

**TITLE V: PUBLIC WORKS**

Chapter

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## **CHAPTER 50: RESERVED**

***Editor's note:***

*Pursuant to letter dated April 14, 1994, this chapter has been reserved. Benson's Customer Service Policies, as adopted and amended by the Board of Commissioners on March 8, 1994, and as thereafter amended, are hereby adopted by reference and included herein as if fully set forth. Please refer to the Town Clerk-Treasurer's office, Town Hall, for full policy.*



## CHAPTER 51: GARBAGE AND REFUSE

Section

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### **GENERAL PROVISIONS**

#### **§ 51.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COLLECTOR.** Employees or agents of the Town who are engaged in the collection or transportation of rubbish, garbage or waste matter in any part of the town.

**GARBAGE.** Every accumulation of animal or vegetable foodstuff that attends the preparation, consumption, dealing in or storage of meats, fish, fowl, fruit or vegetables including the cans, containers or wrappers.

**INDUSTRIAL WASTE.** Any by-product produced from industrial manufacturers.

**LIMBS AND BRUSH.** Tree and shrubbery trimmings.

**REFUSE/TRASH.** Any waste product which is composed of materials as garbage, sweepings, trash, litter, animal matter from kitchens, dining rooms, markets, food establishments or other places dealing in or handling meat, fowl, fruits, grain, brick, plaster or other waste matter resulting from the demolition, alteration or

construction of buildings, accumulated waste materials, cans, containers, tires, junk or other substances which may be a nuisance.

**RUBBISH.** Printed matter, paper, paperboard boxes, rags, straw and all other combustible material not included under the term **GARBAGE**.

**WASTE MATTER.** Waste material composed of soil, gravel, stone, brick, plaster, crockery, glass, ashes, cinders, metals and all other noncombustible materials which have been discarded.

**YARD WASTE.** Organic waste material that is generated from residential lawn maintenance, to include, leaves, grass clippings, pine straw, and the like.

**BULK WASTE.** Large items which will not fit in a 95-gallon receptacle. Bulk items for collection shall not exceed four cubic yards in size.

(1990 Code, § 51.01) (Ord. passed 11-12-1974; Ord. passed 7-10-1979) (revised 11-18-2014)

#### **§ 51.02 DEPOSIT OF REFUSE IN PUBLIC PLACES OR ON PRIVATE PROPERTY.**

(A) No person shall throw, place or deposit any refuse in any street, alley, gutter or public way, or throw or deposit the same in or upon any premises or vacant lot or in any water or open ditches, or store or keep the same, except in containers as provided by this chapter.

(B) No person, owner, agent or occupant of a lot or premises whereon a building of any kind may exist or of a vacant lot shall allow any collection of garbage, rubbish, waste matter, bulk items or trash of any description to remain on the lot or premises after being notified by the Town Nuisance Abatement Officer to remove the same. See § 51.23(c) for enforcement procedures.

(1990 Code, § 51.02) Penalty, see § 51.99

#### **§ 51.03 RODENT CONTROL.**

No person shall store, deposit or keep refuse in any place or in any manner where rodents can have access to or feed thereon, or can use the refuse as harborage, nest or breeding places.

(1990 e, § 51.03) (Ord. passed 11-12-1974) Penalty, see § 51.99

#### **§ 51.04 INCINERATION; BURNING OF GARBAGE.**

(A) No person shall burn garbage, rubbish, or trash of any kind at any place, or in any manner in the Town of Benson.

(1990 Code, § 51.04) (Ord. passed 11-12-1974)(Ord. Revised 11-18-2014) Penalty, see § 51.99

#### **§ 51.05 CONSTRUCTION OR DEMOLITION OF BUILDINGS.**

(A) Every person, building contractor or subcontractor engaged in the construction, repair or demolition of any building or structure or part thereof, shall remove and dispose of, in an authorized manner, from any street, alley, gutter, park, sidewalk, curbing, curb space, any public way or any premises not owned by him or her all waste matter or rubbish deposited thereon in connection with that portion of the repair, construction or demolition work under his or her special or general supervision.

(B) The refuse, waste matter and rubbish generated from construction, repair, or demolition of any building or structure or part thereof shall be cleaned up, removed and disposed of in a sanitary manner within seven days of the final cessation of building.

(C) The waste matter and rubbish shall not be placed on the sidewalk for town trucks to move, but shall be moved by the contractor or subcontractor who caused the same to be formed.

(D) The refuse, waste matter and rubbish generated from construction, repair, or demolition of any building or structure or part thereof shall not be placed in any trash receptacle and shall not be collected as regular residential or commercial waste.

(1990 Code, § 51.05) (Ord. passed 11-12-1974) (Revise 11-18-2014) Penalty, see § 51.99

### **§ 51.06 ACCUMULATION OF REFUSE; STANDARDS.**

The following standards and requirements are established as a minimum for the sanitary accumulation and storage of refuse pending its removal by the collectors of the town:

(A) Trash or debris resulting from sweeping or cleaning the floors of any business establishments must be picked up by appropriate methods and placed in approved containers. To sweep the trash onto the sidewalk, gutter, or street is hereby prohibited.

(B) The entity placing trash out for collection must place his/her/its receptacle(s) at the nearest designated location indicated for garbage collection, which is on the curb at the street nearest the façade of the dwelling or structure located on the property to which address trash collection service is provided, unless otherwise instructed by the Town or its collectors, on or before the hour designated for pickup at that particular station or location. Receptacle(s) shall not be placed at the curb or other location indicated for garbage collection greater than twelve (12) hours prior to the hour designated for pickup at that particular station or location. Unless otherwise notified by the town or its collectors, any receptacle(s) placed for pickup must be set out at the curb or other designated location by 6 A.M. of the day such pickup is scheduled. Once the Town's collectors have emptied the receptacle(s) the customer/owner shall cause such receptacles(s) to be removed from the curb and store the receptacle(s) at the rear or other place adjacent to the dwelling or structure located on the property to which address trash collection service is provided as soon as possible after collection but in any case within twenty-four hours after collection. No entity shall cause to allow his/her/its receptacle(s) to remain at the curb at times other than specified herein.

(C) Handicapped Individuals. Residents who demonstrate through satisfactory evidence that they are unable, or it would prove significantly difficult, to cause their container(s) to be placed as set forth in Section the foregoing §51.06(B), and who wish to have their container(s) picked-up from the rear or other place adjacent to the dwelling or structure located on the property to which address trash collection service is provided, shall notify the Town or its collectors in writing and provide such satisfactory evidence of the infirmity, disability, or limitation that precludes such person from being able to so place their container(s). A note from a health care provider shall be conclusively presumed to be satisfactory evidence of infirmity, disability, or limitation as set forth herein. Other satisfactory evidence of infirmity, disability, or limitation may be submitted and considered by the Town or its collectors.

(1990 Code, § 51.06) (Ord. passed 11-12-1974) (Revised 11-18-2014) Penalty, see § 51.99

## COLLECTION AND DISPOSAL

### § 51.20 RESIDENTIAL SERVICE; CONTAINERS.

(A) *Receptacles.* The occupant of any dwelling, or any part of a dwelling used as a separate place of abode, or other solid waste collection customer shall cause all garbage, rubbish, refuse and waste collected therein, or arising from the use thereof, to be placed in watertight, rodent-proof and dog-proof receptacles of the types specified by this chapter, unless receptacles are provided to waste collection customers by the Town or its agent/designee. If approved receptacles are provided by the Town or its agent/designee, then and in that event only such approved provided receptacles shall be acceptable to place any garbage, rubbish, refuse, or other waste in for collection. All resident garbage, rubbish, refuse and waste will be collected once weekly from the curbside and shall only be collected if placed in suitable or provided receptacles, unless otherwise provided in this Chapter.

(B) *Limbs and brush; yard waste.* All limbs and brush as well as yard waste shall be placed at the curb by residents, and in no case shall the limbs, brush and yard debris be placed on the sidewalk, in the curb or in the street. All limbs and brush shall be cut in links no longer than five feet or 60 inches and no wider than three feet or 36 inches and shall be in bundles no heavier than one man can handle. All residential limbs and brush will be picked up weekly at the same time the garbage will be picked up. Provided however, that if yard waste containers are provided by the Town and/or its agent/designee then and in that event only limbs, brush, and yard waste deposited in such provided containers which is placed at the curb on such days as the Town Manager may designate shall be collected. Any yard waste so deposited shall only be accepted and collected if it is cut to fit inside said yard waste containers.

(C) *Residential containers.*

(1) Unless an approved receptacle is provided to waste collection customers by the Town or its agent or designee, residential receptacles shall be portable receptacles of standard galvanized metal, plastic or fiber glass with watertight construction with tight-fitting covers and handles. If an approved receptacle is provided to waste collection customers by the Town or its agent or designee, then and in that event only such approved provided container may be utilized by waste collection customers to have their trash, recycling, and yard waste collected.

(2) The size of the receptacles shall be no greater than 95-gallons' capacity.

(3) Garbage, rubbish, refuse and waste not in receptacles complying with the regulations set forth in this chapter will not be collected. Defective receptacles must be replaced by the party who owns such receptacle.

(D) *Yard Waste.* Yard waste shall be placed at the curb in front of the property that generated the yard waste to be collected. No yard waste may be placed in a public right of way in such a way as to interfere with vehicular or pedestrian traffic. The Town may provide a receptacle for customers to deposit yard waste for collection. If such a receptacle is provided, only yard waste placed therein shall be collected by the Collector except as provided in **§51.23 – BULK COLLECTION.**

(E) *Recycling.* If a recycling receptacle is provided by the Town or its agent/designee, then same shall be collected on a schedule set by the Town Manager or designee. The Town Manager is authorized to set forth and/or approve a list of approved items which shall be collected as recyclables in the recycling receptacle provided. Any items not on the approved items list are hereby prohibited from being placed in the provided recycling receptacle for collection.

(1990 Code, § 51.20) (Ord. passed 11-12-1974) (Revised 11-18-2014) Penalty, see § 51.99

**§ 51.21 BUSINESS SERVICE; CONTAINERS.**

(A) Business may elect to be considered “residential” customers and in doing so elect to be provided waste collection, recycling, and yard waste services in the same manner as residential customers. If such an election is made, all business firms shall cause all garbage, rubbish, refuse and waste to be collected therein, or arising from the use thereof, to be placed in watertight, rodent-proof and dog-proof receptacles of the types specified by this chapter for residential customers. All business garbage, rubbish, refuse and waste as well as recycling and yard waste will be collected according to a schedule approved by the Town Manager.

(B) Businesses may elect to seek alternative waste collection services from third private party trash collection service providers if their waste removal and collection needs exceed that which can be accommodated by the residential waste collection service.

(1990 Code, § 51.21) (Ord. passed 11-12-1974; Ord. passed 7-10-1979) (Revised 11-18-2014) Penalty, see § 51.99

**§ 51.22 REFUSE REQUIRED TO BE PROMPTLY REMOVED.**

No refuse that has become decayed or that shall otherwise be a menace to health or cleanliness shall be allowed to remain in any business establishment, dwelling house or on any premises longer than shall be reasonably necessary to remove and deposit the same in containers of the type as provided by this chapter.

(1990 Code, § 51.22) (Ord. passed 11-12-1974) Penalty, see § 51.99

**§ 51.23 BULK WASTE COLLECTION; LIMITATIONS; PENALTY AND ENFORCEMENT.**

(A) *Bulk Item Collection.* Notwithstanding the other provisions of this Chapter, large bulk waste items shall be collected weekly or as per a schedule approved by the Town Manager from residential customers. Bulk waste shall be placed at the curb, not in the curb or on the street for collection. No bulk items placed at the curb for collection shall impede vehicular or pedestrian traffic. Bulk waste placed at the curb for collection shall not exceed four cubic yards in size. Any resident who has bulk waste items which exceed four cubic yards may request the Town to collect such large bulk waste be collected and shall pay One Hundred Fifty Dollars (\$150.00) per truckload to the Town or its designee to have such large bulk waste accumulation removed.

(B) *Limitations.* The following items will not be collected by the Town or its collectors as bulk waste or at all: tires, electronics, paint, chemicals, bio-hazardous waste, or other hazardous substances.

(C) *Penalty and Enforcement.* Any entity which causes or allows to remain upon its property large accumulations of any trash, bulk items, or any other similar items in excess of four cubic yards upon his or her residence shall be punished as provided in § 51.99 and in addition, the Town Nuisance Abatement Officer is directed to proceed pursuant to N. C. Gen. Stat. §160A-193 and cause such nuisance to be abated. Upon discovering such a nuisance condition exists at a particular residence, the Nuisance Abatement Officer of the Town is directed to notice the occupant of such residence as well as the owner of said property, if not the same person, of such a violation. The notice shall provide that such nuisance condition shall be cleaned-up, removed, and abated within seven days of the receipt of said notice by the property owner. If the nuisance is not cleaned-up, removed, or abated within that time period, then the Town shall proceed to summarily remove, abate, and remedy the nuisance pursuant to N. C. Gen Stat. 160A-193, shall be a lien on said property, and shall be collected from the property owner unpaid ad valorem property taxes. Nothing in this section shall be construed to require the Town or any agent thereof to be required to collect any construction debris or other commercial or industrial waste except as provided elsewhere in this Chapter.

(Ord. passed 11-18-2014)

**§ 51.99 PENALTY.**

Any entity violating any of the provisions of this chapter shall be fined a civil penalty of \$50 for the first violation; \$100 for the second violation; and \$150 for the third and subsequent violations. Each day upon which violations accrue shall be a separate and distinct offense. Any entity assessed such a civil penalty shall cause the applicable penal sum to be paid into the Town's general fund no more than thirty (30) days after notice is sent to any such entity.

(1990 Code, § 51.99) (Ord. passed 11-12-1974) (Revised November 18, 2014)

## **CHAPTER 52: SEWERS**

[Editor’s Note: This Chapter contains the “Sewer Use Ordinance” or “SUO” of the Town of Benson and may be referred to and/or cited as same]

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**SECTION 1 - GENERAL PROVISIONS**

**§52.001 Purpose and Policy**

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Benson, hereafter referred to as Benson, and enables Benson to comply with all applicable State and Federal laws, including, the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

- (b) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;
- (c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S. 160A-312 and/or 153A-275. Benson shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided herein, the POTW Director shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other Benson personnel.

By discharging wastewater into the Benson wastewater system, industrial users located outside the Benson limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

**§52.002 Definitions and Abbreviations**

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:
  - (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, et seq.
  - (2) Approval Authority. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
  - (3) Authorized Representative of the Industrial User.
    - (i) If the industrial user is a corporation, authorized representative shall mean:
      - (A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who

performs similar policy or decision-making functions for the corporation, or

- B) the manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
  - (iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - (iv) The individuals described in paragraphs i-iii above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to Benson.
  - v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.
- (4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).
  - (5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
  - (6) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
  - (7) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.
  - (8) Control Authority. Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.

- (9) Director. The person designated by Benson to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.
- (10) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- (11) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
- (12) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (13) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW including holding tank waste discharged into the system.
- (14) Industrial User or User. Any person which is a source of indirect discharge.
- (15) Interference. The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the Control Authority NPDES, collection system, or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- (16) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (17) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (18) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 52.003 of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.
- (19) New Source.

- (1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:
  - (A) the building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (B) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (C) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (1)(B) or (C) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
  - (A) Begun, or caused to begin, as part of a continuous on-site construction program:
    - 1. Any placement, assembly, or installation of facilities or equipment; or
    - 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.
- (20) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (21) National Pollution Discharge Elimination System, or NPDES, Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.

- (22) Non-discharge Permit. A disposal system permit issued by the State pursuant to N.C.G.S. 143-215.1.
- (23) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES, collection system, or Non-discharge Permit or a downstream water quality standard even if not included in the permit.
- (24) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
- (25) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (26) Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).
- (27) POTW Director. Benson administrator designated with the responsibility for the pretreatment program and enforcement of this Sewer Use Ordinance.
- (28) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.
- (29) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (30) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by Benson in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (31) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (32) Pretreatment Standard. Any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.
- (33) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by Benson. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal

sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside Benson who are, by contract or agreement with Benson, or in any other way, users of the POTW of Benson.

- (34) Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (35) Significant Industrial User. Any industrial user of the wastewater disposal system who:
  - (A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
  - (B) contributes process wastewater which makes up five percent or more of the NPDES Non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, Ammonia; Total Phosphorus, and Total Nitrogen; or
  - (C) is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
  - (D) is found by Benson, the Division Of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
  - (E) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraphs (A) and (B) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options, and thus is not a Significant Industrial User.
- (36) Significant Noncompliance or SNC is the status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (a)(35), Parts (C), (D), or (H) shall also be SNC.
  - (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part

- 403.3(l);
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH);
  - (C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
  - (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and 52.036(e) of this SUO to halt or prevent such a discharge;
  - (E) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
  - (F) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
  - (G) Failure to accurately report noncompliance.
  - (H) Any other violation or group of violations that the Control Authority and/or POTW determines is significant.
- (37) Slug Load or Discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section 52.003 of this ordinance.
- (38) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
- (39) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting there from.

- (40) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
  - (41) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
  - (42) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
  - (43) Wastewater Permit. As set forth in section 52.017 of this ordinance.
  - (44) Waters of the State. All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.
- (b) This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.
  - (c) Shall is mandatory; may is permissive or discretionary.
  - (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.
  - (e) The following abbreviations when used in this ordinance, shall have the designated meanings:

(1)	BOD	Biochemical Oxygen Demand
(2)	CFR	Code of Federal Regulations
(3)	COD	Chemical Oxygen Demand
(4)	EPA	Environmental Protection Agency
(5)	gpd	Gallons per day
(6)	l	Liter
(7)	mg	Milligrams
(8)	mg/l	Milligrams per liter
(9)	N.C.G.S.	North Carolina General Statutes
(10)	NPDES	National Pollution Discharge Elimination System
(11)	O & M	Operation and Maintenance
(12)	POTW	Publicly Owned Treatment Works
(13)	RCRA	Resource Conservation and Recovery Act
(14)	SIC	Standard Industrial Classification
(15)	SWDA	Solid Waste Disposal Act
(16)	TSS	Total Suspended Solids
(17)	TKN	Total Kjeldahl Nitrogen

## SECTION 2 - GENERAL SEWER USE REQUIREMENTS

### §52.003 Prohibited Discharge Standards

- (a) General Prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (b) Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
  - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
  - (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension.
  - (3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
  - (4) Any wastewater having a pH less than 6.0 or more than 9.0 standard units except by permit authorization, and only then with an absolute lower limit of 5.0 standard units, or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
  - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
  - (6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
  - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
  - (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with section 52.011 of this ordinance.
  - (9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
  - (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid

Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

- (11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
  - (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.
  - (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.
  - (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 300 mg/l.
  - (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
  - (16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.
  - (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
  - (18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
  - (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.
  - (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
  - (21) Recognizable portions of the human or animal anatomy.
  - (22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
  - (23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.
- (c) Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

- (d) When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:
  - 1) advise the user(s) of the potential impact of the contribution on the POTW in accordance with section 52.036; and
  - 2) take appropriate actions in accordance with Sections 52.016 and 52.017 for such user to protect the POTW from interference or pass through.

**§52.004 National Categorical Pretreatment Standards**

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

**§52.005 Local Limits**

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

BOD	250.0	mg/l	
TSS	250.0	mg/l	
NH <sub>3</sub>	25.0	mg/l	
Arsenic	0.003	mg/l	
Cadmium	0.003	mg/l	
Chromium	0.05	mg/l	(total chromium)
Copper	0.061	mg/l	
Cyanide	0.015	mg/l	
Lead	0.049	mg/l	
Mercury	0.0003	mg/l	
Nickel	0.020	mg/l	
Silver	0.005	mg/l	
Zinc	0.175	mg/l	

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in

wastewater permits. The POTW Director may impose mass based limits in addition to, or in place of concentration based limits.

**§52.006 State Requirements**

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this ordinance.

**§52.007 Right of Revision**

Benson reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in section 52.001 of this ordinance or the general and specific prohibitions in section 52.003 of this ordinance, as is allowed by 40 CFR 403.4.

**§52.008 Dilution**

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by Benson or State.

**§52.009 Pretreatment of Wastewater**

- (a) Pretreatment Facilities  
Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under section 52.017 of this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in section 52.003 of this ordinance within the time limitations as specified by EPA, the State, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to Benson for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to Benson under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.
- (b) Additional Pretreatment Measures
  - (1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
  - (2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

**§52.010 Accidental Discharge/Slug Control Plans**

- (a) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 52.002(a) (37). All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.
- (b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 52.022 and 52.023.
- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
  - (1) Description of discharge practices, including non-routine batch discharges;
  - (2) Description of stored chemicals;
  - (3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by section 52.023 of this ordinance; and
  - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

**§52.011 Hauled Wastewater**

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate section 2 of this ordinance or any other requirements established by Benson. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

- (c) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

### **SECTION 3 - FEES**

#### **§52.012 Purpose**

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of Benson for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the POTW Director and approved by the Benson Board. A copy of these charges and fees will be made available from the POTW Director.

#### **§52.013 User Charges**

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- (a) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow.
- (c) The Manager of Benson shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Council or Board serving Benson for adjustments in the schedule of charges and fees as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

#### **§52.014 Surcharges**

The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

- (a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
  - (1) Metered water consumption as shown in the records of meter readings maintained by Benson; or
  - (2) If required by Benson or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by Benson. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with Benson.

- (3) Where any user procures all or part of his or her water supply from sources other than Benson, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by Benson.
- (b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by Benson. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
- (c) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.

**§52.015 Pretreatment Program Administration Charges**

The schedule of charges and fees adopted by Benson may include charges and fees for:

- (a) reimbursement of costs of setting up and operating the Pretreatment Program;
- (b) monitoring, inspections and surveillance procedures;
- (c) reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (d) permitting;
- (e) labor and material used for enforcement actions;
- (f) other fees as Benson may deem necessary to carry out the requirements of the Pretreatment Program.

**SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE**

**§52.016 Wastewater Dischargers**

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of Benson. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within [thirty (30)] days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

**§52.017 Wastewater Permits**

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

- (a) **Significant Industrial User Determination**  
All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(b) Significant Industrial User Permit Application

Users required to obtain a significant industrial user permit shall complete and file with Benson, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in 52.017(a) above. The application shall include at a minimum:

- (A) name of industrial user;
- (B) address of industrial user;
- (C) standard industrial classification (SIC) code(s) or expected classification and industrial user category;
- (D) wastewater flow;
- (E) types and concentrations (or mass) of pollutants contained in the discharge;
- (F) major products manufactured or services supplied;
- (G) description of existing on-site pretreatment facilities and practices;
- (H) locations of discharge points;
- (I) raw materials used or stored at the site;
- (J) flow diagram or sewer map for the industrial user;
- (K) number of employees;
- (L) operation and production schedules; and
- (M) description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g);

(c) Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in Section 52.002(a)(3) and contain the following certification statement:

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

(d) Application Review and Evaluation

The POTW Director will evaluate the data furnished by the user and may require additional information.

- (1) The POTW Director is authorized to accept applications for Benson and shall refer all applications to the POTW staff for review and evaluation.
- (2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(e) Tentative Determination and Draft Permit

- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
  - (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
    - (A) proposed discharge limitations for those pollutants proposed to be limited;
    - (B) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
    - (C) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
  - (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of Benson into a significant industrial user permit.
- (f) Permit supporting documentation. The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.
- (1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
  - (2) The basis, or rationale, for the pretreatment limitations, including the following:
    - (A) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
    - (B) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
- (g) Final Action on Significant Industrial User Permit Applications
- (1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.
  - (2) The POTW Director is authorized to:
    - (A) issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;
    - (B) issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
    - (C) modify any permit upon not less than 60 days notice and pursuant to section 52.017(i) of this ordinance;
    - (D) revoke any permit pursuant to section 52.036 of this ordinance;
    - (E) suspend a permit pursuant to section 52.036 of this Ordinance;

- (F) deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
- (h) Permit Modification
- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
    - (A) changes in the ownership of the discharge when no other change in the permit is indicated,
    - (B) a single modification of any compliance schedule not in excess of four months,
    - (C) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
  - (2) Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section 52.017(b), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.
  - (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.
- (i) Permit Conditions
- (1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
    - (A) a statement of duration (in no case more than five years);
    - (B) a statement of non-transferability;
    - (C) applicable effluent limits based on categorical standards or local limits or both;
    - (D) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
    - (E) requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 52.002(a)(37);
    - (F) requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 52.002(a)(37), if determined by the POTW Director to be necessary for the User and,

- (G) requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in 52.002(a) (37). Also see Sections 52.022 and 52.023;
  - (H) a statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- (2) In addition, permits may contain, but are not limited to, the following:
- (A) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
  - (B) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
  - (C) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
  - (D) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
  - (E) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
  - (F) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
  - (G) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
  - (H) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
  - (I) Compliance schedules for meeting pretreatment standards and requirements.
  - (J) Requirements for submission of periodic self-monitoring or special notification reports.
  - (K) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 52.030 and affording the POTW Director, or his representatives, access thereto.
  - (L) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
  - (M) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.

- (N) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
  - (O) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (j) **Permit Duration**  
Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
  - (k) **Permit Transfer**  
Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
  - (l) **Permit Reissuance**  
A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with section 52.017 a minimum of 180 days prior to the expiration of the existing permit.

## **SECTION 5 - REPORTING REQUIREMENTS**

### **§52.018 Baseline Monitoring Reports**

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the information set forth below.
  - (1) **Identifying Information.** The name and address of the facility, including the name of the operator and owner.
  - (2) **Environmental Permits.** A list of any environmental control permits held by or for the facility.
  - (3) **Description of Operations.** A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

- (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- (5) Measurement of Pollutants.
  - (A) The categorical pretreatment standards applicable to each regulated process.
  - (B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 52.027 of this ordinance.
  - (C) Sampling must be performed in accordance with procedures set out in section 52.028 of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
- (6) Certification. A statement, reviewed by the user's current authorized representative as defined in Section 52.002(a)(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 52.019 of this ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with section 52.017(c) of this ordinance.

**§52.019 Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by section 52.018(b) (7) of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any

delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

- (d) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

#### **§52.020 Reports on Compliance with Categorical Pretreatment Standard, Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in section 52.018(b) (4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 52.017(c) of this ordinance.

#### **§52.021 Periodic Compliance Reports**

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- (a) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section 52.027 and 52.028 of this ordinance. All periodic compliance reports must be signed and certified in accordance with section 52.017(c) of this ordinance.
- (b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in section 52.027 and 50.028 of this ordinance, the results of this monitoring shall be included in the report.

#### **§52.022 Reports of Changed Conditions**

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least [thirty (30)] days before the change. The permittee shall not begin the changes until receiving written approval from the Municipality. See Section 52.023(d) for other reporting requirements.

- (a) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 52.017 of this ordinance.
- (b) The POTW Director may issue a wastewater discharge permit under section 52.017 of this ordinance or modify an existing wastewater discharge permit under section 52.017 of this ordinance in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of twenty percent (20%) or greater, the discharge of any previously

unreported pollutants, increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the Control Authority and/or Municipality; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

**§52.023 Reports of Potential Problems**

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 52.002(a)(37), that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 52.002(a)(37).

**§52.024 Reports from Unpermitted Users**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

**§52.025 Notice of Violation/Repeat Sampling and Reporting**

- (a) If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:
  - (1) if the POTW Director monitors at the user's facility at least once a month; or
  - (2) if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.
- (b) If the POTW Director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:

- (1) the POTW Director monitors at the user's facility at least once a month; or
- (2) the POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
- (3) the POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

#### **§52.026 Notification of the Discharge of Hazardous Waste**

Benson prohibits the discharge of any hazardous wastes without notification to and approval by the POTW Director.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days before the discharge commences. The user shall not begin the discharge until receiving written approval from Benson. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 52.022 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 52.018, 52.020, and 52.021 of this ordinance.
- (b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

**§52.027 Analytical Requirements**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or Benson. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and Benson. Analyses must be performed by a State certified lab for each parameter analyzed, if such certification exists for that parameter.

**§52.028 Grab and Composite Sample Collection**

- (a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (b) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g) (5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.
- (c) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

**§52.029 Timing**

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

**§52.030 Record Keeping**

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required

by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or Benson, or where the user has been specifically notified of a longer retention period by the POTW Director.

**§52.031 Electronic Reporting**

The POTW Director may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Section 8 of this Ordinance.

**SECTION 6 - COMPLIANCE MONITORING**

**§52.032 Monitoring Facilities**

Benson requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but Benson may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

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

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of Benson and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by Benson.

**§52.033 Inspection and Sampling**

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

**§52.034 Search Warrants**

If Benson, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of Benson designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then Benson, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within Benson.

**SECTION 7 - CONFIDENTIAL INFORMATION**

**§52.035 Confidential Information**

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

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, Non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

All records relating to compliance with Pretreatment Standards shall be made available to officials of the approval authority and EPA upon request.

## **SECTION 8 - ENFORCEMENT**

### **§52.036 Administrative Remedies**

(a) Notification of Violation

Whenever the POTW Director finds that any industrial user has violated or is violating this Ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to Benson by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent Orders

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to section 52.036(d), below.

(c) Show Cause Hearing

The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section 52.037 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under section 52.041.

(d) Administrative Orders

When the POTW Director finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;

- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) Emergency Suspensions

The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(f) Termination of Permit or Permission to Discharge

The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under section 52.036 of this ordinance why the proposed action should not be taken.

**§52.037 Civil Penalties**

- (a) Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) per day per violation.

- (1) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
  - (A) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
  - (B) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) In determining the amount of the civil penalty, the POTW Director shall consider the following:
  - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
  - (2) The duration and gravity of the violation;
  - (3) The effect on ground or surface water quantity or quality or on air quality;
  - (4) The cost of rectifying the damage;
  - (5) The amount of money saved by noncompliance;
  - (6) Whether the violation was committed willfully or intentionally;
  - (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
  - (8) The costs of enforcement to Benson.
- (c) Appeals of civil penalties assessed in accordance with this section shall be as provided in section 52.041.

**§52.038 Other Available Remedies**

Remedies, in addition to those previously mentioned in this ordinance, are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- (a) Criminal Violations.
 

The District Attorney for the applicable Judicial District may, at the request of Benson, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).]
- (b) Injunctive Relief

Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(c) **Water Supply Severance**

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(d) **Public Nuisances**

Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of Benson governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

**§52.039 Remedies Nonexclusive**

The remedies provided for in this ordinance are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

**SECTION 9 - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE**

**§52.040 Annual Publication of Significant Noncompliance**

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(34), with applicable pretreatment standards and requirements, during the previous 12 months.

## **SECTION 10 – ADJUDICATORY HEARINGS**

### **§52.041 Adjudicatory Hearings**

Hearings: The local government may conduct hearings in accordance with its regular hearing procedure.

- (a) **Initial Adjudicatory Hearing.** An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under section 52.037, or one issued an administrative order under section 52.036 shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail as described in paragraph (c) below. The terms and conditions of a permit under appeal shall be as follows:
  - (1) **New Permits.** Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
  - (2) **Renewed Permits.** Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
  - (3) **Terminated Permits.** Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (b) **Final Appeal Hearing.** Any decision of a hearing officer made as a result of an adjudicatory hearing held under paragraph (a) above may be appealed to the Council serving Benson upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this Subdivision shall be conducted in accordance with Local hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The Council serving Benson shall make a final decision on the appeal within 90 days from receipt of the demand filed under paragraph (a) and shall transmit a written copy of its decision by registered or certified mail as described in paragraph (c) below. The decision is a final decision for the purposes of seeking judicial review.
- (c) **Official record.** When a final decision is issued under paragraph (b) above, the Council serving Benson shall prepare an official record of the case that includes:
  - (1) All notices, motions, and other like pleadings;
  - (2) A copy of all documentary evidence introduced;

- (3) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
- (4) A copy of the final decision of the Council serving Benson.
- (d) **Judicial Review.** Any person against whom a final order or decision of the Council serving Benson is entered, pursuant to the hearing conducted under paragraph (b) above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Johnston County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter along with a copy to Benson. Within 30 days after receipt of the copy of the written request for review by the Court, the Council serving Benson shall transmit to the reviewing court the original or a certified copy of the official record.

**SECTION 11 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**§52.042 Upset**

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and the user can identify the cause(s) of the upset;
  - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - (3) The user has submitted the following information to the POTW Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
    - (A) A description of the indirect discharge and cause of noncompliance;
    - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - (C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**§52.043 Prohibited Discharge Standards Defense**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 52.003 (a) of this ordinance or the specific prohibitions in sections 52.003(b)(2), (3), and (5 - 7) and (9-23) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when [the City] was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

**§52.044 Bypass**

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this section.
- (b)
  - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten (10) days before the date of the bypass, if possible.
  - (2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (c)
  - (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless
    - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- (C) The user submitted notices as required under paragraph (b) of this section.
- (2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in paragraph (c)(1) of this section.

## **SECTION 12 – SEVERABILITY**

### **§52.045 Severability**

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

## **SECTION 13- CONFLICT**

### **§52.046 Conflict**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

**SECTION 14 - EFFECTIVE DATE**

**§52.047 Effective Date**

This ordinance shall be in full force and effect on the 14th day of May 2013.

INTRODUCED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

FIRST READING: \_\_\_\_\_,20\_\_\_\_.

SECOND READING: \_\_\_\_\_,20\_\_\_\_.

PASSED this 14th day of May 2013.

AYES:6

NAYS:0

ABSENT:none

NOT VOTING: none

APPROVED this 14th day of May 2013.

William W. Massengill, Jr.,  
MAYOR, of the Town of Benson

ATTEST: Connie S. Sorrell, City Clerk

Published the 30th day of May, 2013.

## **SECTION 15 – Appendix 1: General Provisions**

### **§52.048 Responsibility for Operation of System**

The operation of the sewerage system of the town and the duty of prescribing and enforcing a full compliance with all the rules and regulations governing house connections and all other connections with the public sewers shall be vested in the Town Manager of the town, or his authorized agent.

### **§52.049 Administrative Authority**

Except as otherwise provided herein, the Superintendent of the town POTW shall administer, implement and enforce the provisions of this chapter.

### **§52.050 Tampering with or Injuring Sewer System**

- (A) No person shall injure, break, remove or obstruct any portion of any manhole, flush tank or any part of the public sewers.
- (B) No person, firm or corporation, shall injure, break or remove any portion of any manhole, flush tank, basin or any part of the sewer system or throw into or catch, deposit in or cause to be thrown into or deposited in any sewer opening or receptacle connecting with the sewer system any garbage, offal, dead animals, vegetable parings, ashes, rags, newspapers or other like paper or any other material or thing whatsoever, except in water closets, then permitting only feces, necessary water closet paper and liquid house slops.

### **§52.051 Amendments**

These rules, regulations and specifications may be altered, amended and added to by the Board of Commissioners whenever such may be deemed advisable by said Board.

## **SECTION 16 – Appendix 2: Private Disposal Systems**

### **§52.052 Use of Toilet Tissue in Water Closets or Privies**

- (A) In water closets connected with sewerage system of the town, no paper shall be used for toilet purposes' except toilet tissue paper.
- (B) The finding by the superintendent of the said sewerage system or other inspection officer, in any of said water closets or privies of any kind of paper, shall be prima facie evidence of the use of paper other then said toilet tissue paper.

### **§52.053 Septic Tanks**

Septic tanks may be installed where the sanitary sewer is not reasonably accessible, provided such tank is constructed in accordance with the specifications of the State Board of Health, and a permit therefor is issued by the Town Manager or other designated official.

## **SECTION 17 – Appendix 3: Sewer Connections and Usage**

### **§52.054 Connection to, Use of Public Sewer System Required**

It shall be unlawful to use or maintain any residence or other building in the town which is located on a lot abutting on the town sewer line, said residence or building being not more than 200 feet from the same, where one or more persons live, or congregate, unless such residence or building be provided with flush closet or closets connected with the town sewer, provided water is available from a Town main within 200 feet from said residence or building.

### **§52.055 Permit Required Application**

No person, corporation or firm shall connect with the sewerage system of the Town until they shall have made application for permission to so connect in writing to the Town Manager.

- (A) The application shall be made before any portion of the drainage system of the house or other connection shall have been laid or constructed, and said application shall be accompanied by a plan or drawing showing in detail the location of the building and the entire proposed connection from the public sewerage through the house to its terminus showing the location of all fixtures, traps, ventilating pipes and the like, and shall state the number of the place, name of the street and name of person, corporation or company and the nature of the sewerage that is proposed to be emptied into or passed through the proposed connection, and shall contain a specific agreement to obey and abide by any Board of Commissioners for the protection of said sewerage system; and to restrict, regulate and control the use of the same and the connections therewith.
- (B) Said application shall also give permission to the representative of the town to enter the premises of the applicant at any time to look after or attend to anything connected with said sewer; and shall have received a permit from said town in writing, signed by the Town Manager.
- (C) All permits to connect with the public sewers shall be given upon the condition that the Town Manager may at any time before completion of the connection revoke and annul the permit when the work is not being properly executed. And so party interested shall have a claim for damages as consequence of such permit being revoked or annulled.

### **§52.056 Plans for Connections; Reports and Records**

It shall be the duty of the Plumbing and Sewer Inspector to inspect applications and plans on file for making house and other connections and to accept, reject or make such alterations in such plans as he may deem necessary to the securing of proper sanitary house and other connections with the public sewer. And the said Plumbing and Sewer Inspector shall keep a record of all applications, permits, certificates and notices and report every month to the Town Manager and file all notices, applications, plans and the like, with the Town Manager to be filed by him in the town vault.

### **§52.057 Expenses**

Where the owner of as many as four houses in any block in the town shall signify his desire to connect with said sewer systems or either of them and shall contract to so connect, and the said system or systems shall be at the time within 300 feet of the block on which said property is located in the town, then the said town at its own expense shall extend such system or systems sought to be connected with so that the said property owner may connect with said system or systems provided that the connection fees for connecting with the water system shall be \$250.00 for each house connected.

**§52.058 Use of Sanitary Sewer Limited**

No person, firm or corporation shall directly or indirectly connect any open gutter with any sanitary sewer, but same shall be connected with storm sewer or with the gutter. No inflow sources, as defined in 52.056 through 52.059 shall be connected with the sanitary sewer, but same shall be connected with storm or with gutter.

**§52.059 Specifications**

- (A) House drains shall be construction in accordance with applicable sections of the most recent State Building Code.
- (B) Soil and vent pipe shall be constructed in accordance with the applicable sections of the most recent State Building Code materials used in construction of soil and vent pipes shall meet the requirements of the most recent State Building Code.

**§52.060 Street Protection**

Everyone licensed to make connections with the public sewers, as well as the owner of the premises who is having the connections made shall be subject to all the ordinances of the town in regard to the care of the streets, and they shall be liable for injury thereto.

**§52.061 Discontinuance of Connections**

The Town Manager shall have power to prevent or discontinue any connection with the public sewer which discharges any substance liable to injure the sewers or obstruct the flow of sewerage.

**§52.062 Extensions; Sections Distant From System**

The extensions of said of said water of sewerage system to other sections of the town lying more than 300 feet from any portion of such system or systems, shall be made upon such terms as shall be reasonable, due regard being had in each particular case to the cost of extending the system and the advantages and benefits to be gained by such extension.

**§52.063 Installation of Storm Sewers**

- (A) On all streets being maintained by the town as of August 17. 1971 the town will furnish all labor and equipment to install storm sewer pipe in ditches on these streets and also in ditches of lots abutting these streets if these ditches carry street water and if the property owners abutting the ditches to be filled will pay the actual cost of the necessary pipe either on a cash-in- advance basis or on a five year installment plan (1/5 each year plus 6% interest on deferred payments), after submission of a petition to the Town Manager signed by a majority of the abutting property owners who also own a majority of the abutting property footage. (When ditches are on a property line dividing two private property owners, the cost of the pipe could be shared by the owners on each side of the ditch and lighten the load of each owner.)
- (B) On all streets developed and/or annexed after the above date of August 17, 1971, the developers or property owners will bear 100% of the cost fo the storm sewer installation. If funds be available the town will upon petition as above, finance the project over a five-year period as outlined above.

**§52.064 Placing of Substances in Sewers Restricted**

There shall be no substance either solid or liquid, put into the public sewers of the town at manholes, or in any other way than through a connection made as herein provided, except when the main sewer is one foot or more in depth. In that event the house connection may be carried to the manhole provided a cast iron drop is built inside or just outside the manhole.

**§52.065 Fats, Oils and Greases Control Ordinance**

(A) Scope and Purpose

To aid in the prevention of sanitary sewer blockages and obstructions from contributions and accumulation of fats. Oils. And greases into said sewer system from industrial or commercial establishments, particularly food preparation and serving facilities.

(B) Definitions

1. Fats, Oils and Greases. Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136 as may be amended from time to time. All are sometimes referred to herein as "Grease" or "Greases".
2. Grease Trap or Interceptor. An approved device for separating and retaining waterborne Greases and Grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system. Grease Traps and Interceptors are sometimes referred to herein as "Grease interceptors".
3. Cooking Establishment. Those establishment primarily engaged in activities of preparing, serving, or otherwise making available for consumption foodstuffs and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sauteing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing. Such establishments include, but are not limited to, restaurants, cafeterias, extended care facilities, school cafeterias (public or private), and day care facilities where meals for more than six (6) children are prepared, served or otherwise made available for human consumption.
4. Non-Cooking Establishments. Those establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving establishments.
5. Minimum Design Capability. The design features of a Grease Interceptor and its ability or volume required to effectively intercept and retain Grease from grease-laden wastewater discharged to the public sanitary sewer.
6. User. Any person, including those located outside the jurisdictional limits of the Town, who contributes, causes or permits the contribution or discharge of

wastewater into the POTW, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.

(C.) Grease Interceptor Maintenance, Record Keeping, and Grease Removal.

1. Grease interceptors shall be installed by Users as required by the Public Works Director of he designee. Grease interceptors shall be installed at the User's expense, when such User operates a Cooking Establishment. Grease interceptors may also be required in non-cooking or cold dairy and frozen foodstuffs establishments and other industrial of commercial establishments when they are deemed necessary by the Director of Public Works/Wastewater Superintendent for the proper handling of liquid wastes containing grease. No user shall allow wastewater discharge concentration form subject Grease interceptors to exceed 325 milligrams per liter, as identified by method EPA Method 1664 or 275 milligrams per liter, as identified by EPA method 413. All grease interceptor shall be of a type, design, and capacity approved by the Public Works/ Wastewater Superintendent or his designee and shall be readily snd easily accessible for user cleaning and Town inspection. All such grease interceptors shall be serviced and emptied of accumulated waste content as required in order to maintain Minimum Design Capability or effective volume of the grease interceptor, but neo less often then every thirty (30) days. Users who are required to pass water through a grease interceptor shall:
  - (a) Provide for a minimum hydraulic retention time of twenty-four (24) minutes at actual peak flow or 12 minutes at the calculated theoretical peak flow rate as predicted by the Uniform Plumbing Code fixture criteria, between the influent and effluent baffles with twenty (20) percent of the total volume of the Grease Interceptor being allowed for sludge to settle and accumulate, identified hereafter as a "sludge pocket".
  - (b) Remove any accumulated Grease cap and sludge pocket as required, but at intervals of not longer than thirty (30) days at the users expense. Grease Interceptors shall by kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into this pocket and thereby reduce the effective volume of the Grease Interceptor.
  - (c) Accept the following conditions: If any skimmed or pumped wastes or other materials removed from Grease Interceptor are treated in any fashion onsite and reintroduced back into the Grease Interceptor as an activity of and after said onsite treatment , the User shall be responsible for the attainment of established grease numerical limit consistent with and contained in (C) (1) on all discharges of wastewater from said Grease Interceptor into the Town of Benson sanitary sewer collection and treatment system.
  - (d) The User is required to ensure that all waste material removed from grease traps and interceptors are disposed of in a manner that complies with all federal, state and local statues, rules regulations, policies and ordinances.

- (e) The User shall maintain a written record of trap maintenance for three (3) years. All such records will be available for inspection by the Town at all times.
- (f) Operate the Grease Interceptor in a manner so as to maintain said device such that attainment of the grease limit is consistently achieved "Consistent" shall mean any wastewater sample taken from said Grease interceptor shall be subject to terms of numerical limit attainment described in (C)(1). If an establishment desires, because of documented space constraints, an alternate to an out-of -building Grease Interceptor, The request for a alternative location shall contain the following information.
  - (1) Location of Town sewer main and easement in relation to available exterior space outside building.
  - (2) Existing plumbing at or in a site that uses common plumbing for all services at that site.
- (g) Understand and agree that: The use of biological additives as a grease degradation agent is conditionally permissible, upon prior written approval by the Director. Any establishment using this method of grease abatement shall maintain the trap or interceptor in such a manner that attainment of the grease wastewater discharge limit, as measured from the trap's outlet, is consistently achieved.
- (h) Understand and agree that: The use of automatic grease removal systems is conditionally permissible, upon prior written approval by the Director of Public Works/Wastewater Superintendent, of the Town of Benson, and the Johnston County Department of Health. Any establishment using this equipment shall operate the system in such a manner that attainment of the grease wastewater discharge limit, as measured from the unit's outlet, is consistently achieved.
- (i) Understand and agree that: The Director of Public Works/Wastewater Superintendent reserves the right to make determinations of Grease Interceptor adequacy and need, based on review of all relevant information regarding Grease interceptor performance, facility site and building plan review and to require repairs to, or modification of replacement of such traps.
  - (j) Upon the prior written approval of the Public Works Director, non-cooking establishments may be exempted from the requirements of this ordinance after an inspection of the subject premises and submission of adequate supporting documentation, as deemed necessary in the sole and absolute discretion of the Public Works Director. At a minimum, such supporting, documentation shall include; blue prints at the subject premises, and a full and detailed list of all potential sources of grease at the subject premises.
  - (k) Grease traps and interceptors may also be required in other facilities, as deemed necessary by the Town's designated Enforcement Official or Public Works Director. Impact and (ii) such overflow, spill leak or other event may attributed in part or in whole to a particular User, then the Town will

seek enforcement action under the Sewer Use Ordinance, and/or the Pretreatment Enforcement Plan. For purposes of this section and overflow, spill, leak or other event shall be deemed to have an environmental impact when (i) such overflow or other event in volume and amount of wastewater equal to or in excess of one thousand (1000) gallons, or (ii) any amount of wastewater reaches any body of surface water.

- (l) No non-grease laden sources are allowed to be connected to sewer lines intended for Grease Interceptor service.
- (m) Users shall supply (i) an adequate sampling point down stream of grease trap or interceptor, prior to mixing with other sanitary flows, and (ii) an accessible entry into each chamber of the grease trap or interceptor. The minimum requirement for the sampling point shall be a four-inch (4") vertical clean out.
- (n) Access manholes, with a minimum diameter of 24 inches, shall be provided over each chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities. All manhole Construction shall conform to the Town of Benson's specifications.
- (o) Users shall empty and service grease traps and interceptors to comply with the performance criteria in Section C (1) of this ordinance as often as necessary, but in any event no longer than every thirty (30) days. Under the counter types of grease traps and interceptor shall be cleaned at least daily, and shall comply with the performance criteria in Section C of this ordinance. There shall be no reintroduction of wastewater back into the grease trap or interceptor unless and until said wastewater has been proven to contain 325 mg/l or less of grease. Under no circumstances shall the sludge or scum layer be reintroduced to discharged into the Town's wastewater collection system or POTW.

(D) Enforcement

- (1) No later than one (1) year after adoption of this ordinance all users shall install grease traps or interceptors designed to limit the introduction, contribution and discharge of grease into the Town's wastewater collection system, or POTW. Grease traps and interceptors with appropriate sampling or inspection points shall be installed at the user's expense whenever any user operates a commercial establishment, industrial establishment, or a cooking establishment, or when required by the Director of Public Works. Grease Traps and interceptors must have a minimum capacity of one thousand (1000) gallons or more as required to offset a grease concentration maximum of 325 mg/l.
- (2) Except as provided herein, for a period of one year following adoption of the ordinance, although installation of grease interceptors will be required to be installed, no enforcement action will be taken under the ordinance for failure to achieve limits on grease discharge from grease interceptors.

- (3) If an obstruction of a Town sewer main(s) occurs that causes a sewer overflow to the extent that an impact on the environment is realized and that said overflow of failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease in the Town's sewer main(s), the Town of Benson will take appropriate enforcement actions, as stipulated in the Town's ordinance, against the generator or contributor of such grease.

(E) Penalty

- (1) Any person, firm or Corporation violating any provisions of the Fats, Oil and Grease control Ordinance shall be subject to a civil penalty not to exceed \$1000 per day plus costs outlined in (52.050) (E2 and 3) as set forth in the Fats, Oil and Grease (FOG) Enforcement Matrix.
  - (a) A citation for said civil penalty shall be issued by the Town Manager.
  - (b) Each citation for a civil penalty must be paid within a specified number of days after issuance.
  - (c) Each and every day that the violations continues in violation of any provision of the Fats, Oil and grease control Ordinance shall be a separate and distinct offense.
- (2) In addition to the Enforcement Matrix the violator shall be responsible for the reimbursement to the Town of Benson of all expenses that the town incurs due to the violation. These expenses include but are not limited to equipment cost, material cost, labor cost, for site remediation and cost recovery of a sanitary sewer overflow.
- (3) The violator of shall also be responsible for all costs associated with a public or private penalty against the town due to any fats, oils and grease ordinance violation.

**§52.066 Discharge by Septic Tank Service Companies**

Septic Tank service contractors, who have been permitted by the controlling State Authority and the Johnston County Health Department, may be permitted by the Town of Benson to discharge residential septic tank wastes at the Benson Wastewater Treatment Plant.

The discharge of such wastes shall be subject to the procedures and limitations established by the Superintendent. Such wastewater shall have prior written approval of the Superintendent before being discharged. No toxic substances, petroleum-based grease, commercial grease traps and/or oil of any type, shall be accepted. This discharge is subject to the following minimum limitations and conditions:

- (A) The contractor shall empty all wastewater only at the designated structure at the Wastewater Treatment Plant and shall be responsible for keeping this area clean.
- (B) The contractor shall provide accurate and complete information as to the origin of the wastewater.
- (C) Discharge of any wastewater other than from residential septic tanks is forbidden without special permission from the Superintendent and only after laboratory analyses of the waste. The cost of the laboratory analyses shall be paid by the contractor.

- (D) Spot checks shall be made at the discretion of the Superintendent and laboratory analyses performed. Should any wastewater be found in violation of the Ordinance, the following penalties shall be assessed the contractor:
- (E) Septic tank Waste will be accepted from the following areas only:
  - (1) That portion of Johnston County south of NC-210, SR-1335, SR-1162 and US 701.
  - (2) That portion of Harnett County north of NC-421, east of NC-55 and south of NC-210
- (F) Penalties
  - 1st offense – Written warning of violation
  - 2nd offense - \$500.00 fine
  - 3rd offense - Permission to discharge septic tank wastes at the Benson Treatment Plant shall be revoked.

**§52.067 Prohibition of Discharge of Wastewater to Surface Courses**

The discharge of treated or untreated domestic sewage or industrial wastes to any storm sewer, pond, open ditch, stream or watercourse is not allowed within the POTW's jurisdictional area, except that uncontaminated non-contact cooling water may be discharged provided that such discharge is constructed and operated within the laws of the State of North Carolina. However, where the Board of Commissioners decides that it is not in the best interest of the Town to accept any particular industrial waste into its sanitary sewer, such waste may be discharged within the Town provided such discharge meets the requirements of the State of North Carolina and the discharge is approved by the Board of Commissioners.

Plumbing shall be inspected by the POTW Director after such work has been completed and prior to the time the connection is covered.

**SECTION 18 – Appendix 4: Ground Water Remediation**

**§52.068 Purposes of This Policy**

The stated purposes of this policy are to protect the employees of the Town of Benson, the public health, the environment; equipment, materials, processes, and operations of the publicly owned wastewater treatment facilities from adverse or hazardous conditions. And to ensure the ability of the Benson wastewater treatment facility to meet its NPDES permit discharge limitations. And to protect the Town of Benson from undue expenses resulting from the discharge of groundwater remediation systems. In keeping with these stated purposes, this policy sets forth general information needed and/or guidelines for the issuance of Special Use Discharge Permits to these types of dischargers.

This document shall serve as a basis for Town of Benson's public policy regarding any entreating groundwater remediation or similar activity operator, (hereinafter referred to as Operator). It shall not be construed as replacing, substituting for, or in any way differing from the limitations and/or restrictions otherwise regulated by the Federal, State or the Town of Benson's Sewer Use Ordinance. The policy applies only to groundwater remediation discharges originating within 'the confines of the Town owned domestic sewer system. Remediation wastewater originating outside of the confines of the Town owned domestic sewer system WILL NOT BE ACCEPTED.

**§52.069 Information Required Prior to Issuance of Special use Discharge Permit**

The following is a list of minimum information to be submitted to the Town's Pretreatment Director (hereinafter referred to as the Director) for issuance of a Special Use Discharge Permit. Submission of the information will not ensure issuance of a Special Use Discharge Permit nor will such submission prevent the Director or his representative, from requesting additional information deemed necessary due to the nature of the remediation activity.

- (A) A completed Industrial User Application (from the Town).
- (B) A detailed written narrative describing the history of the ground remediation site, the need for the remedial activity, proposed daily operations, any temporary and permanent structures to be erected or constructed, and the planned timeframe of operations for each phase of the remedial activity, as applicable.
- (C) Complete a wastewater survey in as much detail as possible. The survey should include the projected maximum discharge rate, the projected average discharge rate, and the maximum and average expected concentrations of each pollutant suspected to be present in the discharge.
- (D) Submit full analytical data on all test wells with a summary of all components present above detectable limits.
- (E) An Engineering Report with any and all reports, plans, and specifications stamped and sealed by a North Carolina registered Professional Engineer. The Engineering Report is to include, but is not limited to, the following items:
  - (1) Detailed plans and specifications for proposed pretreatment facilities including design criteria and projected removal efficiency rates.
  - (2) Location and means of sample collection for pretreatment influent and effluent monitoring to establish treatment efficiency.
  - (3) Flow monitoring device specifications which must be capable of recording and totalizing flow and reading in gallons per day or million gallons per day. Alternatively, where pumped flow is involved, the plan may allow for calibration of pump discharge rates and use of pump-running time meters for flow discharge determination.
  - (4) Full remediation program description including scope of project, term of project, pumping rates, and summary of the means by which the requirements of this policy are to be met.
  - (5) Proposed point of discharge into sewer system.
- (F) State Regulatory Certification will be required by an official with the Operator stating that all State and Federal regulatory requirements have been met.

**§52.070 General Conditions**

The following general conditions represent the policy of the Town of Benson for any groundwater remediation operation, or any similar type, operation entreating to discharge wastewater into the Town's sewer system. These conditions shall be further addressed in any Special Use Discharge Permit issued by the Director, the Town's Sewer Use Ordinance, State, or Federal regulations.

- (A) The discharge of the Operator shall be subject to, following complete application and approval of the Director, the regulations and limitations of the local pretreatment program and this policy.
- (B) Best Available Technology (BAT) shall be required of the Operator to comply with the limitations of the Operator's Special Use Discharge Permit. Compliance with Special Use Discharge Permit limits must be documented in accordance with the procedures established in Section II prior to commencement of continuous discharge.
- (C) Operation and maintenance records are to be complete and maintained by the Operator and are to be made available for inspection by the Director or his representative upon request.
- (D) Effluent from the Operator's pretreatment facility, prior to entering the Town's wastewater system, shall comply with all State of North Carolina Water Quality Standards unless more restrictive levels are specifically set forth in the Special Use Discharge Permit. See Section 52.069.
- (E) The Operator's Special Use Discharge Permit may stipulate discharge levels of a certain pollutant(s) in excess of the State's water quality standards that can be adequately treated and discharged by the Town's wastewater treatment facility. The Permit may also stipulate limits for pollutants not listed in the State Water Quality Criteria. Such limits, if established, will be based on the limits of what is technologically achievable. If the Director determines that even with application of best available technology that the best interests of the Town would not be served by acceptance of the remediation wastewater, then permission to discharge the pollutant into the POTW may be denied.
- (F) Enforcement actions for permit and/or sewer usage violations by the Operator shall be as described in the Town's Sewer Use Ordinance.
- (G) A comprehensive sludge management plan shall be submitted to the Director 30 days prior to the removal of solids. The plan shall detail step by step, the procedure proposed for solids removal and disposal. This condition is applicable to pretreatment systems that produce solid residuals.
- (H) The Operator will be prohibited from discharging holding or equalization lagoon sediments to the POTW.
- (I) The Town reserves the right to terminate, modify and/or reissue any Special Use Discharge Permit. A 30-day notice will be given by the Town to the Operator in such cases. Reissuance or modification of a permit may be due to changes in local, State, or Federal regulations, unacceptable changes in the Operator's procedures, monitoring test results, noncompliance with current permit conditions and/or process control problems at treatment plant.
- (J) The Operator shall also be comprehensively responsible for storm water management at the groundwater remediation site(s), any pretreatment facility site(s), and any other applicable site(s) in compliance with all State and Federal regulations.

**§52.071 Fees and Charges**

The following fees and charges shall be assessed groundwater remediation discharge operators:

- (A) Normal Sewer Connection Fees and User Charges shall apply. User charges shall be based on the actual quantity of wastewater discharged to the sewer system at the current Outside Town Limit rate/1000 gallons fee schedule.

- (B) Administrative Charges: The Permit Applicant will be required to reimburse the Town at a rate of \$15.00/hour for Permit preparation and other required paper work.
- (C) Application Specific Review Charges: Groundwater remediation discharges will often require the Town to utilize the services of outside engineering consultants to conduct technical reviews and evaluations. Under these circumstances, the Permit Applicant (Operator) will be required to reimburse the Town for any costs it has incurred in using outside consultants to review an application and establish permit conditions.
- (D) Wastewater Monitoring Charges: The Town will inspect, sample, and have tested by a commercial laboratory groundwater remediation discharges no less than twice per year and more often when, in the opinion of the Director, it is necessary to protect treatment processes at the treatment plant. The Operator will be required to reimburse the Town for any costs incurred during inspections, sampling, and testing the discharges. Costs will be determined as direct labor costs, including the costs of benefits prorated on an hourly rate basis, sample shipping costs, sample container costs, and laboratory fees.
- (E) NPDES and Sludge Monitoring Costs: Should the Town be required by State or Federal agencies to increase monitoring of Its wastewater treatment facilities or sludge to include pollutants associated with groundwater remediation, than a schedule of charges will be developed that apportions the cost of that additional monitoring to all groundwater remediation discharge Operators discharging those pollutants.
- (F) Self-Monitoring Costs: Groundwater dischargers will be required to conduct self-monitoring. Testing of required parameters and testing frequencies will be set fourth in the Special Use Discharge Permit issued each for discharger. All costs for self-monitoring will be borne by the Operator.
- (G) Damages to the System: The Operator will be liable for all costs of any damage caused by the groundwater remediation discharge, this includes any damage to the sanitary sewers, wastewater treatment plant equipment and/or treatment plant processes and fines levied by the state for non-compliance due to plant process upset condition at a current replacement cost basis.

**§52.072 Specific Town Policy**

The Town of Benson will consider acceptance of groundwater remediation wastewater ONLY as receiver of last resort after the Owner has exhausted all other potential remedies before considering the use of the Town system. The Town of Benson further stipulates that if it accepts the groundwater remediation discharge at all, it will do so only after the wastewater has been pretreated using the best available technology.

**§52.073 Procedure for the Verification of Pretreatment System Efficiency Prior to Discharge to POTW**

- (A) Intent:  
Groundwater remediation discharges generally involve materials that are flammable, toxic, mutagenic, carcinogenic, or otherwise potentially harmful to the POTW personnel, equipment, processes or the environment. Accordingly, the Town of Benson will require extraordinary measures to be taken to demonstrate the capabilities of any pretreatment system utilized prior to the allowing of any discharge into its system from a groundwater remediation system.

(B) Purpose:

The purpose of this procedure is to operate the pretreatment system under normal conditions, verify its performance by actual wastewater testing, and only after the testing has occurred and substantiated the capability of the pretreatment system, to allow a discharge to the sanitary sewer system to occur. This will be done by requiring that the discharge from groundwater remediation systems be first directed to one or more holding vessels, the quality of the water determined by laboratory testing, and only upon receipt of satisfactory test results, a discharge be allowed. The Director will determine on a case by case basis whether or not this procedure will be followed on a continuous basis, or only during the start-up phase for the groundwater remediation program. In making this determination the Director will consider:

- (1) The specific nature of the pollutants involved
- (2) The concentration of the pollutants in the wastewater before pretreatment,
- (3) The rate of flow of the wastewater.
- (4) All timeframes involved.
- (5) The vulnerability of the pretreatment system employed to mechanical failure and operational failures.

C. Procedure:

Upon receipt of a Special Use Discharge permit the Operator will construct all required pretreatment facilities and provide one or more storage vessels. The storage vessel(s) will be sized to hold not less than one day's wastewater production. The pretreatment system will be put into operation and its discharge directed to the holding vessel. After the holding vessel is filled, the Operator, at his option, may either cease discharging or direct the discharge to another holding vessel(s). The filled vessel will be sampled and tested. If the test results verify that the wastewater meets the Special Use Discharge Permit Conditions, it can then be discharged to the sewer system. If the test results show that the wastewater does not meet the Special Use Discharge Permit Conditions, then the wastewater shall be retreated and tested again until such time as it does meet permit conditions. The Owner may, at the Owner's option, use multiple storage vessels, so that one or more vessels are being filled while others are being tested. All storage vessels shall be equipped with devices that allow ' the rate of flow of the discharge from the vessels to be controlled. The Director will establish and inform the Owner of the appropriate setting for the devices.



Section

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### ***GENERAL PROVISIONS***

#### **§ 53.001 USE OF TOWN WATER.**

(A) No consumer will be allowed to supply or sell water to other persons, families or corporations, nor shall any person take or carry away water from any hydrant, watering trough or public fountain.

(B) The fire hydrants are for the use of the Fire Department for fighting fires and are not to be used by any unauthorized person for any purpose, without permission from the Town Manager.  
(1990 Code, § 53.01) Penalty, see § 53.999

#### **§ 53.002 PRIVATE WATER SUPPLY.**

(A) It shall be unlawful for any person, firm or corporation to furnish, supply or provide, for gain or profit, any water from a private well or pumps in or to any dwelling house, boarding house, inn, hotel, café or other commercial establishment, or any room or rooms of the same, when the dwelling house or any room or rooms therein are rented, or offered for rent to the public, or when the boarding house, inn, hotel, café or other commercial establishment is open to, or used by, the public, unless and until an analysis of the water from the private well or pump shall have first been submitted to and approved by the Town Manager.

(B) The water analysis referred to in division (A) above shall be made by or under the direction of the County Board of Health or the State Department of Public Health.

(C) If the water analysis bears the approval of either of the authorities referred to in division (B) above, the Town Manager shall approve the same by endorsing thereon the word “approved” and affixing thereto his or her signature as Town Manager. If, however, the analysis shows that the water is contaminated and unfit for human consumption, the Town Manager shall not approve the analysis, but shall deliver the analysis to the Mayor and Board of Commissioners of the town, which the Board may disapprove the analysis and return the same to its owner.  
(1990 Code, § 53.02) Penalty, see § 53.999

#### **§ 53.003 TAMPERING WITH OR OBSTRUCTING WATER LINES.**

(A) No person shall touch, tamper or in any manner manipulate or turn the cut-offs on the water mains forming a part of the water system of the town, nor shall any person tamper with or harm in any manner whatsoever any water line, main or any appurtenance thereto.

(B) No person shall throw or deposit any material or substance in any water line that will in any manner obstruct the line.  
(1990 Code, § 53.03) Penalty, see § 53.999

## ***WATER CONNECTIONS***

### **§ 53.015 WATER CONNECTIONS REQUIRED.**

(A) It shall be unlawful to use or maintain any residence or other building in the town which is located on a lot abutting on a town water line, the residence or building being not more than 200 feet from the same, where one or more persons live, congregate or conduct business, with the residence or building designed so as to provide water usage to occupants, unless the residence or building is connected with the town water system, provided, water is available from a town main within 200 feet from the residence or building.

(B) Following annexation of an area into the town, all residences and other buildings in the area, designed so as to provide water usage to occupants that are located on a lot abutting on a town water line, the residence or building being not more than 200 feet from the same, where one or more persons live, congregate or conduct business, shall connect with the town water system within one year (12 months) of the provision of a town water main within 200 feet from the residence or building, the provision to be provided either on date of annexation or within the 12 months immediately following the date of annexation.

(1990 Code, § 53.15) (Ord. passed 4-12-1983) Penalty, see § 53.999

### **§ 53.016 PERMIT FOR CONNECTION REQUIRED.**

No person, firm or corporation shall connect with the water system of the town until he, she or it shall have made application for permission to so connect in writing to the Town Manager and the application shall be made before any part of the drainage system of the house or other connection shall have been laid or constructed and the application shall be accompanied with a plan or drawing showing the location of the building and the entire proposed connection from the public sewerage line through the building to its terminus, showing the location of all the fixtures, traps, ventilating pipes and the like, and shall state name of the street and name of the person, firm or corporation.

(1990 Code, § 53.16) Penalty, see § 53.999

## ***RATES AND CHARGES***

### **§ 53.030 WATER RATES.**

The Board of Commissioners and the Town Manager shall determine water rates and connection charges from time to time, which shall be kept on file in the office of the Town Manager.

(1990 Code, § 53.30)

## ***ADMINISTRATION***

### **§ 53.040 CONTROL OF SYSTEM.**

The water system of the town shall be under the control of, and the duty of prescribing and enforcing a full compliance with all the rules and regulations governing all connections with the public water system, shall be vested in the Town Manager or his or her authorized agent.

(1990 Code, § 53.40)

**§ 53.041 WATER SUPERINTENDENT.**

The Town Manager may select some competent person to supervise, under his or her general control, the entire water system of the town. The Manager may from time to time prescribe the duties and responsibilities of the Superintendent. The Superintendent, or his or her assistant, shall, at all reasonable hours, have free access to all premises for the purpose of examining hydrants, fixtures or connections on which town water pressure is maintained.

(1990 Code, § 53.41)

***WATER SHORTAGE AND CONSERVATION***

**§ 53.055 INTRODUCTION.**

(A) The purpose of this subchapter is:

(1) To implement permanent seasonal water conservation measures;

(2) To provide for the declaration of increasingly serious stages of water shortages; and

(3) To define mandatory water conservation measures to be implemented during these various stages.

(B) This subchapter is intended to preserve the water resources of the Town of Benson under specific conditions so that the water demands for human consumption, sanitation and fire protection of its customers can be met as cost-efficiently as possible throughout the service area of the Town of Benson, North Carolina.

(C) This subchapter shall apply to all users connected directly or indirectly to the Town of Benson public potable water supply, regardless of whether the user is located within the city limits or outside of the city limits.  
(Ord. passed 8-13-2003)

**§ 53.056 OBJECTIVES.**

The specific objectives of this subchapter are as follows:

(A) To establish permanent seasonal water conservation measure for all customers in the interest of conserving the town's water supply;

(B) To establish the authority of the Town Manager of the Town of Benson to declare water shortage conditions and to implement and enforce the procedures established herein;

(C) To establish mandatory water conservation measures; and

(D) To establish enforcement protocol for violations of mandatory water conservation measures outlined herein.

(Ord. passed 8-13-2003)

## § 53.057 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

**CONTAMINATION.** The addition to any watershed area, reservoir, storage tank or distribution system of any material that appears in an above-normal concentration or has high nuisance or harmful effect on the consumer or the system.

**EMERGENCY.** When referring to water shortage, shall mean that conditions exist such that treated water supplies cannot meet customer demands and that serious treated water shortages exist.

### **ESSENTIAL USE.**

(1) Use of water to sustain normal life and the lives of domestic pets, and to maintain minimum standards of hygiene and sanitation;

(2) Use of water for patient care and rehabilitation;

(3) Fire fighting (includes certain testing and drills by the Fire Department if conducted in the interest of public safety and if approved by the Town Manager); and

(4) Health and public protection purposes, if specifically approved by health officials and the Town Manager (includes flushing of water lines and hydrants).

**HAND WATERING.** The use of a hand-held watering device. The device can be attached to the end of a garden hose but must be attended (and held in the hand of) a person at all times that watering is taking place.

**MANDATORY CONSERVATION.** That conservation measures are not voluntary and that if users fail to comply, they are subject to the penalties outlined herein.

**PERSON.** Any natural person, any group of persons, any firm, partnership, association, corporation, company or any other organization or entity.

**POTABLE WATER.** The water in the Town of Benson water distribution system.

**RATIONING.** Procedures established by the Town of Benson to provide for the equitable distribution of critically limited treated water supplies, in order to balance demand and limited availability, and to ensure that sufficient treated water is available to preserve public health and safety.

**SHALL.** Is mandatory; **MAY** is permissive.

**TOB.** The Town of Benson acting through its Town Manager.

**USER.** Any person using water for any purpose from the Town of Benson 's water distribution system (either directly or indirectly) and for which either a regular charge is made or, in the case of bulk sales, a cash charge is made at the site of delivery.

**WATER SHORTAGE.** That conditions exist when the demands and requirements of water customers served by the Town of Benson cannot be satisfied without depleting the available supply of potable water or the available water supply to or below a critical level, i.e., the level at which the continued availability of water for

human consumption, sanitation and fire protection is jeopardized. Conditions contributing to a water shortage may include but are not limited to the following:

(1) Water supplies are below the level necessary to meet needs;

(2) Water quality has been threatened due to a contamination situation;

(3) Power outages or equipment malfunction;

(4) Peak customer demands on the water system;

(5) Inability to maintain adequate pressure and/or water supply throughout every portion of the Town of Benson water distribution system; and

(6) Natural disasters.

(Ord. passed 8-13-2003)

#### **§ 53.058 VOLUNTARY SEASONAL WATER CONSERVATION MEASURES.**

Every Town of Benson customer is encouraged to comply with the following schedule for the irrigation of outdoor landscaping (such as grass, shrubbery, trees, flowers and vegetable gardens) from May 1 through September 30 annually.

(A) Irrigation shall be limited to the hours of 7:00 p.m. to 7:00 a.m.

(B) For customers whose address numbers end in an even digit, the watering shall be restricted to Tuesday, Thursday or Saturday.

(C) For customers whose address numbers end in an odd digit, the watering shall be restricted to Wednesday, Friday or Sunday.

(D) Exceptions to these restrictions (on a temporary one- to three-day basis) may be granted for persons engaged in the business of landscaping on a site-by-site basis, by permit issued by the Town of Benson.

(Ord. passed 8-13-2003)

#### **§ 53.059 WATER CONSERVATION STAGE I; WATER SHORTAGE WARNING.**

(A) Whenever the Town of Benson experiences a potential water shortage, the Town Manager shall be empowered to declare a water shortage warning.

(B) An extensive publicity campaign will be initiated with conservation efforts publicized through the general news media or any other appropriate method for making the notification public.

(C) When water shortage warning conditions are declared, the following mandatory conservation measures shall be imposed: it shall be unlawful to use water from the public water system supplied by the Town of Benson for the following purposes:

(1) To water lawns, grass, shrubbery, trees, flower and vegetable gardens except by hand watering on the schedule outlined under "voluntary seasonal water conservation measures." Provided, however, that any person regularly engaged in the sale of plants shall be permitted to use water for the purposes, and shall not be

restricted to hand watering;

(2) To wash automobiles, trucks, trailers, boats, airplanes or any other type of mobile equipment. Provided, however, that any person regularly engaged in the business of washing motor vehicles and any commercial car wash facility shall be permitted to use water for the purposes;

(3) To wash down outside areas such as streets, driveways and service station aprons, parking lots and office buildings. Exteriors of existing or newly constructed homes or apartments, sidewalks or patios, or to use water for other similar purposes. Provided, however, that any person regularly engaged in the business of washing the areas shall be permitted to use water for the purposes;

(4) To introduce water into any ornamental fountain pool, pond or other structure making similar use of water;

(5) To use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency or Water Department need;

(6) To use water for dust control, compaction or construction testing of new waterlines; and

(7) To intentionally waste treated water.

(D) The owner or occupant of any land or building which either:

(1) Receives water from the Town of Benson and that also utilizes water from a well or supply other than that of the Town of Benson; or

(2) Is in the city limits and uses a well or pond for irrigation purposes, shall post and maintain in a prominent place thereon a sign furnished by the Town of Benson (for a fee) giving public notice of the use of the well or other sources of supply.

(Ord. passed 8-13-2003)

## **§ 53.060 WATER CONSERVATION STAGE II; WATER SHORTAGE EMERGENCY.**

(A) When the Town of Benson experiences a shortage of treated water, or when the water supply is not adequate to meet normal needs, the Town Manager shall be empowered to declare a water shortage emergency. The declaration shall exist for the duration of the shortage or until it is declared to have ended by the Town of Benson.

(B) In the event of a water shortage emergency, in addition to the restrictions heretofore imposed, the following mandatory water conservation measures shall apply. It shall be unlawful to use water from the public water system supplied by the Town of Benson for the following purposes:

(1) To water or sprinkle any lawn, grass, shrubbery, trees or flowers with treated water;

(2) To wash automobiles, trucks, trailers, boats, airplanes or any other type of mobile equipment;

(3) To wash down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of homes or apartments, sidewalks, patios or other similar purposes;

(4) To fill newly constructed swimming and/or wading pools or refill swimming and/or wading pools that have been drained;

(5) To serve drinking water in restaurants, cafeterias or other food establishments, except upon request;

(6) To use treated water outside a structure for any use other than an emergency use involving fire or as needed by the Town of Benson to maintain the water system; and

(7) To make any nonessential use of treated water for commercial or public use.  
(Ord. passed 8-13-2003) Penalty, see § 53.999

### **§ 53.061 WATER CONSERVATION STAGE III; WATER SHORTAGE CRISIS.**

(A) Whenever the Town Manager has declared a water shortage crisis and finds a need to provide for the equitable distribution of critically limited treated water, or water supplies to ensure that sufficient treated water is available to preserve public health and safety of the citizens, he or she shall enforce a water rationing policy.

(B) The rationing policy may be developed at the time of the declaration of the water shortage crisis and should be reflective of the following criteria:

(1) It is imperative that water customers achieve an immediate further reduction in water use in order to extend existing water supplies and, at the same time, assure that sufficient water is available to preserve the public health and sanitation and to provide fire protection service. This immediate further reduction in water usage is another step along a continuum of responses to any water shortage crisis. Should the crisis continue, further reductions in water usage may be required. It must be emphasized that additional usage reductions in the rationed area is a valid and attainable goal reflective of the conditions of the crisis.

(2) The policy must provide for equitable reductions in water usage and for equal sacrifice on the part of each water customer. The success of this policy depends on the cooperation of all water customers in the emergency area.

(3) The policy must ensure that fire protection is maintained where possible and tank trucks shall use non-potable water.

(4) The policy shall make it unlawful to fail to act in accordance with the restrictions on treated water use or to attempt to evade or avoid the water rationing restrictions.

(5) The policy may include additional measures of mandatory conservation controls such as a percentage reduction in consumption, termination of service to specific areas in the water system on a rotating basis, prohibition of all industrial uses of potable water and the like or whatever is necessary to protect the health and safety of the customers of the water system.  
(Ord. passed 8-13-2003) Penalty, see § 53.999

### **§ 53.062 REGULATIONS.**

(A) During the effective period of any water shortage, warning, emergency or crisis, the Town of Benson is empowered to promulgate the regulations or policies as may be necessary to carry out the provisions of this subchapter. The Town Manager of the Town of Benson, or his or her duly authorized agent charged with implementation and enforcement of this subchapter, shall be and is hereby granted the authority to implement and enforce any of the treated water use restrictions.

(B) The Town Manager shall have authority to implement, maintain and rescind any one or more of the above restrictions and to make them applicable during various times of the day as he or she deems appropriate to protect the public health, safety and welfare until he or she determines that the conditions requiring his or her imposition no longer exist.  
(Ord. passed 8-13-2003)

### **§ 53.063 ENFORCEMENT.**

(A) Any person who violates the provisions of this subchapter, who fails to carry out the duties and responsibilities imposed by this subchapter or who impedes or interferes with any action undertaken or ordered pursuant to this subchapter, shall be subject to enforcement actions.

(B) Enforcement actions may include, but are not limited to the following.

(1) *Notice of violation (NOV)*. Whenever the Town of Benson finds that any user has violated or is violating this subchapter or any prohibition, limitation or requirement contained therein, the Town Manager, or his or her duly authorized agent, shall serve upon such a person a written notice stating the nature of the violation. The written notice of the violation shall be:

(a) Mailed, certified with return receipt requested, to the customer of record and to any other person known to the Town of Benson who is responsible for the violation or its correction; or

(b) Hand delivered to the customer of record or to the person in charge of the premise where the violation(s) occurred. The NOV shall inform the user of the violation and his or her responsibility to halt the activity within a specified period of time.

(2) *Suspensions of service.*

(a) In the event any treated water use restriction implemented by the Town Manager is violated, the Town Manager shall terminate or restrict the service of the person(s) where the violation occurs and may, in addition thereto or in the alternative, take the other appropriate legal action as provided by law.

(b) At the time as the Town Manager is satisfied that the person is no longer in violation of any treated water use restrictions, the Town Manager shall reinstate the person's water service pursuant to the following:

1. After payment of a suspension/re-connection charge of \$75 for first time offenders;
2. After payment of a suspension/re-connection charge of \$300 for second time offenders;
3. After payment of a suspension/re-connection charge of \$500 for each additional violation; and
4. Civil penalties.

(c) The Town Manager shall assess a civil penalty of up to \$1,000 per violation to any offender who shall continue any violation beyond the time limit provided for in the aforementioned notice of violation. Each day in which a violation of any provision of this subchapter shall occur or continue, shall constitute a separate and distinct offense.

(d) In determining the amount of the civil penalty, the Town of Benson shall consider the following:

1. The degree and extent of the harm to the natural resources, to the public health or to public or private property resulting from the violation;
  2. The duration and gravity of the violation;
  3. Whether the violation was committed willfully or intentionally;
  4. The prior record of the violator in complying or failing to comply with the Water Shortage Response Ordinance; and
  5. The costs of enforcement to the Town of Benson.
- (Ord. passed 8-13-2003)

### ***WATER QUALITY PROTECTION/BACKFLOW PREVENTION***

#### **§ 53.080 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

***AIR-GAP SEPARATION.*** An unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle. An approved air-gap vertical separation shall be at least double the diameter of the supply pipe. In no case shall the air-gap be less than one inch.

***APPROVED.*** Certified in writing by the Building Inspector as an acceptable device or methodology for the purpose of backflow prevention.

***AUXILIARY INTAKE.*** Any piping connection or other device whereby water may be secured from a source other than public water supply.

***BACK-SIPHONAGE.*** Any circumstance in which the pressure on the public water supply may be reduced to the point that the elevation and atmospheric pressure on a source of water other than the public water supply may result in a pressure to be greater than the pressure on the public water supply and may result in a back flow.

***BACKFLOW.*** Any flow of water into the public water supply from any other source due to a cross-connection, auxiliary intake, interconnection, backpressure, backsiphonage, any combination thereof or other cause.

***BACKFLOW PREVENTION DEVICE.*** An approved effective device method used to prevent backflow from occurring in the potable water supply. The type of device required shall be based on degree of hazard, existing or potential.

***BACKPRESSURE.*** Any pressure on any source of water other than the public water supply that may be greater than the pressure on the public water supply and may result in a backflow.

**CERTIFIED TESTER.** A person who has proven his or her competency to test, repair, overhaul and make reports on backflow prevention devices as evidenced by certification of successful completion of a training program approved by the Public Works Director.

**CONFINEMENT DEVICE.** A backflow prevention device, as approved and required, installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of the system.

**CONSUMER.** Any person, firm or corporation responsible for any property at which water from the Town of Benson public water supply is received. In the absence of other parties or the failure of other parties to accept the responsibilities herein set forth, the owner of record shall be ultimately responsible. A backflow prevention device, as approved, installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

**CONTAINMENT DEVICE.** A backflow prevention device, as approved and required, installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

**CONTAMINATION.** The presence of any foreign substance (organic, inorganic, radiological or biological) in water that tends to degrade its quality as to constitute a hazard or impair the usefulness of the water.

**CROSS-CONNECTION.** Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such a manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves or because of any other arrangement.

**CROSS-CONNECTION CONTROL COORDINATOR.** The official position established and authorized by the Town of Benson designated by the Public Works Director to administer and interpret this section and who shall be a certified tester.

**DOUBLE CHECK VALVE BACKFLOW PREVENTION DEVICE.** An approved assembly composed of two single, spring-loaded independently operating check valves, including tightly closing shut-off valves located at each end of the assembly, and having suitable connections for testing the watertightness of each check valve.

**DUAL CHECK VALVE.** An approved device containing two independently acting check valves in series.

**FIRE LINE.** A system of pipes and equipment used to supply water in an emergency for extinguishing fire.

**INTERCONNECTION.** Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, heat exchanger, storage reservoir or other device which does or may contain sewage or other waste or substance which would be capable of imparting contamination to the public water supply.

**PRESSURE VACUUM BREAKER.** An approved assembly containing an independently operating spring loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly must be equipped with suitable connections for testing the proper operation of the device and tightly closing shut-off valves located at each end of the assembly.

***PUBLIC WATER SUPPLY.*** The water and waterworks system of the Town of Benson and its customers outside the town limits, for general use and which supply is recognized as the public water supply by the North Carolina Department of Environmental Health and Natural Resources.

***REDUCED PRESSURE ZONE PRINCIPLE BACKFLOW PREVENTION DEVICE (RPZ).*** An approved device containing within its structure, two spring loaded independently operating check valves, together with an automatically operating pressure differential relief valve located between the two check valves. The first check valve reduces the supply pressure a predetermined amount so that during normal flow, and at cessation of normal flow, the pressure between the checks shall be less than the supply pressures. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves less than the supply pressure. This device shall have suitable connections for testing the proper operation of the device, including tightly closing shut-off valves located at each end of the device.

(Ord. passed 2-11-2003)

#### **§ 53.081 COMPLIANCE WITH FEDERAL AND STATE LAW.**

The Town of Benson will comply with the Federal Safe Drinking Water Act, the North Carolina Drinking Water Act and North Carolina State Building Code, which pertain to cross-connections, auxiliary intakes and interconnections, and establish an effective ongoing program to control potential sources of contamination of the public water supply.

(Ord. passed 2-11-2003)

#### **§ 53.082 UNLAWFUL CONNECTIONS.**

It shall be unlawful for any person to cause a cross-connection, auxiliary intake or interconnection to be made or allow one to exist for any purpose whatsoever.

(Ord. passed 2-11-2003)

#### **§ 53.083 INSPECTION OF PROPERTY.**

It shall be the duty, upon request of the Public Works Director, of the Cross-Connection Coordinator to cause inspections to be made of properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections shall be set by the Public Works Director.

(Ord. passed 2-11-2003)

#### **§ 53.084 RIGHT OF ACCESS.**

The Building Inspector, or authorized representative, shall have the right to enter, at reasonable time, any nonresidential property served by a connection to the Town of Benson public water supply for the purpose of performing the duties of this section. In those cases in which the property owner chooses not to provide the access, the Building Inspector, or authorized representative, may designate the location as a high hazard in accordance with § 53.086.

(Ord. passed 2-11-2003)

#### **§ 53.085 EXISTING CONDITIONS.**

(A) Any consumer shall be allowed 90 days to correct any cross-connections, auxiliary intakes, interconnections or other hazard as defined by § 53.086 of this code in violation of the provisions of this subchapter.

(B) The 90 days will be from the date of receipt of the notification given by the Cross-Connection Coordinator or Building Inspector.  
(Ord. passed 2-11-2003)

### **§ 53.086 HAZARDOUS USES.**

(A) The following uses shall be classified as hazardous uses.

(1) Hazardous uses include, but are not limited to: pumps and tanks handling sewage, radioactive, lethal or toxic substances, boiler and steam connections, sewer waste lines, low inlets to receptacles containing toxic substances, coils or jackets used as heat exchangers, flush valve toilets without vacuum breaks, bacterial and viral materials, private wells or other private water supply, irrigation systems, water systems or hose connections, with booster pumps, carbonation equipment or similar hazard potential as determined by the Cross-Connection Coordinator.

(2) Any location at which the nature or mode of operations within a premises are such that frequent alterations are made to the plumbing or at which there is a likelihood in the determination of the Cross-Connection Coordinator that protective measures may be subverted, altered or disconnected.

(3) Any facility which contains, but is not limited to, a bottling plant, cannery, building that has five or more stories, battery manufacturer, exterminator, greenhouse, chemical processing plant, dairy, dye works, film laboratory, car wash, hospital, commercial laboratory, laundry, metal fabricating operations, mortuary, swimming pool, morgue, x-ray equipment, medical office with laboratory, aspirator, medical washing equipment, packing house, plating plant, poultry house, power plant, nuclear reactor, those fire sprinkler systems equipped with facilities for introduction of freeze preventive chemicals or other substances other than water, dental office, any radioactive material, restaurant, shopping mall with tenant conducting any activity listed in this section and sewage pump or treatment facilities.

(B) All installations described in this section shall be deemed hazardous uses and must have a containment device in the form of a reduced pressure zone backflow prevention device provided that, if the consumer demonstrates to the satisfaction of the Cross-Connection Coordinator that sufficient internal confinement devices

have been installed and tested. The Cross-Connection Coordinator may require that the consumer provide engineering drawings sealed by a professional engineer of installations within the premises, which provide complete internal protection against cross-connection as approved by the Cross-Connection Coordinator. Any connection shall be considered an other connection for determining the type of containment device required. Each internal confinement device shall be one of the following, as approved by the Building Inspector or his or her authorized representative: reduced pressure zone principle backflow prevention device, double check valve backflow prevention device, air gap, vacuum break-pressure type or dual check valve. Each reduced pressure zone principal backflow prevention device serving as an internal confinement device shall have a mesh strainer immediately upstream of the inlet gate valve.

(C) No person shall fill any tanks or tankers which include the following: those containing pesticides, fertilizers, other toxic chemicals or residues, flush trucks, street sweepers and non-potable water tankers from a public water system except with an approved air gap fill or an approved reduced pressure backflow preventor properly installed on the tank or tanker or on the public water supply fill pipeline or hose.  
(Ord. passed 2-11-2003) Penalty, see § 53.999

#### **§ 53.087 OTHER CONNECTIONS.**

(A) Services to single-family residential units, not otherwise required by this code to have other containment devices, may have a containment device in the form of an approved dual check valve on all the services which meters are applied more than 90 days following the date of adoption of this subchapter, the dual check valves or other containment devices as required shall be installed by the owner's representative prior to the installation of the meter by the Department of Public Utilities. On all the services for which meters have been applied prior to that date, the dual check valve shall be installed by the Department of Public Utilities, provided that the Town of Benson reserves the right to charge the owner or occupant of any residence for the cost of the device and its installation. Maintenance of dual check valve containment devices installed in accordance with this section shall be conducted by the Department of Public Utilities. Testable containment devices that are required on lawn irrigation water systems and must be tested every three years by a contractor that has been approved by the town.

(B) All other connections to the public water supply of the Town of Benson shall have containment devices in the form of a double check valve backflow prevention device as set forth in this section. This shall include water mains installed to town's standard, and with town supervision, but which are not maintained by the town including, but not limited to, manufactured home parks, apartments, group housing projects and other private distribution systems, or similar hazard potential as determined by the Public Works Director or Building Inspector, or his or her authorized representative. Private distribution systems shall be configured so as to provide looped mains, with two or more containment devices on each building water service connection and at dead-end branch mains.  
(Ord. passed 2-11-2003)

#### **§ 53.088 INSTALLATION OF CONTAINMENT DEVICES.**

(A) The containment devices shall be located off street right-of-way on the water main side of any plumbing connections, where feasible. When installed in a building, the device shall be located on the service line immediately after its entrance into the building. Each containment and confinement device shall be installed in a location that is physically accessible for inspection and testing as determined by the Cross-Connection

Coordinator. Containment devices, which have been buried in the ground, do not satisfy the provisions of this code. Each reduced pressure principle zone device shall be installed such that flooding of the device is unlikely as determined by the Building Inspector.

(B) The Public Works Director shall maintain a list of approved manufacturers and models of hazard containment devices and drawings of standard installation, copies to be made available through the Office of the Director of Public Utilities and the Chief Inspector's office. All reduced pressure zone principle backflow prevention devices and double check valve backflow prevention devices shall be approved by the Foundation for Cross-Connection Control and Hydraulic Research. All vacuum breaks and dual check valve devices shall be approved by the American Society for Sanitary Engineers. All installations and materials shall conform to Town of Benson standards as set by the Public Works Director or Building Inspector.

(C) In those cases in which containment and/or confinement devices have been previously installed by prior owners, the Town of Benson, or other parties, the responsibility for maintenance, testing and replacement as applicable shall be with the consumer.

(D) The cost of the means of containment, and any other plumbing modifications necessary and convenient thereto, and the testing and maintenance thereof is to be paid for by the consumer.  
(Ord. passed 2-11-2003)

#### **§ 53.089 NEW CONSTRUCTION.**

All buildings, proposing to connect to the public water system of the Town of Benson receiving building permits on or after the effective date of this subchapter, shall be equipped with an approved and tested as properly functioning backflow prevention device(s), as prescribed herein, prior to the issuance of a certificate of code compliance for that building. If a building permit was issued for the building prior to the effective date of this section, or a building permit was not required, the building shall be considered to be an existing building prior to the effective date, in accordance with § 53.083.  
(Ord. passed 2-11-2003)

#### **§ 53.090 NOTIFICATION OF CONSUMER.**

(A) Upon identification of a hazard or hazard potential, as defined in §§ 53.086 through 53.87, the Cross-Connection Coordinator shall notify the consumer of record of the property on which the hazard exists of the following:

- (1) Location of hazard;
- (2) Nature of hazard observed;
- (3) Date hazard observed;
- (4) Section of code applicable; and
- (5) Requirements of code.

(B) The notification to be made by certified mail, with return receipt requested.  
(Ord. passed 2-11-2003)

#### **§ 53.091 CHANGE IN NATURE OF USE.**

The Building Inspector shall be notified by the consumer the nature of use of the property changes so as to change the hazard classification of that property, as set forth in §§ 53.086 through 53.087.  
(Ord. passed 2-11-2003)

**§ 53.092 CONSUMER RESPONSIBILITIES.**

(A) The consumer shall, upon notification, as defined in § 53.090, install the hazard containment device(s) as required within 90 days from the date of notification.

(B) If, after expiration of 90 days, the containment device(s) has not been installed in conformance with standards set by the Building Inspector in a proper working condition, the Building Inspector may discontinue the public water supply service at that premises, and service shall not be restored until the devices have been installed. The Building Inspector may permit an extension of up to 90 additional days if compliance efforts are underway and the existence of hardship can be demonstrated.

(C) The Town of Benson shall bear no liability for direct or consequential damages proximately caused by the discontinuance of service pursuant to this section.  
(Ord. passed 2-11-2003)

**§ 53.093 TESTING AND MAINTENANCE OF DEVICES.**

The consumer at each property at which containment and/or confinement device(s) have been installed, except those with devices installed in accordance with § 53.087(A), shall have each containment and/or confinement device(s) tested on an annual basis, and perform any routine maintenance to the device as recommended by the manufacturer and provide the Cross-Connection Coordinator with a report of that inspection and work. The consumer shall cause the maintenance, or repairs to be made, rendering the device fully operational. Failure of the consumer to perform that testing and maintenance shall be cause for the premises to be deemed an immediate public health hazard. The Building Inspector may immediately thereafter discontinue public water supply service to that premises, and service shall not be restored until the devices have been rendered operational. Where the use of water is critical to the continuance of normal operations or protection of life, property or equipment, duplicated containment or confinement devices shall be provided by the property owner to avoid the necessity of discontinuing water service to test or repair the device or devices.  
(Ord. passed 2-11-2003)

**§ 53.094 LIMITATION OF LIABILITY.**

The Town of Benson shall not be held liable, for any cause, for failure to detect any unit failing to operate adequately, or failure to identify any specific hazard, which may result in contamination of its public water supply, nor shall this subchapter diminish the responsibility of any property owner from whose property a contamination of the public water supply may originate.  
(Ord. passed 2-11-2003)

**§ 53.999 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) *Penalty.* Violation of any provision of §§ 53.080 through 53.094 may subject the offender to a

civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within 30 days after the assessment has become final by exhaustion of the appeal process established by this section, or by failure to appeal the assessment. The civil penalty for violation of any provision of §§ 53.080 through 53.094 shall not exceed \$500 per day for each day of continuous violation, or a cumulative or single civil penalty of \$10,000. The civil penalty for willful violation of any provision of §§ 53.080 through 53.094 shall not exceed \$1,000 per day for each day of a continuous violation, or a cumulative or single civil penalty of \$20,000.

(2) *Assessment.* Any civil penalty shall be assessed by the Town Manager, upon the recommendation of the Building Inspector or Public Works Director, and shall be based upon the reasonable estimated cost of correcting the cited violation, the magnitude of the potential risk posed to the public health, safety and welfare by the violation, and the cost of the public safety or other emergency response caused by the violation. The Town Manager shall serve written notice of the civil penalty assessment and the offender, and set out with reasonable care the basis of the amount so assessed.

(3) *Equitable relief.* An appropriate equitable remedy, including a mandatory or prohibitory injunction, issuing from a court of competent jurisdiction may endorse the provisions of this section.

(4) *Enforcement option.* The penalties and enforcement provisions established by this section may be applied in addition to, or instead of, the penalties established by other sections of this code.  
(Ord. passed 2-11-2003)



## CHAPTER 54: RESERVED

***Editor's note:***

*Pursuant to letter dated April 14, 1994, this chapter has been reserved. Benson's Customer Service Policies, as adopted by the Board of Commissioners on March 8, 1994, as amended, are hereby adopted by reference and included herein as if fully set forth. Please refer to the Town Clerk/Treasurer's Office, Town Hall, for full policy.*

## CHAPTER 55: CAPITAL COST RECOVERY

### Section

55.1	Definitions
55.2	Capacity charge
55.3	Hearing on capacity charge
55.4	Limits on capacity charge
55.5	Capacity charges for new construction of and extension to water and wastewater lines
55.6	Special account
55.7	Cause of action

### § 55.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CAPACITY CHARGE.** The charge imposed upon new construction, as defined herein, pursuant to the grant of regulatory authority contained herein.

**CAPITAL COSTS.** Costs spent for upgrading water and wastewater lines intended to serve the customers of the town's water and/or wastewater treatment system.

**DEVELOPER.** An individual, corporation, partnership, organization, association, firm, political subdivision or other legal entity constructing or creating new construction.

**NEW CONSTRUCTION.** Any new development construction or installation that results in the use of the town's water and/or wastewater lines and includes current users of that system that require additional capacity from the lines.

(1990 Code, § 55.01) (Ord. passed - -)

### § 55.02 CAPACITY CHARGE.

The town may provide for the charging of a capacity charge to all commercial customers on new construction for a water or wastewater line, or for the extension of a water or wastewater line. No residential customers shall be charged the capacity charge. The capacity charge for commercial customers shall be in accordance with charges hereinafter set forth and limitations hereinafter set forth. The capacity charge shall be based upon reasonably and uniform consideration of capital costs ultimately to be incurred by the town as a result of the new construction or extension of existing lines. The capacity charge may differ from line to line.

(1990 Code, § 55.02) (Ord. passed - -)

**§ 55.03 HEARING ON CAPACITY CHARGE.**

There shall be a public hearing for each new water or wastewater line or which there is to be a capacity charge levied. The public hearing shall be held in front of the Town Board of Commissioners. They shall consider comments from the public regarding the capacity charge.  
(1990 Code, § 55.03) (Ord. passed --)

**§ 55.04 LIMITS ON CAPACITY CHARGE.**

The amount of each capacity charge imposed under this chapter shall be based upon reasonable and uniform consideration of capital cost ultimately to be incurred by the town as a result of the new construction or construction on extension or expended existing lines. the amount of the capacity charge for new construction of a new line for extension or expansion of existing lines shall be same as the capital costs actually incurred for the new construction or the upgrading and expanding of existing lines. In the event that the capacity charge collections for the new line or for the extension or expansion of existing lines shall exceed the actual capital costs of the line, then any excess capacity charge funds collected for that line shall be returned to those commercial interests charged for the capacity charge on a prorata basis.  
(1990 Code, § 55.04) (Ord. passed --)

**§ 55.05 CAPACITY CHARGES FOR NEW CONSTRUCTION OF AND EXTENSIONS TO WATER AND WASTEWATER LINES.**

The capacity charges for new construction of water and wastewater lines and extension and expansion of existing water and wastewater lines shall be as follows:

<i>Inches</i>	<i>Inside Town Limits</i>	<i>Outside Town Limits</i>
3/4	\$750	\$ 1,000
1	\$1,250	\$1,750
2	\$2,000	\$3,000
4	\$3,000	\$4,500
6	\$5,000	\$7,000
8	\$8,000	\$10,000

(1990 Code, § 55.05) (Ord. passed --)

**§ 55.06 SPECIAL ACCOUNT.**

Monies collected as capacity charges shall be placed in a separate trust fund. All revenues shall be spent for the capital facilities for which they were collected, and those excess funds shall be returned to the commercial customers who paid for the capacity charge for that particular line on a prorata basis from the account.  
(1990 Code, § 55.06) (Ord. passed --)

**§ 55.07 CAUSE OF ACTION.**

A cause of action as to the validity of any capacity charge adopted under this chapter shall be brought within 90 days after its assessment.  
(1990 Code, § 55.07) (Ord. passed - -)