

Chapter 13.04
SEWAGE DISPOSAL

Sections:

- 13.04.003 Purpose.
- 13.04.005 Construction – Intent.
- 13.04.010 Definitions.
- 13.04.012 Applicability.
- 13.04.015 Service interruptions.
- 13.04.017 Administration.
- 13.04.020 Connection to system – Required.
- 13.04.030 Connection to system – Permit – Required.
- 13.04.040 Connection to system – Permit – Application.
- 13.04.045 General facilities charge.
- 13.04.050 Connection to system – Outside city limits.
- 13.04.060 Connection to system – Separate sewer required.
- 13.04.070 Connection to system – Construction specifications.
- 13.04.080 Connection to system – Specifications.
- 13.04.090 Connection to system – Elevation requirements.
- 13.04.100 Connection to system – Use of old sewers permitted when.
- 13.04.110 Connection to system – Certain types prohibited.
- 13.04.120 Connection to system – Excavations.
- 13.04.130 Connection to system – Inspection and testing.
- 13.04.140 Connection to system – Within right-of-way or easement – Specifications.
- 13.04.150 Connection to system – Costs.
- 13.04.160 *Repealed.*
- 13.04.161 Federal categorical pretreatment standards.
- 13.04.170 *Repealed.*
- 13.04.171 Industrial user surveys.
- 13.04.177 Wastewater discharge permits.
- 13.04.180 *Repealed.*
- 13.04.181 Wastewater discharge permit appeals.
- 13.04.190 *Repealed.*
- 13.04.191 Search warrants.
- 13.04.200 Vandalism.
- 13.04.210 Emergency suspension.
- 13.04.220 Termination of discharge (nonemergency).
- 13.04.230 Appeal procedures.
- 13.04.240 Injunctive relief.
- 13.04.250 Civil penalties.
- 13.04.260 Criminal prosecution.
- 13.04.265 Pretreatment charges and fees.
- 13.04.270 Private wastewater disposal system – Prohibited when.
- 13.04.280 Private wastewater disposal system – Permitted when.
- 13.04.290 Private wastewater disposal system – Permit required.
- 13.04.300 Private wastewater disposal system – Notice to connect to public system.
- 13.04.310 Private wastewater disposal system – Maintenance.
- 13.04.320 *Repealed.*
- 13.04.330 *Repealed.*
- 13.04.340 *Repealed.*
- 13.04.350 *Repealed.*
- 13.04.360 *Repealed.*
- 13.04.370 Deposit of objectionable materials prohibited.
- 13.04.380 Discharge to natural outlet prohibited – Exception.

- 13.04.390 *Repealed.*
- 13.04.400 Failure to connect – Penalty.
- 13.04.410 Violation – Liability.
- 13.04.420 Violation – Notice to be served.
- 13.04.430 Violation – Continuance – Penalty.
- 13.04.440 Maintenance of disposal system.
- 13.04.450 Noncompliance – Nuisance.
- 13.04.460 Confidential information.

13.04.003 Purpose.

Pursuant to the authority conferred by chapters 35.67 and 90.48 RCW, this chapter sets forth uniform requirements for users of the POTW of the city of Burlington, and allows the city to comply with all applicable state and federal laws including, but not limited to, the Clean Water Act, and the General Pretreatment Regulations, 40 CFR Part 403. Through the adoption of these code provisions, it is the intent of the city council to provide for the general welfare of the residents of the city of Burlington. The city council expresses no intent to create a class of persons who are specially benefited by this code. The objectives of this chapter are to:

- A. Prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- B. Prevent the introduction of pollutants into the POTW that are incompatible with the POTW, or that will pass through the POTW inadequately treated into receiving waters;
- C. Ensure that the quality of POTW biosolids is maintained at a level that allows its use and disposal in compliance with applicable statutes and regulations;
- D. Protect POTW personnel who may be affected by wastewater, wastewater solids, and biosolids in the course of their employment, and to protect the general public;
- E. Improve the opportunity to recycle and reclaim wastewater and biosolids from the POTW;
- F. Promote strategies to reduce the amounts of pollution generated by users, thereby reducing the associated hazards to the POTW and the receiving waters. (Ord. 1617 § 2, 2007; Ord. 1583 § 2, 2005);

G. Implement the City's Comprehensive Plan and address the requirements of the Washington State Growth Management Act (Chapter 36.70A RCW);

13.04.005 Construction – Intent.

- A. This chapter is enacted as an exercise of the police power of the city of Burlington to protect and preserve the public health, safety and welfare; its provisions shall be liberally construed to accomplish this purpose.
- B. It is expressly the purpose of this code to provide for and to promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited.
- C. It is the specific intent of this code to place the obligation of compliance upon the owner/operator. Nothing contained in this code is intended to be or shall be construed to create or form the basis for liability on the part of the city of Burlington, its utility, officers, employees or agents for any injury or damage resulting from the failure of the owner/operator of any private system to comply with the provisions of this code, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this code by the city of Burlington, its utility, officers, employees or agents.
- D. The provisions of this chapter shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. Compliance with the provisions of this chapter and regulations referenced under this chapter does not necessarily mitigate all impacts to the environment, and additional mitigation may be required to protect the environment. (Ord. 1583 § 3, 2005).

13.04.010 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

Commented [BJ1]: BJ – 3-14-2023 – added language connecting this to implementing provisions of comp plan. By referencing the comp plan this strengthens impact on coordinating with other local governments such as Skagit County.

1. "Accessory building" means a subordinate building, the use of which is incidental to the use of the main building on the same lot.

2. "Accessory dwelling unit", "accessory dwelling", or "ADU" means a building, or a portion of a building, used as a self-contained dwelling that is secondary and subordinate to a primary dwelling. Accessory dwellings may be either attached or detached. An attached accessory dwelling is located within the primary dwelling. A detached dwelling is located in a detached accessory building located on the same lot as the primary dwelling.

2. "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed in milligrams per liter.

3. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from wastes inside the walls of the building and conveys it to the building sewer, beginning two feet (0.6 meters) from the outside face of the building wall.

4. "Building sewer" means the extension from the building drain to the side sewer or other place of disposal, also called "house connection."

5. "City sewer system" means the sewer system owned by or under operational control of the city within and outside the city limits.

6. "Contract customer" means a customer located outside the city of Burlington sewer service area that discharges wastewater to the city of Burlington sewer system.

7. "Easement" means an acquired legal right for the specific use of land owned by others.

8. "Equivalent residential unit (ERU)" means the equivalent of one residential unit for purposes of computing general facilities charges.

9. "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

10. "General facilities charge" means the charge that is assessed against property owners seeking to connect to the sewer system, in order that such property owners shall bear their equitable share of the cost of such system.

11. "High strength" means wastewater discharged from commercial accounts with Standard Industrial Classification Codes 5812, 5147, or 5093, or wastewater discharged to the sewer system containing a BOD between 700 to 1,050 mg/l or suspended solids of 700 to 1,050 mg/l.

12. "Industrial wastes" means the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

13. "Low strength" means wastewater discharged to the sewer system containing less than 350 mg/l biochemical oxygen demand (BOD) or less than 350 mg/l suspended solids.

14. "May" is permissive (see "shall," subsection (26) of this section).

15. "Medium strength" means wastewater discharged from commercial accounts with Standard Industrial Classification Codes 2051, 5411, or 7833, or wastewater discharged to the sewer system containing a BOD of 350 to 700 mg/l and less than 700 mg/l suspended solids, or wastewater discharged to the sewer system containing suspended solids of 350 to 700 mg/l and BOD less than 700 mg/l.

16. "Natural outlet" means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Commented [BJ2]: BJ – 3-14-2023 – added lanague clarifying what an ADU is (consistnet wth zoning code) – usefull for the purpose of exempting ADUs from separate sewer connection fees. This is constent with comp plan goals and policies aimed at incentivizing ADU production and reducing housing costs.

17. "Person" means any individual, partnership, copartnership, 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, or local government entities.
18. "pH" means the reciprocal of the logarithm of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven and a hydrogen-ion concentration of 10^{-7} .
19. "POTW" means the publicly owned treatment works.
20. "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.
21. "Public sewer" means a common sewer constructed for the conveyance of liquid wastes, which is controlled by a governmental agency or public utility.
22. "Sanitary sewer" means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of groundwater, storm water and surface waters that are not admitted intentionally.
23. "Sewage" means the spent water of a community. The preferred term is "wastewater," subsection (34) of this section.
24. "Sewer" means a pipe, conduit, ditch, or other device used to collect and transport wastewater from the generating source to the POTW.
25. "Sewer service area" means the city of Burlington sewer service area shown on Plate I of the 1991 comprehensive wastewater plan, city of Burlington, adopted by Resolution No. 7-91.
26. "Shall" is mandatory (see "may," subsection (14) of this section).
27. "Side sewer" means the sewer from the main collection public sewer in either public right-of-way or easement to the building sewer (usually at the boundary of the property being served).
28. "Slug" means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation and adversely affects the collection system and/or performance of the wastewater treatment works.
29. "Storm drain" (sometimes referred to as "storm sewer") means a drain or sewer for conveying rainwater, groundwater, subsurface water or unpolluted water from any other source.
30. "Sewer department supervisor" means the city supervisor or his authorized deputy, agent or representative.
31. "Suspended solids" means total suspended matter that either floats on the surface of, or in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.
32. "Unpolluted water" is water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
33. "Urban growth area (UGA)" means ~~an~~ the area inside the city's sewer service area east of Pulver Road, as defined by Plate I of the 1991 comprehensive wastewater plan, city of Burlington, adopted by Resolution No. 7-91 designated by Skagit County to accommodate urban growth pursuant to RCW 36.70A.110.

a. "Urban growth area, municipal" means an urban growth area associated with, and containing, an incorporated city or town.

b. "Urban growth area, non-municipal" means an urban growth area that does not contain an incorporated city or town.

c. "Urban growth area, Burlington" means the municipal urban growth area containing the City of Burlington and designated on the City's adopted Comprehensive Plan Map.

34. "Wastewater" means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, manufacturing facilities and institutions, whether treated or untreated, together with any groundwater, surface water and storm water that may be present, that are contributed to the POTW.

35. "Wastewater facilities" means the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

36. "Wastewater treatment works" means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. This term is sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

37. "Watercourse" means a natural or artificial channel for the passage of water, either continuously or intermittently.

38. "Western service area" means the area inside the city of Burlington sewer service area west of Pulver Road, as defined by Plate I of the 1991 comprehensive wastewater plan, city of Burlington, adopted by Resolution No. 7-91. (Ord. 1583 § 4, 2005; Ord. 1302 § 1, 1995; Ord. 846 Art. I §§ 1 – 29, 1976).

13.04.012 Applicability.

A. General. This chapter shall apply to all direct and indirect users of the city's municipal sewer system.

B. Territorial Application. This code shall be in effect throughout the utility service area, as reflected in the City of Burlington 2005 Sanitary Sewer and Comprehensive Wastewater Plan, attached to the ordinance codified in this section and identified as Exhibit "A." (Ord. 1583 § 5, 2005).

13.04.015 Service interruptions.

Notwithstanding any provision of this chapter to the contrary, the city of Burlington does not guarantee that sewer service will be continuously available within the utility service area. Sewer service may be temporarily unavailable due to a system failure, emergency, construction or maintenance, or other unforeseen circumstances. (Ord. 1583 § 6, 2005).

13.04.017 Administration.

A. The director of public works is hereby authorized and directed to enforce all provisions of this chapter. The director shall have the authority to render interpretations of this chapter, and may adopt reasonable rules and administrative procedures to enforce the provisions of this chapter. The director is further authorized to adopt an industrial waste policy, consistent with state and federal law, that will prohibit or limit the discharge of deleterious substances to the wastewater treatment works. Such interpretations, rules, policies and administrative procedures shall be in conformity with the intent and purposes of this chapter.

B. Deputies. In accordance with prescribed procedures, the director may appoint such number of technical officers, inspectors, and other personnel as shall be authorized from time to time. The director may deputize such inspectors or employees as may be necessary to implement the provisions of this chapter.

C. Inspections. All activities regulated by this chapter, except those explicitly exempted herein, are subject to inspection by the director to determine that adequate control is being exercised, or to determine whether an approval is warranted. The director may establish inspection programs to ensure compliance with the requirements of this chapter and accomplishment of its purposes.

Commented [BJ3]: BJ – 3-14-2023 – revised for constancy with UGA terms used throughout the code and in countywide planning policies. City UGA is a specific UGA. As drafted this would not have been limited to the City's UGA but rather old service boundaries. Serving city UGA is different from serving other UGAs.

D. Inspection programs may be established on any reasonable basis including, but not limited to, routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water quality standards or the city's NPDES permit, and joint inspections with other agencies inspecting under environmental or safety laws.

E. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other best management practices.

FD. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the director or the director's authorized representative has reasonable cause to believe that there exists in any building or upon any property any condition or violation of this chapter relating to the pollution or the possible pollution of any of the waters of the state, the director or the director's authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the director by this chapter; provided, that if such building or premises be occupied, the director shall first present proper credentials and request entry; and if such building or premises be unoccupied, the director shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the director shall have recourse to every remedy provided by law to secure entry.

GE. Authority to Stop Work. Whenever construction work is being done that is contrary to the provisions of this chapter, or contrary to the provisions of plans, drawings, specifications, or calculations approved by the director, then the director may order the construction work stopped by notice in writing, served on those persons engaged in or causing the work to be done. Any such persons shall thereafter stop such work until authorized by the director to proceed. (Ord. 1617 § 3, 2007; Ord. 1583 § 7, 2005).

13.04.020 Connection to system – Required.

The owner(s) of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the city, or within the area served by the city sewer system, and located on a property within 200 feet of a public sanitary sewer or a property abutting on any street, alley or right-of-way in which there is located a public sanitary sewer of the city, is required at the owner or owners' expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after the date of official notice to do so; ~~provided, that the building to be served is not located more than 200 feet from a public sewer.~~ (Ord. 1583 § 21, 2005; Ord. 846 Art. II § 4, 1976).

Commented [BJ4]: BJ – 3-14-2023 – revised to address long standing confusion about whether the property or the building needed to be within 200 feet of the sewer. Building connections are comparatively cheap, it is the extension in the street that is the financial barrier and should be subject to the 200 foot standard.

13.04.030 Connection to system – Permit – Required.

No unauthorized person(s) shall construct, extend, uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a ~~written permit from the public works director of the city.~~ (Ord. 1302 § 2, 1995; Ord. 846 Art. IV § 1, 1976).

13.04.040 Permit application requirements and approval criteria. Connection to system – Permit – Application.

A. Applications. Application for building sewer permits shall be made on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the sewer department supervisor and public works director. A permit and connection fee shall be charged as determined by council resolution and this chapter. (Ord. 1517 § 1, 2003; Ord. 1302 § 3, 1995; Ord. 846 Art. IV § 2, 1976) forms provided by the City and shall include all of the information required by the form in addition to all of the items listed below.

Commented [BJ5]: BJ – 3-14-2023 – revised for consistency with "complete application" language used throughout the code and connected to the requirements in title 14A BMC.

1. Vicinity map;

2. Name, address, and phone number of property owner;

3. Name, address, and phone number of engineer, contractor, or agent;

4. A complete set of plans depicting the proposed work and including any information, details, or specifications requested by the Public Works Director. Unless waived by the Public Works Director, all plans shall be prepared by a civil engineer licensed in the State of Washington:

B. Approval criteria. No sewer permit shall be approved without full compliance with the requirements of this chapter and other applicable Burlington Municipal Code requirements including, but not limited to, the requirements of titles 12, 13, 14, 14A, and 15 BMC.

13.04.045 General facilities charge.

A. The general facilities charge for property owners seeking to connect to the sewer system shall be adopted by city council resolution in the following categories:

1. Residential.

a. Single-family residences, duplexes and triplexes, western service area: fee per dwelling unit, plus applicable state taxes.

b. Single-family residences, duplexes and triplexes, Burlington urban growth area (UGA): fee per dwelling unit, plus applicable state taxes.

c. Residential accounts containing more than three dwelling units, western service area: fee per dwelling unit, plus applicable state taxes.

d. Residential accounts containing more than three dwelling units, Burlington urban growth area (UGA): fee per dwelling unit.

e. The general facilities charge shall not apply to accessory dwelling units authorized by City of Burlington.

2. Commercial/Industrial.

a. The following definitions and Table of Equivalent Fixture Units shall be used as the basis for determining fees for commercial and industrial customers:

Private or Private Use. Applies to plumbing fixtures in residences and apartments, to private bathrooms in hotels, motels and hospitals, and to restrooms in commercial establishments where the fixtures are intended for the use of a family or an individual.

Public or Public Use. Applies to plumbing fixtures that are not defined as private or private use.

**TABLE OF EQUIVALENT
FIXTURE UNITS
(Includes Combined Hot and Cold
Water Demand)**

Fixture	Private Use	Public Use
Bar sink	1	2
Bath tub (with or without shower over)	2	4
Bidet	2	4
Dental unit or cuspidor	-	1
Drinking fountain (each head)	1	2
Hose bibb or sill cock (standard type)	3	5

The Burlington Municipal Code is current through Ordinance 1918, passed December 9, 2021.

Commented [BJ6]: BJ – 3-14-2023 – clarifies which UGA we’re referring to (the City’s) not Skagit County Bayview Ridge.

Commented [BJ7]: BJ – 3-14-2023 – implements housing element of comp plan.

Fixture	Private Use	Public Use
Mobile home (each)	6	6
Laundry tub or clothes washer (each pair of faucets)	2	4
Lavatory	1	2
Lavatory (dental)	1	1
Lawn sprinklers (standard type, each head)	1	1
Shower (each head)	2	4
Sink (bar)	1	2
Sink or dishwasher	2	4
Sink (flushing rim, clinic)	–	10
Sink (washup, each set of faucets)	–	2
Sink (washup, circular spray)	–	4
Urinal (pedestal or similar type)	–	10
Urinal (stall)	–	5
Urinal (wall)	–	5
Urinal (flush tank)	–	3
Water closet (flush tank)	3	5
Water closet (flushometer-tank)	3	5
Water supply outlets for items not listed above shall be computed at their maximum demand, but in no case less than:		
3/8 inch (9.5 mm)	1	2
1/2 inch (12.7 mm)	2	4
3/4 inch (19.1 mm)	3	6
1 inch (25.4 mm)	6	10

b. Low strength commercial/industrial customers, western service area: Fees shall be per plumbing fixture unit as described in the Table of Equivalent Fixture Units, plus applicable state taxes, or by other method approved by the public works director.

c. Low strength commercial/industrial customers, urban growth area: Fees shall be per plumbing fixture unit as described in the Table of Equivalent Fixture Units, plus applicable state taxes, or by other method approved by the public works director.

d. Medium strength and high strength commercial/industrial customers, western service area: fee per plumbing fixture unit as described in the Table of Equivalent Fixture Units, plus fee per pound/day BOD discharged into the sewer system, plus applicable state taxes. Pounds per day of BOD discharged into the sewer system will be determined based on the number of plumbing fixture units and the North American Industrial Classification Code, or by other method approved by the public works director.

e. Medium strength and high strength commercial/industrial customers, urban growth area: fee per plumbing fixture unit as described in the Table of Equivalent Fixture Units, plus fee per pound/day BOD

discharged into the sewer system, plus applicable state taxes. Pounds per day of BOD discharged into the sewer system will be determined based on the number of plumbing fixture units and the North American Industrial Classification Code, or by other method approved by the public works director.

3. Residential Service Charge Credits for General Facilities Charge. Any residential account not connected to the sewer system within the western and urban sewer service area, paying a monthly service charge, will receive a credit at time of connection equal to the service charge payments that have been paid by the present owner since June 1, 1998, up to 50 percent of the general facilities charge to connect to the sewer system. This policy will become effective May 1, 2003, and will not be retroactive to those residential accounts that have been connected prior to this date.

4. Contract Customers. Contract customers shall pay the general facilities charge specified for the western service area customers.

B. General Facilities Charge – Proceeds. All proceeds of the general facilities charge shall be placed in the sewer capital improvements fund for the following uses: construction of sewer expansion made necessary by system growth, debt service for indebtedness resulting from construction of sewer expansion made necessary by system growth, and the repair, replacement, and maintenance of existing sewer facilities. (Ord. 1799 § 20, 2014; Ord. 1641 § 1, 2007; Ord. 1517 § 2, 2003; Ord. 1302 § 4, 1995).

13.04.050 Connection to system – Outside city limits.

~~A. Sewer connections shall not be allowed outside the city limits of Burlington. Only after a property is annexed into the city may a sewer connection be made in accordance with this chapter. This provision shall not apply to:~~

~~1. Any sewer connection outside the city limits that exists or any sewer connection agreement between the city and property owner in effect prior to the effective date of this ordinance; or~~

~~2. Any sewer connection within the boundaries of the Bayview Ridge non-municipal urban growth area;~~

~~BA. In those limited instances where a connection beyond the city limits is specifically authorized by this section no connection shall be authorized until the City Council has approved a sewer connection agreement. The sewer connection agreement shall address the following: Pursuant to the authority granted by RCW 35.67.310, connections to the city sewer system, either direct or indirect, from property situated beyond the corporate boundaries of the city shall be allowed only upon specific approval from the city council, and upon the terms, conditions, and payments as may be set forth in an agreement authorized by the city council.~~

~~B. An agreement authorizing property situated beyond the corporate boundaries of the city to connect to the city sewer system shall address the following subjects; provided, that the city council, by appropriate action, may waive any of the following requirements:~~

1. Such agreement shall identify with specificity the property to be connected with the city sewer system;
2. Such agreement shall grant permission for connection upon payment of prescribed fees and charges therefor; provided, that monthly or periodic fees for sewer services shall not be fixed or otherwise capped in the agreement;
3. Such agreement shall require the property owners to construct such connection in accordance with city plans and specifications and under the supervision of the director of public works, without cost or expense to the city;
4. Such agreement shall provide that the property owner shall not allow any additional property to be served by such connection until the owner of such additional property has executed a similar agreement;
5. Such agreement shall provide that the owner of the property to be served, its successors and assigns, shall agree to execute an annexation petition to the city of Burlington when presented for signature by the city;
6. Such agreement shall provide that the owner of the property shall agree that the city, in the event the terms and conditions of said agreement are not faithfully kept and performed, may disconnect the sewer serving the

Commented [BJ8]: BJ – 3-14-2023 – revised for consistency with comp plan policies and to clarify connection requirements. Connections should not be allowed in advance of annexation except in limited circumstances, such as existing Bayview Ridge UGA and contracted customers outside the city UGA.

property from the city's system and for that purpose shall authorize the director of public works to enter upon the premises of such property owner; and

7. Such agreement shall provide that such agreement shall be filed for record in the office of the auditor of Skagit County, Washington, and shall constitute a covenant running with the land binding upon the property owner, his heirs and assigns, and upon any parties subsequently acquiring any right, title or interest in said property. (Ord. 1583 § 22, 2005; Ord. 846 Art. IV § 4, 1976).

13.04.060 Connection to system – Separate sewer required.

A. A separate and independent building sewer shall be provided for every building or residence; provided:

1. Where one building or residence stands at the rear of another on an interior lot and no public sewer is available or can be constructed to the rear building or residence through an adjoining alley, courtyard or driveway, the side sewer to the front building or residence may be extended to the rear building or residence with the sewer department supervisor's approval;
2. Where two buildings or residences share a common property line, a common side sewer line located on the common property line may be shared, with city approval;
3. Service to accessory buildings as defined in BMC 13.04.010, may be extended from the primary building sewer line on approval of the sewer department supervisor.

B. The city does not and will not assume any obligation or responsibility for maintenance or damage caused by or resulting from any such single connection aforementioned. (Ord. 1302 § 5, 1995; Ord. 846 Art. IV § 5, 1976).

13.04.070 Connection to system – Construction specifications.

The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. (Ord. 846 Art. IV § 7, 1976).

13.04.080 Connection to system – Specifications.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the sewer department supervisor before installation. (Ord. 1302 § 6, 1995; Ord. 846 Art. IV § 10, 1976).

13.04.090 Connection to system – Elevation requirements.

Wherever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. (Ord. 846 Art. IV § 8, 1976).

13.04.100 Connection to system – Use of old sewers permitted when.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the sewer department supervisor, to meet all requirements of this chapter. (Ord. 1302 § 7, 1995; Ord. 846 Art. IV § 6, 1976).

13.04.110 Connection to system – Certain types prohibited.

No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the sewer department supervisor for purposes of disposal of polluted surface drainage. (Ord. 1302 § 8, 1995; Ord. 846 Art. IV § 9, 1976).

13.04.120 Connection to system – Excavations.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. All construction and development activities shall be consistent with applicable Burlington Municipal Code requirements including, but not limited to, titles 12, 13, 14, and 15 BMC (Ord. 846 Art. IV § 12, 1976).

Commented [BJ9]: BJ – 3-14-2023 – consistency between code chapters. All “development” must comply with all applicable development codes.

13.04.130 Connection to system – Inspection and testing.

The applicant for the building sewer permit shall notify the sewer department supervisor when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the sewer department supervisor or his representative. (Ord. 1302 § 9, 1995; Ord. 846 Art. IV § 11, 1976).

13.04.140 Connection to system – Within right-of-way or easement – Specifications.

All construction related to sewer installation within public rights-of-way and easements shall be governed by the latest edition of the Washington State Chapter American Public Works Association, “Standard Specification for Municipal Public Works Construction.” (Ord. 846 Art. IV § 13, 1976).

13.04.150 Connection to system – Costs.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Ord. 846 Art. IV § 3, 1976).

13.04.160 Discharges – Applicability – Special agreements authorized when.

Repealed by Ord. 1583. (Ord. 846 Art. V § 10, 1976).

13.04.161 Federal categorical pretreatment standards.

The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405 through 471, adopted, and hereafter amended by the EPA pursuant to the Act, are incorporated herein by reference as if set forth in full. These standards shall be met by all industrial users of the regulated industrial categories. (Ord. 1583 § 8, 2005).

13.04.170 Discharges – Unpolluted water – Prohibited when.

Repealed by Ord. 1583. (Ord. 1302 § 10, 1995; Ord. 846 Art. V § 1, 1976).

13.04.171 Industrial user surveys.

All existing and new businesses that discharge or have the potential to discharge wastes regulated by BMC 13.04.161 shall be required to complete an industrial user survey form. (Ord. 1583 § 9, 2005).

13.04.177 Wastewater discharge permits.

The director shall establish a policy by which no user of the POTW shall discharge industrial wastes to the POTW without first having obtained a permit from the director. Any violation of the terms and/or conditions of such a permit shall be deemed to be a violation of this section. (Ord. 1583 § 10, 2005).

13.04.180 Discharges – Unpolluted water – Exemptions.

Repealed by Ord. 1583. (Ord. 1302 § 11, 1995; Ord. 846 Art. V § 2, 1976).

13.04.181 Wastewater discharge permit appeals.

Any person, including the user, may petition the director to reconsider the terms of a wastewater discharge permit within 30 days of its issuance.

A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

D. If the director fails to act within 60 days of the receipt of an appeal, the appeal shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review. (Ord. 1583 § 11, 2005).

13.04.190 Discharges – Prohibited substances.

Repealed by Ord. 1583. (Ord. 846 Art. V § 3, 1976).

13.04.191 Search warrants.

If the director 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 policy, or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this policy or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the director has the right to seek issuance of a search and/or seizure warrant from the municipal court, the district court, or the Skagit County superior court. Such warrant shall be served at reasonable hours by the director and may be accomplished in the company of a uniformed police officer of the city. (Ord. 1583 § 12, 2005).

13.04.200 Vandalism.

No person shall willfully break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance, or equipment, or other part of the POTW. Any person found in violation of this provision shall be subject to the sanctions set out in RCW 9A.48.070 through 9A.48.090. (Ord. 1583 § 13, 2005).

13.04.210 Emergency suspension.

The director may immediately suspend a user's discharge permit (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons.

The director may also immediately suspend a user's discharge permit (after informal notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

A. Any user notified of a suspension of its discharge permit shall immediately stop or eliminate its discharge. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

B. The director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings in BMC 13.04.220 are initiated against the user.

C. No person shall attempt to prevent the city from terminating wastewater service in an emergency situation by barring entry, by physically interfering with city employees or contractors, or by any other means.

D. A user that is responsible, in whole, or in part, for any discharge presenting imminent danger to persons, property, or the POTW, shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under BMC 13.04.220.

E. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section. (Ord. 1583 § 14, 2005).

13.04.220 Termination of discharge (nonemergency).

Any user that violates the following conditions is subject to revocation of the user's discharge permit:

A. Violation of wastewater discharge permit conditions;

- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the pretreatment standards established by the director pursuant to BMC 13.04.017;
- F. Violation of any lawful order of the city, issued with respect to this policy.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. 1617 § 4, 2007; Ord. 1583 § 15, 2005).

13.04.230 Appeal procedures.

A. Appeals.

~~Appeals of decisions made pursuant to this chapter shall be filed and processed in accordance with the applicable procedures identified in Title 14A BMC.~~

~~1. Any user seeking to dispute a notice of violation, order, or other action of the director, may file an appeal.~~

~~2. The appeal must be filed in writing and received by the director within 10 calendar days of the receipt of notice of the disputed action. If the notice of appeal is not received by the director within the 10-calendar-day period, the right to an appeal is waived.~~

~~The notice of appeal shall state with particularity the basis upon which the appellant is disputing the action taken.~~

~~3. Upon receipt of a timely appeal, the director shall set a date and time for an appeal hearing, but in no case shall the hearing be set for more than 30 days from the receipt of the timely notice of appeal. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The director or his/her designee shall serve as the hearing examiner.~~

B. Appeal Hearing.

~~1. The director may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The hearing examiner shall give effect to the rules of privilege recognized by law. The director may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Factual issues shall be resolved by a preponderance of evidence.~~

~~2. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.~~

~~3. Every party shall have the right to cross-examine witnesses who testify and shall have the right to submit rebuttal evidence; provided, that the director may control the manner and extent of the cross-examinations and rebuttals.~~

~~4. The director may take notice of judicially cognizable facts.~~

~~C. Appeal Conclusion. At the conclusion of the hearing, the director shall determine if the disputed action was proper, and shall approve, modify, or rescind the disputed action. The final determination of the director shall be in writing, and all parties shall be provided a copy of the final determination.~~

BD. Judicial Review of Appeal.

Commented [BJ10]: BJ – 3-14-2023 – clarifies appeal procedures and consistency with title 14A (procedures).

1. Pursuant to chapter 36.70C RCW, any party, including the city, the Washington State Department of Ecology, the United States Environmental Protection Agency, or the user/appellant, is entitled to review of the final determination of the director in the Skagit County superior court.
2. Copies of the petition for review shall be served as in all civil actions.
3. The filing of the petition shall not stay enforcement of the final determination except by order of the superior court and on posting of a bond to be determined by the court naming the city as beneficiary.
4. The review shall be conducted by the court without a jury. The record shall be satisfied by a narrative report certified by the director and no verbatim record of proceedings before the director shall be required to be presented to the superior court. (Ord. 1583 § 16, 2005).

13.04.240 Injunctive relief.

When the director finds that a user has violated or continues to violate any provision of this policy, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may petition the Skagit County superior court through the city attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this policy on activities of the user.

The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. Injunctive relief shall be non-exclusive to other remedies available to the city. (Ord. 1583 § 17, 2005).

13.04.250 Civil penalties.

A. This section shall be applicable to all violations of this chapter and to violations of regulations and federal or Washington State statutes that are incorporated into this code by reference or otherwise, except for violations that are expressly designated to be misdemeanors or gross misdemeanors in this chapter.

B. Except as set forth in subsection (A) of this section, any violation of this chapter is deemed and declared to be a Class 1 civil infraction unless such violation is expressly designated as another class of civil infraction in the applicable section of this chapter. Each day of violation shall constitute a separate civil infraction.

C. Notice of Civil Infraction – Issuance, Service and Filing.

1. A civil infraction proceeding is initiated by the issuance, service and filing of a notice of infraction.
2. A notice of civil infraction may be issued upon certification that the issuer thereof has probable cause to believe, and does believe, that a person has committed an infraction contrary to law:
 - a. By an enforcement officer. The infraction need not have been committed in the enforcement officer's presence, except as provided by statute;
 - b. By the city attorney.
3. A notice of infraction may be served either by:
 - a. The enforcement officer serving the notice of infraction on the person named in the notice of infraction at the time of issuance;
 - b. The enforcement officer or the city attorney filing the notice of infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address. If a notice of infraction served by mail is returned to the court as undeliverable, the court shall issue a summons.

4. A notice of infraction shall be filed with the Burlington municipal court within 48 hours of issuance, excluding Saturdays, Sundays and legal holidays. A notice of infraction not filed within the time limits prescribed in this section may be dismissed without prejudice.

D. Person Receiving Notice – Identification and Detention. A person who receives a notice of infraction is required to identify himself or herself to the enforcement officer by giving his or her true name, address, and date of birth. Upon request of the enforcement officer, the person shall produce reasonable identification, including a driver's license or identicard.

E. Notice of Civil Infraction – Form. The notice of civil infraction shall be as prescribed by the administrator for the courts, and shall contain the following information:

1. A statement that the notice of infraction represents a determination that a civil infraction has been committed by the defendant and that the determination is final unless contested as provided in this chapter;
2. A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;
3. A statement of the specific infraction that the defendant is alleged to have committed and the accompanying Burlington Municipal Code section number, the date, time and place the alleged infraction occurred, the time that the notice of infraction was issued, and the name and, if applicable, the number of the enforcement officer;
4. A statement that the defendant must respond to the notice of infraction within 14 days of issuance;
5. A space for the defendant to sign a promise to respond to the notice of infraction within the time required;
6. A space for the entry of a monetary penalty which defendant may pay in lieu of appearing in court;
7. A statement that a mailed response must be mailed not later than midnight on the day the response is due;
8. A statement of the options provided in this chapter for responding to the notice of civil infraction and the procedures necessary to exercise these options;
9. A statement that at any hearing to contest the determination that the city has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the defendant may subpoena witnesses including the enforcement officer who issued the notice of civil infraction;
10. A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the civil infraction, the defendant will be deemed to have committed the civil infraction and may not subpoena witnesses;
11. A statement that failure to respond to the notice of infraction or a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the defendant in the amount of the penalty and that this failure may be referred to the city attorney for criminal prosecution for failure to respond or appear;
12. A statement that the defendant shall sign that the defendant promises to respond to the notice of infraction in one of the ways provided in this chapter;
13. A statement that failure to respond to a notice of infraction as promised or to appear at a requested hearing is a misdemeanor and may be punished by a fine or imprisonment in jail;
14. The name, address, and telephone number of the Burlington municipal division of the district court;
15. The name and address of the defendant.

F. Notice – Determination Final Unless Contested. A notice of infraction represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in this chapter.

G. Response to Notice of Infraction – Required. A defendant who receives a notice of infraction shall respond to such notice as provided in subsection (H) of this section within 15 days of the date of the notice if it is personally served or, if the notice is served by mail, within 10 days of the date the notice was mailed. If the response is mailed, it must be postmarked not later than midnight of the day the response is due.

H. Response to Notice of Infraction – Uncontested Determination. If the person determined to have committed the civil infraction does not contest the determination, such person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court. A check or money order in the amount of the penalty prescribed for the civil infraction must be submitted with the response. The clerk of the court may accept cash in payment for a civil infraction. When a response that does not contest the determination is received, an appropriate order shall be entered into the court's records.

I. Response to Notice of Infraction – Contested Determination. If the person determined to have committed the civil infraction wishes to contest the determination, such person shall respond by completing the appropriate portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall be not earlier than seven days nor more than 90 days from the date of the notice of hearing, except by agreement.

J. Response to Notice of Infraction – Mitigation Hearing. If the person determined to have committed the civil infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, such person shall respond by completing the appropriate portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall be not earlier than seven days nor more than 90 days from the date of the notice of hearing, except by agreement.

K. Response to Notice of Infraction – Failure to Respond or Appear. The court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction and shall notify the city attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if a person issued a notice of infraction:

1. Fails to respond to the notice of infraction as provided herein; or
2. Fails to appear at a hearing requested as provided herein.

L. Hearings – Rules of Procedure. Procedures for the conduct of all hearings provided for in this chapter are those established by the Washington State Supreme Court in the "IRLJ."

M. Hearings – Counsel.

1. A person subject to proceedings under this section may be represented by counsel.
2. The attorney representing the city may appear in any proceedings under this chapter but need not appear, notwithstanding a statute or rule of court to the contrary.

N. Hearings – Contesting Determination That Infraction Committed – Appeal.

1. A hearing held to contest the determination that a civil infraction has been committed shall be without a jury and shall be recorded in the manner provided for in courts of limited jurisdiction.
2. The court may consider the notice of infraction and any other written report made under oath submitted by the enforcement officer who issued the notice of infraction or whose statement was the basis for the issuance of the notice of infraction in lieu of the enforcement officer's personal appearance at the hearing. The person named in the notice of infraction may request the court for issuance of a subpoena of witnesses, including the enforcement officer who issued the notice of infraction, and has the right to present evidence and examine witnesses present in court.
3. The burden of proof is upon the city to establish the commission of the civil infraction by a preponderance of the evidence.

4. After consideration of the evidence and argument, the court shall determine whether the civil infraction was committed. Where it has not been established that the civil infraction was committed, an order dismissing the notice of infraction shall be entered into the court's records. Where it has been established that the civil infraction was committed, an appropriate order shall be entered into the court's records.

5. An appeal from the court's determination or order shall be to the superior court in the manner provided by the "Rules for Appeal of Decision of Court of Limited Jurisdiction."

O. Hearing – Explanation of Mitigating Circumstances.

1. A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of a civil infraction shall be an informal hearing. The person may not subpoena witnesses. The determination that a civil infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

2. After the court has heard the explanation of the circumstances surrounding the commission of the civil infraction, an appropriate order shall be entered in the court's records.

3. There is no appeal from the court's determination or order.

P. Monetary Penalties – When Payable. Whenever a monetary penalty is imposed by the court under this section it is immediately due and payable. If the person is unable to pay at that time, the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the city attorney of the failure to pay.

Q. Costs and Attorney Fees. Each party to a civil infraction case is responsible for costs incurred by that party, but the court may assess witness fees against a nonprevailing defendant.

R. Notice – Failure to Sign – Nonappearance – Failure to Pay Penalty – Misdemeanor.

1. A person upon whom a notice of civil infraction is personally served by an enforcement officer who fails to sign the same is guilty of a misdemeanor.

2. Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction. A written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by an appearance by counsel.

3. A person who willfully fails to pay a monetary penalty or to perform community service as required by a court under this chapter may be found in contempt of court as provided in chapter 7.21 RCW. (Ord. 1583 § 18, 2005).

13.04.260 Criminal prosecution.

A. A user who knowingly introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a gross misdemeanor and be subject to a penalty of not more than \$5,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

B. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this policy, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this policy shall, upon conviction, be guilty of a gross misdemeanor, and punished by a fine of not more than \$5,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense.

In addition, the user shall be subject to:

1. The provisions of 18 USC Section 1001 relating to fraud and false statements;
2. The provisions of Section 309(c)(4) of the Clean Water Act, as amended, governing false statements, representation, or certification; and
3. The provisions of Section 309(c)(6) of the Clean Water Act, regarding responsible corporate officers. (Ord. 1583 § 19, 2005).

13.04.265 Pretreatment charges and fees.

Pretreatment charges are adopted by city council resolution and are identified as separate from all other rates or charges for sewer service; provided, that the city shall collect said charges in the same manner as other sewer utility rates are collected including, but not limited to, the sewer lien procedures provided under chapter 35.67 RCW in the following categories:

- A. A five-year permit for a categorical user or a significant industrial user.
- B. A five-year discharge authorization.
- C. A one-year discharge authorization.
- D. A discharge authorization for a one-time batch discharge.
- E. Permit transfer fee.
- F. Permit Modification Fee. Permit modification fees will only be charged in a case where changes in the user's operation require modification, or when the user requests a modification.
- G. Monitoring Fees. Fees for semi-annual inspections and semi-annual sampling events of categorical users and significant industrial users per visit.
- H. Any user establishing a pattern of noncompliance, or having a history of noncompliance, or suspected of being in noncompliance, may require additional monitoring visits as deemed appropriate by the director. Any additional inspections, sampling, surveillance monitoring activities, and analysis performed which detect noncompliance will be billed directly to the user.
- I. Enforcement Actions. All expenses in preparing enforcement actions will be billed directly to the user.
- J. Medium, high, and very high strength waste fees: in accordance with BMC 13.08.050.
- K. Industrial Flow Surcharge. An industrial flow surcharge will be billed to significant industrial users and categorical users based upon the amount of industrial waste flow. The surcharge rate is based on gallons of industrial waste flow. The director may establish new rates by city council resolution based upon the cost of administering the pretreatment program. (Ord. 1799 § 21, 2014; Ord. 1641 § 2, 2007; Ord. 1583 § 20, 2005).

13.04.270 Private wastewater disposal system – Prohibited when.

Except as provided in BMC 13.04.280 through 13.04.310, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater. (Ord. 846 Art. II § 3, 1976).

13.04.280 Private wastewater disposal system – Permitted when.

All building sewers shall be connected to the City sewer system except that a private wastewater disposal system may be authorized as follows:

A. To permit the construction of a single detached dwelling on an existing lot when the lot is located 200 feet or more from the nearest sanitary sewer;

B. The modification or enlargement of an existing legally established development connected to a private wastewater system, provided the modification or enlargement does not increase wastewater flows.

C. Under no circumstances shall the use of a private wastewater disposal system be authorized for uses involving hazardous or toxic materials.

Where a public sanitary sewer is not available under the provision of BMC 13.04.020, the building sewer shall be connected to a private wastewater disposal system complying with the regulations of the Skagit County health department. (Ord. 846 Art. III § 1, 1976).

13.04.290 Private wastewater disposal system – Permit required Requirements.

Before commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the county health officer. (Ord. 846 Art. III § 2, 1976):

A. When the use of a private wastewater disposal system has been authorized by this Chapter or when development occurs on a property with a private wastewater disposal system, the following requirements shall apply:

1. Private wastewater systems shall not be constructed, enlarged, or modified without full compliance with applicable Skagit County Health Department regulations:

2. No development shall be authorized until one of the following has been provided to the City:

a. A permit issued by the Skagit County Health authorizing the construction, modification, or enlargement of a private wastewater disposal system; or

b. If not permit is required, written authorization from the Skagit County Health Department verifying that the proposed development fully complies with all applicable regulatory requirements including, but not limited to, requirements for location, design, and land area.

a-B. Private wastewater disposal systems shall not be constructed, enlarged, or modified without full compliance with applicable City of Burlington requirements, including, but not limited to, the flood development and critical area standards in Chapter 14.15 BMC, requirements for grading and building permits in Title 15 BMC; and any applicable zoning regulations in Title 17 BMC.

13.04.300 Private wastewater disposal system – Notice to connect to public system.

At such time as a public sewer, as defined in BMC 13.04.010, becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer within 90 days after date of official notice to do so, in compliance with this chapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material; provided, that cement septic tanks with reinforced concrete lids may be exempt from cleaning and filling at owner's option. (Ord. 846 Art. III § 3, 1976).

13.04.310 Private wastewater disposal system – Maintenance.

A. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city in compliance with Skagit County health department regulations. (Ord. 846 Art. III § 4, 1976).

B. Buildings and properties with failing private wastewater disposal systems shall be connected to the City sewer system immediately unless the use of a private wastewater disposal system is authorized by BMC 13.04.280.A and the system is repaired in accordance with all applicable Skagit County Health Department requirements.

C. When the use of a private wastewater disposal system is discontinued the system shall be abandoned in accordance with applicable Skagit County Health Department requirements.

13.04.320 Sewer department supervisor – Right of entry for inspection.

Repealed by Ord. 1583. (Ord. 1302 § 16, 1995; Ord. 846 Art. VII § 1, 1976).

13.04.330 Sewer department supervisor – Obtaining information – Restrictions.

Repealed by Ord. 1583. (Ord. 1302 § 17, 1995; Ord. 846 Art. VII § 2, 1976).

Commented [BJ11]: BJ – 3-14-2023 – implements comp plan policies and ensures Skagit County coordinates with the City.

Commented [BJ12]: BJ – 3-14-2023 – revised for consistency with comp plan and to ensure coordination with Skagit County health department. We did not previously have a way to compel coordination or get verification from the County.

Commented [BJ13]: BJ – 3-14-2023 – added to ensure we received notification when a system fails so we can contact the property owner about sewer connection.

13.04.340 Sewer department supervisor – Inspection – Safety rules applicable – Liability.

Repealed by Ord. 1583. (Ord. 1302 § 18, 1995; Ord. 846 Art. VII § 3, 1976).

13.04.350 Sewer department supervisor – Right of entry on easements.

Repealed by Ord. 1583. (Ord. 1302 § 19, 1995; Ord. 846 Art. VII § 4, 1976).

13.04.360 Additional requirements authorized when.

Repealed by Ord. 1583. (Ord. 846 Art. VII § 5, 1976).

13.04.370 Deposit of objectionable materials prohibited.

It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or objectionable waste. (Ord. 846 Art. II § 1, 1976).

13.04.380 Discharge to natural outlet prohibited – Exception.

It is unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter. (Ord. 846 Art. II § 2, 1976).

13.04.390 Damage of system declared misdemeanor – Penalty.

Repealed by Ord. 1583. (Ord. 846 Art. VI § 1, 1976).

13.04.400 Failure to connect – Penalty.

Any person failing to connect a residential unit to the city sewer system in compliance with BMC 13.04.020 shall pay a penalty to the city in the amount equal to the minimum residential service charge that would be made for sewer service if the property was connected to such system. The minimum service charge will be based on the location of the property whether it is inside the city limits or is located outside of the city limits per BMC 13.08.030 and 13.08.065. All penalties collected shall be considered revenue of the system. (Ord. 1517 § 3, 2003; Ord. 846 Art. VIII § 3, 1976).

13.04.410 Violation – Liability.

Any person violating any of the provisions of this chapter shall become liable to the city for any engineering, legal or administrative expense, loss or damage occasioned the city by reason of such violation. (Ord. 846 Art. VIII § 4, 1976).

13.04.420 Violation – Notice to be served.

Any person found to be violating any provision of this chapter except BMC 13.04.020 shall be served by the city with written notice stating the nature of the violation and providing a 90-day time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. (Ord. 846 Art. VIII § 1, 1976).

13.04.430 Violation – Continuance – Penalty.

Any person who continues any violation beyond the time limit provided for in BMC 13.04.420 is guilty of a misdemeanor, and on conviction thereof shall be punishable according to the provisions of chapter 1.24 BMC. Each day in which any such violation shall continue shall be deemed a separate offense. (Ord. 846 Art. VIII § 2, 1976).

13.04.440 Maintenance of disposal system.

It is the duty of all owners and occupants of premises using disposal systems to at all times maintain the same in such a manner as to protect the public health and welfare; and in the event a disposal system fails to function properly although constructed in accordance with this chapter, the same shall be forthwith reconstructed in order to place the same in a sanitary condition. (Ord. 1583 § 41, 2005).

13.04.450 Noncompliance – Nuisance.

Compliance with the terms and conditions of this chapter constitutes minimum health, sanitation and safety provisions and material; noncompliance with said terms and conditions constitutes a public nuisance and may be abated as such, in addition to any other criminal, civil and equitable remedies that may be available. (Ord. 1583 §§ 25, 42, 2005).

13.04.460 Confidential information.

A. **Presumption of Open Records.** In accordance with the Public Records Act (chapter 42.17 RCW) and the provisions of 33 USC 1318, information and data that relate to a discharger that is obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and city inspection and sampling activities, shall be available to the public without restriction, unless a discharger specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information and data would divulge processes, methods of production, or information that is entitled to protection as trade secrets. When requested and demonstrated by the discharger as described above, the portions of a report, survey, wastewater discharge permit application, wastewater discharge permit, or monitoring program which might disclose trade secrets shall not be made available for inspection by the public.

B. **Violations.** During the time that possible violations of this chapter are being investigated by the city, investigation notes, draft orders, worksheets, summaries, and similar documents pertaining to the investigation shall be considered confidential information. Such documents shall be clearly marked, "CONFIDENTIAL," and shall be maintained as confidential documents to the extent allowed under chapter 42.17 RCW. At the time that an enforcement action, if any, is signed thus designating that enforcement action as final, then the confidential status shall terminate, and the document shall be made available for public inspection.

C. **Disclosure Pursuant to Government Programs.** Nothing in this section shall prohibit the director from disclosing such information to other officers, employees, or authorized representatives of a governmental agency for uses related to applicable governmental programs including, but not limited to, the NPDES program, and the pretreatment program.

D. **Disclosure Pursuant to Enforcement Activities.** Nothing in this section shall prohibit the director from disclosing such information to other officers, employees, or authorized representatives of a governmental agency pursuant to enforcement proceedings involving the person or entity furnishing the information. (Ord. 1583 § 25, 2005).