix to, and made a part of and incorporated by reference to the Agreement dated November 18, 2025, by and between Bennett Engineering Services, Inc., hereinafter referred to as "Consultant", and the City of Benicia, hereinafter referred to as "City", providing for professional services.

2.2. 1. Consultant's Duty to Show Proof of Insurance

Consultant, in order to protect City and its City Council members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's acts, errors, or omissions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the City's authorized insurance tracking platform. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, Consultant shall promptly deliver to City a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to City prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Consultant or City as an additional insured.

2.3. Insurance Requirements: Commercial General Liability Insurance

Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the City), Products-Completed Operations Hazard, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of services under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be

at least two million dollars (\$2,000,000) each occurrence and four million dollars (\$4,000,000) aggregate.

2.4. Business Automobile Liability Insurance

Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of Services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence.

2.5. Workers' Compensation Insurance

Consultant shall submit written proof that Consultant is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. Consultant shall require any Subconsultants to provide workers' compensation for all of the Subconsultants' employees, unless the Subconsultants' employees are covered by the insurance afforded by Consultant. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Consultant shall provide and/or require each Subconsultant to provide adequate insurance for the coverage of employees not otherwise covered. Consultant shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

2.6. Professional Liability Insurance

Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, all negligent acts, errors or omissions in connection with services to be provided under this Agreement, with no exclusion for claims of one insured against another insured, with coverage equal to the policy limits, which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

2.7. Self-Insured Retention

Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of insurance or other documentation provided to City and must be approved by the City Risk Manager.

2.8. Claims-Made Basis Coverage

If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

2.9. Insurance terms and conditions:

3.1 Cancellation of Insurance

The above stated insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement except as otherwise indicated

herein. Each insurance policy supplied by Consultant shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by Consultant in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

3.2 All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII Any exception to these requirements must be approved by the City Risk Manager.

3.3 If Consultant is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the insurance coverages and endorsements required above. The City will not accept such coverage unless the City determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Consultant is equivalent to the above-required coverages.

3.4 For any claims related to the Agreement, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3.5 Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

3.6 Failure by Consultant to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. City, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, City may purchase such required insurance coverage, and without further notice to Consultant, City shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by City for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are insufficient to reimburse City for the premiums and any associated costs, Consultant agrees to reimburse City for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by City to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

3.7 Should any of the required insurance (other than errors and omissions insurance) be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defenses costs be included in such general aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limit specified above.

3.8 City may (but is under no obligation to) secure project-specific insurance, wrap-up insurance, or administer an owner controlled insurance program ("OCIP"), in which case Consultant and its subconsultants shall communicate this fact to their insurance carriers and request that the risk of this project be excluded from their practice policies. Consultant's fees under this Agreement (and the fee of its subconsultants under subconsultant agreements) shall be reduced by the amount of insurance premiums that may be avoided by Consultant and its subconsultants by virtue of the City's obtaining the project-specific insurance, wrap-up insurance or administering an OCIP, and the exclusion of this project from coverage of Consultant's and subconsultants policies. Construction Manager and its subconsultants shall afford City access to their books and records and cooperate with City in verifying the amount of savings realized.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

“Bennett Engineering Services, Inc.”

By: _____

Its: _____

“City”

By: _____

Its: _____

“City Attorney”

By: _____

Its: City Attorney



SCOPE OF SERVICES

Client: City of Benicia
Consultant: Bennett Engineering Services Inc (dba BENEN)
Project: 2026-2028 Citywide Pavement Rehabilitation Projects
Date: October 21, 2025

Consultant's services shall be limited to those expressly set forth below, and Consultant shall have no other obligations or responsibilities for the Project or to the Client except as agreed to in writing or as provided in this Agreement. All of Consultant's services in any way related to the Project or Client shall be subject to the terms of this Agreement.

TASK 1. PROJECT MANAGEMENT

Subtask 1.1. Project Development Team Meetings and Schedule

BENEN shall develop and facilitate the Project Development Team (PDT) meetings with representatives from subconsultants and appropriate City staff as determined by the City. BENEN shall prepare all meeting agendas and meeting minutes and distribute these to the Project Team. BENEN shall provide a Project schedule, using Microsoft Project, showing the activities and milestones outlined in our Project scope. The activities will show beginning and ending dates, duration, and dependency on other tasks. BENEN shall identify the critical path elements to keep the Project delivery on schedule. The schedule will be refined and maintained on a regular basis and as decisions are made throughout the life of the Project.

ASSUMPTIONS:

- A total of eighteen (18) meetings including kick-off meetings

DELIVERABLES:

- Schedule updates – Microsoft Project
- Meeting notices, agendas, minutes, and sign-in sheets.

Subtask 1.2. Monthly Invoices and Status Reports

A draft status report will be submitted by BENEN for approval prior to the submittal of the first invoice. BENEN shall prepare and submit monthly invoices and status reports to the City. The status reports will include Project tasks completed and deliverables submitted for that month's invoice. BENEN shall provide the City with a list of issues that may affect the Project design, budget, or schedule as soon as such issues are known. In addition, monthly invoices shall be accompanied by a budget summary indicating a task breakdown for budget, percent complete, spent to date, and remaining budget. Invoices will include employee rates, expenses per task, and a copy of any subconsultant invoices.

DELIVERABLES:

- Draft status report, monthly invoices, and status reports

Subtask 1.3. Quality Control

The team will prepare a quality control plan—utilizing both our existing internal controls and the guidelines set by the City—and we will provide technical resources necessary to ensure that deliverables are complete and meet the City's requirements. Reviews will be conducted by experienced staff who are not directly

involved with the design or preparation of the deliverables. The review will be documented using a review form indicating the reviewer's name, date of the review, and the resolution of any comments. This task includes providing quality control reviews for the 30% submittal.

TASK 2. Utility Coordination

Subtask 2.1. Utility Investigations

For each year of the project BENEN will send Utility "A" letters with a Project location/limit map and a City approved letter requesting verification of the location, size, and depth of each facility within the Project area. BENEN shall identify all public or private utilities that may be affected by the Project and identify any utilities requiring relocation. BENEN will also work with utility companies to determine the liability for relocation costs.

ASSUMPTIONS:

- Three days of potholing are included per year of project.

DELIVERABLES:

- Utility tracking matrix

Subtask 2.2. Utility Relocation Coordination

We will develop conflict maps based on proposed project improvements and information from potholing and utility mapping to send with the "B" letters to the utility companies. Pavement rehabilitation methods deeper than a grind and overlay may have increased utility conflicts with shallow utilities, especially in older streets.

During final design, BENEN will request relocation plans from utility companies requiring adjustment/relocation. Relocation plans can be on a City plan sheet with a signature from the utility company. Once the owner concurs with the liability listed, the City will then issue a Utility "C" Letter that clearly defines the impacted facility, the owner's conflict resolution plan, estimated completion date, and liability.

BENEN will then send a copy of the Final Plans ("C" Plans) with the Utility "C" Letter directing the utility company to initiate relocation construction.

Should relocation of any private utility facilities be required, such as valve boxes, lids, covers, etc., it is assumed that there is a franchise agreement in place and that no utility agreements will be needed. BENEN will coordinate with private utility companies for proposed relocation within existing or new City right-of-way. In addition, it is assumed that no new water or sewer facilities will be constructed as part of the project.

ASSUMPTIONS:

- No utility agreements needed

DELIVERABLES:

- Utility "B" Letters
- Utility Conflict Maps
- Utility "C" Letters
- Summary of impacts and resolutions

TASK 3. Research and Surveys

Subtask 3.1. Document Research

BENEN will map existing utility information and create the project utility base file.

DELIVERABLES:

- Utility Base Map in CAD

Subtask 3.2. Field Investigation

BENEN will field verify utility information and existing pavement conditions, measure flowline slopes for proposed curb ramp replacements, identify areas for sidewalk replacement, and identify areas for curb and gutter replacement.

DELIVERABLES:

- Flow line field notes

Subtask 3.3. Survey Control

UNICO will utilize City approved NAD83 horizontal and NAVD88 vertical controls as the basis of the survey. UNICO will research nearby City controls and perform measurements and adjustments of all benchmarks and controls used for the project. UNICO will set durable control points along the project to be preserved for utilization of surveys, future project phases and future construction control.

DELIVERABLES:

- Control Report
- Basis of Bearing
- Elevation Note

Subtask 3.4. Topographic Surveying and Base Mapping

As part of pavement rehabilitation, the majority of the project will not require surveys and mapping.

By means of conventional survey methods, UNICO will perform a design level (non-aerial) survey of eighty (80) curb ramps within the project requiring ADA upgrade. UNICO will locate curb ramp details such as sidewalk, ramps, landings, expansion joints, tactile, curbs, gutters, lip of gutter, pavement cross slopes for conform, striping, medians, signals, loops, valves, inlets, monuments, manholes, boxes, cabinets, pedestals, signals, signs, poles, fences, walls, trees (DBH, size and type, if known), and other visible features. UNICO will survey 25' beyond existing curb returns for conforms and 10' behind the sidewalk and out to the centerline of street. Measure downs to relevant sewer and drain structures will be performed to include depth, approximate size and flow direction. UNICO will map all topographic features in AutoCAD format to include full mapping, 1' contours and 3D surface.

ASSUMPTIONS:

- Survey and Design for Eighty (80) curb ramps included in this scope. Other ramps with lower slopes will be "design-build" to City and Caltrans Standards by Contractor.

DELIVERABLES:

- AutoCAD Base File
- Point Files

- Best Available Ortho-Rectified Images

Subtask 3.5. Right of Way Mapping

UNICO will research record of surveys, parcel maps, subdivision maps, corner record cards, deeds, and other recorded information to map the existing right of way at the 80 ADA curb ramps along the project. UNICO field crews will search and tie existing property monuments such as monument wells, iron pipes, spikes, pins and other record boundary markers. UNICO will resolve right of way from record information and field surveys and provide an AutoCAD based right of way base drawing. All found monuments will be mapped into the base drawing as a means for monument preservation activities during the construction phase. For those certain properties impacted by the project, UNICO will request City to provide title reports if necessary to fully understand property constraints.

DELIVERABLES:

- AutoCAD Right of Way Base File
- Maps and Right of Way Documents

TASK 4. Planning

Subtask 4.1. 2026 35% Design Memo

BENEN will coordinate with the City to confirm the proposed Project improvements, including the pavement rehabilitation method recommended strategies, adjustments to cross slopes greater than 5%, street drainage upgrades, ADA replacements, utility adjustments, and right-of-way considerations, to develop a 35% Design Memorandum detailing the proposed pavement rehabilitation method for each street in Zone 6, Zone 17, Cambridge Drive, and Rose Drive.

DELIVERABLES:

- Draft and Final 2026 35% Design Memo
- Estimate of Probable Construction Costs at 35% level

Subtask 4.2. 2027 35% Design Report

BENEN will coordinate with the City to confirm the proposed Project improvements, including the pavement rehabilitation method recommended strategies, adjustments to cross slopes greater than 5%, street drainage upgrades, Downtown Area improvements for pedestrians and bicyclists, parking improvements, ADA replacements, utility adjustments, and right-of-way considerations, to develop a 35% Design Report detailing the proposed pavement rehabilitation method for each street in Zone 2 and Zone 13.

DELIVERABLES:

- Draft and Final 2027 35% Design Report
- Estimate of Probable Construction Costs at 35% level
- Identify priorities to assess feasibility to align with available funding
- Graphics and estimates to support funding applications for grant opportunities

Subtask 4.3. 2028 35% Design Report

BENEN will coordinate with the City to confirm the proposed Project improvements, including the pavement rehabilitation method recommended strategies, adjustments to cross slopes greater than 5%, street drainage upgrades, Downtown Area improvements for pedestrians and bicyclists, parking improvements, ADA replacements, utility adjustments, and right-of-way considerations, to develop a 35% Design Report detailing the proposed pavement rehabilitation method for each street in Zone 3, Zone 20, First Street, Solano Drive, and Hastings Drive. Report will also include results of parking and traffic analysis.

DELIVERABLES:

- Draft and Final 2028 35% Design Report
- Estimate of Probable Construction Costs at 35% level
- Identify priorities to assess feasibility to align with available funding
- Graphics and estimates to support funding applications for grant opportunities

Subtask 4.4. Stakeholder Engagement

BENEN will meet with business and other community stakeholders in the Downtown area to gain critical feedback on proposed improvements. We will host individual meetings with these stakeholders. After we have coordinated with the City to determine the improvements for Downtown we will then host an informational community meeting.

Stakeholder Meetings

MIG and BENEN will develop a meeting approach and conduct 25 in-person stakeholder meetings in the Downtown area to collect detailed input on the proposed improvements.

MIG will assist in scheduling, promoting, and coordinating the stakeholder meetings, ensuring that all materials and logistics are confirmed in advance. For efficiency, meetings will be grouped at an average of five (5) meetings per day, resulting in five (5) onsite visits.

Meeting discussions will focus on potential benefits, concerns, and opportunities associated with the improvements, as well as any operational or design considerations from a business or community perspective.

MIG will document key feedback and provide meeting minutes summarizing input received from each stakeholder.

Informational Community Meeting

MIG and BENEN will coordinate with the City on the meeting structure and flow a community meeting related to the proposed Downtown improvements. MIG will prepare a Draft and Final Presentation for review and approval by the City prior to the event. BENEN will provide technical graphics and data support for presentation content and visuals. MIG and BEN/EN will facilitate an in-person informational community meeting on a separate onsite visit.

MIG will support event logistics, coordination, and facilitation, including setup of materials, display boards, and visuals. MIG will document all comments and questions received during the meeting and summarize key themes for inclusion in the final engagement record.

ASSUMPTIONS:

- 25 Individual Meetings with Stakeholders
- City will provide space at no charge for an informational community meeting

DELIVERABLES:

- Stakeholder and Community Meeting Summaries – Synthesis of key discussion points and feedback from each stakeholder meeting.
- Informational and Promotional Materials – Flyers, fact sheets, and visual aids for both stakeholder and community meetings (with technical support from BENEN).
- Draft Presentation – Prepared for City review prior to the informational community meeting.
- Final Presentation – Updated and finalized presentation for public use at the community meeting.

Subtask 4.5. Parking and Traffic Analysis

BENEN will review the Parking Study prepared by Walker Consultants to evaluate feasibility for inclusion of diagonal parking, one-way streets, and bulb outs in the Downtown Area. Kittelson & Associates will prepare a Needs Assessment and evaluation of conceptual alternatives for the improvements in the Downtown area.

Needs Assessment:

Kittelson will conduct a needs assessment to better understand the need for parking and circulation improvements. We understand that baseline conditions have been established in the Downtown Parking Study, which will serve as a foundation for this assessment.

Review of Relevant Planning Documents: Kittelson will review up to four (4) relevant planning documents, including but not limited to Downtown Parking Study, Downtown Mixed-Use Master Plan, and Transportation and Employment Center Plan. Kittelson will finalize the list of documents at the kick-off meeting.

Site Visit: Kittelson proposes to conduct a site visit to gain firsthand insight into the current circulation and vehicle and bicycle parking operations. During this visit, our team will carefully observe the existing vehicle and bicycle parking conditions and assess the available parking spaces. The site visit will cover the study area shown in **Error! Reference source not found.** Kittelson encourages City staff and Ben-en to participate in the site visit to discuss circulation and parking challenges and opportunities.

Data Review: Kittelson will review parking and traffic volume data provided by the City to confirm and document existing conditions. This information will be summarized and used as a benchmark for evaluating alternatives.

Operational Analysis: Kittelson will conduct a level of service (LOS) analysis at up to ten (10) intersections within the Downtown Study Area, following methodologies outlined in the *Highway Capacity Manual (HCM), 7th Edition* and *Benicia Local Guidelines*. This evaluation will evaluate two scenarios – 1. Existing Conditions and 2. One-Way Conversion of selected segments.

Additional Data (optional): If the data review identifies gaps in available information such as parking occupancy or traffic volume data, Kittelson will coordinate with a data collection vendor to obtain the necessary counts, subject to City approval.

Kittelson will summarize the findings of the needs assessment in a draft technical memorandum for City review. One set of consolidated comments will be addressed in the final memorandum.

Conceptual Analysis

Kittelson will develop two draft conceptual alternatives for up to four (4) segments within the Downtown area. These alternatives will explore potential design options such as converting parallel parking to diagonal parking and incorporating bicycle and pedestrian improvements. Each conceptual alternative will include a strip map and a representative cross-section illustrating the proposed layout. The concepts will be prepared using available aerial imagery and/or GIS base mapping provided by the City of Benicia. This would help the City with the community engagement efforts.

Alternative Comparison Matrix: Kittelson will create a list of measures such as the amount of parking gained, level of comfortability improved for bicyclists and pedestrians and vehicle circulation improvement.

DELIVERABLES:

- Draft and Final Needs Assessment Memo
- Conceptual Layout including cross-sections
- Alternative Comparison Matrix
- Draft and Final Parking Technical Memorandum
- Draft and Final Traffic Analysis

Subtask 4.6. 2027 and 2028 Economic Development Board and City Council Presentations

BENEN will coordinate with the City to prepare presentations for the Economic Development Board and City Council meetings to discuss the 2027 and 2028 planned improvements. Presentation will include feedback from public outreach for those Zones.

ASSUMPTIONS

- We will present both the 2027 and 2028 information at the same Economic Development Board meeting.
- We will present both the 2027 and 2028 information at the same City Council Meeting.

DELIVERABLES:

- Draft and Final 2027 and 2028 Presentations

TASK 5. Geotechnical Investigations

Subtask 5.1. 2026 Investigations

Our investigation will include a field exploration program, laboratory testing, and the preparation of a formal report and related geotechnical consultation services. We propose the following scope of services:

Perform a site reconnaissance to review project limits and site logistics, evaluate drill rig access and mark out core locations in the field for subsequent utility clearance.

Obtain a no-fee encroachment permit from the City of Benicia. We have made assumptions regarding the traffic control measures that will be required for our coring operations.

Notify subscribing utility companies via Underground Service Alert (USA) a minimum of 48 hours (as required by law) prior to pavement coring operations.

Provide traffic control measures during field operations as needed and/or in accordance with City of Benicia encroachment permit requirements. As outlined above, we have made assumptions regarding permit requirements and the level of traffic control that will be required by the City. We have assumed a typical two-man traffic control crew with associated cones and signage will be sufficient for our field exploration on Cambridge and Rose Drive (approximately 13 cores total), and basic cones and signage will be sufficient for our field exploration on the other roadways.

Retain the services of a California C-57 licensed driller to perform up to approximately 43 pavement cores (shallow borings) to observe pavement section component thicknesses and visually classify subgrade soil type. We will collect disturbed bulk samples of the pavement cuttings, aggregate base, and subgrade soil for further laboratory testing. We have assumed our cores can be completed within five working days, during normal business hours, Monday through Friday.

Upon completion, backfill the core holes with compacted soil and aggregate base cuttings. Core holes within streets to receive FDR (estimated 26 total) will be backfilled with grout. The holes will be capped with compacted cold patch asphalt or quick-set concrete dyed black.

Perform laboratory tests on selected samples to evaluate pertinent geotechnical parameters. Laboratory testing assignments will be based on the soils conditions encountered in our field exploration; testing for dry density and moisture content, gradation, plasticity, unconfined compressive strength of prepared FDR trial samples, and R-value is anticipated. We estimate six FDR trial sets with three samples each.

Prepare a formal correspondence with the results of our limited investigation. The report will include (but not be limited to) the following:

- Site vicinity map
- Site plans showing core locations
- Tabulation of pavement section thickness and subgrade soil type at each core location
- Core photographs, where applicable
- Laboratory test results

We will submit a draft report for City review followed by an electronic copy (PDF format) of our final correspondence.

DELIVERABLES:

- Draft and Final 2026 Geotechnical Report

Subtask 5.2. 2027 Investigations

Our investigation will include a field exploration program, laboratory testing and the preparation of a formal report and related geotechnical consultation services. We propose the following scope of services:

Perform a site reconnaissance to review project limits and site logistics, evaluate drill rig access and mark out core locations in the field for subsequent utility clearance.

Obtain a no-fee encroachment permit from the City of Benicia. We have made assumptions regarding the traffic control measures that will be required for our coring operations.

Notify subscribing utility companies via Underground Service Alert (USA) a minimum of 48 hours (as required by law) prior to pavement coring operations.

Provide traffic control measures during field operations as needed and/or in accordance with City of Benicia encroachment permit requirements. As outlined above, we have made assumptions regarding permit requirements and the level of traffic control that will be required by the City. We have assumed a typical two-man traffic control crew with associated cones and signage will be sufficient for our field exploration in Zone 2, and basic cones and signage will be sufficient for our field exploration in Zone 13.

Retain the services of a California C-57 licensed driller to perform up to approximately 68 pavement cores to observe pavement section component thicknesses and visually classify subgrade soil type. We will collect disturbed bulk samples of the pavement cuttings, aggregate base, and subgrade soil for further laboratory testing. We have assumed our cores can be completed within nine working days, during normal business hours, Monday through Friday.

Upon completion, backfill the core holes with compacted soil and aggregate base cuttings. Core holes within streets to receive FDR (estimated 12 total) will be backfilled with grout. The holes will be capped with compacted cold patch asphalt or quick-set concrete dyed black.

Perform laboratory tests on selected samples to evaluate pertinent geotechnical parameters. Laboratory testing assignments will be based on the soils conditions encountered in our field exploration; testing for dry density and moisture content, gradation, plasticity, unconfined compressive strength of prepared FDR trial samples, and R-value is anticipated. We estimate four FDR trial sets with three samples each.

Prepare a formal correspondence with the results of our limited investigation. The report will include (but not be limited to) the following:

- Site vicinity map
- Site plans showing core locations
- Tabulation of pavement section thickness and subgrade soil type at each core location
- Laboratory test results

We will submit a draft report for your review followed by an electronic copy (PDF format) of our final correspondence.

DELIVERABLES:

- Draft and Final 2027 Geotechnical Report

Subtask 5.3. 2028 Investigations

Our investigation will include a field exploration program, the preparation of a formal report and related geotechnical consultation services. We propose the following scope of services:

Perform a site reconnaissance to review project limits and site logistics, evaluate drill rig access and mark out core locations in the field for subsequent utility clearance.

Obtain a no-fee encroachment permit from the City of Benicia. We have made assumptions regarding the traffic control measures that will be required for our coring operations.

Notify subscribing utility companies via Underground Service Alert (USA) a minimum of 48 hours (as required by law) prior to pavement coring operations.

Provide traffic control measures during field operations as needed and/or in accordance with City of Benicia encroachment permit requirements. As outlined above, we have made assumptions regarding permit requirements and the level of traffic control that will be required by the City. We have assumed a typical two-man traffic control crew with associated cones and signage will be sufficient for our field exploration on the collector roadways in Zones 3 and 20, and basic cones and signage will be sufficient for our field exploration on the other residential roadways.

Retain the services of a California C-57 licensed driller to perform up to approximately 71 pavement cores to observe pavement section component thicknesses and visually classify subgrade soil type. We will collect disturbed bulk samples of the pavement cuttings, aggregate base, and subgrade soil for further laboratory testing. We have assumed our cores can be completed within nine working days, during normal business hours, Monday through Friday.

Upon completion, backfill the core holes with compacted soil and aggregate base cuttings. Core holes within streets to receive FDR (estimated 25 total) will be backfilled with grout. The holes will be capped with compacted cold patch asphalt or quick-set concrete dyed black.

Perform laboratory tests on selected samples to evaluate pertinent geotechnical parameters. Laboratory testing assignments will be based on the soils conditions encountered in our field exploration; testing for dry density and moisture content, gradation, plasticity, unconfined compressive strength of prepared FDR trial samples, and R-value is anticipated. We estimate six FDR trial sets with three samples each.

Prepare a formal correspondence with the results of our limited investigation. The report will include (but not be limited to) the following:

- Site vicinity map
- Site plans showing core locations
- Tabulation of pavement section thickness and subgrade soil type at each core location
- Laboratory test results

We will submit a draft report for your review followed by an electronic copy (PDF format) of our final correspondence.

DELIVERABLES:

- Draft and Final 2028 Geotechnical Report

TASK 6. 2026 Pavement Rehabilitation

Subtask 6.1. 2026 60% Plans and Estimate (P&E)

Based on approved Preliminary Engineering Plans, the BENEN team will prepare 60% P&E utilizing AutoCAD, City of Benicia Design Standards, and applicable codes. Construction Drawings shall include:

- Title Sheet with General Notes, Legend, Abbreviations, Site Map, and Sheet Index
- Typical Cross Sections
- Layouts
- Construction Details
- Pavement Delineation and Sign Plans
- Traffic Signal Plans and Details

Layouts will be prepared at a scale not smaller than 1" = 20'.

DELIVERABLES:

- PDF copy of the Plans and Estimate
- Excel copy of Estimate

Subtask 6.2. 2026 90% Plans, Specifications, and Estimate (PS&E)

BENEN will respond to comments and prepare/submit plans, specifications, and estimates to the City for review and comment as detailed above. Specifications will be prepared using a City-provided standard front-end document.

DELIVERABLES:

- PDF copy of the Plans, Specifications, and Estimate
- Excel copy of Estimate
- Word copy of Specifications
- Response to Comments Matrix

Subtask 6.3. 2026 100% PS&E

BENEN will respond to comments, prepare and submit Plans, Specifications, and Estimate to the City for review and comment as detailed above. The final submittal plan will be stamped and signed by a California-registered PE.

DELIVERABLES:

- PDF copy of the Plans (22"x 34"), Specifications, and Estimate
- AutoCAD copy of Plans
- Excel copy of Estimate
- Word copy of Specifications
- Response to Comments Matrix

Subtask 6.4. 2026 Bid Support

BENEN will provide senior staff to assist the City with addressing bidder questions, attend the pre-bid meeting, and provide design support for addenda during the bidding phase.

Commented [LR1]: Is this where we should add we will consider impacts of correcting street cross slopes so they do not exceed 5%, improve street drainage where feasible, ?? Same comment for the other years

Commented [CA2R1]: I will add to the 35% design report because those drainage and cross slopes fixes will change the cost for construction.

ASSUMPTIONS:

- One (1) pre-bid meeting.

Subtask 6.5. 2026 Pre-Construction Meeting

BENEN will attend one (1) virtual pre-construction meeting and address any issues that may arise at the meeting.

Subtask 6.6. 2026 Design Support During Construction

BENEN will respond to the Contractor's Requests-for-Information (RFIs) and review the Contractor's shop drawing submittals during construction. Our team assumes responding to one (1) field visit and four (4) RFIs and assist with one (1) change order.

Subtask 6.7. 2026 Prepare As-Built Drawings

BENEN will prepare as-built drawings for the project based on redlines provided by the City and the Contractor.

DELIVERABLES:

- Meeting Minutes
- Response to RFIs (4) and change orders (1)
- As-built plans in AutoCAD and PDF

TASK 7. 2027 Pavement Rehabilitation

Subtask 7.1. 2027 60% Plans and Estimate (P&E)

Based on approved Preliminary Engineering Plans, the BENEN team will prepare 60% P&E utilizing AutoCAD, City of Benicia Design Standards, and applicable codes. Construction Drawings shall include:

- Title Sheet with General Notes, Legend, Abbreviations, Site Map, and Sheet Index
- Typical Cross Sections
- Layouts
- Construction Details
- Pavement Delineation and Sign Plans
- Traffic Signal Plans and Details

Layouts will be prepared at a scale not smaller than 1" = 20'.

DELIVERABLES:

- PDF copy of the Plans and Estimate
- Excel copy of Estimate

Subtask 7.2. 2027 90% Plans, Specifications, and Estimate (PS&E)

BENEN will respond to comments and prepare/submit plans, specifications, and estimates to the City for review and comment as detailed above. Specifications will be prepared using a City provided standard front-end document.

DELIVERABLES:

- PDF copy of the Plans, Specifications, and Estimate
- Excel copy of Estimate
- Word copy of Specifications

- Response to Comments Matrix

Subtask 7.3. 2027 100% PS&E

BENEN will respond to comments, prepare and submit Plans, Specifications, and Estimate to the City for review and comment as detailed above. The final submittal plan will be stamped and signed by a California-registered PE.

DELIVERABLES:

- PDF copy of the Plans (22"x 34"), Specifications, and Estimate
- AutoCAD copy of Plans
- Excel copy of Estimate
- Word copy of Specifications
- Response to Comments Matrix

Subtask 7.4. 2027 Bid Support

BENEN will provide senior staff to assist the City with addressing bidder questions, attend the pre-bid meeting, and provide design support for addenda during the bidding phase.

ASSUMPTIONS:

- One (1) pre-bid meeting.

Subtask 7.5. 2027 Pre-Construction Meeting

BENEN will attend one (1) virtual pre-construction meeting and address any issues that may arise at the meeting.

Subtask 7.6. 2027 Design Support During Construction

BENEN will respond to the Contractor's Requests-for-Information (RFIs) and review the Contractor's shop drawing submittals during construction. Our team assumes responding to one (1) field visit and four (4) RFIs and assist with one (1) change order.

Subtask 7.7. 2027 Prepare As-Built Drawings

BENEN will prepare as-built drawings for the project based on redlines provided by the City and the Contractor.

DELIVERABLES:

- Meeting Minutes
- Response to RFIs (4) and change orders (1)
- As-built plans in AutoCAD and PDF

TASK 8. 2028 Pavement Rehabilitation

Subtask 8.1. 2028 60% Plans and Estimate (P&E)

Based on approved Preliminary Engineering Plans, the BENEN team will prepare 60% P&E utilizing AutoCAD, City of Benicia Design Standards, and applicable codes. Construction Drawings shall include:

- Title Sheet with General Notes, Legend, Abbreviations, Site Map, and Sheet Index
- Typical Cross Sections
- Layouts

- Construction Details
- Pavement Delineation and Sign Plans
- Traffic Signal Plans and Details

Layouts will be prepared at a scale not smaller than 1" = 20'.

DELIVERABLES:

- PDF copy of the Plans and Estimate
- Excel copy of Estimate

Subtask 8.2. 2028 90% Plans, Specifications, and Estimate (PS&E)

BENEN will respond to comments and prepare/submit plans, specifications, and estimates to the City for review and comment as detailed above. Specifications will be prepared using a City provided standard front-end document.

DELIVERABLES:

- PDF copy of the Plans, Specifications, and Estimate
- Excel copy of Estimate
- Word copy of Specifications
- Response to Comments Matrix

Subtask 8.3. 2028 100% PS&E

BENEN will respond to comments, prepare and submit Plans, Specifications, and Estimate to the City for review and comment as detailed above. The final submittal plan will be stamped and signed by a California-registered PE.

DELIVERABLES:

- PDF copy of the Plans (22"x 34"), Specifications, and Estimate
- AutoCAD copy of Plans
- Excel copy of Estimate
- Word copy of Specifications
- Response to Comments Matrix

Subtask 8.4. 2028 Bid Support

BENEN will provide senior staff to assist the City with addressing bidder questions, attend the pre-bid meeting, and provide design support for addenda during the bidding phase.

ASSUMPTIONS:

- One (1) pre-bid meeting.

Subtask 8.5. 2028 Pre-Construction Meeting

BENEN will attend one (1) virtual pre-construction meeting and address any issues that may arise at the meeting.

Subtask 8.6. 2028 Design Support During Construction

BENEN will respond to the Contractor's Requests-for-Information (RFIs) and review the Contractor's shop drawing submittals during construction. Our team assumes responding to one (1) field visit and four (4) RFIs and assist with one (1) change order.

Subtask 8.7. 2028 Prepare As-Built Drawings

BENEN will prepare as-built drawings for the project based on redlines provided by the City and the Contractor.

DELIVERABLES:

- Meeting Minutes
- Response to RFIs (4) and change orders (1)
- As-built plans in AutoCAD and PDF

Fee Estimate

Client: City of Benicia

Consultant: Bennett Engineering Services Inc (BENEN)

Project: 2026-2028 Citywide Pavement Rehabilitation Project

Date: October 24, 2025



Task	Engineer 10 319 \$/hr		Engineer 8 283 \$/hr		Engineer 7 263 \$/hr		Engineer 6 245 \$/hr		Engineer 5 231 \$/hr		Engineer 4 215 \$/hr		Engineer 3 203 \$/hr		Engineer 2 191 \$/hr		Engineer 1 180 \$/hr		Designer/Tech 6 191 \$/hr		BEN EN Subtotal		MISC. EXPENSES	GEOCON	UNICO	BTL	MIG	Kittelson	TOTAL		
	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost		Contract	Contract	Contract	Contract	Contract			
1. Project Management	20 hrs	\$6,380	60 hrs	\$16,980	hrs	\$0	hrs	\$0	hrs	\$0	hrs	\$0	hrs	\$0	hrs	\$0	hrs	\$0	hrs	\$0	80 hrs	\$23,360	\$500	\$0	\$0	\$0	\$0	\$0	\$0	\$23,860	
2. Utility Coordination	hrs	\$0	20 hrs	\$5,660	hrs	\$0	hrs	\$0	hrs	\$0	60 hrs	\$12,900	60 hrs	\$12,180	60 hrs	\$11,460	hrs	\$0	24 hrs	\$4,584	224 hrs	\$46,784	\$500	\$0	\$0	\$135,000	\$0	\$0	\$0	\$182,284	
3. Research and Surveys	hrs	\$0	12 hrs	\$3,396	20 hrs	\$5,260	hrs	\$0	hrs	\$0	20 hrs	\$4,300	20 hrs	\$4,060	hrs	\$0	hrs	\$0	20 hrs	\$3,820	92 hrs	\$20,836	\$0	\$0	\$117,000	\$0	\$0	\$0	\$0	\$137,836	
4. Planning	hrs	\$0	80 hrs	\$22,640	hrs	\$0	120 hrs	\$29,400	120 hrs	\$27,720	120 hrs	\$25,800	hrs	\$0	60 hrs	\$11,460	60 hrs	\$10,800	hrs	\$0	560 hrs	\$127,820	\$800	\$0	\$0	\$0	\$52,000	\$42,100	\$0	\$222,720	
5. Geotechnical Investigations	hrs	\$0	12 hrs	\$3,396	hrs	\$0	20 hrs	\$4,900	hrs	\$0	hrs	\$0	hrs	\$0	hrs	\$0	hrs	\$0	hrs	\$0	32 hrs	\$8,296	\$800	\$372,000	\$0	\$0	\$0	\$0	\$0	\$381,096	
6. 2026 Pavement Rehabilitation	24 hrs	\$7,656	60 hrs	\$16,980	hrs	\$0	80 hrs	\$19,600	60 hrs	\$13,860	96 hrs	\$20,640	64 hrs	\$12,992	72 hrs	\$13,752	180 hrs	\$32,400	160 hrs	\$30,560	796 hrs	\$168,440	\$1,000	\$0	\$0	\$0	\$0	\$0	\$0	\$169,440	
7. 2027 Pavement Rehabilitation	24 hrs	\$7,656	80 hrs	\$22,640	hrs	\$0	120 hrs	\$29,400	120 hrs	\$27,720	96 hrs	\$20,640	64 hrs	\$12,992	180 hrs	\$34,380	180 hrs	\$32,400	160 hrs	\$30,560	1024 hrs	\$218,388	\$1,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$219,388
8. 2028 Pavement Rehabilitation	24 hrs	\$7,656	80 hrs	\$22,640	hrs	\$0	120 hrs	\$29,400	150 hrs	\$34,650	150 hrs	\$32,250	180 hrs	\$36,540	180 hrs	\$34,380	180 hrs	\$32,400	160 hrs	\$30,560	1224 hrs	\$260,476	\$1,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$261,476
PROJECT TOTAL	92 hrs	\$29,348	404 hrs	\$114,332	20 hrs	\$5,260	460 hrs	\$112,700	450 hrs	\$103,950	542 hrs	\$116,530	388 hrs	\$78,764	552 hrs	\$105,432	600 hrs	\$108,000	524 hrs	\$100,084	4032 hrs	\$874,400	\$5,600	\$372,000	\$117,000	\$135,000	\$52,000	\$42,100	\$1,598,100		

INITIALS:

NTE Estimate by Project

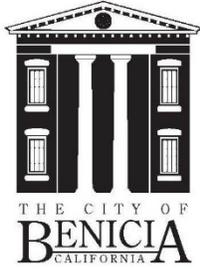
Client: City of Benicia

Consultant: Bennett Engineering Services Inc (BENEN)

Project: 2026-2028 Citywide Pavement Rehabilitation Projects

Date: October 24, 2025

	Estimated Fee			Not to Exceed Fee
	2026	2027	2028	
BENEN	\$246,005	\$295,953	\$338,041	\$880,000
GEOCON	\$83,000	\$142,000	\$147,000	\$372,000
Bess Test Labs	\$45,000	\$45,000	\$45,000	\$135,000
MIG	-	\$26,000	\$26,000	\$52,000
Kittelson	-	\$21,050	\$21,050	\$42,100
UNICO	\$39,000	\$39,000	\$39,000	\$117,000
Total	\$413,005	\$569,003	\$616,091	\$1,598,100



AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 18, 2025
BUSINESS ITEM

TO : City Manager

FROM : Fire Chief

SUBJECT : **SECOND READING AND ADOPTION 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 proposed Ordinance would adopt the 2025 California Fire Code, with staff recommended amendments and additions. The amendments address specific needs within the City of Benicia, while maintaining compliance with the State of California Building Standards Commission. The City Council conducted a public hearing and introduced the proposed Ordinance on November 4, 2025.

RECOMMENDATION:

Conduct the public hearing and move to adopt 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; and
- Removed duplicative language provided in other sections of California Fire Code.

NEXT STEPS:

If approved, the Ordinance adopting the 2025 California Fire Code with local amendments and additions will become effective upon the date the California Building Standards Commission accepts the ordinance for filing, but in no event before January 1, 2026. On or after January 1, 2026, fire permit applicants must comply with the 2025 CFC and locally adopted amendments therein.

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 Categorical 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.
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ATTACHMENTS:

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
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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.

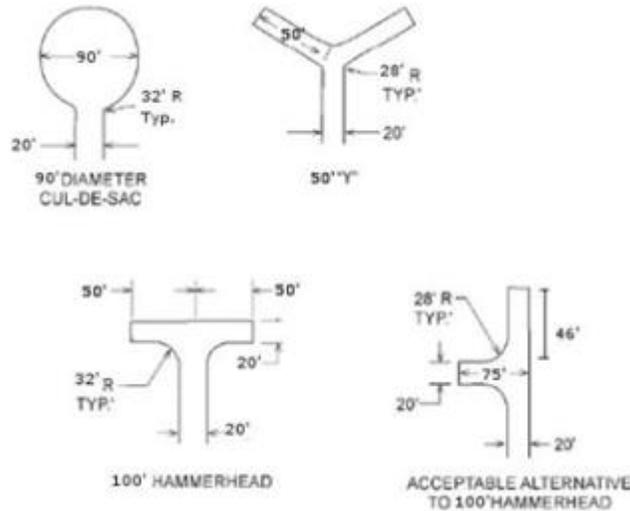


Figure D103.1 is amended to read:

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 18th day of November, 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~~44~~ 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 444112.1- Board of appeals established, Section 444112.1 of Chapter 1 is amended to read as follows:~~

~~444112.1- 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.~~

~~HF. Section 444112.3 - Qualifications, Section 444112.3 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 ~~40~~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 ~~40~~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)

OL. 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. [\(Topographic\)](#)

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.

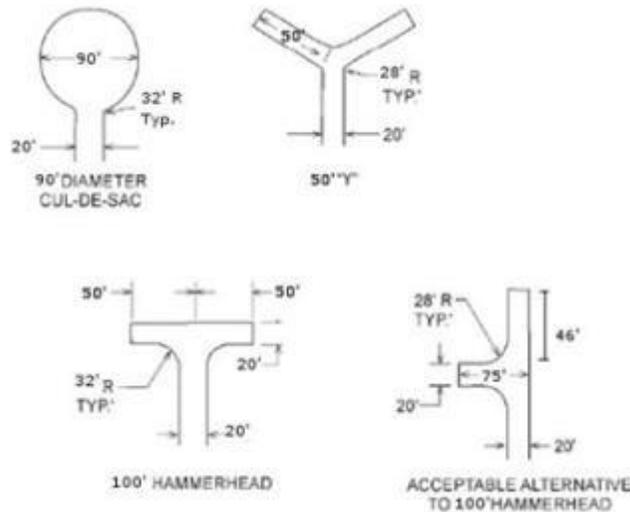


Figure D103.1 is amended to read:

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 18th day of November, 2025, by the following vote:

Ayes:

Noes:

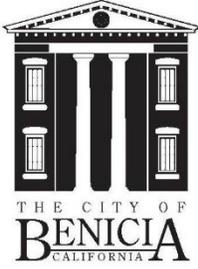
Absent:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 18, 2025,
BUSINESS ITEM

TO : City Manager

FROM : Assistant City Manager

SUBJECT : **SECOND READING 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 proposed 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.

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.

The City Council conducted a public hearing and introduced the proposed ordinance (Attachment 2) on November 4, 2025.

RECOMMENDATION:

Conduct the public hearing and move to adopt by title only an Ordinance amending Title 15 (Building and Construction) of 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 after a determination that the project is exempt from CEQA.

BUDGET INFORMATION:

There is no 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 building 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 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; International Swimming Pool and Spa Code as amended, the International Maintenance Code; and the California Referenced Standards Code.

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 become effective on January 1, 2026. Local jurisdictions are permitted to use that ensuing 180 days after publication to review and amend the California published codes based on findings related to local climate, geological, or topographical conditions.

On November 4, 2025, the City Council conducted a public hearing and introduced the proposed ordinance amending Title 15 (Buildings and Construction) of the BMC) to incorporate by reference the updated California Building Standards Code, appendices and adopted administrative procedures, adopting the 2024 International Swimming Pool and Spa Code and the International Maintenance Code and making local amendments including:

- Amending Mandatory Construction Waste Reduction, Disposal, and Recycling, and Water-Efficient Landscaping to align with the 2025 California Green Building Standards Code; and
- Adopting of the 2024 International Maintenance Code.
- Revising text for consistency with the new CBC, State law and other substantive changes; and
- Reorganizing Title 15 to implement recent changes in administration of development engineering review functions.

NEXT STEPS:

If approved, the ordinance will become effective January 1, 2026, along with the 2025 California Building Standards Code. On or after January 1, 2026, building permit applicants must comply with the 2025 California Building Code and local amendments

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.

CEQA Analysis	Pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA), the proposed repeal and replacement of Title 15 because the Project does not have potential to cause a significant effect on the environment.
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ATTACHMENTS:

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

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 (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 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.

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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 and all fees incurred by the City from outside contract service companies. 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 sub-section b.
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

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 P”.~~

- ~~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 P”.~~

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~~es~~ 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 ~~b~~Building ~~o~~Official 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 ~~b~~Building ~~o~~Official;

~~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 Appendices B, appendix 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 ~~b~~Building ~~o~~Official;

~~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 ~~b~~Building ~~o~~Official;

~~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, ~~20252022~~ 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~~ ~~bB~~Building ~~o~~Official and is available for public inspection.

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

Chapter 15.05 Amendments and Additions to the California Building Code

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 ~~bB~~Building ~~o~~Official are adopted to the California Building Code, ~~20252022~~ edition, which is the ~~20242024~~ 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 bBuilding oOfficial 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 bBuilding oOfficial 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 aPermit 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 H, in the opinion of the bBuilding oOfficial, 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**fficial 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**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 ~~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 Ceity 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.

The ~~2025~~ ~~2022~~ California Building Code is further amended by adopting by

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)~~180 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 fee~~ established by the Benicia Master Fee Schedule as adopted by City Council; ~~the fee~~ shall be paid at the time of submitting plans, calculations, and specifications for plan review. Plan review fees cover 1st and 2nd review. When a submittal of documents is a 3rd or subsequent review, incomplete, revised to require additional plan review, or when the project involves deferred submittal items an additional plan review fee will be charged at an hourly rate as established by the Benicia Master Fee Schedule as adopted by City Council or as established by contract of support services. All fees incurred during plan review from an outside contract service company 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~~0819~~ to read as follows:

R3~~0819~~ 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.

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~~fficial are adopted to the California Plumbing Code, ~~2025~~~~2022~~ edition, which is the ~~2024~~~~2021~~ Uniform Plumbing Code as amended by the State of California.

1. Amend section 104.4.3.1 to read as follows:

104.4.3.1 Expiration (BSC). On or after January 1, 2019, every permit issued shall become invalid (expired) unless work on the site authorized by such permit is commenced **and a building inspection received by the ~~b~~Building ~~o~~fficial 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. Incompletapplications 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 1~~)

5.7.Amend section 108.6 to read as follows:

108.6 Refunds. The ~~b~~**B**uilding ~~o~~**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 ~~and~~ adopted by City Council will be assessed for any permit refund request unless fees were charged in error by Ccity 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 1~~)

~~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 1~~)

~~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 City involved in abating the violation. Costs and expenses as referred to in these sections shall include but are not limited to, all direct costs related to personnel salaries and benefits, operational overhead, fees for experts, consultants or contractors, legal costs or expenses including attorney fees, claims against the City arising because of the dangerous building and procedures associated with collecting moneys due hereunder. The total cost of abating a dangerous building shall constitute a special assessment against the premises to which it relates, and upon recordation in the office of the county recorder of a notice of lien, shall constitute a lien on the property for the asse amount. After such recordation, a copy of the lien may be turned over to the county assessor, who shall then enter the amount of the lien on the assessment rolls as a special assessment. Thereafter, said amount shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes. After such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law. Nothing in this chapter shall be deemed to prevent the city attorney or district attorney from commencing with any other available civil or criminal proceedings to abate a dangerous building under applicable provision of state law as an alternative to the proceedings set forth in chapter. (~~Local conditions 1~~)

~~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 ~~B~~uilding 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~~Aadopted.

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~~Board of ~~A~~Appeals

~~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 Safety I)~~
- ~~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 Ceity Ceouncil finds as follows:

A. The purpose of this chapter is to appoint and designate the ~~community~~ 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 ~~community~~ 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 ~~City-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 Ccity 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 **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**ity of Benicia. The **c**ity **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**uilding **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**uilding **o**fficial, or their authorized representative. Safety assessment teams shall be authorized to enter these buildings with permission from the **b**uilding **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 Ceity 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 ehief 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~~board of ~~A~~appeals.

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 Ceity Ceouncil.

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 [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 – 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 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 Ceity 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 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 Ccity. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the Ccity.
- 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 Ccity 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 Ccity 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-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 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 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 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 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 City of Benicia.

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

“City” shall mean the City of Benicia.

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

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

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

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

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

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

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

“Cut” is the mechanical removal of earth material.

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

“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.

~~11.~~ 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 City engineer shall be based on adequate and necessary test borings and shall contain and not be limited to the following information:
 - a. An adequate description of the geology of the site, including delineating any hazard of surface fault trace or rupture; and
 - b. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development; and
 - c. Recommendations and conclusions regarding the adequacy of site(s) to be developed by the proposed grading; and
 - d. Any other information required by the City engineer.

10. Authority to require geotechnical/soil report. The ~~city engineer~~ 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 engineer. Supplemental reports and data may be required as deemed necessary. Recommendations included in the reports and approved by the City engineer shall be incorporated in the grading plan.

15.73.080 Issuance of permit.

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

B. No permit shall be issued prior to the approval of any land use entitlement requirements, such as, but not limited to, zoning permits, tentative map and/or building or site plan review. An environmental assessment shall be performed in accordance with the requirements of 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 ~~C~~city ~~C~~ouncil, 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 ~~C~~city ~~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 ~~C~~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 ~~C~~city engineer. If the grading permit requires an erosion and sediment control plan, the surety shall include a cash deposit in an amount equal to the estimated cost of the proposed erosion and sediment control measures but not to exceed \$10,000.00. The estimated cost of the proposed erosion and sediment control measures shall be subject to review and approval by the ~~city engineer~~ 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 ~~C~~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 ~~C~~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 ~~C~~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 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, 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 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 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.

~~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 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 ~~development services director~~ city engineer may permit placement of larger rock only upon receipt and approval of a method of placement prepared by a soil engineer and under his/her direction. The following conditions shall also apply:
 - a. Rock disposal areas shall be delineated on grading plan.
 - ~~b.~~ _____ Rock sizes greater than 12 inches in maximum dimension shall be 10 feet or more below finished grade, measured vertically.
 - ~~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~~ 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 ~~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 ~~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 Ceommission 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~~ day of November, ~~2025~~~~2022~~, and adopted at a regular meeting of the Council held on the ~~18th~~ day of _____; ~~November, 2025~~~~2022~~, by the following vote:

Ayes:

Noes:

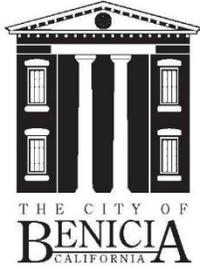
Absent:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 18, 2025
COUNCIL MEMBER COMMITTEE REPORT

TO : City Manager

FROM : City Council

SUBJECT : **AD HOC “ACT” TASK FORCE GROUPS UPDATES**

The ad hoc City Council “ACT” Task Force Groups: Advocacy, Collaboration & Transition solicits feedback and participation from stakeholders as they deem helpful to gather information germane to their purpose, including business owners, employees, labor leaders, community members and governmental and non-governmental organizations.

The second City Council meeting of each month serves as an opportunity for the members of Council to report on the progress of each ad hoc group.

Task Force 1: ADVOCATE for Benicia’s Economy: - Mayor Young

This Task Force:

- Serves as a point of contact and leads efforts to work with State Officials such as the Governor’s Office of Economic Development, the California Energy Commission, elected leaders, labor and business representatives to advocate on behalf of Benicia relating to the potential shutdown of the refinery.
- Gathers information and reports on the economic value of the refining operations to Benicia’s economy, county employment, the States economy as well as the importance the Benicia refinery is to Travis Air Force Base.

Task Force 2: COLLABORATE with Community: Non-Profit Organizations, Sports Groups, Benicia Unified School District, Restaurants & Hotels - Council Member Largaespada

This Task Force:

- Coordinates between the various community groups that receive contributions and support from Valero.
- Understands the economic impact to these groups and facilitate collaboration between groups to maximize resources where possible and generate plans on how to proceed with either less funding or new means of revenue. Similarly, with sports groups, the intent is to quantify the financial contribution made to sports groups and how reduced support from Valero could impact users.

- Coordinates with Benicia Unified School District to analyze the impact on property tax revenue to the District and any other direct revenue loss from Valero's cessation of operations.
- Seeks to quantify the economic impact on hotels and restaurants with Valero's exit. The work of Councilmember Largaespada is to coordinate information, facilitate cooperation of resources between groups where feasible, and develop a plan of action on how to overcome the loss of revenue with Valero's departure.

Task Force 3: COLLABORATE with Benicia Industrial Park (BIP): Existing industrial park businesses, Rose Estates and Port of Benicia - Council Member Birdseye

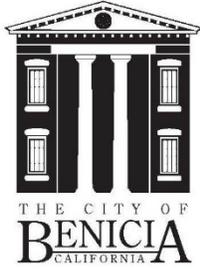
This Task Force:

- Works with impacted BIP businesses; understanding the impact on jobs, lost revenue and impacts on the stream of commerce.
- Coordinates the plans and actions of Rose Estates, the Priority Production Area plan of the Port with redevelopment efforts of the 930 acres of Valero's property with any interested developers.
- There may be an opportunity to synchronize development activity and/or work to incentivize new business development into the BIP including offshore wind manufacturing.

Task Force 4: TRANSITION Prepare for Transition and Redevelopment of Valero's 930 acres: Valero & Signature Development Group - Vice Mayor Macenski & Council Member Scott

This Task Force:

- Collaborates with Valero and Signature Development Group to imagine the possible reuse opportunities for the 930 acres of Valero's property.
- Helps to facilitate stakeholder involvement to solicit public feedback and visioning. Identifies the types of uses, be it residential commercial or industrial and those uses can be best incorporated into Benicia.
- Identifies reports and information that would be helpful to forecast highest and best use for Benicia's economic viability and environmental sustainability.



AGENDA ITEM
CITY COUNCIL MEETING DATE – NOVEMBER 18, 2025
COUNCIL MEMBER COMMITTEE REPORT

TO : City Council

FROM : City Manager

SUBJECT : **COUNCIL MEMBER COMMITTEE REPORTS**

The outside agency committees on which City of Benicia Council Members serve, are listed below. Please click on the links to view current and past agendas and minutes for all Council Member Committee Reports.

Association of Bay Area Governments (ABAG)
<https://abag.ca.gov/meetings>

Community Action Partnership Solano Joint Powers Authority (CAP Solano JPA)
<http://www.capsolanojpa.org/agendas---minutes.html>

Green Empowerment Zone Board of Directors
<https://www.contracosta.ca.gov/9963/Governing-Board-of-the-Green-Empowerment>

Marin Clean Energy (MCE)
<https://www.mcecleanenergy.org/meeting-archive/>

Solano County Water Agency (SCWA)
<https://www.scwa2.com/governance/board-meetings-agendas-minutes/>

SolTrans Joint Powers Authority
<https://soltrans.org/resources/meetings/>

Solano Transportation Authority (STA)
<https://sta.ca.gov/meetings-agendas/>

Valero Citizens Advisory Committee (CAP)
<https://www.beniciacap.com/>