

CITY OF BENSON

ZONING REGULATIONS

(revised 8/28/06)

	PAGE
TITLE, PURPOSE AND INTENT	4
Section One - Definitions	5
Section Two - Provisions	15
Section Two A – Conditional Uses	16
Section Three - Site Plan Required	22
Section Three A – Community Master Plan Approval	24
Section Four - Establishment of Zoning Districts	37
Section Five - R-1 Districts	40
Section Six - R-2 Residential Districts	42
Section Seven - R-3 Residential Districts	43
Section Seven A - Rural Transitional District	45
Section Eight - B-1 Neighborhood Business District	47
Section Nine - B-2 General Business District	49
Section Ten I-1 Light Industry District	53
Section Eleven - I-2 Heavy Industry Districts	56
Section Twelve - Supplemental Regulations	58
Section Thirteen - Keeping of Livestock and Pets	67
Section Fourteen - Off-Street Parking and Loading Regulations	68
Section Fifteen - Sign Regulations	76
Section Sixteen – Manufactured Home Parks	90

Section Sixteen A – Recreational Vehicle Parks	93
Section Seventeen - Outdoor Lighting Regulations	97
Section Eighteen - Non-Conforming Use	116
Section Nineteen - Amendments	117
Section Twenty - Administration and Enforcement	120
Section Twenty A-Violations of These Regulations	123
Section Twenty-One - Board of Adjustment	124
Section Twenty-Two - Severability Clause	131
Section Twenty-Three - Repeal of Conflicting Ordinances	132
Section Twenty-Four - Historic Preservation Ordinance	133
Section Twenty-Five – Citizen Review Process	143

TITLE, PURPOSE AND INTENT

TITLE: These regulations shall be known and cited as the “Benson Zoning Regulations”, and shall be referred to herein as “these regulations”.

PURPOSE: The Purpose of these regulations are to secure adequate light and air, to prevent the overcrowding of land and undue concentration of population, to secure land and undue concentration of population, to secure safety from fire, panic and other dangers, to lessen or avoid congestion in the streets, to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, another safety, morals, convenience and general welfare of the citizens of the City of Benson, Arizona.

INTENT: It is the intent of these regulations not to interfere with, abrogate, or annul any easement, covenant, or other agreement between parties; provided, however, that where these regulations impose a greater restriction upon the use of buildings, structures or land, the provisions of these regulations shall prevail.

SECTION ONE - DEFINITIONS

The word person includes a firm, association, organizations, partnership, trust, company, or corporation as well as an individual.

The word shall is mandatory and the word may is permissive.

The word lot includes the words plot or parcel.

The word building includes the word structure.

The words used or occupied includes the words intended, designed, or arranged to be used or occupied.

When not inconsistent with the context, the present tense includes the future tense; the singular number includes the plural; and the plural number includes the singular.

All words and terms shall be interpreted according to their common usage unless otherwise defined.

Pertaining to land use, the standard system for identifying and coding land uses activities in "Standard Land Use Coding Manual". U.S. Department of Transportation, reprinted December, 1969, Washington, D.C., shall be used as a reference for determining the use of land for the purposes of the Zoning Regulations.

Accessory Building - A detached building on the same lot with, and of a nature customarily incidental and subordinate to, the principal building. An accessory building attached to the main building shall be considered to be a part of the main building and shall maintain any yards required for a main building.

Accessory Use - A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.

Acre - An area comprising forty-three thousand, five hundred, sixty (43,560) square feet.

Alley - A way dedicated and open to the public, which affords a secondary means of, access to the back or side properties otherwise abutting on a street.

Amendment - A change in the wording context, or substance of these regulations, an addition or deletion, or a change in the zoning district boundaries or classifications upon the official zoning map, which imposes any regulation not heretofore imposed or removes or modifies any such regulation theretofore imposed.

Automobile Graveyard - Any establishment or place of business maintained, used or operated for storing, keeping, buying or selling wrecked, abandoned, scrapped, ruined or dismantled motor vehicles or motor vehicle parts. (added by Ordinance No. 316 12/6/88)

Buildable Area - That net portion of the lot remaining after deducting all required yards from the gross area of a lot.

Building - A structure having a roof supported by columns or walls for housing, shelter or enclosure of persons, animals, chattels or property of any kinds.

Building Height - The vertical distance from the grade to the highest point of structure.

Carport - An accessory building or portion of a principal building with two (2) or more open sides designated or used for the parking of motor vehicles. Enclosed storage facilities may be provided as part of a carport.

Commission - Benson Planning and Zoning Commission.

Common Area - An area designated to serve two (2) or more dwelling units or separate uses with convenient access to the area.

Conditional Use - A use that may locate in certain zoning districts provided it will not be detrimental to the public good nor impair the integrity and character of the zoned district, and will be suitable to the community at large. (added by Ordinance No. 398 1/1/98)

Council - The elected governing body of Benson.

Dwelling - Any building or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, Single Family - A detached residence designed for occupancy by one (1) household only. This shall include manufactured homes when placed on a permanent foundation, converted to real property, and taxed as a site-built dwelling as provided by law. (amended by Ordinance No. 316, 12/6/88)

Dwelling, Multiple Family - A residence designed for occupancy by two (2) or more households, with separate housekeeping and cooking facilities for each.

Dwelling Unit - One (1) or more rooms designed for occupancy by one (1) household for living purposes and having its own cooking and sanitary facilities.

Factory-Built Structure - Any structure that is wholly, or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site. (added by Ordinance No. 316, 12/6/88)

Factory-Built Housing - A factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three (3) types: modular homes, mobile homes, and manufactured homes. (added by Ordinance No. 316, 12/6/88)

Feedlot - A feeding operation on a parcel of land where livestock are kept or exchanged in corrals or yards on a sustained basis and where feed is brought to the yard. It is operated for the purpose of accommodating the needs of others in whole or in part for a fee or fees paid to the operator or owner for the accommodations, materials, and services received.

Fence - A structure built to separate two parcels of land or to separate a parcel of land into different use areas.

Fertilizer Plant - A place where animal matter is collected, processed or stored on a commercial basis, excluding sewage treatment plants.

Floor Area - The sum of the gross horizontal areas of every floor, of all buildings on the lot measured from the exterior walls or from the center line of walls separating the buildings, including basement floor area, elevator shaft and stairwells at each floor, floor space used for mechanical equipment, penthouse, attic space whether or not a floor has been actually laid and having headroom of seven (7) feet or more, interior balconies and mezzanines, and roofed porches, but not including any space devoted to parking, or to loading and unloading.

Garage - An accessory building or portion of the principal building designed or used for the shelter or storage of self-propelled vehicles owned or operated by the occupants of the principal building.

Grade, Natural - The average elevation of the finished ground surface adjacent to the exterior walls of a building.

Guest House - An attached or detached accessory building used as a temporary dwelling for guests of the occupants of the main building, and which is never rented or offered for rent. A guesthouse providing cooking facilities shall be considered a dwelling unit.

Home Occupation - An activity carried on by the occupant of a dwelling as a secondary use, including professional and semi-professional offices when conducted and entered from within the dwelling, in connection with which there is no public display of stock-in-trade upon the premises, not more than one (1) non-resident of the premises is employed and not more than one-fourth (1/4) of the floor area of one story of the principal building, or a detached home workshop of not more than two hundred (200) square feet in area is used for such home occupation; and provided that the residential character of the dwelling is not changed by said use and that such occupation does not cause any sustained changes by said use and that such occupation does not cause any sustained or unpleasant or unusual noises, vibrations, noxious fumes, odors, or cause any parking or traffic congestion in the immediate neighborhood.

Hotel/Motel - A building, or group of buildings, used primarily for accommodation of transient guests in rooms or suites.

Household - An individual or two (2) or more persons related by blood, marriage or adoption and usual servants living together as a single housekeeping unit in a dwelling unit or a group of not more than five (5) persons who need not be related, living together as a single housekeeping unit in a dwelling unit.

Junk - Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked automobiles or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. (added by Ordinance No. 316, 12/6/88)

Junkyard - Any establishment or place of business maintained, used, or operated for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard, and including garbage dumps sanitary landfills. (amended by Ordinance No. 316, 12/6/88)

Landscaping - The application or use of some combination of planted trees, shrubs, vines, ground cover, flowers or lawns. In addition, the combination may include rocks, and such structural features as fountains, pools, art works, screens, walls, fences, or benches.

Lots - A legally created parcel of land under one (1) ownership of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are required by these regulations.

Lot, Corner - A lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Lot Coverage - The percentage of the area of a lot, which is occupied by all buildings or other covered structures.

Lot Depth - The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

Lot, Interior - A lot other than a corner lot with only one (1) frontage on a street other than an alley.

Lot, Lines - The lines bounding a lot.

Lot Line, Front - The boundary of a lot which separates the lot from the street. For the purpose of determining yard requirements on corner and through lots, all lot lines separating the lot from streets shall be considered front lot lines.

Lot Line, Rear - The Boundary of a lot which is most distant from, and is, or is most nearly, parallel to the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered a line within the lot,

parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.

Lot line, Side - The boundary of a lot which is not a front line or a rear lot line.

Lot of Record - A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Cochise County Recorder; or a lot, parcel or tract of land described by metes and bounds, the deed of which has been recorded in the office of the Cochise County Recorder.

Lot Width - The distance between side lot lines measured across the rear of the required front yard parallel to the street or street chord.

Lot, Zoning - A single parcel of land, or one or more lots of record, designated by its owner as a tract to be used, developed, or built upon as a unit, under single ownership or control, meeting all of the requirements set forth in these regulations.

Manufactured Home - A factory-built structure that is manufactured or constructed under the authority of 42 United State Code Section 5401 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home, except as hereinafter provided. (added by Ordinance No. 316, 12/6/88)

Mobile Home - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. In many cases, mobile homes were built to a voluntary industry standard of the American National Standards Institute (ANSI)-A119.1 Standards for Mobile Homes. (amended by Ordinance No. 316 12/6/82)

Manufactured Home Park - A parcel of land under single ownership on which three or more mobile and/or manufactured homes are occupied as residences, regardless of whether or not a charge is made for such accommodations. (amended by Ordinance No. 472 6/21/2004)

Mobile Home Space - A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home or recreational vehicle together with its accessory structures.

Mobile Home Subdivision - A subdivision designed and intended for sale, lots, for residential occupancy in mobile homes.

Modular Home - Factory-built housing certified as meeting the local or State Building code as applicable to modular housing. Once certified by the state, modular homes shall

be subject to the same standards as site-built homes. (added by Ordinance no. 316, 12/6/66)

Non-Conforming Building - A building, structure, or portion thereof, which does not conform to the requirements of these regulations applicable to the zoning districts in which such building is situated, but which legally existed prior to the effective date of these regulations.

Non-Conforming Lot - A lot of record or parcel of land having less area, frontage or dimensions that required by these regulations for the zoning district in which it is located, but which was lawfully established and recorded prior to the effective date of these regulations.

Non-Conforming Use - A use of a building or parcel of land which does not conform to the requirements of these regulations but which lawfully existed prior to the effective date of these regulations.

Nursery School - A public or private school or kindergarten providing day care and/or education to five (5) or more children six (6) years old or under.

Parking Garage - An enclosed building used for parking, storage, or rental of motor vehicles.

Permitted Use - A use specifically permitted or a use analogous to those specifically permitted.

Planned Area Development – A planned development consisting of lands either under single or multiple owners acting in concert to develop multiple uses on contiguous parcels of land consisting of not less than twenty (20) acres of developable area, regardless of the zoning districts, with the end product being a better quality mixed use development of residential, recreational and/or business uses that can not otherwise be achieved reasonably with the lot size, setback, building height and related requirements set forth in other provisions of the zoning regulations. (added by Ordinance No. 417)

Prohibited Use - A use not specifically permitted or a use analogous to those not specifically permitted.

Railroad - Includes the land used for general railroad purposes, including mainline and switching trackage, repair shops, stations, communications equipment, roundhouses and storage facilities, but not including railroad equipment (miniature or otherwise) operated by this owner as a hobby or as part of the equipment of an amusement resort.

Recreational Vehicle - A movable or portable dwelling unit forty (40) feet or less in length and eight (8) feet or less in width, built on a chassis, designed primarily for temporary living quarters for recreational or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

Self-service Station - A space, building or part thereof, arranged or designed to be used for retail sales or supply of motor fuels.

Setback - The shortest distance between the property line and the foundation, wall or main frame of a building or structure.

Sign - Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but excluding any flag, badge or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization, any official traffic control device, and any notice posted according to law; the display of any letter, numeral, figure, emblem, picture, outline, beacon, or spectacular, either in whole, in part, or in combination, whereby such display is made on, attached to, or is a part of a structure erected for the purpose, or is on, attached to, or a part of any other structure, surface or thing, including but not limited to, the ground or any rock, tree or other natural object, which display is visible beyond the boundaries of the lot or parcel in, or over which it is located.

Sign Accessory - A basic category of signs which direct attention to a business, profession or activity conducted on the premises on which the sign is located, including:

(a) Bulletin Board - A wall or ground sign announcing activities of a permitted educational, governmental or religious institution or recreation area.

(b) Contractor's Sign - A temporary wall or ground sign designating the name of persons or firms engaged in construction or repair on the premises.

(c) Developers' Sign - A temporary wall or ground sign designating the use which will occupy the premises at some future date.

(d) Home Occupation Sign - A wall sign identifying a permitted home occupation on the premises.

(e) Identification Sign - A wall, ground or roof sign identifying a permitted principal use, but which bears no advertising or message other than the name, year established, street number and kind of business or activity conducted on the premises.

(f) Name Plate Sign - A wall or ground sign identifying the name and address of the occupant of the premises.

(g) Real Estate Sign - A temporary wall or ground sign advertising the premises for lease, rent or sale.

(h) Subdivision Development Sign - A temporary wall or ground sign advertising the sale of properties in a subdivision.

(i) Temporary Sign - A sign that is displayed no longer than one (1) year. (An extension to the one-year limit may be granted by the Planning and Zoning Commission).

(j) Utility Sign - A wall or ground sign marking the entrance or exit to the parking lot or other permitted accessory use.

Sign, Free-standing - A sign support by uprights or braces placed upon or in the ground, and not attached to any building.

Sign, Non-Accessory - A basic category of signs which direct attention to a business, commodity, service, entertainment, or other activity or thing, not exclusively related to the premises on which the sign is located; including directional signs as hereinafter defined:

(a) Directional Sign - A sign directing or informing the public as to the location of publicly owned facilities: historical or scenic points of interest; educational, charitable or religious institutions; hospitals or sanitariums; and major business districts.

Sign, Projecting - A sign which is attached to a building or structure and extends beyond the wall of the building or line of the structure more than twelve (12) inches.

Sign, Roof - A sign which extends above and is supported by the roof of a building.

Sign, Wall - A flat sign placed against or attached to an exterior front, side or rear wall of a building, including signs placed parallel to and extending not more than twelve (12) inches horizontally out from the wall of a building.

Story - That portion of a building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between such floor and the ceiling above. A basement shall be considered a story if its ceiling is more than five (5) feet above the average established grade of its perimeter, or if it is used for business purposes by other than janitors or domestic servants in the same building.

Street - A way dedicated to the public, which affords that principal means of access to abutting property.

Street Line - The dividing line between a lot, tract or parcel of land and a contiguous street, the right-of-way line of a street.

Structural Alteration - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or exterior walls, or which expands the height of area thereof.

Structure - Any thing constructed or erected with fixed location on the ground, or attached to something having a fixed location on the ground, including, but not limited to, buildings towers, swimming pools, walls, fences and billboards.

Structure, Temporary - Anything constructed or erected which is readily movable and intended to be used, or used for a period of time not to exceed ninety (90) consecutive days. Such temporary structure shall be subject to all applicable requirements of these regulations for the zoning district in which it is located.

Use - The purpose, for which land or building is occupied or maintained, arranged, designed or intended.

Use Permitted Upon Application - A use specifically permitted upon application to and with written approval of the Zoning Commission.

Use, Principal - The main use of land or a building as distinguished from an accessory use.

Variance - A relaxation or waiver of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

Wall - Any barrier, separate structure, for screening purposes forming a physical barrier, which is so constructed that 100 percent (100%) of the vertical surface shall be closed solid, except for approved gates or other access ways.

Yard - space an open unoccupied and unobstructed by any structure or portion of a structure from two and one-half (2 1/2) feet above the general level of the graded lot upward, provided, however, that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

Yard, Front - A yard on the same lot with principal building extending across the full width of the lot between the front lot line and the nearest front wall line of the principal building. Any attached carport, porch, or structure, or part thereof, shall be considered as part of the principal building.

Yard Rear - A yard on the same lot with a principal building extending across the full width of the lot between the rear lot line and the nearest rear wall line of the principal building. Any attached carport, porch, or structure, or part thereof, shall be considered as a part of the principal building.

Yard, Required - The minimum open space unoccupied and unobstructed as specified by these regulations for front, rear and side yards, as distinguished from any yard area in excess of the minimum required.

Yard, Side - A yard on the same lot with a principal building extending from the front yard to the rear yard between the side lot line and the nearest side wall line of the

principal building. Any attached carport, porch, or structure, or part thereof, shall be considered as a part of the principal building.

Zoning District - Any portion, of the incorporated area of Benson, in which the same zoning regulations apply.

SECTION TWO - PROVISIONS

Conformance Mandatory

Except as otherwise provided by these zoning regulations, no building shall hereafter be used, erected, constructed, reconstructed, moved or altered, nor shall any land be used, except in conformity with these regulations for the zoning district in which the land or building is located.

Minimum Requirements

The provisions of these Zoning Regulations are minimum requirements. Where these regulations impose a greater restriction than is imposed or required by other provisions of law, the provisions of these Zoning Regulations shall control.

Private Agreements

The provisions of these Zoning Regulations shall apply independently of any easement, covenant or other agreement between private parties.

Permitted Uses

Uses designated as permitted by any zoning district regulation shall be permitted upon approval of the Zoning Inspector. No such approval shall be granted except upon compliance with all of the regulations specified for the zoning district in which the use is sought to be maintained.

Uses Permitted Upon Application (deleted by Ordinance No. 398 1/1/98)

Exceptions for Lots of Record

For any lot or parcel of record of less width or area than required by the use regulations of that zoning district in which it is located where such lot is shown upon tentative subdivision plat duly approved by the Commission or is shown upon a final subdivision plat recorded or where such lot or parcel for which a bona fide deed or contract of sale is in full force and effect at the time these Zoning Regulations become effective and said deed or contract of sale is of record in the office of the Cochise County Recorder, then said lot or parcel of record may be used for any permitted use or use permitted on appeal in that zoning district provided all use regulations are complied with.

Moving of Buildings (deleted by Ordinance No. 431)

SECTION TWO A – CONDITIONAL USES (added by Ordinance No. 398 1/1/98)

- 2-A-1 Purpose
- 2-A-2 Conditional Uses
- 2-A-3 Authority and Approval
- 2-A-4 Location Criteria
- 2-A-5 Application for Conditional Use
- 2-A-6 Review Procedures
- 2-A-7 Revocation of Conditional Use Permit
- 2-A-8 Automatic Termination of Conditional Use

Section 2-A-1 Purpose

Each district in the City contains designate permitted uses available as a matter of right. In addition to the designated uses in each district, there are conditional uses, neither permitted as a right nor prohibited by law, which may be compatible within the district. These are privileges, which must be applied for and approved by the City.

It is the intent of this section to provide a set of procedures and standards for conditional uses of land or structures which, because of their unique characteristics relative to locational features, design, size, operations, circulation and public interest or service, require special consideration in relation to the welfare of adjacent properties and the community as a whole. It is the purpose of the regulations and standards set forth below to:

1. Allow practical latitude for utilization of land and structures and maintain adequate provisions for the protection of the health, safety, convenience and general welfare of the community and adjacent properties; and,
2. Provide procedures for periodic review of conditional use permits to provide for further conditions to assure more appropriate conformity of such uses to the public welfare.
3. Promote the goals of the General Development Plan with consideration to the aesthetic integrity of the area.

Section 2-A-2 Conditional Uses

The following are conditional uses which may be permitted in certain districts subject to the standards detailed herein.

- A. Utility structures, including, but not limited to substations, telephone switching stations, electrical generation facilities and other facilities required for the transmission of power or communications.

- B. Sewage facilities, including but not limited to pump stations, or sewage or storm water treatment plants.
- C. Water systems, including, but not limited to treatment plants, storage reservoirs, pump stations or other major facilities associated with the supply or distribution of water.
- D. Solid waste transfer stations and solid waste landfills.
- E. Recycling centers.
- F. Emergency service facilities or other public service facilities needing locations in the area to permit effective service within the area.
- G. Private clubs, fraternities, sororities and lodges.
- H. Elementary and high schools.
- I. Institutional buildings such as hospitals, colleges, churches and synagogues.
- J. Cemeteries.
- K. Nursing care institutions.
- L. Day care, group homes in residential districts.
- M. Specialized treatment homes, halfway houses, and domestic violence shelter facilities.
- N. Sending or receiving towers for radio, television or communications.
- O. Bed and breakfast facilities for short stays with meal service restricted to registered guest only.
- P. Swap meets (added by Ordinance No. 431)
- Q. Auto Sales and Auto Repair (added by Ordinance 431.)

Section 2-A-3 Authority and Approval

- A. The Planning & Zoning Commission may approve, approve with conditions, or deny the application for a conditional use permit. In permitting a new conditional use or the alteration of an existing conditional use, the Planning & Zoning Commission may impose, in addition to those standards and

requirements specified by the Zoning Regulations, additional conditions which it finds necessary to avoid detrimental impacts and to otherwise protect the best interests of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

1. Limiting the manner in which the use is conducted, including restricting the time a certain activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
2. Establishing special yard, open space, parking requirements, lot area or dimensional requirements.
3. Designating the height, size, appearance or location, of a building or other structure or use.
4. Designating the size, number and location and nature of vehicle access points.
5. Designating the size, location, screening, drainage, surfacing or other improvements of a parking area or loading area.
6. Limiting or otherwise designating the size, location, height and lighting of signs.
7. Limiting the intensity of outdoor lighting and require its shielding.
8. Requiring diking, screening, landscaping or other facilities to protect adjacent or nearby property and designate standards for its installation and maintenance.
9. Designation the size, height, and location of screening and materials for a fence.
10. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or another significant natural resource.

Section 2-A-4 Locational Criteria

A. The provisions of this section are designed to provide siting criteria and guidelines for the imposition of additional conditions not specifically provided for herein, to the end that such uses will:

1. Be consistent with the intent and purpose of the district in which it is proposed to locate such use;

2. Meet the requirements of the General Development Plan with regard to providing benefit to the general welfare of the public.

3. Fill a probable need of the public, which can best be met by a conditional use at this time and in this place.

A. Conditional Uses shall be located subject to the following specific standards:

1. Buffering, screening or other means shall be used where necessary to protect the privacy and safety of neighboring properties.

2. Solid waste landfills, transfer stations, natural gas storage, sewage treatment plants and electrical generating facilities shall not be in or adjacent to established residential areas.

3. Solid waste landfills, transfer stations, natural gas storage, sewage treatment plants and electrical generating facilities will not be provided access from residential streets. Recycling centers, water reservoirs, telephone communication and switching facilities shall not provide access from residential streets.

4. The site layout conforms to the established street and circulation pattern and the General Development Plan.

5. Noise levels and lights from the facility will not interfere with adjacent land uses, or in any way create a nuisance.

Section 2-A-5 Application for Conditional Use

A. A request for a conditional use, modification of an existing conditional use permit, or a review of an existing conditional use permit shall be initiated by the property owner or his authorized agent by filing an application with the Community Development Department. Such application shall include:

1. Full information regarding the proposed locations, area, height, and placement of such use, and shall be accompanied by a site plan.

2. A vicinity ownership map drawn to scale showing all parcels in the vicinity adjacent to and surrounding the property proposed for conditional use within three hundred (300) feet of the exterior boundaries of the property.

3. A typed or printed list containing the names and mailing addresses of the owners of parcels within three hundred (300) feet of the boundaries as indicated in Item 2. Above and identified by the same number as on the

vicinity ownership map. Correct zip codes must be shown for each address.

B. An application filed pursuant to this section shall be accompanied by the required fee. Such fee shall be determined according to a fee schedule established by the City Council.

C. The Community Development Director shall review each application for technical compliance with established application requirements. The application shall be formally accepted for approval processing or rejected within five (5) working days.

Section 2-A-6 Review Procedures

A. All applications for conditional use permits shall be considered by the Planning & Zoning Commission at a public hearing.

B. The public hearing notice shall contain:

1. The location and description of the proposed conditional use; and,
2. The time and place of the public hearing at which comments on the proposed use may be presented.

C. The Planning & Zoning Commission shall review each application to insure compliance with the criteria and requirements set forth in this ordinance.

Section 2-A-7 Revocation of a Conditional Use Permit

A. Any previously granted conditional use permit may be revoked by the Planning & Zoning Commission, after a hearing conducted in the manner required for approval of the original conditional use permit upon any one of the following grounds:

1. Failure to comply with the conditions of approval.
2. Discontinuance of the use for a period in excess of one (1) year.
3. Failure to comply with applicable provisions of the General Development Plan regarding design, size or use requirements.
4. A change in the General Development Plan or requirements of the district within which the use is located that have the effect of no longer allowing a new conditional use permit application to be considered in such district.

B. Revocations shall have the effect of making the previously granted conditional use permit void until a new application is submitted and granted or in the case of A.4. above, shall have the effect of making the previously granted conditional use a non-conforming use.

Section 2-A-8 Automatic Termination of a Conditional Use

Unless otherwise approved, a conditional use permit shall automatically become null and void one (1) year after the effective date upon which it was granted unless utilization was started.

SECTION THREE - SITE PLAN REQUIRED

Except as exempted in this section, a site plan approved by the Planning and Zoning Commission or the Community Development Director, shall be considered the primary condition for the establishment of any building, structure to be constructed on a development site in any zoning district, or use, undertaken, constructed or planned in any zoning district. A use permit shall be required for all uses which are not exempted by the provisions of this section whether or not any construction is involved. When due to a change of plans or circumstances, it becomes necessary to revise an approved site plan; a new site plan shall be submitted for review and approval by the Planning and Zoning Commission or the Community Development Director. (amended by Ordinance No. 316, 12/6/88 and Ordinance No. 398 1/1/98)

The Community Development Director shall be authorized to review and approve site plans submitted in conjunction with the establishment of any building, structure or use involving improvements having a valuation of less than \$20,000.00. For site plans with a valuation of \$20,000 or greater, the Planning & Zoning Commission shall have the authority to approve. (added by Ordinance No. 316, 12/6/88 and amended by Ordinance No. 398 1/1/98 and Ordinance No. 431 December 18, 2001).

Exemptions

Development meeting the following criteria shall be exempt from the requirement to submit a development site plan detailed elsewhere in this section:

(a) Single-family residences and accessory buildings constructed in an approved subdivision in an R-1, R-2, or R-3 zoning district. These developments shall be handled with a site plan submitted to the Zoning Inspector in conjunction with the Building Permit Application.

(b) Mobile home residences and accessory buildings placed on lots in established mobile home parks or approved subdivisions in R-3 zoning districts. These developments shall be handled with a site plan submitted to the Zoning Inspector in conjunction with the Building Permit Application.

(c) Multi-family residences consisting of less than five (5) units per lot. These developments shall be handled with a site plan submitted to the Zoning Inspector in conjunction with the Building Permit Application.

Site Plan Requirements

Two (2) 24 x 36 copies of the Plan and twelve (12) 11 x 17 copies shall be submitted for review and approval by the Commission. Proof of Ownership and Proof of Agency shall consist of a copy of a title report issued not more than thirty (30) days prior to the date of submittal by a title company authorized to conduct business in the State of

Arizona. If the land is owned by a corporation, Proof of Agency shall consist of a Corporate Resolution designating the individual to act as agent. The Corporate Resolution must be certified by the secretary of the corporation, and authenticated by the corporate seal, or acknowledged in the form prescribed by ARS 33-506.2.

If the land is owned by a partnership, Proof of Agency shall consist of a written document designating an individual to act as agent. The document must be certified and acknowledged in the form prescribed by AS 33-506.1.

Such site plan shall include the following information upon the appropriate number of plan sheets:

(a) Location sketch show in dimensions, shape, area, and precise legal description of the development site, and its relationship to the surrounding zoning district(s), at any appropriate scale.

(b) Existing conditions data:

(1) Location, sizes, and shape of all existing buildings and structures.

(2) Location, width, and alignment of all existing abutting and on-site streets, alleys, and easements and other public or private rights-of-way or reservations.

(3) Location of all existing abutting and on-site improvements such as pavement, sidewalks, curbs and curb cuts, gutters, storm and/or sanitary sewer facilities, drainage structures, water lines (including size), and fire hydrants (within 500 feet of the site).

(4) Existing hydrologic data, to include all pertinent elevations and inflow and outflow courses and locations, reflected on a one-foot contour internal overlay of the development.

(c) Proposed conditions data:

(1) Location, size and shape of all buildings and structures, including any existing buildings and structures to be retained and/or renovated.

(2) Location, width, and alignment of abutting and on-site streets, alleys, easements, and other public or private rights-of-way or reservations proposed for construction and/or dedication.

(3) Location of all proposed abutting and on-site improvements such as parking lots, pavement, trash collection areas, sidewalks, curbs and curb cuts, gutters, storm and/or sanitary sewer facilities (including termini at on-

site and/or off-site connections), drainage structures, water lines (including size), and fire hydrants.

(4) Drainage plan for the development site referenced to the existing hydrologic data overlay and reflecting the ultimate flow conditions imposed by full development on the site. All pertinent elevations and grades of buildings, structures, and elevations and grades of buildings, structures, and improvements, and inflow, on-site, and out-flow courses and locations, to include assumed flow quantities and calculations, shall be reflected.

Development Schedule

An application for establishment and maintenance of any building, structure or use constructed or to be constructed on the development site in an R-1, R-2, R-3, B-1, B-2, I-1, or I-2 zoning district, shall be accompanied by a development schedule, indicating, to the best of the applicant's knowledge, the appropriate date on which construction of the project will begin, progressive stages of development, if any, anticipated rate of development, and completion date.

Significance of Approval

Final site plan approval of a commercial development is valid for one year from date of approval and may be extended one time for six months from the expiration date of original approval by the Commission upon written request from the developer, 30 days prior to expiration of original approval.

SECTION THREE A - COMMUNITY MASTER PLAN APPROVAL
(APPROVED BY Ordinance No. 490 on May 16, 2005)

Intent

Community Master Plans (CMP) are intended to accommodate, encourage and promote large developments with innovative mixed-use design involving residential and nonresidential land uses, which together form an attractive, harmonious unit in the community. The planned development, if so specified at the time of CMP approval, may include standards, regulations, or criteria that differ from those regulations pertaining to other districts in the City's Zoning Ordinance.

The CMP is further established to provide both the developer and the City with reasonable assurances that specific, proposed uses, intensities and phasing are not inconsistent with the adopted General Development Plan.

COMMUNITY MASTER PLAN APPLICABILITY

The provisions of this Section shall apply to all CMP documents, and any additional or supplemental information that is deemed necessary by the Zoning Administrator, or their designee, to meet the following objectives:

- a. To accommodate variations in building design, lot arrangements and land uses for a maximum choice in the types of environment for residential and commercial facilities;
- b. To provide for a coordinated and compatibly arranged variety of land uses, with efficient and safe traffic circulation, including the separation of pedestrian from vehicular traffic, through innovative site planning;
- c. To maintain quality of living excellence with the provision of usable open space standards to minimize adverse environmental impact on surrounding areas; and,
- d. To assist in fulfilling the goals, objectives and policies of the City of Benson General Development Plan and amendments thereto. In the event that the submitted CMP does not conform with the current General Development Plan, the applicant shall be required to apply for a modification of the General Development Plan.

MINIMUM REQUIREMENTS FOR SUBMISSION OF A CMP

A CMP will only be allowed under the following conditions:

- a. The project for which the CMP is developed must be at least 640 acres in size;

- b. The property in question is already annexed into the City of Benson;
- c. The property must have an existing Development Agreement with the City of Benson or the developer must be in the process of finalizing a Development Agreement at the time of submission of the preliminary CMP application; and,
- d. The property has underlying zoning at least equal to the R-2 district under the City's Zoning Ordinance.

Permitted Uses

All uses permitted within the CMP are to be determined by the underlying zoning district, or by an approved development plan for the site. Residential neighborhoods shall include a range of housing types, lot styles and designs. In the development of a balanced community, a variety of housing within one project shall be deemed most in keeping with the objectives of this Section. All other uses shall be determined by the compatibility of such uses with each other as well as with surrounding land uses and shall conform to policies as established in the City of Benson General Development Plan.

General Development Plan Conformance

Densities and intensities permitted in the CMP shall conform with the City of Benson's General Development Plan. Modification of General Development Plan land uses within the CMP boundaries are permitted without a General Plan amendment if the overall acreage of the more intense category remains unchanged or decreases and said modification provides for a balanced mixture of land uses. Increases in the more intense General Development Plan classifications require a General Development Plan amendment. Upon adoption of the Preliminary CMP, the City will process a minor General Development Plan amendment to show the changes resulting from the Preliminary CMP approval on the City's General Plan and all costs for said amendment shall be borne by the applicant.

COMMUNITY MASTER PLAN DEVELOPMENT PROCEDURES

A CMP approval shall be submitted to the Zoning Administrator in the form of a preliminary CMP application consisting of a graphic layout with accompanying narrative and sufficient description and documentation to identify the nature, mix and general arrangement, density, open space, and quality of the project, which may be approved upon review by the Planning and Zoning Commission and City Council.

A pre-application meeting shall be held between the owner or owner's representative(s) and the City. A formal application shall then be submitted for public hearing, before the Planning and Zoning Commission and City Council. Within two (2) years of Preliminary CMP approval, the applicant shall submit the Final CMP to the Planning and Zoning Commission. In the event the Final CMP is not submitted for approval to the Planning

and Zoning Commission within two (2) years of Preliminary CMP approval, all development rights will lapse. The Commission's recommendations on the Final CMP shall be referred to the City Council for review and action.

A. PRELIMINARY CMP APPLICATION:

A preliminary development plan (showing general land use concepts, but not requiring lotting plans at this stage) shall be submitted to and accepted by the Zoning Administrator or designee, for consistency with Benson codes, policies and plans, and shall indicate the following:

1. Locational information including an area map showing adjacent property ownership and existing uses within three hundred feet (300') of the parcel, and a legal description of the metes and bounds of the parcel.
2. Physical constraints to the site's development; existing topographical features, including any portions of the site that are subject to flooding (indicating the extent and frequency, retention areas, calculations and maintenance responsibility); proposed roadway or major utility line extensions which may impact development; and such other impediments to the property's use and improvement as may be present or planned for the future.
3. A Preliminary Development Plan addressing:
 - a. The location and nature of the various uses and their areas in acres (summarizing land use areas), maximum number of dwelling units and approximate percentage allocation by dwelling type, calculation of the residential density in dwelling units per gross acre;
 - b. The proposed arterial and collector circulation system, including any improvements (public or private) needed to accommodate additional traffic;
 - c. The open space system (including a general statement regarding ownership and maintenance) with indication of responsiveness to General Development Plan recreation, open space and perimeter treatments;
 - d. Surrounding land uses and zoning; and,
 - e. Shall submit evidence of consistency with the goals of the General Development Plan of the proposed land use compatibility and projected community requirements.

4. Project narrative, including a descriptive summary of the overall project and any proposed deviations from the existing development standards in the City subdivision and zoning regulations.

B. PRELIMINARY DEVELOPMENT PLAN REVIEW:

The Zoning Administrator, or their designee, in writing, may waive any of the above required information which is not applicable; or require additional information when necessary to clarify any aspect of the project or its potential impacts on the community.

1. The preliminary development plan shall be reviewed by the City of Benson Community Development Department and any other agencies deemed appropriate by the department. The department shall compile and return written comments within forty-five (45) days.

2. Thereafter, the Planning and Zoning Commission shall conduct a public hearing on the preliminary development plan and transmit their recommendations to the City Council for Council action.

3. The City Council may adopt the recommendations of Planning and Zoning Commission without holding a second public hearing if there is no objection, request for an additional public hearing, or protest at the Planning and Zoning Commission's public hearing. The Council shall be required to hold an additional public hearing if requested by the applicant, if any person appears in opposition at the Commission hearing, if any person has filed a written protest regarding the Commission hearing, or if requested by any member of the City Council.

a. The City Council may approve a Preliminary CMP, only upon finding that that the proposal is in general conformance with the goals of the City of Benson General Development Plan.

b. The Council may, as necessary, attach conditions to CMP approval, which may include but are not limited to the following considerations: intensities and densities; use limitations; landscaping; screen planting; setback and height of building; paving, location of drives and parking areas; storm drainage and storm water retention; public and/or private open space; shape and size of lots; fences and walls; adequacy of vehicle and pedestrian circulation and access; timing and phasing; elevations and architectural theme; or any other reasonable considerations the Council finds germane to maintain community character and neighborhood quality.

C. FINAL COMMUNITY MASTER PLAN APPROVAL:

The Final CMP review and approval is intended to be a review of the technical issues necessary to demonstrate that the approved land uses and densities approved in the Preliminary CMP approval can be adequately serviced, and to set design specifications to be utilized in the development and platting of the project. Unless the technical review shows that the approved land uses and/or densities cannot be adequately serviced, or unless the applicant requests changes in the approved land uses and/or densities, approvals granted in the Preliminary CMP approval may not be modified as part of this review and approval. Final CMP review and approval (either for the entire property covered by the Preliminary CMP approval or for a portion of the property) may be processed simultaneously with subdivision review. The plans required under this section may be submitted in a form which satisfies the requirements of the subdivision regulations for final plat approval if submitted at the same time. Portions of the CMP which are intended for development at later stages, one year or more from the date of sought approval, shall not be required to show precise lot or siting dimensions but shall be individually processed prior to the issuance of development permits. The applicant shall submit twenty-five (25) copies of the final development plan, 11" X 17" in dimension, to the Community Development Department containing the following information, unless specifically provided otherwise:

1. All information required on the preliminary development plans revised in response to preliminary plan approval, with plans showing location and type of all improvements including schematic grading plans with proposed treatment of sloped retention areas and the following explanatory, supporting details:

- a. A statement of intended design philosophy and environmental quality (text, graphics, or photographic examples);
- b. Specific design standards to be utilized throughout the project, including but not limited to, sidewalks, roadways, trails, signage, walls, fencing and other urban design elements;
- c. Traffic analysis, including interior roadways, typical development envelopes for residential uses and building arrangements for recreational, employment, commercial or institutional uses;
- d. Standards including demand and capacity analyses for municipal systems such as transportation, water supply sewage disposal, and other community facilities, such as schools, public safety, cultural and social services such as libraries or multi-generational activity centers; and,

- e. If the development is to be phased, a general indication, with chronology of the intended total project's staging; and, if applicable, a list of development standards from which departure is requested stating justifications for each in terms of increased environmental quality.
2. Plans and elevations indicating a variety of building types, materials, colors, and the number of dwelling units by type to be constructed pursuant to this review; and, for subsequent phases, the timing of development in numerical order, if applicable;
3. The CMP shall meet all applicable City Building Codes and City Zoning standards. If any City standards and policies are modified as part of the submitted CMP, no separate variances to City Building and Zoning standards or policies will be necessary for those changes requested and approved as part of the CMP process. The developer shall submit and the Zoning Administrator shall make a part of the case file record all statements regarding any and all approved deviations from the provisions of the Zoning Ordinance.
4. All portions of the CMP, whether under development or reserved for future phases shall be maintained free and clear of debris with posted signs prohibiting dumping of waste, scrap or fill material of any type.
5. Upon City Council approval, the CMP status of the site shall be, by Ordinance, reflected on the City zoning map.
6. The City Engineer's approval of conceptual water, sewer, and drainage master plans shall be obtained as a condition of development.

Development Standards

The development plan shall respond to the following requirements:

A. FLEXIBLE DEVELOPMENT:

Quality land improvement is required of developers in exchange for the applicant's alternative proposals for meeting or exceeding the standards of the underlying zoning district or comparable district; as such, alternative development methods may be expressly stipulated in the final development plan.

1. Density/Intensity. Specific dwelling unit yields may be proposed for individual parcels and development units, notwithstanding otherwise applicable standards, so long as they are consistent with the principles of the General Plan.

2. Minimum Lot Area. Single-family residential developments may propose lotting arrangements with a portion of the site in parcels with less than the otherwise applicable minimum lot area in consideration of the following criteria as well as other justifications which the applicant may provide:

- a. Mixed housing types including multi-family units with attention to affordability;
- b. Additional useable open space being provided;
- c. Compact residential lots that are proximate to employment or a major transportation corridor interchange or create a desirable housing market, such as attracting active retirees;
- d. Lots with areas less than applicable minimum lot areas are internal to the development or are adjacent to non single-family residential uses; and/or
- e. Proposed neighborhood streets where garages are not dominating, porches are provided, or the like.

3. Property Improvement Specifications. Unless otherwise requested, approved and specified on the final development plan, improvements to individual lots or sites shall conform with the standards set forth in the Zoning District tables for the district most nearly approximating proposed uses and intensities of use.

- a. Parking. Joint use parking facilities, including appropriately-buffered and screened recreational vehicle, automotive maintenance and washing areas, may be proposed.
 - 1. Parking spaces shall be designated for parks and recreation areas.
 - 2. Separate, designated spaces shall be provided for temporary model home sales or rental offices.
- b. Signage. Comprehensive signage packages shall be proposed to identify and provide entry monumentation, street signs and common area information; including, monument signs for free-standing non-residential uses and directory signage for retail, office or industrial park centers.

- c. Other improvements. Off-site installation of municipal system extensions, including streets, sidewalks, pathways, drainage facilities, water, sewer and private-provider utility trenching and sub-station facilities necessary to serve the development may be masterplanned in compliance with City engineering specifications or with attenuation methods and materials approved by the Public Works Director, or his designee.

B. OPEN SPACE:

Allotments of improved and preserved usable open space shall be required to be maintained and shall be specified in the final development plan for residential portions of CMP applications. Usable open space is defined as a locale where the average slope of all areas intended for designation as open space is not more than five percent (5%) and can be used for passive or active recreation. Open space for residential areas shall be required, based on the following:

1. A subdivision with an average lot size of less than ten thousand (10,000) square feet shall require a minimum of fifteen percent (15%) usable open space;
2. A subdivision with an average lot size of more than ten thousand (10,000) square feet shall require a minimum of ten percent (10%) usable open space;
3. The average lot size shall be determined by dividing the sum total of the total lot area by the number of units for the entire CMP. (Average lot size = Total lot area/units for entire CMP.); and,
4. Open Space percentages shall be distributed throughout CMP residential or open space parcels.

Each open space proposal will be evaluated individually, with consideration given to the specific use of the open space and the number of dwellings in the subdivision being served by the open space. Natural desert preserves, natural washes, storm water retention areas, golf courses, parks, and lineal pathway/trail corridors may be accepted as open space if determined to be appropriate to the development. All open space shall be within the subdivision it is intended to serve.

Amenity Expectations

Development plans shall specifically address and provide positive response in terms of land improvement enrichments for the benefit of residents, or business users, their visitors and the entire Benson community, including, but not limited to, the following:

A. RESIDENTIAL NEIGHBORHOODS:

Safety, spaciousness, attractive appearance, streetscape, recreation, outdoor enjoyment, residential privacy and compatibility among land uses and housing types are among considerations to which development plans shall respond.

1. Design. Planned neighborhoods' visual appearance shall be enhanced by a creative, masterplanned Design Standards.
2. Facilities. Housing areas are expected to provide and maintain amenities to enhance neighborhood livability and sustainability for residents of all ages.
 - a. Recreational facilities. Each dwelling should be located within three thousand (3000) feet of the nearest common open space or within five hundred (500) feet of a pathway linkage (sidewalk/bikepath) to such facilities.
 - b. Drainage structures. Open, flow-conducting swales, retention or detention basins, which may be coordinated with areas credited toward open space requirements, should be engineered to prevent safety hazard or creation of attractive nuisance.
3. Community Integration. Neighborhood design contributes to City-wide enhancements as well as features which provide residential diversity and linkages among neighborhoods.
 - a. Pathways. Bicycle and pedestrian connections to schools, parks, shopping and other neighborhood activity centers should be conveniently accessible from all dwellings.
 - b. Neighborhood identity. Entry monumentation, banners, public art, variations in lighting fixtures or street furniture help to distinguish neighborhood units.
 - c. Residential safety. Pedestrian and security lighting, non-access landscaping varieties, traffic visibility, elimination of lurking areas and public safety/emergency accessibility should be addressed.

B. COMMERCIAL, EMPLOYMENT OR INSTITUTIONAL AMENITY LAND USES:

Among the considerations to which development plans shall respond, to include but not limited to, safety, reduction of traffic congestion, architectural excellence, compatible

signage, landscaping/street furniture treatments in peripheral tracts and parking lots, and the integration of impacts on other properties in the vicinity.

1. Design. Planned neighborhoods' visual appearance shall be enhanced by creative, masterplanned themes.
2. Facilities. Community-benefiting spaces, fixtures and conveniences should be installed and maintained in accessible, secure locations.
 - a. Activity centers. Gathering places, including performance sites, outdoor dining, recreation or relaxation areas, may be provided for customers, business invitees, employees and residential neighbors' use at appropriate times.
 - b. Joint use facilities. Parking, playing fields, restrooms, drinking fountains, plazas, walkways and other facilities shall be installed and maintained for community use.
 - c. Transportation amenities. Bicycle and pedestrian convenience is stressed with consideration of bus stop improvements, park-and-ride lots, employee shuttle services or comparable transportation amenities.
3. Community integration. Non-residential development should seek to relate, both visually and functionally, with its surrounding neighborhood.
 - a. Open space connection. Recreation space and multi-purpose pathways are employed as means to allow employees or customers from the adjacent neighborhood to access shopping or jobs and interact with business people.
 - b. Transitional buffering. Separation distance, landscaping, walls or joint-use areas are provided to protect residential privacy and soften the impacts and edges between non-residential and housing areas.
 - a. Impact mitigation. Noise, glare, dust, and industrial emissions should be abated to acceptable residential levels at residential property lines. Exposure to hazardous materials of any type is prohibited outside of enclosed, controlled-environment structures.

AMENDMENT PROCEDURES FOR A CMP

A. An amendment to a CMP may be initiated by the property owner or the owner's agent upon submittal of a written application.

B. Amendment Application:

1. The application shall be accompanied by a statement documenting the need for the amendment;
2. The Community Development Director shall determine if the amendment would result in a substantial change to the CMP.

A substantial change is one which:

- a. Increases the number of total dwelling units;
- b. Provides arterial street intersections at locations other than presented in the CMP;
- c. Changes permitted land uses;
- d. Provides densities and intensities not included in the originally proposed land use concept and configuration;
- e. Changes designated open space, buffers or perimeter landscaping which was required in the preliminary application to mitigate development impacts on the site and surrounding areas;
- f. As a consequence of more than one (1) non-substantial change submitted concurrently, the cumulative results significantly change the objectives or goals of the CMP; or,
- g. Results in a significant change in pedestrian or traffic circulation within the CMP or surrounding area.

C. If the request is determined to be a substantial change, the Community Development Director shall refer the request to the Planning and Zoning Commission for public hearing and recommendation to the Mayor and Council for review and action.

D. The Community Development Director may administratively approve non-substantial changes. A non-substantial change is one which:

1. Transfers of density or lots from one development unit to another; or

2. Changes development standards, so long as said changes(s) does not alter the impacted development standard or development unit by greater than 15%;

SECTION FOUR - ESTABLISHMENT OF ZONING DISTRICTS

Classification of Zoning Districts

The City of Benson Arizona, is divided into zoning districts enumerated as follows:

R-1 Districts - Single-family residence, further divided into the following density districts: R-1-7, R-1-8, R-1-12, R-1-21, R-1-43.

R-2 Districts - Multi-family residence

R-3 Districts - Multi-family residence and Manufactured home residence (amended by Ordinance No. 398 1/1/98)

RT Districts - Rural Transitional

B-1 Districts - Neighborhood Business

B-2 Districts - General Business

I-1 Districts - Light Industry

I-2 Districts - General Industry

Required Conformity to District Regulations

The regulations set forth in these regulations for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

Except as provided elsewhere in these regulations, no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations hereinafter specified for the district in which it is located.

No yard or lot existing at the effective date of these regulations shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of these regulations shall meet at least the minimum requirements herein established.

Statutory Exemptions

Nothing contained in these regulations shall be construed as:

(a) Affecting existing uses of property of the right to its continued use of the reasonable repair or alteration thereof for the purpose for which used prior to the effective date of these regulations:

(b) Preventing, restricting or otherwise regulating the use or occupation of land or improvements for railroad, mining or metallurgical purpose, as herein defined, if the tract concerned is not less than two (2) contiguous acres.

Classification of Annexed Areas

All territory which may hereafter be annexed to the City of Benson Shall be automatically zoned RT, Rural Transitional, unless it can be determined that another city zoning classification would more appropriately match the previously existing County Zoning in regards to intensity of use, (amended by Ordinance No. 354, December 6th, 1993).

Classification of Vacated Streets

Whenever a public street or other public right-of-way is vacated by official action of the Council, the zoning districts adjoining each side of such street, alley, or right-of-way shall automatically be extended to the centerline thereof, and all land area thus vacated shall then and henceforth be subject to all regulations of the extended districts.

Official Zoning Map

(a) Establishment - The areas and boundaries of zoning districts are hereby established as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of these regulations.

(b) Identification - The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bear the seal of the City. Regardless of the existence of purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map located under the jurisdiction of the City Clerk shall be the final authority as to the current zoning status of land areas, buildings, and other structures in the city.

(c) Changes - If, in accordance with the provisions of these regulations, changes are made in district boundaries or in other matters portrayed on the Official Zoning Map, such changes shall be made on said map promptly after the amendment has been approved by the Council, together with an entry signed by the City Clerk certifying to the accuracy and date. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the provisions of these regulations. Any unauthorized changes of whatever kind by any person or persons shall be considered a violation of these regulations and punishable as hereinafter provided.

(d) Replacement - In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature of number of changes and additions, the Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior map. The new Official Zoning Map may correct drafting or other error or omissions in the prior map, but no such corrections shall have the effect of amending the original zoning regulations or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bear the seal of the city under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Regulations of the City of Benson, Arizona.”

(e) Interpretation - Where, due to scale, lack of detail or illegibility of the Official Zoning Map, there is an uncertainty, contradiction, or conflict as to the intended location of any district boundary shown thereon, the exact location of such boundary, shall be determined by the Board of Adjustments. The Board of Adjustments, in reaching its determination, shall apply the following standards:

(1) Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the centerlines of streets, alleys or right-of-ways, unless otherwise fixed by dimensions shown on the Official Zoning Map.

(2) In subdivided property, or where a zoning district boundary divides a lot, the exact location of such boundary, unless same is indicated by dimensions shown on the Official Zoning Map, shall be determined by use of the map scale shown thereon.

(3) If, after application of foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary, the Board of Adjustments shall determine and fix the location of said line in accordance with the purpose and intent of these regulations.

SECTION FIVE - R-1 DISTRICTS

Intent

These districts comprise single-family residential areas and certain open land areas where such development is desirable and appears likely to occur. Regulations are designed to stabilize and protect the Single-family character of the districts, to promote and encourage creation of a desirable environment for family life where most families include children, and to prohibit all incompatible activities. Principal uses are therefore restricted to single-family dwellings on individual lots. Certain essential and complimentary uses are also permitted under conditions and standards which ensure protection of the character of the districts.

Divisions of R-1 District

The R-1 District, Single-Family Residence, shall be further divided into the following density districts, as hereinafter described and regulated, and to be so designated on the Official Zoning Map: R-1-7, R-1-8, R-1-12, R-1-21, R-1-43.

Permitted Principal Use

One (1) single-family residence per lot, provided that for purposes of this section, the length of the dwelling shall not be greater than three (3) times the width and the roofing and siding material must blend in with the immediate neighborhood, as determined by the Community Development Director. (modified by Ordinance No. 320, May 16th, 1989 and amended by Ordinance No. 398 1/1/98).

Recreational uses such as public or private golf courses and related facilities and improvements to include: clubhouses, restaurants, locker rooms, pro shops, cart storage facilities, driving ranges, tennis courts, health clubs, spas etc., provided that such related facilities are located on real property contiguous to the primary recreational attraction. (added by Ordinance No. 354, December 6th, 1993).

Permitted Conditional Uses

The following uses are permitted as principal uses, subject to the approval of application for a specific use by the Community Development Director. Said application shall include full information regarding the proposed location, area, height, bulk and placement of such uses, and shall, at the discretion of the Community Development Director, include submission of the proposed site plan.

Residential structures employing Energy-saving devices.

Permitted Accessory Uses

Any use customarily incidental to a permitted principal use;

Private garage or carport for storage of not more than three (3) vehicles:

Garden house, tool house, ramada, and swimming pool;

Parking of one (1) travel trailer, provided that it is located in a garage, carport, or rear yard; is not provided electrical power, water supply, gas, or sanitary sewer; and is not used for living purposes;

Parking of boats, horse trailers, and similar equipment, provided that they are located in a garage, carport, or rear yard;

Guesthouse; servants' quarter.

Use Regulations

All uses permitted by these regulations or approved or conditional uses approved by the Planning & Zoning Commission shall conform to the requirements in Table One. (amended by Ordinance No. 348 11/16/92 and Ordinance No. 398 1/1/98)

Only Manufactured Homes Bearing the United States Department of Housing and Urban Development identification plate will be permitted to be installed within the City, except that any mobile home or manufactured home presently existing and used as a residence within the City provided it complies with the current applicable building codes. (amended by Ord. 467)

SECTION SIX - R-2 RESIDENTIAL DISTRICTS

Uses and Structures

Within any Class R-2 Residential District, no buildings, structures or premises shall be used, and no building or structure shall be erected, which shall be used except as permitted in this section, or for any other than the following specified purposes and uses.

(a) All buildings or structures and all uses permitted in Class R-1 Residential Districts.

(b) Multiple-family residences.

(c) All buildings or structures for living quarters, except multi-family residences, shall contain at least 700 square feet of enclosed floor area per dwelling unit. Accessory buildings or uses customarily incident to any use permitted in this section such as garages for private cars, etc. are permitted. (amended by Ordinance No. 299, 9/13/82)

(d) Each building or structure for living quarters shall have a lot area of not less than 5,000 square feet and each dwelling unit shall have a plot area of not less than 1,500 square feet per ground floor dwelling unit. (amended by Ordinance No. 299, 9/13/82)

(e) Public utility buildings, water-pumping plants and storage tanks, and electric substations serving district residents, but excluding repair or storage facilities in connection therewith.

Use Regulations

All uses permitted by the regulations or approved by the Planning & Zoning Commission shall conform to the requirements in Table One. (amended by Ordinance No. 398 1/1/98)

Only Manufactured Homes Bearing the United States Department of Housing and Urban Development identification plate will be permitted to be installed within the City, except that any mobile home or manufactured home presently existing and used as a residence within the City provided it complies with the current applicable building codes. (Amended by Ord 467)

SECTION SEVEN - R-3 RESIDENTIAL DISTRICTS

Uses and Structures

Within any Class R-3 Residential District, no buildings, structures or premises shall be used, and no building or structure shall be erected, which shall be used except as permitted in this section, or for any other than the following specified purposes and uses:

(a) All buildings or structures and all uses permitted in Class R-1 and Class R-2 Residential Districts.

(b) Manufactured home parks and subdivisions. (amended by Ordinance No. 398 1/1/98)

(c) Manufactured homes placed on a lot or parcel and to be used as a dwelling unit and not being in mobile home parks. (amended by Ordinance No. 398 1/1/98)

(d) All buildings, structures or manufactured homes for living quarters, except mobile homes and multi-family residences, shall be at least 500 square feet of enclosed floor area per dwelling unit. Accessory buildings or uses customarily incident to any use permitted in this section such as garages for private cars, etc. are permitted. (amended by Ordinance No. 299, 9/13/82 and Ordinance No. 398 1/1/98)

(e) Each lot shall have a plot area of not less than 5,000 square feet; each dwelling unit shall have a plot area of 1,250 square feet per ground floor unit.

(f) Home occupations or other conditional uses approved by the Planning & Zoning Commission. (amended by Ordinance No. 398 1/1/98)

(g) Public utility buildings, water-pumping plants and storage tanks, and electric substations serving district residents but excluding repair or storage facilities in connection therewith.

Use Regulations

(a) All uses permitted by these regulations or approved by the Planning & Zoning Commission shall conform to the requirements in Table One. (amended by Ordinance No. 398, 1/1/98)

(b) All Mobile and Manufactured Homes shall be skirted and securely anchored to the ground in accordance with the Manufacturer's instructions, the Uniform Building Code or as designed by a registered engineer. (amended by Ordinance No. 336, 12/17/90)

(c) Only Manufactured Homes Bearing the United States Department of Housing and Urban Development identification plate will be permitted to be installed within the City, except that any mobile home or manufactured home presently existing and used as a residence within the City provided it complies with the current applicable building codes. (Amended by Ord 467)

Site Plan Approval

Site plan approval shall be obtained prior to any issuance of a building or use permit in R-3 Residential District.

SECTION SEVEN A - RURAL TRANSITIONAL

Intent

The RT Rural Transitional District is created to preserve to the maximum extent possible to rural lifestyle existing in the Benson city limits, while at the same time encouraging and maximizing the development of compatible commercial uses beneficial to the City's economic well-being. In particular, this classification authorizes the keeping and grazing of livestock, including cattle, horses, sheep, goats, poultry, rabbits, or similar animals except, that it shall not authorize the keeping of swine. This classification also recognizes that a portion of the area affected has both a tendency and likelihood of development into commercial uses which the City desires to encourage to the extent that such commercial uses do not unreasonably infringe upon the uses and lifestyles of adjacent residential areas. In order to direct and encourage commercial development consistent with the changing rural character of the RT district, a Special Use Permit shall be required for all non-residential uses established after the effective date of this ordinance. (added by Ordinance No. 315, 12/6/88)

Conditional Use Permits – Conditional Use Permits shall be authorized by the zoning official or the Planning and Zoning Commission which may impose such conditions and requirements as it deems appropriate. The Conditional Use Permit may authorize any use permitted in a B-1, B-2, I-1, or I-2 District, provided that such use is found to be not incompatible with the adjacent or nearby business or residential uses. (added by Ordinance No. 315, 12/6/88 and amended by Ordinance 398 1/1/98)

Use Regulations -

(a) Building height - The height of buildings shall not exceed thirty (30) feet. (added by Ordinance No. 315, 12/6/88)

(b) Area, bulk, and placement requirements shall be identical to District R-1-8 requirements listed in Table One for those parcels not requiring a special use permit, except that minimum lot area will be four acres. (added by Ordinance No. 315, 12/6/88 and amended by Ordinance No. 354, December 6th, 1993).

(c) All single family residences and non-residential uses permitted in R-1, R-2, and R-3, (amended by Ordinance No. 354, December 6th, 1993).

(d) All accessory buildings and uses shall be permitted if also permitted in R-3 districts without a special use permit. (added by Ordinance No. 315, 12/6/88)

(e) The keeping and grazing of livestock, including cattle, horses, sheep, goats, poultry, rabbits or similar animals are permitted; except that, the keeping of swine is not permitted. (added by Ordinance No. 315, 12/6/88)

Site Plan Approval - Site plan approval shall be obtained prior to any issuance of a building or use permit. (added by Ordinance No. 315, 12/6/88)

SECTION EIGHT - B-1 NEIGHBORHOOD BUSINESS DISTRICT

Intent

The B-1 Neighborhood Business District provides areas for retail trade shops and services in convenient locations to meet the daily needs of households in nearby neighborhoods.

The regulations are intended to preserve the essential neighborhood character of the districts to prevent the encroachment of more intensive commercial uses, to provide for compact business arrangements for maximum convenience, to minimize periphery conflicts with abutting residential properties, and to avoid any undue concentration of vehicular traffic on local streets.

Uses and structures within any Class B-1 Business District: No buildings, structures or premises shall be used, and no buildings or structures shall be erected which shall be used, except as permitted in this section or for other than the following specified purposes and uses:

(a) All uses permitted in R-1, R-2, and R-3 Districts. (amended by Ordinance No. 398 1/1/98)

(b) (deleted by Ordinance No. 336, 12/17/90)

(c) Professional offices, utility offices, government office, real estate offices, and the like.

(d) (deleted by Ordinance No. 336, 12/17/90)

(e) Specialty shops, beauty shops, flower shops, photography shops, bakery shops, candy shops, and the like.

(f) Restaurants, cafes, malt and sandwich shops, retail liquor shops, and the like.

(g) Laundromats or dry-cleaning establishments employing less than five (5) people, and using non-flammable solvents.

(h) (deleted by Ordinance No. 336, 12/17/90)

(i) (deleted by Ordinance No. 336, 12/17/90)

(j) (deleted by Ordinance No. 336, 12/17/90)

(k) Drive-through car washes no larger than two bays.

(l) (deleted by Ordinance No. 336, 12/17/90)

(m) Self-service gas stations where no repair or mechanical services are offered.

All buildings or structures, except manufactured homes located in a manufactured home park, shall be of a permanent type construction firmly attached to a permanent foundation structure. (amended by Ordinance No. 398 1/1/98)

Permitted Accessory Building and Uses

Any accessory building or use customarily incidental to a permitted use shall be permitted.

Additional Regulations

The additional regulations are as follows:

(a) Any use, including incidental or accessory storage, not within a completely enclosed building shall be screened solid fence or wall at least six (6) feet in height. (amended by Ordinance No. 398 1/1/98)

(b) Any lighting shall be placed so as to reflect the light away from adjoining residential districts.

(c) A minimum of six (6) foot wide landscaping strip, approved by the Planning & Zoning Commission is required along the street side(s) of any business use. (amended by Ordinance No. 398 1/1/98)

(d) All uses permitted by these regulations or conditional uses approved by the Planning & Zoning Commission shall conform to the requirements in Table One. (amended by Ordinance No. 398 1/1/98)

Use Regulations

All residential uses shall comply with the requirements for the corresponding residential district as shown in Table One.

All business uses shall comply with the B-1 Requirement as shown in Table One.

The height of buildings shall not exceed thirty (30) feet, (added by ordinance No. 386, 1/20/97).

Site Plan Approval

Site plan approval shall be obtained prior to any issuance of a building or use permit in B-1 Neighborhood Business District.

SECTION NINE - B-2 GENERAL BUSINESS DISTRICT

Intent

The B-2 General Business District provides areas for the sale of commodities and performances of services and other activities in locations for which the market extends beyond the nearby neighborhoods. It also provides for commercial uses concerned with wholesaling or distribution activities in locations where there is adequate access to major streets or highways.

Uses and structures within any Class B-2 Business District: No buildings, structures or premises shall be used, and no buildings or structures shall be erected which shall be used, except as permitted in this section or for other than the following specified purposes and uses.

Permitted Uses

The following uses shall be permitted in B-2 General Business Districts:

- (a) All uses permitted in R-1, R-2, and R-3 Districts.
- (b) All uses permitted in B-1 Neighborhood Districts.
- (c) Motor vehicle transportation facilities and services including bus passenger terminals, bus garaging and equipment maintenance, motor freight garaging and equipment maintenance, taxicab transportation, freight forwarding services, packing and crating services, travel arranging services, and transportation ticket services.
- (d) Retail trade of parts and accessories for all mechanical applications. (amended by Ordinance 449, 8/19/02)
- (e) Automobile service stations.
- (f) Retail trade of apparel and accessories.
- (g) Retail trade of furniture, home furnishings, household appliances and equipment.
- (h) Funeral and Crematory services.
- (i) Business services, including advertising services, consumer and mercantile credit reporting services, adjustment and collection services, duplicating mailing and stenographic services, dwelling and other building services, new syndicate services, employment services, and auto washing services. (amended by Ordinance 449, 8/19/02)

(j) Repair services, electrical, radio and television, watch, clock, jewelry, re-upholstery and furniture repair, armature rewinding services, and similar light duty maintenance. (amended by Ordinance 449, 8/19/02)

(k) Special and higher education services including university college, junior college, and professional school education, vocational, trade, business, stenographic, barber and beauty schools, art and music, dancing, driving and correspondence schools.

(l) Drug stores, dry goods stores, hardware stores, grocery stores, department stores, and the like. (added by Ordinance No. 336, 12/17/90)

(m) Banks, savings and loan, finance companies, and the like. (added by Ordinance No. 336, 12/17/90)

(n) Auto supply stores selling new merchandise. (added by Ordinance No. 336, 12/17/90)

(o) Hotels and motels with or without kitchenettes for permanent or transient purposes. (added by Ordinance No. 336, 12/17/90)

(p) Auto parking lots, for periods of not longer than one day at a time and new and used car sales lots where no mechanical work is done nor are wrecked, junked, or disabled cars stored or parked on the lot. (added by Ordinance No. 336, 12/17/90)

(q) Bus depots, bowling alleys and other recreational and amusement type businesses. (added by Ordinance No. 336, 12/17/90)

All buildings shall be completely enclosed and shall be so constructed and maintained as to prevent objectionable noise and odor outside the walls of the building.

Conditional Uses Permitted Upon Appeal to Planning & Zoning Commission (amended by Ordinance No. 348 11/16/92 and Ordinance No. 398 1/1/98)

The following uses may be allowed by the Planning & Zoning Commission as conditional uses upon application and compliance with such additional uses upon application and compliance with such additional on-site or off-site specific requirements as the Commission deems appropriate in consideration of the surrounding affected areas:

(a) Amusement parks, fairgrounds, and other amusements, recreational vehicles and travel trailer parks.

(b) Wholesale trade, including motor vehicles and automotive equipment, drugs, chemicals, and allied products, dry goods and apparel, groceries and related products, electric goods, hardware, plumbing, heating equipment and supplies, machinery and other wholesale trade.

(c) Contract construction services, including general building construction services and special construction trade services, concrete services, and water well drilling services.

(d) And any use defined as “permitted use” in Section 10, I-1, “Light Industry District”.

Permitted Accessory Buildings and Uses

Any accessory building or use customarily incidental to a permitted use shall be permitted.

Additional Regulations

Any use, including incidental or accessory storage, not within a completely enclosed building shall be screened by a solid fence or wall at least six (6) feet in height. (amended by Ordinance No. 398 1/1/98)

Any lightning shall be placed so as to reflect the light away from adjoining residential districts.

Any part of the lot not otherwise surfaced shall be landscaped.

A minimum six (6) feet wide landscaping strip is required along the street side(s) of each property. (amended by Ordinance No. 398 1/1/98)

All new construction, reconstruction or exterior remodeling of buildings in the area bounded by 4th Street on the South, Patagonia on the north, Ocotillo Avenue on the West and the railroad overpass on the east, shall have an exterior design which appears substantially similar to the style generally found in rural commercial districts during the period of 1880 to 1920. The Benson Planning & Zoning Commission shall function as a design review authority in conjunction with their other duties as to the delineated area. As a guide in determining what constitutes an acceptable period representation, the commission shall refer to references such as, but not limited to, An Ambush of Ghost by David Rothel, 1990 edition, excluding therefrom Chapter 6 and page 134, and Desert Architecture by Ralph E. Brachek, 1967 edition, Chapters 1 through 4. (added by Ordinance 410.)

Site Plan Approval

Any plan approval shall be obtained prior to any issuance of a building or use permit.

Use Regulations

All residential uses shall comply with the requirements for the corresponding residential districts as shown in Table One.

All business uses shall comply with the B-2 requirements as shown in Table One.

The height of buildings shall not exceed thirty (30) feet, (added by ordinance No. 386, 1/20/97).

SECTION TEN - I-1 LIGHT INDUSTRY DISTRICT

Intent

The I-1 Light industry district provides for light industrial uses in locations which are suitable and appropriate, taking into consideration the land uses on adjacent or nearby properties, access to a major street or highway, rail services or other means of transportation, and the availability of public utilities. Regulations are intended to encourage development of such manufacturing, fabricating, processing, packaging and other industries as can be operated in a relatively clean, quiet and safe manner compatible with adjoining uses and without serious adverse effect, danger or hazard by reason of smoke, soot, dust, odor, radiation, noises, vibration, heat, glare, toxic fumes or other conditions to the public health, safety and general welfare.

Permitted Uses

The following uses shall be permitted in I-1 light industry districts:

(a) Manufacturing of apparel and other finished products made from fabrics, leather and similar materials.

(b) Manufacturing of furniture and fixtures.

(c) Printing, publishing, and allied industries.

(d) Manufacturing and assembly of professional scientific, controlling, and electronic instruments; photographic and optical goods, watches, and clocks.

(e) Manufacturing of jewelry, silverware, and plated ware, musical instruments and parts; toys, amusement, sporting and athletic goods; pens, pencils, and other office and artists' materials; novelties, notions and tobacco.

(f) Motion Picture production.

(g) Motor vehicle transportation facilities and services including bus passenger terminals, bus garaging and equipment maintenance, motor freight garaging and equipment maintenance, taxicab transportation, freight forwarding services, packing and crating services, travel arranging services, and transportation ticket services.

(h) Automobile parking structures.

(i) Wholesale trade, including motor vehicles and automotive equipment, drugs, chemicals, and allied products, dry goods and apparel, groceries and related products, electrical goods, and supplies, machinery and other wholesale trade.

(j) Warehousing and storage services including household goods warehousing refrigerated warehousing, food lockers and general warehousing and storage.

(k) (added by Ordinance 214, 3/20/85), (deleted by Ordinance No. 336, 12/17/90)

(l) All non-residential uses permitted in B-1 and B-2 Districts. (added by Ordinance 214, 3/20/85 and amended by Ordinance No. 354, 12/6/97)

Uses Permitted Upon Appeal to Planning & Zoning Commission (amended by Ordinance No. 417)

The following uses may be permitted upon appeal in I-1 industry districts:

(a) Contract construction services including general building construction services and special construction trade services, concrete services, and water well drilling services.

(b) Public assembly for entertainment, including amphitheaters, motion picture theaters, drive-in movies, for sports including stadiums, arenas, field houses, race tracks, and for other public assembly including auditoriums and exhibition halls.

(c) Amusement parks, fairgrounds, and other amusements.

Permitted Accessory Buildings and Uses

Any accessory buildings or use customarily incidental to a permitted use shall be permitted.

Use Regulations

All uses permitted or permitted upon appeal in I-1 industry districts shall conform with the following use regulations:

(a) Building height - The height of buildings shall not exceed thirty (30) feet.

(b) Yards - Yards are not required except as follows:

(1) Front Yard – There shall be a front yard of not less than (50) feet on all lots and the front twenty (20) feet of which shall be utilized for landscaping and entrance drives. (amended by Ordinance No. 417)

(2) Side Yards - A side yard of not less than thirty (30) feet shall be maintained where the side of the lot abuts a residential district, or which the exterior ten (10) feet shall be utilized for landscaping.

(3) Rear Yard - Where a lot abuts a residential district, whether or not separated by an alley, there shall be a rear yard having a depth of not less than twenty-five (25) feet.

(c) All parking, Ingress roads, & Egress roads, shall be paved, see section FOURTEEN Required Improvements and Maintenance for surface & drainage standards.” (added by Ordinance No. 417)

Additional Regulations

The additional regulations are as follows:

(A) All operations and storage adjacent to residential or business districts and adjacent arterial or collector streets shall be conducted within a completely enclosed building or within an area enclosed by a solid fence or wall at least six (6) feet in height, and provided that no objects shall be stacked higher than the wall so erected.

(B) Any lighting shall be placed so as to reflect the light away from adjoining residential areas.

Site Plan Approval

Site plan approval shall be obtained prior to any issuance of a building or use permit in I-1 light industry districts.

SECTION ELEVEN - I-2 HEAVY INDUSTRY DISTRICTS

Intent

The I-2 heavy industry district provides for heavy industrial uses on locations which are suitable and appropriate taking into consideration land uses in adjacent or nearby properties, access to a major street or highway, rail service or other means of transportation, and the availability of public utilities. Regulations are intended to allow within safe limits industrial uses and structures having physical and operational characteristics which may be offensive or hazardous or which might otherwise adversely affect the economic welfare of nearby properties and uses.

Permitted Uses

The following uses shall be permitted in I-2 heavy industry districts:

- (a) All uses permitted in light industry districts.
- (b) Manufacturing of food and kindred products.
- (c) Manufacturing of textile mill products.
- (d) Manufacturing of lumber and wood products.
- (e) Manufacturing of chemical and allied products.
- (f) Manufacturing of petroleum refining and related industries.
- (g) Manufacturing of rubber and plastic products.
- (h) Manufacturing of stone, clay and glass products.
- (i) Manufacturing of primary metals.
- (j) Manufacturing of fabricated metal products.

Uses Permitted Upon Appeal to Planning & Zoning Commission

The following uses may be permitted upon appeal in I-2 heavy industry districts:

- (a) Canneries.
- (b) Meat processing plants.
- (c) Junkyards.

(d) Airports and heliports.

Permitted Accessory Buildings and Uses

Any accessory buildings or use customarily incidental to a permitted use shall be permitted.

Use Regulations

All uses permitted or permitted on appeal in I-2 heavy industry districts shall conform with the following use regulations:

(a) Building height - the height of buildings shall not exceed thirty (30) feet without the approval of the Planning and Zoning Commission.

(b) Yards - Minimum required yards shall be the same as those of I-1 light industry districts.

Additional Regulations

The additional regulations are as follows:

(a) There shall be a solid wall or fence at least eight (8) feet in height in the rear and/or side property lines that are adjacent to any residential districts. (amended by Ordinance No. 417)

(b) Any lighting shall be placed so as to reflect the light away from adjoining residential areas.

(c) All parking, Ingress roads, & Egress roads, shall be paved see section FOURTEEN Required Improvements and Maintenance for surface & drainage standards. (added by Ordinance No. 417)

Site Plan Approval

Site plan approval shall be obtained prior to any issuance of a building or use permit in I-2 heavy industry districts.

SECTION TWELVE - SUPPLEMENTAL REGULATIONS

Intent

It is the intent of this section to set forth supplementary and qualifying conditions which must be complied with, in connection with uses permitted within a zoning district or districts.

Sight Distance at Intersections

On Corner lots in any district, nothing shall be erected, placed, planted, or allowed to remain, which materially impedes vision between a height of three (3) feet and ten (10) feet above the centerline grades of the intersection streets in the area bounded by the street line of such corner lot and a line joining points along said street lines twenty-five (25) feet from the point of intersection.

Swimming Pools

Swimming pools shall be permitted in all zoning districts; however, no swimming pool shall be located in any minimum required front or side yard, nor shall any such pool be closer than five (5) feet to any lot line. Every swimming pool shall be enclosed by a fence or wall not less than five (5) feet in height which is so constructed, gated and locked as to discourage unauthorized entry to such pool.

Exceptions to height limitations

Height regulations established elsewhere in these zoning regulations shall not apply to the following in any districts:

Chimneys, conveyors, cupolas, derricks, domes, flagpoles, observation towers, parapet walls extending not more than four (4) feet above the height limit of the building, radio, television, or other communication towers, windmills, power transmission poles, church spires, monuments, belfries, bulkheads, elevator penthouses, water tanks, fire and hose towers, cooling towers, gas holders, grain elevators, or other structures not for human occupancy; provided that such structures above the height limit specified for the zoning district shall not in the aggregate occupy more than twenty-five (25) percent of the lot area and shall be distant not less than twenty-five (25) feet from every lot line.

Elevated Storage Facilities

Any elevated storage facility, water tower, or other structure where a large weight would be supported by legs, structural wall or other supports shall be so located that if it

should collapse, its reclining length would still be contained on the property on which it was erected.

Flammable Storage

The following minimum regulations apply to the dispensing and bulk storage of all flammable products in all zoning districts:

(a) Retail storage tanks shall comply with State Fire Marshal regulations and the most recently adopted Uniform Fire Code.

(b) (Deleted by Ordinance No. 417)

(c) (Deleted by Ordinance No. 417)

(d) (Deleted by Ordinance No. 417)

(e) (Deleted by Ordinance No. 417)

(f) (Deleted by Ordinance No. 417)

(g) (Deleted by Ordinance No. 417)

Gasoline Station Pumps

In any district no gasoline pump island shall be located closer than fourteen (14) feet to any right-of-way or property line or closer than fifty (50) feet to any residential district. (amended by Ordinance No. 336, 12/17/90)

Future Street Lines

Where future street lines have been officially established by the City Council, all required setbacks shall be measured from such projected street lines.

Projection into Required Yards

In all residential districts the following regulations of projections into required yards shall apply:

(a) Awnings, open fire balconies, fire escape stairs, window-type refrigeration units, suspended or roof evaporative coolers and forced air furnaces may project not more than five (5) feet over any required yard, provided that they are no closer than two (2) feet to any lot line.

(b) Except as provided elsewhere, no compressor unit, condensing unit, cooling tower, evaporative condenser or similar device shall be located closer to any interior lot line than the minimum setback required for the main building.

(c) Cornices and eaves may project not more than three (3) feet over any required yard, provided that they are no closer than two (2) feet to any lot line.

(d) Sills, leaders, belt courses and similar ornamental features, may project not more than one (1) foot over or into any required yard; a chimney or pilaster may project not more than two (2) feet into any required yard, provided that it is not more than eight (8) feet in dimension paralleling the nearest lot line.

(e) Unroofed terraces, patios, steps or similar features not over three (3) feet in height above grade may project into any required yard.

The height of buildings shall not exceed thirty (30) feet, (added by ordinance No. 354 12/6/93).

Fences, Walls, and Hedges

In all residential districts, the following regulations of fences, walls and hedges shall apply:

(a) (a) No fence, wall, or hedge exceeding three (3) feet in height above grade shall be erected, placed, planted or allowed to remain in or along the front or side of any required front yard except that unslatted chain link fence or wood picket fence, with at least 50% opening, not to exceed four (4) feet in height will be allowed above grade (amended by ordinance No. 354, 12/6/93).

(b) (b) No property line fence shall contain barbed wire, electrical current or charge of electricity, broken glass or similar hazardous materials or devices, provided, however, that fences in B-1 and B-2, I-1 and I-2 Districts which enclose storage areas may have barbed wire connected therewith so long as said barbed wire is located more than six (6) feet in height above grade.

(c) All fences and walls, with the exception of retaining walls and the provisions of (a) above, will be limited to a maximum height of eight (8) feet and will be neatly constructed so as not to present an eyesore and must use the following materials: block, brick, wood, chainlink, ornamental iron, wire strand or welded wire. (added by Ordinance No. 354 12/6/93)

Yard Space for One Building Only

No required yard or other open space around an existing building which is needed to comply with the provisions of these Zoning Regulations, shall be considered as providing a yard or open space for another building which is to be erected or established.

Sale or Lease of Required Space Prohibited

No space needed to meet the width, yard area, coverage, parking, frontage on a public street or other requirement of these Zoning Regulations for a lot or building may be sold, bequeathed or leased apart from such lot or building unless space so complying is provided; nor shall any land be sold which will result in an existing or future lot for dwelling purposes that does not comply with all the provisions of these Zoning Regulations.

Accessory Building Prohibited as Living Quarters

Living and sleeping quarters shall not be permitted in any accessory building in any residential district except as specifically permitted herein.

Storage of Junk Prohibited in Residential Districts

No yard or other open space surrounding an existing building in any residential district, or which is hereinafter provided around any building in any residential district, shall be used for the storage of junk, debris, or obsolete vehicles and no land shall be used for such purposes, except as specifically permitted herein.

Storage of Trucks Prohibited in Residential Districts

The storage of more than one (1) truck having a rated capacity of more than one and one-half (1 1/2) tons and the storage of construction equipment such as bulldozers, graders, dump trucks and others shall not be permitted on any lot in residential districts; except, however such construction equipment may be stored on a lot during construction of building thereon, but not to exceed one (1) year.

Additional Setbacks in Residential Districts

Side setbacks for non-residential buildings in residential districts shall not be less than the sum of the length of the building wall measured along the side yard and the average height, divided by ten; except that no building shall be set back less than the minimum distance required in the district.

Mutual Garages Across Lot lines

An accessory building such as a detached carport or garage may be constructed across a common lot line by written agreement between the two adjoining property owners when such agreement is recorded in the office of the County Recorder.

Mutual Dwellings Across Lot Lines

In districts in which two-household dwellings are permitted, a two-household dwelling may be constructed across a common lot line when separated on the line by a dividing wall, provided a written agreement between the two adjoining property owners is recorded in the office of the County Recorder.

Roof Drainage

Surface water from rooftops shall not be allowed to drain directly onto adjacent lots except after written agreement between the two adjoining property owners is recorded in the office of the County Recorder.

Temporary Uses and Structures

The following regulations shall govern the operation of certain transitory or season uses:

(a) Permits - Application for a temporary building or use permit shall be made to the Zoning Inspector and shall contain the following information:

- (1) A description of the property to be used rented or leased for the temporary use, including all information necessary to accurately portray the property.
- (2) A description of the proposed use.
- (3) Sufficient information to determine the yard requirements, sanitary facilities, and availability of parking space to service the proposed use.

(b) Uses - The following are temporary uses and are subject to the following specific regulations and time limits, in addition to the requirements of any district in which the use is located:

- (1) Carnival, Circus or Music Festival - When authorized by the City Council, a temporary use permit for a carnival, circus or music festival may be issued in any district, for a period not longer than fifteen (15) days.
- (2) Christmas Tree Sales - A temporary use permit, when authorized by the City Council, may be issued for the display and open-lot sales of Christmas trees for a period not longer than forty-five (45) days.
- (3) Contractor's Office - In any district, a temporary use permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. The permit shall be valid for not more than one year but shall be renewable for one year. The office and/or shed shall be removed upon completion of the construction project.

(4) Real Estate Sales Office - In any district, a temporary use permit may be issued for a temporary real estate sales office in any new subdivision which has been approved in accordance with the City of Benson Subdivision Regulations. The permit for such office shall be valid for not more than one (1) year, but is renewable for up to three (3) years. The office shall be removed upon completion of the development. A model home may be used as a temporary sales office.

Permitted Home Occupations

A home occupation may be permitted upon application to the Zoning Commission in any residential district, subject to the following conditions:

(a) The home occupation must be registered with the City Clerk and subject to review by the Planning and Zoning Commission. The Zoning Inspector will issue a permit, a copy of which will be forwarded to the County Assessor's Office.

(b) Offices of members of recognized professional persons may be permitted, provided that no more than one person, not a member of the household, may be employed in connection with such operation in such office. One small professional or announcement sign not over one (1) square foot in area shall be allowed affixed to the main wall of the main residence dwelling.

(c) A Public Hearing will be held for each application.

Outdoor Theaters

The following minimum regulations shall apply to outdoor theaters:

(a) The minimum lot area shall be ten (10) acres.

(b) No outdoor theater shall be located within three hundred (300) yards of any residential district.

(c) The face of the screen shall be located a minimum of seven hundred (700) feet back from the highway or street right-of-way line, if visible from said highway or street.

(d) Only one-way traffic shall be permitted on the site of an outdoor theater.

(e) There shall be at least one (1) emergency exit.

(f) Entrance line shall be capable of handling a minimum of thirty (30) percent of theater capacity.

(g) Landscaping shall be provided

Cemeteries

For purposes of these zoning regulations, cemeteries shall be considered as a use permitted upon appeal in any district. The application for such use permit shall indicate among other things, the total number of lots, roads, and landscaping and maintenance provisions.

Automobile Service Stations

No building or use permit shall be approved for an automobile service station unless accompanied by the following:

(a) A site plan showing the building area, service area and sales area:

(b) Rendering of buildings, the construction of which, shall be in reasonable conformity thereto. All structures shall be of a design character that is appropriate to the area in which they are to be constructed. All canopies shall be connected to the roof of the main structure unless otherwise approved;

(c) A detailed landscape plan showing plant type, size and spacing;

(d) A solid wall or fence at least six (6) feet in height shall be required between all-automobile service station sites and adjoining residential districts:

(e) All signs and outdoor lighting shall be placed in such a manner so as not to interfere or confuse traffic or present any hazard to traffic.

Recreational Vehicles

No recreational vehicles shall be used for any permanent dwelling purposes unless placed within a recreational vehicle park; permanent dwelling purposes shall be a period of time that exceeds seventy-two (72) hours. (amended by Ordinance No. 281, 8/21/85)

Parking or storing unoccupied recreational vehicles shall be allowed in any zoning district, upon private property with the owner's consent. (amended by Ordinance No. 281, 8/21/85)

A repairman who operates a licensed business in Benson must acquire a permit from the Zoning Administrator for a self-contained vehicle to be lived in for up to five (5) days while the vehicle is undergoing emergency repairs. (amended by Ordinance No. 281, 8/21/85)

No parking of recreational vehicles shall be allowed in City parks overnight or between the hours of 11:00 p.m. and 5:00 a.m. without a special events permit approved by the City Council. (amended by Ordinance 281, 8/21/85)

Parking of an occupied recreational vehicle may be permitted in any zoning district provided that:

(a) The recreational vehicle is fully self-contained or the occupants have full access to approved sanitary facilities. (amended by Ordinance No. 281, 8/21/85)

(b) The term of stay is limited to seventy-two (72) hours for outdoor sales and special events. The term of stay is limited to thirty (30) days for private guests classified as non-business uses. (amended by Ordinance No. 281, 8/21/85)

(c) The vehicle is parked upon the property of a consenting landowner and does not interfere with the adjoining landowner's use or enjoyment of their property. (amended by Ordinance No. 281 8/21/85)

(d) The landowner does not charge or receive any monetary remuneration. (amended by Ordinance No. 281, 8/21/85)

Violations of this ordinance shall be a misdemeanor subject to the penalties of Ordinance 261, Section 2 of the City Code. (amended by Ordinance No. 281, 8/21/85)

Education and Recreational Buildings and Uses

Schools, colleges, churches, public libraries, public museums, public art galleries, municipal recreational buildings, playgrounds, parks, and fraternal uses, as well as public utilities to service the district as necessary within the limits of the City of Benson, are subject to Zoning Commission approval.

No gasoline filling stations, automobile repair shop, public garages, or parking lots shall have an entrance or exit for vehicles within thirty (30) feet of a residential zone, nor shall any part of gasoline filling station, public garage or automobile repair shop be within fifty (50) feet of the grounds of any school, public playground, church, hospital, sanitarium, public library or in situations for dependents or children.

Residential Districts - Yards, Height, and Accessory Structure Restrictions

(a) In the case of corner lots the administrative official shall determine the front yard, however the side yard must still meet the corner lot setback requirement as shown in Table one, (amended by Ordinance No.354 12/6/93).

(1) At least one (1) front yard shall be provided having the full depth required in the district.

(2) No other front yard on such lot shall have less than half the full depth required for that district.

(b) Detached accessory buildings located on the rear one-third of the lot may be erected within four (4) feet of the property line, also provided further, that when a carport is attached to the principal building it may be erected within five (5) feet of the property line. But the carport so placed must be retained as an open shelter.

(c) In all classes of residential districts, there shall be a rear yard of not less than ten (10) feet in depth measured from the principal building.

(d) Maximum building height in all residential districts:

(1) Residential Buildings - Two (2) stories or thirty (30) feet, whichever is greater.

(2) Accessory Buildings - Fifteen (15) feet above grade.

(e) It is the intent of these regulations that all yard setbacks be measured from the property line.

Uses Permitted Upon Application (deleted by Ordinance No. 431)

SECTION THIRTEEN - KEEPING OF LIVESTOCK AND PETS

Horses, burros, donkeys and mules are permitted within the City of Benson, subject to the following provisions:

(a) There shall be a minimum of one (1) acre per one (1) animal maintained, exclusive of minimum dwelling site requirements.

(b) No animal shall be stabled any less than fifty (50) feet from any residence on the property or one hundred (100) feet from dwellings on other properties.

(c) Provided further, that all City, County and State sanitary and health regulations shall be complied with and met.

(d) No cattle, sheep, hogs, rabbits, poultry, or other livestock shall be kept or maintained on any property within the City of Benson, except in RT districts and in undeveloped areas of 160 acres or more under single ownership, and regardless of current zoning classification, (amended by Ordinance 354 12/6/93).

(e) This paragraph shall not be construed; however, as prohibiting the keeping of ordinary domestic pet animals upon property within said City.

(f) No exotic or unusual types of pet animals or reptiles shall be allowed within the City of Benson without approval of the Board of Adjustment.

(g) FFA and 4H projects may be allowed by the Board of Adjustments by appeal if they are determined not to be detrimental to the area.

Nothing in this section on livestock will be construed to permit any animals, whether permitted or not permitted within a particular zone, to run free and uncontrolled. Any and all of such animals are subject to seizure and impoundment by the City of Benson at the expense of the owner thereof.

SECTION FOURTEEN - OFF-STREET PARKING AND LOADING REGULATIONS

General Off-Street Parking Regulations

In all zoning districts, off-street parking facilities shall be provided in an amount not less than that hereinafter specified, for the parking of self-propelled motor vehicles, for the use of occupants, employees, patrons, members and clients of buildings and uses erected or established after the effective date of these regulations, and of existing buildings and uses which are extended, enlarged or changed thereafter.

Buildings and uses in existence at the effective date of these regulations shall be exempt from parking requirements hereinafter specified; provided, however, that whenever the usable floor area of such an existing building is changed, or an existing use of premises is extended, off-street parking for the increased floor area or use shall be provided in the minimum amount hereinafter specified for that kind of use.

The owner or occupant of any building or use subject to off-street parking requirements under these regulations shall not discontinue or reduce any existing required parking lot without first having established other parking space in replacement therefore, which replacement space meets all requirements of these regulations.

The use of off-street parking space as required under these regulations, for the storage of merchandise, vehicles for sale or rent, or repair of vehicles, shall be expressly prohibited.

Computation of Off-Street Parking Requirements

When a principal building or use includes several different types of activities which generate different levels of parking need, according to the schedule set forth in this section, the minimum required number of off-street parking spaces shall be the sum of individual requirements for the several uses computed separately.

When used in computation of off-street parking requirements, the term "employees" shall include proprietors and administrative personnel as well as all other personnel engaged on the premises in the use of a building, structure, or lot. The "number" of employees shall be the greatest number on duty on the premises at any one time, day or night.

When computation of parking requirements results in a fractional requirement, any fraction of one-half (1/2) or less shall be disregarded, and any fraction over one-half (1/2) shall be counted as one (1) space.

Measurements of Off-Street Parking Space

Every required off-street parking space except as hereinafter provided, shall have a minimum width of nine feet and a length of twenty feet, exclusive of access drives and aisles. When used as a unit of measurement of unmarked parking lots, each required space shall constitute an area of not less than two hundred eighty (280) square feet which shall include drives and aisles.

Since two-wheel and three-wheel motor vehicles are becoming an accepted part of the transportation scene, provision is hereby made for determining the size and number of spaces allocated to this type vehicle in any parking lot. The size of a space for parking a two-or three-wheel motor cycle shall be one-half (1/2) the size of that required herein for a conventional four-wheel vehicle, that is one hundred forty (140) square feet per space in an unmarked parking lot. In parking lots with marked spaces, the size of the space shall be no less than four and one-half (4 1/2) feet wide and twenty (20) feet in length provided these spaces are aligned in the same row with spaces of four-wheel vehicles. If the parking spaces for motorcycles are separated from those allocated to four-wheel vehicles or not in the same line, the size of the motor cycle space shall be not less than four and one-half (4 1/2) feet in width and ten (10) feet in length. In either case, the number of motorcycle spaces shall be counted in the total number of spaces required for an authorized use provided that not more than five- percent (5) of the total number of spaces are allocated to motorcycles.

Location of Required Off-Street Parking

(a) For Residential Uses - Required off-street parking shall be located on the same lot or parcel as the use it is intended to service; provided, however, that parking for cooperative or condominium-type multi-family residence may be provided in a parking lot not farther than two hundred (200) feet from the entrance to each dwelling unit it is intended to service.

(b) For Non-Residential Uses - Required off-street parking shall be located within three hundred (300) feet of the building or use it is intended to service, the distance being measured from the nearest point of the building or use to the nearest point of the parking lot; provided, however, that parking facilities for a stadium, auditorium, outdoor sports arena, or similar use may be located not farther than thirteen hundred (1,300) feet from the nearest point of such building or use.

Methods of Providing Required Off-Street Parking

Required off-street parking may be provided by any one or combination of the following methods:

(a) By providing the required parking space on the same lot as the building or use being serviced.

(b) By the collective provisions of required parking for two (2) or more buildings or uses whereupon the total of such parking shall be not less than the sum of the

requirements for the several buildings or uses computed separately; provided, however, that if two (2) or more of such buildings or uses have operating hours which do not overlap, the Board may grant a reduction of individual and collective requirements based upon the special circumstances involved. A written contract for joint use of such facilities shall be executed between the parties concerned and copy filed with the Zoning Inspector.

(c) By securing the consent to use off-street parking facilities under another ownership which is not otherwise used during the principal operating hours of the building or use in question; provided, however, that consent shall be in written form and a copy filed with the Zoning Inspector.

Schedule of Required Off-Street Parking

The minimum number of off-street parking spaces required for buildings, structures and uses shall be determined according to the schedule herein set forth. For use not specifically listed, requirements shall be the same as those for the most similar use listed. Multiple uses will be additive.

.01 Single and multi-family	1 1/2 per dwelling unit
.02 Boarding houses, resident clubs, hotels and motels	1 per dwelling unit plus 1 per guest room or suite plus 1 per 3 employees
.03 Mobile home and recreational vehicle parks	1 1/2 per mobile home or recreational site plus 1 per 2 employees
.04 Hospitals, sanitariums, convalescent homes	1 per 3 beds plus 1 per resident doctor plus 1 per 3 non-resident employees
.05 Medical and dental offices and clinics	3 per doctor plus 1 per 2 employees
.06 Mortuaries, funeral parlors	1 per 3 chapel seats plus 1 per funeral vehicle
.07 Churches, theaters auditoriums, assembly halls meeting rooms, community centers, libraries, civic clubs, museums, stadiums, outdoor sports arenas	1 per 4 seats plus 1 per 3 employees

.08 Bowling alleys	5 per alley plus 1 per 3 employees
.09 Office and public administration buildings, planned neighborhood, shopping centers, retail establishments, not elsewhere listed	1 per 200 square feet of usable floor area
.10 Restaurants, night clubs, bars	1 per 4 seats or 1 per 100 square feet of usable floor area (whichever is greater) plus 1 per 3 employees
11. Filling stations, beauty shops, barber shops	1 per service bay or service chair plus 1 per 2 employees
.12 banks, savings and loan agencies	2 per teller window plus 1 per 2 employees
.13 Primary and middle schools, and wholesale, industrial, manufacturing establishments	1 per 2 employees
.14 High schools, trade schools	1 per 10 students plus 1 per employee
.15 Drive-in food or drink places where food is consumed on the premises	1 per 150 square feet of usable floor area plus 1 per 3 employees
.16 Furniture and appliance stores, household equipment and apparel, repair services auto and machinery sales	1 per 500 square feet of usable floor area for the first 5,000 square feet; thereafter, 1 per 1,000 square feet of usable floor area
.17 Auto and machinery repair shops	2 per service bay plus 1 per employee
.18 Outdoor sales areas	1 per 200 square feet of site display space and customer circulation area

.19 Recreation, outdoor, except as provided elsewhere	1 per 200 square feet of site where customers circulate, participate in, or watch recreation
.20 Racquetball, handball, squash and tennis courts	2 per court
.21 Golf Courses	5 per hole
.22 Roller skating rinks	1 per 150 square feet of usable floor area and 1 per 3 employees
.23 Miniature golf courses	1 per hole
.24 Manufactured Home, New Car Sales, Used Car Sales (added by Ordinance No. 431)	1 per 100 sq. ft. of sales building

Parking Lot Placement Regulations

Setback from a Street - Where a parking lot abuts a residential district across a street, a three-foot opaque obstruction to the lights from the parking automobiles must be provided between the parking lot and the street line. This may be by the use of a masonry wall or earth berm or depressed grade or any other method that achieves the same purpose. Where a parking lot abuts a residential district on the same side of a street and in the same block, no part of the parking lot shall be closer to the street line than the minimum required front setback for residential properties in the same block. Regardless of the district in which it is located, every part of a parking lot shall be set back from every lot line a sufficient distance to insure that no part of any parked vehicle will project over any lot line.

Setback from an Interior Lot Line - Where a parking lot abuts a residential district along its interior side lot line, and is not separated there from by an alley, no part of the parking lot shall be closer than three (3) feet to said lot line.

Rear Setback - Where a parking lot abuts a residential district along its rear lot line and is not separated there from by an alley, no part of the parking lot shall be closer than three (3) feet to said lot line. Where the rear lot line is contiguous to an alley, no set back is required.

Access to Parking from an Alley - Any parking lot may use an abutting alley for direct access to parking spaces; provided that the full width of the alley is dedicated to the public and fully improved with a hard, all-weather, dust-free surface, properly drained to prevent impoundment of surface water.

Access to Parking from a Street - Access to a parking lot from a street shall be limited to driveways and there shall be no direct access to any off-street parking space from a street.

Ingress and Egress - no entrance or exit to a parking lot shall be located closer to an abutting residential district than fifteen (15) feet.

Lanes and Aisles - Lanes and aisles in parking lots shall be as follows:

- (a) Between two rows of parking spaces oriented perpendicular to the lane or aisle, the minimum width of the lane or aisle shall be twenty-four (24) feet.
- (b) Between two rows of angled parking, the minimum width of the lane or aisle shall be twenty (20) feet.
- (c) Between one row of perpendicular parking and one row of angled parking, the minimum width of the lane or aisle shall be twenty (20) feet.
- (d) Between one row of perpendicular parking and a curb, building, or other structure, the minimum width of the lane or aisle shall be twenty (20) feet.
- (d) Between one row of angled parking and a curb, building or other structure, the width of the lane or aisle shall be twenty (20) feet.

Required Improvements and Maintenance

Surfacing and Drainage - Every parking lot shall be paved with asphaltic concrete or Portland Cement Concrete, or a durable chip and seal that meets City standards and properly drained to prevent impoundment of surface water. Every parking lot shall be subject to approval by the Street Superintendent and parking lots approved for a chip and seal finish shall conform to the requirements provided for in Section 301, subgrade preparation, and Section 330, chip and seal, (2 applications) of the Uniform Standard Specifications for Public Works Construction, sponsored by the Maricopa Association of Governments, commonly referred to as the MAG Spec's. Existing parking lots may be granted an annual exception by the Zoning Administrator, provided that the lot is stabilized and maintained to acceptable standards so that neither a hazard or nuisance is created. (amended by Ordinance No. 336, 12/17/90)

Screening - Where the interior side lot line or rear lot line of a parking lot, located in business or industrial districts, abuts a residential district and is not separated therefrom by an alley, a solid, unpierced, masonry screen wall not less than five (5) feet in height above grade shall be erected abutting the lot line; provided, however, that in no case shall a screen wall extend closer to a street line than the minimum required set back for residential properties in the same block.

Landscaping - The area between the street line and the parking lot shall be suitably landscaped and maintained by the owner or operator of the parking lot.

Lighting - Parking lots used during hours of darkness shall be lighted. The overall height of lighting fixtures shall not exceed twenty-seven (27) feet above grade, including base, and fixtures shall be so constructed and arranged to reflect light away from any adjacent residential district. Lighting less than thirteen (13) feet and six (6) inches will be protected against vehicular and pedestrian traffic.

Any parking lot existing at the effective date of these regulations shall, within one (1) year from said date, be brought into conformance with all provisions of this section of these regulations.

Off-Street Loading Requirements

In all zoning districts, for every building or part thereof, erected or enlarged after the effective date of these regulations, which is occupied or to be occupied by a manufacturing plant, storage warehouse, wholesale establishment, retail establishment, freight terminal, hospital, laundry, dry cleaning, mortuary, or similar use requiring receipt or distribution of materials or merchandise by motor truck, there shall be provided and maintained, on the same premises as the building or use, adequate off-street loading space meeting the minimum requirements hereinafter specified. Loading space as hereinafter required shall not be considered as satisfying requirements for off-street parking space.

Schedule of Loading Space Requirements -

<u>Building</u>	<u>Required</u>
1,000-10,000 square feet	1
10,000-30,000 square feet	2
30,000-50,000 square feet	3
For each additional 100,000 square feet	1 additional

Location of Loading Space - Required off-street loading space may occupy all or any part of a required rear yard, except as provided elsewhere in these regulations, and may be partially or entirely enclosed within a building. Where a side yard abuts an alley in a non-residential district, loading space may be located in that side yard.

Use of Alley for Maneuvering Space - Where a building or use in a non-residential district requiring off-street loading space abuts an alley, such alley may be used for maneuvering space for loading and unloading spaces; providing, however, that no alley abutting any residential district may be so used.

Measurement of Loading Space - Every required off-street loading space shall have a minimum width of twelve (12) feet, a minimum length of forty-five (45) feet and a minimum height of fourteen (14) feet, exclusive of access aisles and maneuvering space.

Plans Required for Off-Street Parking and Loading Spaces

Plans shall be submitted to and approved by the Zoning Inspector showing how the required parking and loading spaces are to be arranged in the area provided for the purpose. Such plans shall show access streets, alleys and drives, location of all points of ingress and egress, parking spaces, loading spaces, aisles and maneuvering space, and location and design of all screen walls, landscaping and lighting. Before issuance of a Zoning Compliance Certificate, the Zoning Inspector may obtain the approval of the Public Works Director.

SECTION FIFTEEN - SIGN REGULATIONS (ADOPTED BY Ord. 330 ON 12/18/89)

Intent

Signs are herein regulated in the interests of promoting traffic safety, safeguarding the public, facilitating police and fire protection, and protecting the character of the district in which they are located. These regulations are designed to promote the effectiveness of signs, and to prevent their over-concentration, improper placement, and excessive height, bulk and area. In general, it is intended that signs in commercial areas be of such design to facilitate recognition of the wares and services provided, but signs of a activities are prohibited. The degree of restriction decreases from R-1 to I-2.

Definitions

Sign - Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but excluding any flag, badge or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization. See figure below.

Sign, Accessory - A basic category of signs which direct attention to a business, profession or activity conducted on the premises on which the sign is located, including:

(a) Bulletin Board - A wall or ground sign announcing activities of a permitted educational, governmental or recreation area.

(b) Contractors' Sign - A wall or ground sign designating the name of persons or firms engaged in construction or repair on the premises.

(c) Developers' Sign - A wall or ground sign designating the use which will occupy the premises at some future date.

(d) Home Occupation Sign - A wall sign identifying a permitted home occupation on the premises.

(e) Identification Sign - A wall, ground or roof sign identifying the permitted principal use(s), but which bears no advertising or message other than the name, year established, street number and kind of business or activity conducted on the premises.

(f) Name Plate Sign - A wall or ground sign identifying the name and address of the occupant of the premises.

(g) Real Estate Sign - A wall or ground sign advertising the premises for lease, rent or sale.

(h) Subdivision Development Sign - A wall or ground sign advertising the sale of properties in a subdivision.

(i) Utility Sign - A wall or ground sign listing parking regulations or marking the entrance or exit to a parking lot or other permitted accessory use.

Sign, Awning - Any sign painted on or attached to an awning.

Sign, Ground - Any sign, other than a pole sign, placed upon or supported by the ground independent of any other structure.

Sign, Non-Accessory - A basic category of signs which direct attention to a business, commodity, service, entertainment, or other activity or thing, not exclusively related to the premises on which the sign is located. Three special categories of non- accessory signs are:

(a) Billboard - a large non-accessory sign typically owned and erected by a sign company and located on major arterial streets and highways.

(b) Directional - a sign directing or informing the public as to the location of publicly-owned facilities; historical or scenic points of interest; educational, charitable or religious institutions; hospitals or sanitariums; and major business districts.

(c) Logo - a small non-accessory sign permitted and sponsored by The Arizona Department of Transportation under the provisions of the right-of-way Encroachment Laws to advertise specific motorists' services bypassed by the interstate highway.

Sign, Pole - A sign that is mounted on a free-standing pole so that the bottom edge of the sign is eight (8) feet or more above.

Sign, Political - A sign supporting the candidacy of any candidate for office or urging action on any other matter on the ballot of primary, general, or special elections.

Sign, Portable - Any free-standing sign that is not permanently affixed to the ground, a structure or a building, but does not include soda, newspaper or snack machines.

Sign, Projecting - A sign which is attached to a building or structure and extends beyond the wall of the building or line of the structure more than twelve (12) inches.

Sign, Roof - A sign which extends above the walls and is supported by the roof of a building.

Temporary Sign - A sign that is displayed no longer than thirty (30) days.

Sign Vehicle - A vehicle not currently licensed for highway travel will be considered the same as a ground sign when any sign advertising a business is painted on, displayed on or attached to the vehicle. (added by Ordinance No. 431)

Sign, Wall - A flat sign placed against or attached to an exterior front, side or rear wall of a building, including signs placed parallel to and extending not more than twelve (12) inches horizontally out from the wall of a building.

Sign, Window - A sign painted on or attached to the window glass or other signs mounted on the inside of the window.

General

(a) This section pertains to all signs in all districts.

(b) Unless otherwise noted, all signs will be constructed and maintained in accordance with the UNIFORM SIGN CODE, the UNIFORM BUILDING CODE and the NATIONAL ELECTRIC CODE as adopted by City Council.

(c) No part of any sign shall be erected within or project over any part of a public street, alley, sidewalk, or other public right-of-way, except as hereinafter provided for by these regulations.

(d) Every sign and its supporting structure shall be designed and constructed to withstand a wind load of not less than thirty (30) pounds per square foot of area.

(e) No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape.

(f) No sign shall be erected or maintained at or near any intersection of streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of its position, shape, color, or illumination, it may interfere with, obstruct the view of, or be confused with an authorized traffic sign, signal or device, or with any device mounted on a police or fire protection vehicle; or which makes use of the words "STOP", "DANGER", or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.

(g) No sign shall be erected or painted upon or attached to any tree, rock or other natural feature, or to any fence post or utility pole. Hazardous warning or identification signs may be attached to utility structures.

(h) Every illuminated sign shall be so placed as to prevent any glare or reflection from being cast on any adjoining residential district, or any beam or ray of light from being directed at any portion of a public street or highway in such a manner as to create a distraction or visual hazard.

(i) The regulations in this Article shall not apply to tablets of metals, stone, or other incombustible material when built into or attached to the walls of a building or structure.

(j) Directional Signs, as herein defined, may be permitted in any district subject to the following requirements:

(1) Such signs shall be located along a State or Federal highway or an arterial street not more than one-quarter of a mile (1,320 feet) from the intersection of turnoff ramp or roadway providing direct access from said State or Federal highway or arterial street to the facility, institution or business district to which the public is being directed.

(2) Such signs shall be permitted only upon approval by the Building Official of the size, design and precise location of each individual sign, and written approval of the land owner.

(k) Other sign regulations notwithstanding, these regulations shall not be construed to prohibit or restrict the erection and lighting of Christmas displays during the Christmas season.

(l) The Building Official may, upon receipt of application and proof of need, approve an extension of removal time for subdivision development, business, and contractors' signs, provided that such extension shall not exceed one year beyond the removal date otherwise required by these regulations.

(m) City-Sponsored gatepost signs marking entrances to the City or signs to its parts shall be permitted as required.

(n) Banners, non-governmental flag, and pennants and other devices set in motion by the wind shall be limited to one square foot of banner, flag, pennant or other devices set in motion by the wind per one hundred (100) square foot of lot. No single banner, non-governmental flag, pennant, or other device set in motion by the wind may exceed fifty (50) square feet. Larger than fifty (50) square foot single banners, flags, pennants, or other devices in motion by the wind may be allowed if the applicant obtains and approved comprehensive sign plan from the PLANNING & ZONING COMMISSION. (amended by Ordinance 449 8/19/02)

(o) Flashing, intermittent, rotating, animated; beacon or similar illuminated and audible signs are not permitted except as provided under the exemption section.

(p) Permits are required for all signs except those specifically exempted under the Sign Permit section.

(q) Signage authorizations are not transferable either in whole or in part from one building frontage or business to another.

(r) On buildings having more than one street frontage, the maximum allowable square footage of on-site signs is permitted for each street frontage.

Measurement of Signs (amended by Ordinance 449 8/19/02)

(a) The area of signs composed of a letter or individual letters, without an integral background, shall be computed by measuring the sum of the squared-off area of individual letters.

(b) For all other types of signs, the measurement used to calculate the size of the sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of the sign; provided, however, that such perimeter shall not enclose any structural elements located outside the limits of the sign and not forming an integral part of the display.

(c) The area of double-faced signs shall be calculated only on one side if the square footage of each side is the same, the message is the same, and the basis of the sign does not exceed a thirty (30) degree angle of separation between the two sides.

(d) The total square footage of all face surfaces of a spherical or multi-faced sign shall be computed by measuring the sum of the squared-off area of individual letters of all face surfaces and any portion of the face surface that is an integral part of the display.

Residential

(a) Signs as hereinafter provided may be erected in residential districts.

(b) Real Estate Signs - Non-illuminated wall or ground signs advertising the premises for lease, rent or sale are permitted as follows: For properties one (1) acre and less, no such sign shall exceed six (6) square feet in area and is limited to one (1) sign per property. For properties greater than one (1) acre, but less than forty (40) acres, one sign is permitted for each street frontage and no such sign shall exceed thirty-two (32) square feet in area. For properties in excess of forty (40) acres, one sign is permitted for each street frontage and no such sign shall exceed thirty-two (32) feet in area. For properties in excess of forty (40) acres, one sign is permitted for each street frontage and no such sign shall exceed sixty-four (64) square feet in area. In all cases, no sign shall be placed closer than ten (10) feet to the property line. Such signs shall be removed with ten (10) days. Subsequent to the leasing, rental or sale of the property. No permit is required for real estate signs, (amended by Ordinance. No 354 12/6/97).

(c) Development Signs - Three (3) non-illuminated signs, none of which exceeds sixty-four (64) square feet in area and eight (8) feet in height for a development less than twenty (20) acres or ninety six (96) square feet in area and twelve (12) feet in height for a development greater than twenty (20) acres are permitted, provided that such signs shall be located no less than one hundred (100) feet to any adjoining residential private property; and further provided that all such signs shall be removed from the premises

when ninety percent (90%) of the lots or properties in the development property have been sold, (amended by Ordinance. No 354 12/6/97).

(d) Subdivision Name Signs - Permanent non-illuminated ground signs containing only the name of the subdivision; one such sign on each side of any entrance to a subdivision; subject to the approval of design, size and location by the Commission.

(e) Utility Signs - One illuminated or non-illuminated sign at each entrance or exit to a subdivision, mobile home park, or RV park, not to exceed two (2) square feet in area per sign.

(f) Roof Top, Projecting, and Commercial Non-accessory Signs - are prohibited in all residential districts.

(g) Contractors' Sign - One non-illuminated sign, not exceeding six (6) square feet in area per contractor or sub-contractor listed, nor exceeding thirty-two (32) square feet in aggregate area; provided, however, that each such sign shall be removed from the premises within twenty (20) days subsequent to completion of such construction or repair.

(h) Home Occupation Signs - Shall not exceed two (2) square feet.

(i) Apartment Complexes, Mobile Home and Recreational Vehicle Parks - One (1) non-illuminated sign per street frontage; not exceeding thirty-two (32) square feet each is permitted.

(j) Bulletin Boards - may be illuminated and shall not exceed thirty-two (32) square feet.

(k) Ground Sign - No ground sign shall be placed nearer than two (2) feet to any building or other sign; no ground sign shall exceed six (6) feet in height above grade; no part of any ground sign shall extend nearer a street line than one-half the minimum required setback for the property on which it is located.

Business

Introduction

(a) Benson has two (2) distinct types of business districts: General Business (B-2) and Neighborhood Business (B-1).

(b) For the purpose of this section, Highway 80, Highway 90, 4th Street and that portion of Ocotillo between 4th street and Interstate 10 are established as the primary business corridors of Benson. Additionally, that portion of 4th Street from Ocotillo, east to County Road and Ocotillo Street are further established as the Downtown General Business District.

(c) For the purposes of this section, a building frontage must be at least twenty (20) feet wide.

General Sign Regulations for All Business Districts

(a) An Identification Sign is permitted when multiple businesses operate from a single location. One such identification sign is permitted for each street frontage. The intent of this provision is to provide a list of separate license businesses operating from a single building or from a business center. Three (3) square feet of signage is permitted for each individual business and this signage is not counted against the total signage authorization for each business. Identification signs described above may be ground, wall or projecting type signs; however, ground signs shall not exceed twenty (20) feet in height above grade.

(b) Window Signs, whether permanent or temporary, are permitted and do not count against the total signage authorization.

(c) Portable Signs that do not pose a safety hazard, as determined by the Building Inspector, are permitted provided that:

- (1) Only one (1) portable sign per building frontage is allowed.
- (2) Sign is no larger than 2 feet wide and 3 feet high.
- (3) Sign is attached to the ground or building to restrict movement.
- (4) In areas where a public sidewalk abuts the building frontage, the portable sign must be located tight against the building.

(d) Wall Signs - No portion of a wall sign may extend above the top of the wall.

(e) Ground and Pole Signs - Ground signs are limited to a maximum height of twenty (20) feet above grade and pole signs are limited to a maximum height of thirty (30) feet above grade, except as provided in exemption section.

(f) Roof Signs are permitted provided they do not extend above the highest peak of the roof. Buildings with flat roofs are therefore not permitted roof signs. See figure below.

(g) Projecting Signs - no portion of a projecting sign may extend above the highest point of a building frontage.

(h) One Non-Accessory Sign for each business, except home occupations, may be permitted for a period up to one year upon approval by the Planning and Zoning

Commission. Additionally, the following conditions must be met (amended by Ordinance 339. 4/15/97)

(1) Non-accessory signs can be located no closer than one hundred (100) feet to each other.

(2) Written authorization from the landowner is provided.

(3) Non-accessory signs shall be limited to a maximum of twenty (20) square feet.

(4) Non-accessory signs are not deducted from the total signage authorization.

(i) Artistic Murals - see exemption section.

(j) Real Estate Signs - Non-illuminated wall or ground signs advertising the premises for lease, rent or sale are permitted provided that no such sign shall exceed sixteen (16) square feet in area, nor shall any such sign be placed closer than ten (10) feet to any adjoining lot or closer than twenty (20) feet to any street corner. Real estate signs are limited to one sign per each lot or parcel. Such days subsequent to the leasing, rental, or sale of the property.

(k) Developers' Signs - One (1) non-illuminated sign advertising the use that will occupy the premises not to exceed thirty-two (32) square feet in area is permitted. Signs shall not be placed closer than ten (10) feet to an adjoining lot or closer than twenty (20) feet to the property line. Such signs shall be removed from the premises within twenty (20) days subsequent to the occupancy of the premises.

(l) Contractors' Signs - One (1) non-illuminated sign, not exceeding twenty (20) square feet in area per contractor or sub-contractor listed is permitted, provided that each sign shall be removed from the premises within twenty (20) days subsequent to completion of such construction or repair.

B-1 Business Districts - One (1) or more roof, wall, ground, pole or projecting signs are permitted for each building frontage, however, no ground sign shall exceed thirty-two (32) square feet. All businesses having a building frontage are authorized fifty (50) square feet of signage. Additional signage authorization may be permitted based upon building frontage or property frontage as shown below. One (1) square foot of signage is permitted for each one (1) linear foot of building frontage or one (1) square foot of signage is permitted for each five (5) linear feet of property frontage, not to exceed an aggregate of seventy-five (75) square feet. Multiple, separately licensed businesses sharing a building frontage must also share the signage authorization.

B-2 Business Districts

(a) One (1) or more wall, roof, ground, pole or projecting signs are permitted for each building frontage, however no ground sign shall exceed fifty (50) square feet.

(b) All businesses having a building frontage are authorized seventy-five (75) square feet of signage. Additional signage authorization may be permitted based upon building frontage, property frontage and location within the B-2 districts as shown below:

(1) For businesses located in the Downtown General Business District, two (2) square feet of signage is permitted for each one (1) linear foot of building frontage or two (2) square feet of signage is permitted for each five (5) linear feet of property frontage, not to exceed and aggregate of one hundred fifty (150) square feet.

(2) For businesses not located in the Downtown General Business District, additional signage is permitted based on the higher traffic speeds encountered in those areas. Signage in these B-2 areas is permitted as follows: two and one-half (2 1/2) square feet of signage for each one (1) linear foot of building frontage or two and one-half (2 1/2) square feet of signage for each five (5) linear feet of property frontage, not to exceed an aggregate of two hundred (200) square feet of signage.

(c) Multiple, separately licensed businesses sharing a building frontage must also share the signage authorization.

(d) All businesses with frontages on the Arizona Department of Transportation (ADOT) right-of-ways must also be aware of State laws governing signage. An extract of ADOT sign permits regulations is at the figure below.

General Notes

1. 1. A permit is required for all encroaching overhanging signs and awnings. These signs and awnings are permitted in curbed urban sections for on premise advertising.
2. 2. No advertising signs are allowed on any intersects or rural highway rights of way. Signs on frontage roads within highway R/W in urban areas are permitted by this standard.
3. 3. Signs with words "Stop", "Slowdown", etc. or signs similar in shape or color to official traffic signs are not permitted.
4. 4. Lengths of signs and awnings may vary as shown except where City or County ordinances provide smaller maximums.
5. 5. Illuminated signs attached to a building losing the R/W are permitted as shown.
6. 6. An outdoor advertising permit is required for off premise signs.
7. 7. Ground supported or portable signs shall not be placed within any right of way areas.

Industrial

(a) Because industrial districts are located at the fringes of the city and increased set backs of buildings can be anticipated to allow employee parking lots, signage authorization are very liberal to allow ease of identification of these businesses.

(b) Roof top signs may extend above the roofline.

(c) Projecting signs may extend above the roofline.

(d) Pole signs are limited to a height of sixty (60) feet above grade.

(e) Ground signs are limited to a height of thirty (30) feet above grade.

(f) One non-accessory sign per business is permitted. This authorization does not include the leasing of commercial billboards already existing within the City nor does it include billboards along the Interstate.

(g) All businesses located in I-1 zones are permitted one hundred (100) square feet of signage. Additional signage may be permitted based on an authorization of three (3) square feet of signage per one (1) linear foot of building frontage or three (3) square feet of signage per five (5) linear feet of property frontage not to exceed an aggregate of three hundred (300) square feet of signage.

(h) Businesses locating in I-2 zones will be authorized signage similar to that permitted in I-1 districts, however, the actual signage authorization will be determined on a case-by-case basis during the site plan approval phase.

Rural Transitional

By definition, these districts are rural residential, with certain areas having a tendency to develop into commercial properties. Signage permitted in these areas is as stated in the Residential section until such time as rezoning occurs.

Exemptions and Special Use

(a) Flashing, intermittent, rotating, animated, beacon or similar illuminated signs shall be considered on a case-by-case basis by the Planning and Zoning Commission to determine if the proposed sign would harmonize with the area to which it is proposed. Consideration will be given to size, location, frequency and brightness of the proposed sign. In no case will such signs be permitted if traffic safety could be jeopardized or a public nuisance be created. The Planning and Zoning Commission may call upon City Police, Civic Leaders, The Public, or other Elected or Appointed Officials prior to making their decision.

(b) deleted - (amended by Ordinance No. 410. And deleted by Ordinance No. 449 8/19/02)

(c) Interstate (I-10) Signage - Notwithstanding any contrary provision contained in these regulations, there shall be permitted in all commercial and industrially zoned districts, except that area from the most western extremity of I-10, Exit 302, to the eastern most extremity of I-10, Exit 303, any sign which is located within two hundred fifty (250) feet of the right-of-way of Interstate Route 10, provided said sign is no larger than seven hundred fifty (750) feet square feet, so long as said sign and the placing thereof is in conformance with the State of Arizona, Department of Transportation Outdoor Advertising control Regulations, and the State has issued a permit authorizing said sign. In calculating the area of any such sign, only the advertising display portion of said sign shall be included in determining compliance with the area limitations set forth herein above and any standards, limitations set for herein above and any standards, supporting structures, braces or accessories shall not be included in determining the sign area. Double or multiple-faced signs shall be considered as if each surface area constituted a separate individual sign. The existence of a State of Arizona sign permit shall not eliminate the need for a separate sign permit from the City. (amended by Ordinance No. 309, 6/21/88 and No. 357, 3/21/94)

(d) A comprehensive Sign Plan may be submitted to the Planning and Zoning Commission by the developers of a proposed commercial development which shall include the location, size, height, lighting and orientation all proposed signs, in addition to any other information deemed necessary. This sign plan may be submitted in conjunction with the required preliminary site plan for the development. If the comprehensive sign plan is found to be acceptable, i.e. if the sign areas and densities shown on the plan are in conformity with the intent of these regulations and if such exceptions result in an improved relationship between the various parts of the plan, exceptions to the provisions of these regulations shall be granted.

(e) Murals - In order to encourage and promote a harmonious relationship between buildings and signs, the Planning and Zoning Commission shall be the authority to approve signs which are designed into and are a part of an integrated architectural feature of a building or signs that are integrated into an artistic wall mural. Such signage, if it represents less than twenty (20) percent of the total square footage of the mural, would not be deducted from the signage authorization for that building or business.

(f) Sign Theme - The owners of sixty (60) percent or more of the street frontage of properties on both sides of the street in any well-defined area may petition the Planning and Zoning Commission for the establishment of a special sign district for the purpose of creating an integrated special sign theme in the area. The Planning and Zoning Commission shall hold a public hearing on such a request. The Commission may then approve signage where the provisions of these regulations would otherwise prohibit such signs.

(g) Political Signs are exempted from all regulations contained in this article for forty-five (45) days before any Election Day and all such signs must be removed seven (7) days after any Election Day. Successful primary candidates, whose names will

appear on the general election ballot, may continue to display their political signs after the primary election, but all such signs must be removed seven (7) days after the general election. No sign shall be placed within the twenty-five (25) foot triangle of land at the corner of any intersection, otherwise know as the sign visibility triangle and no sign shall be attached to any other freestanding sign. (amended by Ordinance 529 11/10/2008)

Prohibited and Non-conforming Signs

(a) Signs which are obscene, hazardous to traffic, imitative of official government signs (i.e. STOP, DANGER, CAUTION, etc.) create a public nuisance, obstruct visibility, or create a hazard to the public are prohibited. Approved signs that later become a hazard or a nuisance shall be removed.

(b) Portable signs are prohibited except as permitted in the Business section.

(c) Signs with moving parts, including banners pennants or other devices set in motion by the wind are prohibited except as permitted in Exemptions section.

(d) Non-conforming Signs

(1) Permanent signs, affixed to the ground or a structure, erected prior to the effective date of this ordinance, that would be in violation of this ordinance, are non-conforming signs that have grandfathered rights. These grandfathered rights become null and void if the sign or the sign structure is destroyed.

(2) The most obvious Non-conforming signs within the Benson City Limits (as of December 1989) are: all billboards on 4th Street, Ocotillo, and Highway 80, all projecting signs and roof top signs in the B-2 districts that extend above the roof line.

Sign Permits, Fees, and Removal

(a) Building Permits - It shall be unlawful for any person, firm or corporation to erect, re-erect, construct, repair, alter, relocate or maintain within the City of Benson, any sign as defined in these regulations, except as hereinafter provided, without first obtaining a building permit from the Building Inspector. Building permits shall not be required for:

(1) Nameplate signs,

(2) Home occupation signs,

- (3) Real estate, Political, Contractor, Developer signs,
- (4) Non- illuminated wall signs not exceeding fifty (50) square feet,
- (5) Repairs or repainting not in excess of \$200.00, and
- (6) Window signs.

Application for a building permit shall be accompanied by, at a minimum, a site plan, construction plans, and written consent of the landowner, if appropriate.

(c) Permit Revocable - The building Official shall have the authority to revoke any permit which has been granted when he has determined that the sign authorized by the permit has been constructed or is to be maintained in violation of the permit.

(d) Liability - The granting of a building permit shall not be deemed to be a permit for or approval of any violation of these regulations. The provisions of these regulations shall not be construed as relieving or limiting in any way, the responsibility or liability of any person, firm, or corporation, erecting or owning any sign, or resulting from the negligence or willful acts of such person, firm or corporation or its agents, employees or workmen, in the construction, maintenance, repair or removal of any sign erected in accordance with a permit issued hereunder. Nor shall issuance of such permit be construed as imposing upon the City or its officers or employees, any responsibility or liability by reasons of the approval of any signs, material or devices under the provisions of these regulations.

(e) Sign Permit Fees

(1) For non-illuminated wall signs, not exempted above, building permit fee is established at \$15.00.

(2) For non-illuminated ground signs, constructed of wood and not exceeding a height of twenty (20) feet above grade, the building permit fee is established at \$15.00.

(3) For all other signs, the building permit fee shall be as established in the Uniform Building Code.

(f) Removal of Signs - Any sign which advertises a business no longer conducted or products no longer sold, at the location of the sign, shall be removed by the owner, agent, or person having the beneficial use of the building or property on which such sign is located within ten (10) days after such business has terminated. The Building Official is hereby authorized to cause removal of such signs thirty (30) days after written notification is provided to the property owner. All costs associated with such removal will be billed to the property owner(s).

SECTION SIXTEEN – MANUFACTURED HOME PARKS (revised by Ordinance No.398 1/1/98)

16-1	16-1	Intent
16-2	16-2	Location
16-3	16-3	Permitted Uses
16-4	16-4	Accessory Uses
16-5	16-5	Conditional Uses
16-6	16-6	Site Development Standards
16-7	16-7	Prohibited Uses

16 - 1 Intent

The intent of this regulation is to encourage development of well-planned Manufactured Home Parks, and to provide minimum standards for these Parks. These regulations govern manufactured home parks that offer spaces for rent, sale, or lease. All Parks comply with the Benson Subdivision Regulations. (amended by Ordinances 298, 407, and 410.)

16 - 2 Location

All manufactured home parks shall be located in the R-3, B-1 or B-2 zoning districts and shall be consistent with the City of Benson General Development Plan. All manufactured home parks shall be served by paved, all-weather roads.

16 - 3 Permitted Uses

The following uses are permitted within a Manufactured Home Park:

1. Manufactured housing with one manufactured home per space.
2. One park manager residence.
3. Three accessory uses per manufactured home space.

16 - 4 Accessory Uses

1. Accessory uses for manufactured home parks include community recreation buildings and areas, accessory parking areas, laundry buildings, an office building, child care facilities and other similar accessory uses for the exclusive benefit of the park residents.
2. Accessory uses for an individual manufactured home space include a carport, a ramada, a cabana, a covered patio, and storage building. Accessory buildings shall not be used for sleeping quarters.

16 - 5 Conditional Uses

1. A boat or trailer storage area, provided it is in a completely enclosed area, or surrounded by not less than a 6 foot high solid fence or wall, and is for the sole use of the residents of the park.
2. Recreational uses intended primarily for the occupants of the park.
3. Model home area for up to five (5) manufactured homes.
4. Other uses, not appearing in this section, may be approved as a conditional use on a case by case basis by the Planning & Zoning Commission.

16 - 6 Site Development Standards

1. Minimum Park Size: 3 acres
2. Minimum Park Setbacks: 20 feet from all street frontages measured from the right-of-way line and 10 feet on all other sides. The street setback areas shall be landscaped and screened with a minimum 5 foot high decorative masonry wall. These setback areas shall contain a minimum of 1 tree, not less than 15 gallons, per 40 lineal feet of street frontage, with 45% vegetative cover in shrubs and groundcover on the exterior side of the wall. The landscape and screening plan shall be submitted for approval to the Planning & Zoning Commission. No off-street parking facilities or recreational facilities for common use shall be located in any such required landscaped area.
3. Park standards:
 - a. Minimum double wide space size: four thousand five hundred (4500) sq. ft.
 - b. Minimum width per double wide space: fifty two feet (52')
 - c. Minimum depth per double wide space: eighty feet (80')
 - d. Minimum single wide space size: three thousand five hundred (3500) sq. Ft.
 - e. Minimum width per single wide space: forty two feet (42')
 - f. Minimum depth per single wide space: eighty feet (80')
 - g. Minimum common recreation area per park space: two hundred fifty (250) sq. ft.
 - h. Minimum setbacks for spaces shall be the same as for property lines in the R-3 District. (amended by Ordinance No. 407)
 - i. All storage buildings shall be located in the rear one half (1/2) of the manufactured home space. Detached storage buildings shall not encroach into the required park setbacks, and shall be subject to the Uniform Building Code firewall requirements. Accessory structures shall be firmly attached to the ground.
 - j. Accessory structures will be architecturally compatible with the manufactured home.

- k. The maximum height of any structure shall not exceed fifteen feet (15') on a manufactured home space.
 - l. All structures, not located on a manufactured home space, shall not exceed two (2) stories nor shall they exceed thirty feet (30') in height from grade to the highest point on the roof.
 - m. All Manufactured Homes shall be anchored in accordance with applicable Codes.
 - n. All Manufactured Homes shall be skirted with materials that will harmonize with the design and materials used on the Manufactured Home, as approved by the Community Development Director.
 - o. When a carport is attached to the principal building, it may be erected within five(5) feet of the space line. The carport so placed must be retained as an open shelter. (added by Ordinance No. 407.)
4. A Common Recreation Area shall be provided in manufactured home parks. Plans for the common recreation areas shall be approved by the Planning & Zoning Commission during plan review.
 5. Access to all spaces shall be from the interior of the park.
 6. Private streets shall be a minimum paved width of twenty-four feet (24').
 7. At least two (2) improved parking spaces per unit space shall be provided on each space. In addition, at least one (1) additional guest space shall be provided in a common area for each five (5) manufactured home spaces.
 8. All utility lines shall be placed underground within the park. Each space shall be provided with water, sanitary sewer, and electric lines. Telephone lines, Cable TV lines, and gas lines, if installed, will also be installed underground. Fire hydrants shall be installed as required by the City Code.
 9. All parks shall have street lighting provided along private and public streets for the safety of pedestrians.
 10. All parks shall have a minimum of two vehicular entrances. One entrance may be kept closed to the general public, but is required for emergency ingress and egress.

16 - 7 Prohibited Uses

1. Only Manufactured Homes Bearing the United States Department of Housing and Urban Development identification plate will be permitted to be installed within the City, except that any mobile home or manufactured home presently existing and used as a residence within the City provided it complies with the current applicable building codes. (amended by Ord 467)
2. Corrugated steel skirting.

SECTION SIXTEEN A – Recreational Vehicle Parks (added by Ordinance No. 398 1/1/98)

Section 16A - Recreation Vehicle Parks

- 16-A-1 Intent
- 16-A-2 Location
- 16-A-3 Permitted Uses
- 16-A-4 Accessory Uses
- 16-A-5 Conditional Uses
- 16-A-6 Prohibited Uses
- 16-A-7 Site Development Standards
- 16-A-8 Appendix 1

Section 16-A-1 Intent

The intent of this regulation is to encourage development of well planned recreational vehicle parks, and to provide minimum standards for these Parks. These regulations govern recreational vehicle parks that offer spaces for rent, lease, or sale. All parks must comply with the Benson Subdivision Regulations. (amended by Ordinance No. 407 and 410.)

Section 16-A-2 Location

All recreational vehicle parks shall be located in B-2 zoning districts and shall comply with the City of Benson General Development Plan. Recreational vehicle parks shall abut a major arterial or collector street.

Section 16-A-3 Permitted Uses

The following uses are permitted within the recreational vehicle parks:

1. One occupied Recreational Vehicle per space, or
 2. A Manager's quarters, to include an approved skirted manufactured home.
 3. Two Accessory uses per recreational vehicle space.
- (amended by Ordinance No 466)

Section 16-A-4 Accessory Uses

1. Accessory uses for recreational vehicle or park model parks include community recreation buildings, facilities, laundry buildings, an office building, child care facilities, and other facilities designed for the benefit of the park residences.
2. Accessory uses for recreational vehicle park spaces include carports, ramadas, cabanas, covered patios, and storage rooms.
3. Accessory buildings shall not be used as sleeping quarters.

Section 16-A-5 Conditional Uses

1. A boat, auto, RV, or trailer storage area, provided it is in an enclosed area or surrounded by not less than a 6 foot fence or wall, completely screened from view from all sides.
2. Recreational uses intended primarily for the occupants of the park.
3. Model sales area, provided not more than five (5) spaces are devoted to this use. The Planning & Zoning Commission may permit an additional sales area where the park occupies more than twenty (20) acres.
4. Convenience store.
5. A propane station.
6. Vehicle wash area.
7. Other conditional uses approved by the Planning & Zoning Commission that would primarily serve the residents of the park.
8. Dump stations.

Section 16-A-6 Prohibited Uses

1. Truck campers that are removed from the truck.
2. Any retail business not for the exclusive use of the park residents.

Section 16-A-7 Site Development Standards

1. Minimum Park Size: five (5) acres
2. Minimum Park Setback: twenty feet (20') from all City street frontages measured from the right-of-way line and 10 feet on all other sides. The street setback areas shall be landscaped and screened with a minimum five (5) foot high decorative masonry wall. These setback areas shall contain a minimum of one (1) tree, not less than fifteen (15) gallons, per forty (40) lineal feet of street frontage, with forty five percent (45%) vegetative cover in shrubs and groundcover on the street side of the wall. The landscape and screening plan shall be approved by the Planning & Zoning Commission.
3. Park Standards
 - a. Minimum space size: fifteen hundred (1500) sq. ft. for recreational vehicle spaces and two thousand four hundred (2400) sq. ft. for park models.
 - b. Minimum common recreation area per unit: one hundred fifty (150) sq. ft.
 - c. Minimum width per space: thirty feet (30') for each RV, forty feet (40') for park models.
 - d. Minimum depth per space: fifty feet (50') for each RV, sixty feet (60') for park models.

- e. Minimum setbacks for spaces shall be the same as for property lines in the R-3 District. (amended by Ordinance No. 407)
- f. All park models shall be skirted with materials that will harmonize with the design and materials used on the park model.
- g. Installation permits and inspections are required for park models. Permit fees are established by City Council.
- h. All park models shall be installed and anchored according to Section 16-A-8 Appendix 1.
- i. Detached storage buildings are permitted on each recreational vehicle space. All storage buildings shall be located in the rear ½ of the recreational vehicle space. Detached storage buildings shall not encroach into the required setbacks, and are subject to the fire wall requirements set in the Uniform Building Code.
- j. Accessory structures shall be architecturally compatible with the recreational vehicle or park model itself, and shall meet required set backs.
- k. When a carport is attached to the principal building, it may be erected within five(5) feet of the space line. The carport so placed must be retained as an open shelter. (added by Ordinance No. 407.

- 4. A Common Recreation Area shall be provided in recreational vehicle parks. Plans for the common recreation areas shall be submitted for approval to the Planning & Zoning Commission.
- 5. Access to all spaces shall be from the interior of the park or subdivision.
- 6. Private streets shall be a minimum paved width of twenty-four feet (24').
- 7. At least one (1) parking space per rental unit space, and at least two (2) parking spaces per sales space shall be provided. In addition, at least one (1) additional guest parking space shall be provided for each ten (10) rental spaces.
- 8. The maximum height for any structure on a recreational vehicle Space shall not exceed fifteen (15) feet.
- 9. All structures not located on a recreational vehicle space shall not exceed thirty (30) feet in height from grade to the highest point on the structure.
- 10. All utility lines shall be placed underground within the park. Each space shall be provided with water, sanitary sewer, and electric lines. Telephone lines, cable TV lines, and gas lines, if installed, will also be underground. Fire hydrants shall be installed as required by the City of Benson Regulations.
- 11. All parks shall have street lighting.
- 12. All parks have a minimum of two vehicular entrances. One entrance may be kept closed to the general public, but is required to meet public safety standards for emergency ingress and egress.

Section 16-A-8 Appendix 1 (deleted by Ordinance 466)

SECTION SEVENTEEN – OUTDOOR LIGHTING REGULATIONS

Section 1. Intent. It is the intent of this regulation to encourage outdoor lighting practices and lighting systems, which will minimize light pollution, light trespass, and glare thus curtailing the degradation of dark skies and protecting citizens from unwanted lighting by others. Dark skies are a natural resource for humans and animals and as such should be preserved as best as possible. Furthermore, reduction of light pollution by allowing outdoor lights to illuminate only what needs to be lit promotes a more natural environment for people and wildlife of our area, and protects individual privacy by discouraging the intrusion of light trespass, light pollution, and glare.

This regulation is also intended to conserve energy and resources and maintain a safe and secure nighttime environment by encouraging efficient lighting systems that optimise visual acuity for safety reasons. Gradual changes from light to dark and dark to light gives the eye time to safely adjust to changing lighting conditions.

It is also recognized that topographic and atmospheric conditions in South-eastern Arizona are unique for optimal astronomical observation and research. As such, observatories have been established in Cochise, Pima, and Graham counties, and the City of Benson area. The provisions herein contained, promote the reduction of light pollution, which interferes with the successful operation of such observatories.

Section 2. Conformance with Applicable Codes. All outdoor illuminating devices shall be installed in conformance with the provisions of this Code, the Building Code, the Electrical Code, and the Sign Code of the City of Benson as applicable and under appropriate permit and inspection.

Section 3. Applicability.

3.1 New Uses, Buildings and Major Additions or Modifications.

3.1.1 The requirements of this Outdoor Lighting Code apply to any and all new uses and major and minor additions to land uses, developments, buildings, or structures.

3.1.2 If a major addition occurs on a property, the entire property shall comply with the requirements of this Code. For purposes of this section, the following are considered to be major additions:

3.1.2.1 Additions of 25 percent or more in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces, either with a single addition or with cumulative additions subsequent to the effective date of this provision.

3.1.2.2 A major addition constitutes any single or cumulative modification or replacement of legally installed outdoor lighting fixtures totaling 25

percent or more of the actual lumens for the property. Where existing outdoor lighting is modified or replaced and the resulting lighting fixture has less lumen capacity than the previously existing fixture, the lumen capacity of the modified or replaced fixture shall not be included in the lumen calculations for determining a major addition. The total of non-conforming lighting shall not be increased.

- 3.2 Minor Additions.** Additions or modifications greater than 10% but less than 25 percent to existing uses shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting on the site shall meet the requirements of this Code with regard to shielding and lamp type; the total amount of lighting after the modifications are complete shall not exceed that on the site before the modification, or that permitted by this code, whichever is larger.
- 3.3 Change of Use.** Whenever the use of any existing building, structure, or premises is changed to a new use, all outdoor lighting shall be reviewed and brought into compliance with this Code before the new use commences.
- 3.4 Resumption of Use after Abandonment.** If a property or use with non-conforming lighting is vacant for more than 6 months as defined in Section 4.28, then all outdoor lighting shall be reviewed and brought into compliance with this Code before the use is resumed.
- 3.5 One Year Exemption.** Businesses operable on the effective date of the ordinance codified in this chapter are exempt from requirements set down in 14.1.2 for major and minor additions, for a period of one year. The exemption will end exactly one year from the effective date of the ordinance. Permits issued during this one year period will be valid until the additions are completed. This exemption applies only to new major or minor additions and does not include existing structures or existing outdoor light fixtures.

Section 4. Definitions. Unless the context clearly indicates otherwise, certain words and phrases used in this Code mean the following:

Abandonment of Use. *See Use, Abandonment of (4.28)*

- 4.1 Class 1 Lighting. Color Rendition/Lumen Cap Exemption** All outdoor lighting used for, but not limited to, outdoor sales or eating areas, entrance canopies on retail buildings, assembly (mechanical) or repair areas, advertising and other signs, recreational facilities, amphitheatres and other similar applications where color rendition is important to preserve the effectiveness of the activity. Designation of lighting as Class 1 requires a finding by the City of Benson of the essential function of color rendition for the application. Lumen Cap Exemptions apply to Outdoor Recreational Facilities and Display Lots.

Examples of lighting that can be used to achieve color rendition, when used in combination with other lamp types, include: Metal Halide, Fluorescent, and Quartz Halogen.

- 4.2 Class 2 Lighting.** General Illumination for Safety and Security. All outdoor lighting used for, but not limited to, illumination for walkways, roadways, equipment yards, parking lots and outdoor security where general illumination for safety or security of the grounds is the primary concern. Twenty-Four (24) hour businesses fall into this class. Safety and Security lighting is exempt from all curfew requirements.
- 4.3 Class 3 Lighting.** Decorative Lighting. Any outdoor lighting used for decorative effects including, but not limited to, architectural illumination, flag and monument lighting, and illumination of landscaping.
- 4.4 General Lighting.** Lighting used for general illumination that does not fall under Classes 1-3.
- 4.5 Color Rendition.** The ability of a light source to faithfully reproduce the colors seen in an object.
- 4.6 Development Project.** Any residential, commercial, industrial or mixed use subdivision plan or development plan that is submitted to the City of Benson for approval or for permit.
- 4.7 Direct Illumination.** Illumination resulting from light emitted directly from a luminaire, not light diffused through translucent signs or reflected from other surfaces such as the ground or building faces.
- 4.8 Display Lot or Area.** Outdoor areas where active nighttime sales activity is the primary business function, and where accurate color perception by customers is required. To qualify as a display lot, one of the following specific uses must occur: automobile sales, assembly lots, swap meets, airport and automobile fueling areas. Uses not on this list must be approved as a display lot use by the City of Benson.
- 4.9 High Intensity Discharge (HID).** In a discharge lamp, the emitted energy (light) is produced by the passage of an electric current through a gas. High-intensity discharge lamps include: mercury, metal halide, low pressure sodium, fluorescent and high pressure sodium. Some such lamps have internal coatings to convert some of the ultraviolet energy emitted by the gas discharge into visual output.
- 4.10 Glare.** The sensation produced by a bright light source within the visual field that is sufficiently brighter than the level to which the eyes are adjusted, causing discomfort and/or loss in visual performance visibility.

- 4.11 Illuminance.** The amount of light falling onto a surface area, measured in footcandles (lumens per square foot) or lux (lumens per square meter). For conversion purposes, 1 footcandle (fc) is equal to 10.76 lux (lx).
- 4.12 Installed.** The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.
- 4.13 Fully Shielded, Full Cut Off (FCO) Light Fixture.** A light fixture constructed, installed and maintained in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly by reflection or refraction from any part of the fixture, is projected below a horizontal plane running through the lowest part of the fixture.

See examples of Acceptable and Unacceptable Lighting Fixtures, page 16.

- 4.14 Light Trespass.** Stray electric light falling where it is not wanted or needed. Direct light that has its source on one site, and directly illuminates areas beyond the property boundaries. Light trespass is typically produced by stray light from unshielded or misdirected outdoor lighting, and includes glare from direct viewing, as well as “off-site spill” light.
- 4.15 Lighting Areas.** All lighting areas discussed below shall be identified based on the City of Benson Zoning Map. Lighting Areas are primarily used to define advertising sign lighting curfews and lumen caps.

4.15.1 Lighting Area E3 is an urban area with primary land uses for commercial, business, industrial activity, apartments, surrounded by suburban residential and is defined as Benson Zoning Areas: Business (B1&B2), Industrial (I1&I2), Residential (R1,R2, R3).

4.15.2 Lighting Area E2 is defined, as the balance of the City of Benson not listed as Lighting Areas E3 or E1.

4.15.3 Lighting Area E1 is an intrinsically dark area used for astronomical observations at established professional facilities, e.g. Vega Bray. Area E1 is defined as the area 1.5 mile radius from the center point of these facilities, these facilities shall be as established by the City of Benson.

4.15.4 A property located in more than one of the Lighting Areas described under the above Sections 4.15.1 to 4.15.3 shall be considered to be only in the more restrictive Lighting Area.

- 4.16 Lumen.** The unit used to measure the actual amount of light produced by a lamp.
- 4.17 Luminaire.** The complete lighting assembly, less the support assembly. Multiple unshielded or full cutoff lamps on a single pole or standard, shall be considered as

a single unit, for purposes of determining total light output from a luminaire lighting assembly. Two or more units with lamps less than 3 feet apart shall be considered a single luminaire.

4.18 Multi-class Lighting. Any outdoor lighting used for more than one purpose, such as security and decoration, such that its use falls under the definition of more than one class, as defined for Class 1, and 2 Lighting.

4.19 Net Acreage. The remaining ground area after deleting all portions for proposed and existing public streets within a development, parcel, or subdivision.

4.20 Off-Site Spill. Any combination of glare, up-light (sky glow) and/or light trespass applicable, but not limited to, structure exterior lighting, roadway/street lighting, pedestrian malls, parks, recreational facilities, outdoor display lots, parking lots, service stations, convenience stores, billboards and signage.

4.21 Opaque. Opaque means that the material shall not transmit visible light.

4.22 Outdoor Light fixture. An outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, permanently installed or portable, used for illumination or advertisement. Such devices shall include, but are not limited to:

1. street lighting;
2. parking lot lighting;
3. building and structural lighting;
4. landscape lighting;
5. recreational lighting;
6. billboards and other signs (advertising or otherwise);
7. product display area lighting;
8. building overhangs and open canopies;
9. security lighting;
10. searchlight, spotlight, flood lights, and laser lights.

4.23 Outdoor Light Output, Total. The total amount of light, measured in lumens, from all outdoor light fixture lamps, is calculated as follows:

4.23.1 For lamp types that vary in light output as they age (such as fluorescent and high intensity discharge lamps), the mean lumen output, as defined by the lamp manufacturer, shall be the lumen value used.

4.23.2 The total light output of each outdoor light fixture shall be based on the largest lamp that the outdoor light fixture is rated to accommodate. For the purpose of compliance with this section, the largest lamp rating for fluorescent and high intensity discharge fixtures shall be based on the installed ballast rating.

- 4.24 Outdoor Recreation Facility.** An area designed for active recreation, whether publicly or privately owned, including, but not limited to: baseball, soccer, football, golf, tennis, swimming pools, and race tracks of any sort.
- 4.25 Person.** Any individual, tenant, lessee, owner, or any commercial entity including but not limited to: firm, business, partnership, joint venture or corporation.
- 4.26 Sky Glow.** The undesirable and unnecessary emission of light ray, directly or indirectly, into the night sky.
- 4.27 Temporary Lighting.** Lighting which does not conform to the provisions of this ordinance and which will not be used for more than one thirty (30) day period within a calendar year, with one thirty (30) day extension. Temporary lighting is intended for uses that by their nature are of limited duration, for example: holiday decorations, civic events, or construction projects.
- 4.28 Use, Abandonment of.** The relinquishment of a property, or the cessation of a use or activity by the owner or tenant for a period of six months, excluding temporary or short term interruptions for the purpose of remodeling, maintaining, or otherwise improving or rearranging a facility. A use shall be deemed abandoned when such use is suspended as evidenced by the cessation of activities or conditions that constitute the principal use of the property.
- 4.29 Curfew.** A time established for listed lighting systems to be automatically extinguished.

Section 5. Total Outdoor Light Output and Shielding Requirements. The table in this section gives requirements of the total light output permitted per acre for the different lighting areas and the fixture shielding requirements. These requirements shall be met for all lighting installations subject to this code.

SEE TABLE 5.1, page 7, (Maximum Total Outdoor Light Output Requirements)

5.1 Total Outdoor Light Output. Total outdoor light output shall not exceed the lumen limits given in Table 5. 1. In the table, Total means the sum of shielded and unshielded light.

5.1.1 For determining compliance with Section 5.1, the total lumens is the sum of the following:

5.1.1.1 One hundred percent of the lumens from outdoor light fixtures installed on grade, on poles, and installed on the top or sides of buildings or other structures.

5.1.1.2 Fifty percent of the lumens from underwater light fixtures unless the fixture is aimed at an angle of less than 45 degrees above the

horizontal, in which case the calculated lumens is calculated at 10 percent of the rated lumens.

5.1.2 Outdoor lighting fixtures shall not be counted in determining the total light output when they are full cut-off light fixtures installed under canopies, building overhangs, or roof eaves.

-
- 5.2** All light fixtures that are required to be shielded shall be installed in such a manner that the shielding is effective as described in Section 4. Definitions, number 4.13 - Fully Shielded, Full Cut Off (FCO).
- 5.3** In the shielding requirements of Section 5.1, all light fixtures on the residential side of commercial property adjacent to residential property shall be full cutoff and shall be a maximum of 10 feet above grade at the property line and no higher than a line rising 20 degrees above the 10 feet until 100 feet from the property line. All outdoor lighting within one mounting height, (mounting height = the distance from grade to the top of the lighting fixture), of residential areas shall have internal house-side shields. In addition, all residential and commercial luminaries shall be full cutoff within 25 feet of adjacent residential property lines.
- 5.4** Multi-class lighting must conform to the shielding and timing restrictions, if any, which apply to the most restrictive class.
- 5.5** If the unshielded lumens requirements of Table 5.1 cannot be met, due to a lack of available appropriately shielded lighting fixtures, applicants may apply for a wavier for a maximum of one 60-watt lighting fixture and four 40-watt lighting fixtures per residence.

<p align="center">Table 5.1 Maximum Total Outdoor Light Output Requirements LUMEN CAPS: MEAN LUMENS PER NET ACRE (SECTION: 4.18) NOTE: 1,700 LUMENS IS THE APPROXIMATE EQUIVALENT OF A 100 WATT INCANDESCENT BULB (Exact Lumen equivalency depends on type of lamp and manufacturer)</p>			
	Lighting Area (Defined in Section 4)		
	E3 Primary land use: commercial, business, industrial, new residential & apartment surrounded by suburban residential Benson Zoning Business (B1&B2) Industrial (I1&I2) Residential (R1,R2, R3)	E2 Rural residential, Agricultural & Rural Transitional Benson Zoning Rural Transitional (RT)	E1 Intrinsically dark areas used for astronomical observation 1.5 mile radius around Vega Bray observatory
Commercial and Industrial - Option 1^{1,2}			
All lighting must be Full Cut Off	300,000	65,000	25,000
<u>Commercial and Industrial - Option 2^{1,2} Full Cut Off for most Lighting</u>			
Total (Full Cut Off plus unshielded)	200,000	50,000	12,500
Limit on unshielded component	12,000	6,000	3,000
<u>All Residential Zoning³</u>			
Total (Full Cut Off plus unshielded)	55,000	24,000	12,000
<u>Limit on unshielded component</u>	12,000	6,000	3,000

Notes to Table 5.1:

- Commercial and Industrial Use – choose Option 1 or 2 for the entire project.
- This refers to all land-use zoning classifications for multiple family uses, commercial, and industrial sites.
- This refers to all residential land-use zoning, including all densities and types of housing, such as single family detached and duplexes.
- In addition to the lumen caps given in the table above, the maximum illumination level under any canopy in Lighting Area E3 shall not exceed 110 lumens per square foot, in Area E2 shall not exceed 55 lumens per square foot and in Area E1 shall not exceed 30 lumens per square foot.

5. FCO flood or spot lamps shall be aimed no higher than 45 degrees to the horizontal (half-way between straight down and straight to the side) when the source is visible from any adjacent residential property or roadway.
6. Seasonal decorations using unshielded low-wattage incandescent lamps (not exceeding 7 watts) shall be allowed from Thanksgiving to January 15th.
7. All Class 1 & 3 lighting shall be extinguished between 11:00 p.m. (or when the business closes, whichever is later) and sunrise.
8. Commercial use unshielded fixtures (not FCO) shall not exceed 1,700 lumens each (equivalent to a 100 watt incandescent lamp).
9. For residential uses, any lamp type with output of 1,000 lumens or more shall be fully shielded.
10. Mean lumens- after 40% of the rated hours of a light fixture has burned out.

Section 6. Outdoor Advertising Signs.

- 6.1** External illumination for on-site signs shall conform to all provisions of this Code. In particular, such lighting shall be treated as Class 1 lighting and shall conform to the lamp source, shielding restrictions, and lumen caps of Section 5.
- 6.2** Electrical illumination of outdoor advertising off-site signs (billboards) is prohibited, except that the use of lighting fixtures legally installed in Areas E2 and E3 prior to the effective date of this code may continue, provided such fixtures are mounted on the top of the sign structure, shall not be illuminated between the hours 11:00 p.m. and sunrise, and comply with all other provisions of the code.
- 6.3** Internally illuminated signs: Outdoor internally illuminated signs must be constructed with an opaque or dark-colored background and translucent text and symbols. (Neon signs shall be treated as internally illuminated signs for the purpose of this Code. Neon lighting extending beyond the area considered to be the sign area, shall be considered Class 3 decorative lighting). Internally illuminated signs with an opaque or dark-colored background and lighter text and symbols are not subject to the curfew.

Outdoor internally-illuminated advertising signs shall not be counted towards the lumen cap and shielding requirements described in Sections 5.1 and 5.2

Section 7. Illuminated Advertising Sign Curfews

- 7.1** Illumination for all advertising signs, both externally-illuminated and internally-illuminated, shall be turned off at the curfew times listed in Table 7.1, or when the business activities cease, whichever is later. The means of controlling the specific “off” curfew shall be by a 24 hour timing devices that includes stand-by power to maintain the time and program for a minimum of 6 (six) hours.

Table 7.1 Illuminated Advertising Sign Curfews			
Lighting Area	E3 Primary land use: commercial, business, industrial, new residential & apartment surrounded by suburban residential Benson Zoning Business (B1&B2) Industrial (I1&I2) Residential (R1,R2, R3)	E2 Rural residential, Agricultural & Rural Transitional Benson Zoning Rural Transitional (RT)	E1 Intrinsically dark areas used for astronomical observation 1.5 mile radius around Vega Bray observatory
Commercial and Industrial Zoning or *Land Use	12 a.m.	11 p.m.	not allowed
All Residential Zoning or *Land Use	11 p.m.	10 p.m.	not allowed

Note to Table 7.1: *Land Use refers to the predominant use of land within 300 meters (or 1000 feet) of the parcel on which the sign is located.

Section 8. Special Uses - Sports Facility and Display Lot Curfews

8.1 Recreational Facilities.

8.1.1 All site lighting not directly associated with the athletic playing areas shall conform to the lighting standards described in this ordinance including, but not limited to, the lamp type and shielding requirements of Section 5.2 and the lumens per acre limits of Table 5. 1.

8.1.2 Lighting for athletic fields, courts or tracks shall be considered Class 1 (Color Rendition), and shall be exempt from the lumens per acre limits of Table 5. 1. All such lighting shall utilize full cutoff luminaries that are installed in a fashion that maintains the full cutoff characteristics unless certified by a registered engineer that such shielding is impractical. Every such lighting system design shall be certified by a registered engineer as conforming to all applicable restrictions of this ordinance. Where full cutoff fixtures are not utilized, acceptable luminaries shall include those which:

8.1.2.1 Are provided with internal and/or external glare control louvers and installed so as to limit direct upward light to less than 5 percent of the total lumens exiting from the installed fixtures and minimize offsite light trespass, and;

8.1.2.2 Are installed and maintained with minimum aiming angles of 25 degrees downward from the horizontal. Said aiming angle shall be measured from the axis of the luminaries maximum beam candlepower as certified by independent testing agency.

8.1.3 All events shall be scheduled so as to complete all activity before the curfew listed in Section 8.1. Illumination of the playing field, court or track shall be permitted after the curfew only to conclude a scheduled event that was unable to be completed before the curfew due to unusual circumstances. No recreational lighting is permitted in area E1. The means of controlling the specific “off” curfew shall be by a 24 hour timing device that includes stand-by power to maintain the time and program for a minimum of 6 (six) hours. Timing devices for Recreational Facilities may include a manual override setting which returns to the established program within 2 (two) hours.

<i>Table 8.1 Sports Facility and Display Lot Curfews</i>		
Lighting Area		
E3	E2	E1
Primary land use: commercial, business, industrial, new residential & apartment surrounded by suburban residential Benson Zoning Business (B1&B2) Industrial (I1&I2) Residential (R1,R2, R3)	Rural residential, Agricultural & Rural Transitional Benson Zoning Rural Transitional (RT)	Intrinsically dark areas used for astronomical observation 1.5 mile radius around Vega Bray observatory
12 a.m.	11 p.m.	not allowed.

8.2 Outdoor Display Lots. Businesses where the primary function is: automobile sales, assembly lots, swap meets, airport and automobile fueling areas. Uses not on this list must be approved as a display lot use by the City of Benson.

8.2.1 All site lighting not directly associated with the display areas shall conform to the lighting standards described in this ordinance, including, but not limited to, the lamp type and shielding requirements of Section 5.2 and the lumens per acre limits of Table 5. 1.

8.2.2 Lighting for display lots shall be considered Class 1 (Color Rendition) and is exempt from the lumens per acre limits of Table 5. 1. All such lighting shall utilize full cutoff luminaries that are installed in a fashion that maintains the full cutoff characteristics. A registered lighting or electrical engineer shall certify that every lighting system design conforms to all applicable restrictions of this ordinance.

8.2.3 Class 2 display lot security and safety lighting is exempt from the turn-off requirements of Table 8.1.

Section 9. General Requirements.

9.1 Light Trespass and Glare.

9.1.1 All fixtures and lamps shall be located, installed, directed, shielded, and maintained to avoid light trespass and to minimize direct light and /or glare on neighboring properties and roadways.

9.1.2 For a receiving residential site, the level of light trespass, shall not exceed 0.2 footcandles as measured with the meter's sensor perpendicular to the light source at a height of five feet above the ground and located five feet inside the receiving property line. For a receiving non-residential site, the level of light trespass shall not exceed 0.5 footcandles under the same parameters.

9.2 Height.

9.2.1 Residential Sites: The overall height of lighting fixtures (including the base) shall not exceed 20 feet above ground level.

9.2.2 Non-Residential Sites: Except as provided herein for specific uses, the overall height of lighting fixtures (including the base) on all non-residential sites shall not exceed 35 feet above ground level.

9.3 Lighting Types and General Shielding Requirements.

9.3.1 All light fixtures required to be full cut off (FCO) shall be installed and maintained in a fashion that maintains the full cut off characteristics.

9.3.2 Low Pressure Sodium lamps are the preferred lamp type for minimizing adverse effects on astronomical observations.

9.3.3 All wall-pack type lighting fixtures shall be fully shielded.

9.3.4 Twenty-four (24) hour commercial properties must be Full Cut Off.

9.4 Flagpole/Flag Illumination.

9.4.1 All upward-directed lighting is prohibited, except lighting of one flagpole. The light shall be focused on the flag and shall not exceed 2000 lumens. Off-site glare and light trespass shall be eliminated by the use of proper shielding.

9.4.2. Flags that include advertising, business trademarks or symbols, or other forms of commercial communication may not be illuminated at any time.

9.5 Shielding Requirements for Residential Uses. Lighting for multiple household dwellings (other than a duplex) is not considered residential and must use standards for Class 1 or Class 2 lighting.

9.5.1 For residential uses, any lamp type with output of 1,000 lumens or more shall be fully shielded.

Section 10. Submission of Plans and Evidence of Compliance with this Code.

10.1 Submission Contents. The applicant for any permit required by any provision of the laws of this jurisdiction in connection with proposed work involving outdoor lighting fixtures shall submit (as part of the application for permit) evidence that the proposed work will comply with this Code. Upon application for the required permit, the submission shall contain but shall not necessarily be limited to the following, all or part of which may be part of, or in addition to, the information required elsewhere in the laws of this jurisdiction.

10.1.1 All submission packets must specify which Outdoor Lighting Option (Table 5.1) will be adhered to for the entire project.

10.1.2 plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;

10.1.3 description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required);

10.1.4 photometric data, furnished by the manufacturer, or similar data showing the angle of cutoff or light emissions. Photometric data need not be submitted when the full cutoff performance of the fixture is obvious to the reviewing official.

10.1.5 When a submittal includes a statement by a registered design professional where the existing site lighting is being modified less than 10%, it shall not be necessary to comply with paragraph 7 below in this Section.

10.1.6 When submittal includes a statement by a registered design professional that the design is in accordance with this code, the requirements of sub-paragraphs 10.1.3 and 3 10.1.4 above shall not apply.

10.1.7 A schedule on the plans to confirm compliance with the Lumen Cap per Table 5.1, which includes the following information:

10.1.7.1 Each exterior luminaries type with the mean lumens for that type, the quantity of each type and whether the luminaries are FCO or unshielded.

10.1.7.2 The total of FCO and unshielded mean lumens for the parcel.

10.1.7.3 A statement of the Lighting Area, the size of the permitted parcel, and the maximum allowed FCO and unshielded mean lumens (Table 5.1).

10.2 Additional Submission. The above required plans, descriptions and data shall be sufficiently complete to enable the plans examiner to readily determine whether compliance with the requirements of this Code will be secured. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant must submit any additional certified reports of tests necessary to prove compliance. These tests shall have been performed and certified by a recognized testing laboratory.

10.3 Subdivision Plat Certification. If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plat shall contain a statement certifying that the applicable provisions of this Code will be adhered to.

10.4 Lamp or Fixture Substitution. Should any outdoor light fixture or the type of light source therein be changed after the permit has been issued, a change request must be submitted to the building official for his/her approval, together with adequate information to assure compliance with this code, and the change request must be received prior to substitution.

Section 11. Approved Materials and Methods of Construction or Installation/Operation. The provisions of this Code are not intended to prevent the use of any design, material, or method of installation or operation prescribed by this Code.

Sections 12 Prohibitions

12.1 Mercury Vapor Lamps. The installation, sale, offer for sale, lease or purchase of any mercury vapor lamp for use as outdoor lighting is prohibited. The use of legal, non-conforming mercury vapor light fixtures (installed prior to 1983) is prohibited after January 1, 2011, as per ARS 49-1104.

12.2. Certain Other Fixtures and Lamps. The installation, sale, offering for sale, lease or purchase of any low pressure sodium, high pressure sodium, metal halide, fluorescent, quartz or incandescent outdoor lighting fixture or lamp the use of which does not comply with Table 5.1 is prohibited.

12.3 Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.

12.4 Searchlights. The operation of searchlights for advertising purposes is prohibited.

Section 13. Temporary Exemption.

13.1 Request; Renewal; Information Required. Any person may submit a written request for a temporary exemption. A temporary exemption shall contain the following information:

1. specific exemption or exemptions requested;
2. type and use of outdoor light fixture involved;
3. duration of time of the requested exemption;
4. type of lamp and lamp lumens;
5. total wattage of lamp or lamps and number of lamps to be used;
6. proposed location on premises of the outdoor light fixture(s);
7. previous temporary exemptions, if any, and addresses of premises there under;
8. physical size of outdoor light fixture(s) and type of shielding provided;
9. such other data and information as may be required by the building official.

13.2 Approval; Duration. The City of Benson shall have five business days from the date of submission of the request for temporary exemption to act, in writing, on the request. If approved, the exemption shall be valid for not more than thirty days from the date of issuance of the approval. The approval shall be renewable at the discretion of the building official upon a consideration of all the circumstances. Each such renewed exemption shall be valid for not more than thirty additional days.

13.3 Disapproval; Appeal. If the request for temporary exemption is disapproved, the person making the request will have the appeal rights provided in Section 15.2 (Appeals).

Section 14. Other Exemptions.

14.1 Nonconformance:

14.1.1 Bottom-mounted outdoor advertising sign lighting is prohibited.

14.1.2 All other outdoor light fixtures lawfully installed prior to and operable on the effective date of the ordinance codified in this chapter are exempt from all requirements until one or more of the following triggering mechanisms occur:

Triggering Mechanism

Code Requirement

There shall be no change in use or lamp type, or any replacement or structural alteration made, without conforming to all applicable requirements of this Code. Further, if the property is abandoned for more than six months, or if there is a change in use of the property, the provisions of this code will apply when the abandonment ceases.

14.1.3 Outdoor internally and externally illuminated signs lawfully installed prior to and operable on the effective date of the ordinance codified in this chapter are exempt from all requirements until one of the following triggering mechanisms occurs: sign replacement, sign relocation, structural alteration or restoration after abandonment.

14.2 Neon lighting is exempt from the requirements of Section 5.1 and 5.2 when used for sign lighting, but not for other uses. Natural gas lighting is exempt from all requirements of this code.

Section 15. Alternate Materials and Methods of Construction, Installation/Operation and Appeals.

15.1 The provisions of this Code are not intended to prevent the use of any design, materials or method of installation or operation not specifically prescribed by this Code, provided any such alternate has been approved. The building official may approve any such proposed alternate provided he finds that it:

15.1.1 provides at least approximate equivalence to the applicable specific requirements of this Code; and

New Use	Complete compliance with Code for entire structure or property and a site plan showing existing and proposed lighting.
Addition of more than 25 percent of additional dwelling units, gross floor area, seating capacity or parking spaces.	Complete compliance with Code for entire structure or property and a site plan showing existing and proposed lighting.
Addition of more than 10 percent, but less than 25 percent additional dwelling units, gross floor area, seating capacity or parking spaces.	Complete lighting plan submission to City showing existing and proposed lighting with all new construction to be built in compliance with this Code.
Addition of less than 10 percent additional dwelling units, gross floor area, seating capacity or parking spaces.	Site plan showing proposing lighting and compliance with this Code for proposed changes.

15.1.2 is otherwise satisfactory or complies with the intent of this Code; and

15.1.3 has been designed or approved by a registered lighting or electrical engineer and is supported by calculations showing that the design submitted meets the intent of the code. This section shall not have the effect of waiving the lumen caps and shielding requirements of Sections 5.1 and 5.2.

15.2 Appeals. Any person substantially aggrieved by any decision of the building official/planning director made in administration of this Code has the right and responsibilities of appeal to the City of Benson of this jurisdiction.

Section 16. Law Governing Conflicts. Where any provision of federal, state, county, or city statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.

Section 17. Enforcement and Penalty.

17.1 Violations not exclusive; each day a separate violation

17.1.1 Violations of this article are in addition to any other violation enumerated within the City ordinances or this code and in no way limit the penalties, actions, or abatement procedures which may be taken by the City for any violation of this article which is also a violation of any other ordinance or code provision of the City or Arizona Revised Statutes.

17.1.2 Each day any violation of any provision of this article or the failure to perform any act or duty required by this article continues may constitute a separate offense.

17.2 Enforcement jurisdiction of city.

17.2.1 Jurisdiction of all proceedings to enforce the provisions of this article, whether civil or criminal, shall be in the City of Benson Magistrate Court.

17.3 Civil violations; citation and enforcement procedure

17.3.1 Civil Citation - Authority to Issue: The Planning and Zoning Coordinator or his designee may issue a civil citation pursuant to this article.

17.3.2 Civil Violation - Commencement of Action:

17.3.2.1 A civil violation may be commenced by issuance of a citation in the City of Benson Magistrate Court by the Planning and Zoning Coordinator or his designee Appearance by Defendant:

17.3.2.2 The defendant shall, within ten (10) days of the issuance of the complaint, appear in person or through his or her attorney before the City Magistrate and shall either admit or deny the allegations contained in the complaint. If the defendant admits the allegation, the City Magistrate may enter judgment against the defendant and impose a civil sanction for the violation. If the defendant denies the allegations contained in the citation, the City Magistrate shall set the matter for hearing.

17.3.3 Default Judgment: If a person served with a citation fails to appear on or before the time directed to appear or at the time set for hearing by the City Magistrate, the allegations in the citation shall be deemed admitted and the City Magistrate may enter judgment for the City and impose a civil sanction.

17.3.4 Civil/criminal penalties; restitution.

17.3.4.1 Civil penalties. Upon finding a person responsible for a civil violation of this article, the City Magistrate may impose a civil sanction of not less than \$50.00 nor more than \$250.00. The City Magistrate may suspend the imposition of the civil sanction if at the time of sentencing, he or she finds by a preponderance of the evidence that the violation the defendant was found responsible for has now been corrected, and that the defendant is now in compliance with this article. In that event, the City Magistrate may suspend all or part of the fine.

Section 18. Severability. If any of the provisions of this Chapter or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the Chapter that can be given effect, and to this end, the provisions of this Chapter are declared to be severable.

SECTION EIGHTEEN - NON-CONFORMING USE

INTENT

If, at the time of enactment of these regulations, or any amendment thereto, or any amendment resulting from an annexation of territory to the incorporated limits of the City of Benson, any lot, structure, or use of a lot or structure existed in a lawful manner but does not conform to the requirements or restrictions of these regulations applicable to the zoning district in which such lot, or structure is situated, then such lot, structure, or uses shall be deemed to be a non-conforming use and may continue in the manner and to the extent that it existed or was being used at the time of enactment of these regulations, or subsequent amendments thereto, and to such changes in the non-conforming status as further provided by this section.

Substitution

A non-conforming use of a building or lot shall not be changed to another non-conforming use whatsoever. Changes in use shall be made only to a conforming use.

Discontinuance

In the event that any non-conforming use of property or building or portion thereof is discontinued or abandoned for a period of six (6) consecutive months, any future use of the property or building shall be in conformity with the provisions of these Zoning Regulations.

Damage

In the event that a non-conforming use or building is damaged by fire, flood, or other calamity or act of nature, to an extent less than fifty (50%) percent of its appraised value at the time of damage, said use or building may be resumed or restored, provided that such resumption or restoration is completed within a period of six (6) months from the date of destruction. Such resumption or restoration shall not increase the floor space devoted to the non-conforming use over that which existed at the time damage occurred. If such resumption or restoration does not take place in the manner and time period specified above, further use or building shall therefore conform to all provisions of these Zoning Regulations.

Should any such structure be destroyed to an extent greater than (50%) percent of its appraised value, it shall not be re-constructed except in conforming with the provisions of these regulations.

SECTION NINETEEN - AMENDMENTS

Failure to Act

In the event the Commission fails to take action within sixty (60) days of the proper filing of the formal request, such failure to act shall be deemed as approval or as affirmative recommendation and the Council may proceed to act upon the matter. (amended by Ordinance No. 267, passed 7/18/84).

Amendments

The Council may from time to time, upon the recommendation of the Commission, amend, supplement, change or repeal the regulations, restrictions and zoning district boundaries herein established. Request to amend these regulations may be initiated by the Council or the Commission on their own motion, or be petitioned as hereinafter set forth. In every case of adverse action of the Commission in connection with a matter which the Council submits to the Commission for approval, disapproval, or recommendation, the Commission shall communicate its reasons to the Council which shall have the power to overrule the adverse action of the Commission.

Applications for Amendment

Applications for amendment of these regulations shall be made to the Commission on a standard form provided for the purpose and shall be signed by a real property owner in the area for which amendment is applied for. In the event that the application includes other property in addition to that owned by the applicant, there shall be filed by the applicant on a form provided therefore, a petition in favor of the request signed by the real property owners representing at least seventy-five (75%) percent of the land area to be included in the application. Such petition shall be filed and checked for authenticity of ownership before the application is accepted by the Commission. In the event that the application includes properties owned by more than one owner, the Clerk shall notify, by certified mail, all property owners included in the area proposed for change. Such notice shall be postmarked not later than fifteen (15) days prior to any Commission hearing of the application.

Public Hearing of Applications

Every application for amendment of these regulations shall be considered by the Commission at a public hearing. A second public hearing shall be held before the Council if there is an objection, a request for a public hearing or other protest. Notice of the time, date and place of the hearing(s), including a general explanation of the matter to be considered and including a general description of the area affected, shall be given at least fifteen (15) days before each hearing. Each notice of public hearing shall be published at least once in a newspaper of general circulation, published or circulated in Benson, and posted at City Hall, the Public Library, and at such other locations in the

municipality, that the Clerk may deem necessary or advisable. (amended by Ordinance No. 336, 12/17/90)

In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted to the planning agency of such governmental unit abutting such land.

After public hearing, the Commission shall render its decision in the form of written recommendation to the Council. The recommendation shall include the reasons for the recommendation and be transmitted to the Council in such form and manner as may be specified by the Council.

Notice of the time, date and place of hearing shall be given in the time and manner provided for the giving of notice of the hearing by the Commission as specified in applications for Amendment” and “Public Hearing of Applications”, if applicable above.

Appeal From Denial of Amendment

In the event that the request for amendment is denied by the Commission, the applicant may, within seven (7) days from the date of the Commission hearing, file an appeal to the Council. Upon receipt of such an appeal, the Council shall arrange to hold a public hearing upon due notice and posting as heretofore specified.

Protest Against Amendments

If the owners of twenty (20%) percent or more, either of the area of the lots included in a proposed change, or of those immediately adjacent in the rear of any side thereof extending one hundred and fifty (150) feet from the street frontage of the opposite lots, file a protest in writing against a proposed amendment, it shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the Council. If any members of the Council are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths (3/4) of the remaining membership of the Council, provided that such required number of votes shall in no event be less than a majority of the full membership of the Council.

Reconsideration of Denied Amendments

In the event that an application for amendment is denied by the Council, or is withdrawn after the Commission hearing, the Commission shall not reconsider the application not consider another application for the same amendment of these regulations as it applies to the same property described in the original application of any part thereof, for a period of not less than one (1) year from the date of such denial action.

Fees

A filing fee of fifty (50) dollars shall accompany each application for amendment of these regulations, and no part of such fee shall be returnable. All advertising costs will be paid by the applicant, including legal notices of public hearing before the Commission and Council and publication of the amending ordinance, if any.

The Zoning Administrator shall approve format and content prior to publication.

The petitioner(s) shall at or before the time of hearing present a publisher's Certificate of Publication.

The petitioner(s) is also responsible for the costs of notifying by certified mail the necessary property owners as specified herein and furnishing verification.

Payment of the filing fee shall be waived when the application is initiated by the Council or the Commission and when the applicant is acting as an official or an agent of the City, the County, the State, or the Federal Governments.

Exceptions

In the event that a request for amendment concerns only the amendment of general requirements of permitted uses; no petitions or posting shall be required; provided, however, that all other provisions of these regulations shall be complied with.

Significance of Approval

Approval of rezoning constitutes authorization for the development of property under granted zoning. Rezoning approval is valid for a period of twelve (12) months from date, and may be extended one for six (6) months at the discretion of the Commission. If approval expired prior to substantial development upon rezoned property, the Commission may, at their discretion, recommend reverse zoning by the Council to zoning classification before rezoning was granted.

Zoning Reversion

The Council may approve a change of zone conditioned upon a schedule for development of the specific use or uses for which rezoning is requested. If at the expiration of this period, the property has not been improved for the use for which it was conditionally approved, it shall revert to its former zoning classification without Council action.

SECTION TWENTY - ADMINISTRATION AND ENFORCEMENT

Administrative Official

The provisions of these regulations shall be administered and enforced by the Zoning Administrator, who may employ the assistance of such other persons as the Council may approve or direct.

(a) Duties of the Zoning Administrator - The Zoning Administrator shall:

- (1) Receive and examine applications for and issue building permits, Zoning Compliance Certificates, and Occupancy Permits.
- (2) Coordinate inspections of buildings, structures and premises as are necessary to enforce the provisions of these regulations.
- (3) Carry out the orders authorized by these regulations.

(b) Limitations of the Zoning Administrator - Under no circumstances shall the Zoning Administrator:

- (1) Grant exceptions to the actual meaning of any clause, order, or regulation contained in these regulations.
- (2) Make changes in or vary the terms of these regulations.
- (3) Refuse to issue a building permit, Zoning Compliance Certificate or Occupancy Permit when the applicant has complied with all provisions of this and other applicable ordinances and codes, despite any violations of contracts, covenants, or private agreements which may result therefrom.

Zoning Compliance Certificates Required

It shall be unlawful to commence any excavation for, or erection, alteration, enlargement, extension, or moving, of any building or structure, or part thereof, or to change or extend the use of any lot, or to change the use or type of occupancy of any building or structure, except as may be provided elsewhere in these regulations, until a Zoning Compliance Certificate for such work has been issued by the Zoning Administrator. Accessory buildings or structures, when proposed for erection at the same time as a main building and included on the application therefore shall not require a separate certificate. No Zoning Compliance Certificate shall be issued except in conformity with the provisions of these regulations, except after written order by the Board.

(a) Applications for Zoning Compliance Certificates - All applications for Zoning Compliance Certificates shall be filed on standard forms provided for the purpose, and

shall be accompanied by plans in duplicate, drawn to scale, showing the following such other information as the Building Inspector may require to ensure conformity of the proposed building or structure with the provisions of these regulations.

- (1) Dimensions area and shape of the property to be built upon, and the boundaries of all lots or parcels under separate ownership contained therein.
- (2) Dimensions, size, height and use of any buildings or structures already existing on the property, and their exact location thereon.
- (3) Width and alignment of all streets, alleys, and easements for public access, in or abutting the property.
- (4) Size and height of all buildings and structures proposed to be erected or altered, and their exact position on the property.
- (5) Proposed uses of buildings, structures and land, including the number of families or dwelling units, if any, the building is designed to accommodate.

(b) Issuance of Zoning Compliance Certificate - Within ten (10) days after the filing of an application for a Zoning Compliance Certificate, according to the provisions of these regulations, the Zoning Administrator shall either issue or refuse to issue same; when such permit is refused, the Zoning Administrator shall state in writing his reasons for such refusal, so informing the applicant of same and retaining a file copy of the action. One copy of the plans shall be returned to the applicant marked either "APPROVED" or "DISAPPROVED" by the Zoning Administrator and attested to by his signature. The second copy of plans, similarly marked and signed, shall be retained in the files of the Building Inspector.

Occupancy Permits

It shall be unlawful to use or occupy, or permit the use or occupancy of, any building or structure, or any change or extension of a use of land for which a Zoning Compliance Certificate has not been issued therefore by the Zoning Administrator.

(a) Issuance of Occupancy Permits - Within ten (10) days after having received notice that the building, structure or premises, or part thereof, has been completed and is ready for use or occupancy, the Building Inspector shall make a final inspection thereof to determine whether construction has been completed in conformity with the provisions of these regulations. If he finds construction in conformity, he shall issue an Occupancy Permit therefore.

(b) Temporary Occupancy Permits - The Building Inspector may issue a Temporary Occupancy Permit for a part of a building, structure, or use of prior to

completion of the entire building, structure or use, provided that such part has been completed in conformity with all provisions of these regulations and is considered safe and suitable for use or occupancy. A Temporary Occupancy Permit shall remain in force until the entire building, structure or use has been completed and inspected, and an Occupancy Permit has been issued therefor.

Inspection Fees

Before a Zoning Compliance Certificate or Occupancy Permit shall be issued, the inspection fee therefore shall have been paid to the Clerk. Inspection fees shall be determined according to a schedule established by the Council, and posted in the office of the Building Inspector.

SECTION TWENTY A-VIOLATIONS OF THESE REGULATIONS
(added by Ordinance 537 9/14/2009)

In addition to all other remedies available at law, the Zoning Administrator is authorized and directed to enforce these regulations by issuing and prosecuting civil and/or criminal citations for violations of these regulations pursuant to the procedures set forth in Sections 9-2-11 through 9-2-18 and 9-2-23 and 9-2-24 of the City Code, which sections are hereby made applicable to the Zoning Regulations.

SECTION TWENTY-ONE - BOARD OF ADJUSTMENT

Creation, Membership, Terms of Office, and Vacancies

Creation - The Board of Adjustment of Benson is hereby established.

Membership - The Board shall consist of five (5) members, at least three of whom shall be residents of Benson and shall be appointed by the Council. (amended by Ordinance 549 9/27/2010)

Terms of Office - The normal term of office of members of the Board shall be three (3) years. The initial appointments of members shall be: one (1) member for one (1) year, two (2) members for two (2) years, and two (2) members for three (3) years.

Vacancies and Removal for Cause - Vacancies shall be filled by the Council for the unexpired term of the member affected. Members of the Board may be removed from office by the Council for cause upon written charges and public hearing.

A member of the Board shall not be absent from the regular meetings for more than three (3) consecutive times without an acceptable excuse. After the absence from three (3) consecutive meetings, the remaining members of the Board shall vote to retain or recommend to the Council that the absentee member be released from his duties on the Board.

Officers, Meetings, Rules and Records

Officers - The Board shall annually elect its own chairman, vice-chairman, and secretary. The chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses.

Rules of Procedure - The Board shall adopt rules as necessary to the conduct of its affairs, and in keeping with the provisions of these regulations.

Meetings - Regular meetings shall be held once a month on the third Monday, if needed. If it is a holiday; then the date will be determined by the Board, and such other times, at the call of the Chairman. A quorum shall consist of three members for the transaction of any business. The concurring vote of not less than three members shall be necessary for all business including reversal of an order or decision of an administrative official or to decide an issue in favor of an applicant.

Records - The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be of public record and be filed in the office of the City Clerk.

Appeals, Hearings, and Notices

Appeals - Appeals to the Board concerning interpretation or administration of these regulations may be taken by any person aggrieved, by any officer of the municipality, or by any federal, state or county agency, or school board, affected by any decision of the Zoning Administrator. Such appeals shall be filed within thirty (30) days with the Board through the Zoning Administrator and shall specify the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board, all papers constituting the record upon which the action appealed was taken.

Hearings - The Board shall fix a reasonable time for the hearing of an appeal, give public notice thereof as well as due notice to the parties in interest, and reach its decision within a reasonable time. At the hearing, the chairperson shall have the power to administer oaths and take evidence. Any party may appear in person or by agent or attorney. Parties to an appeal shall have the right to present their case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination of witnesses as may be required for a full and true disclosure of the facts; provided that:

(a) The submission of documentary evidence shall not, by reason of its written form, prejudice the interest of any party.

(b) The Board shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence, and in furtherance of this policy, may limit cross-examination.

(amended by Ordinance 549 9/27/2010)

Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after the notice of appeal is filed with him, that by reason of facts stated in his certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Zoning Administrator, and on due cause shown.

Powers and Duties of the Board

It shall be the duty of the Board to interpret the provisions of the Planning and Zoning Regulations and to grant special exceptions to and variances from the provisions of the Planning and Zoning Regulations, as hereinafter specified.

Interpretation - The Board shall:

(a) Hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of these regulations.

(b) Hear and decide all matters referred to it by the Zoning Administrator on which it is authorized to pass as prescribed by the Planning and Zoning Regulations.

(c) Render an advisory decision or opinion on any matter referred to it by the Zoning Administrator, when in his judgment, such action is necessary or desirable in carrying out the spirit and intent of these regulations.

Special Exceptions - The Board shall:

(a) Hear and decide only such special exceptions on which it is specifically authorized to pass, as prescribed by these regulations.

(b) Decide those questions which are involved in determining whether a special exception should be granted.

(c) Grant special exceptions under such conditions and safeguards as are deemed appropriate under these regulations, or deny same when not in harmony with the purpose and intent of the Planning and Zoning Regulations.

(d) In granting a special exception, impose such conditions and safeguards as are appropriate to insure that the purpose and intent of these regulations will be carried out. Failure to fulfill such conditions and safeguards, when made a part of the terms under which a special exception is granted, shall be deemed a violation of these regulations and punishable under the penalties section of these regulations. In determining the conditions and safeguards under which a special exception will be granted, the Board shall insure that:

(1) All proposed buildings, structures, and uses will be readily accessible for fire and police protection.

(2) The proposed use will not cause traffic congestion or movement which will seriously affect the character of the district in which it is proposed.

(3) Sufficient space, in conformance with provisions of these regulations, will be provided for the off-street parking of all vehicles attracted to the premises.

(4) A proposed building will not, by reason of its size, character, location or intended use, be essentially out of harmony with the predominant type of building or use permitted in the district.

(e) Prescribe a time limit within which the action for which a special exception is granted shall be begun, or completed, or both. Failure to begin or complete or both, such action within the time limit prescribed, shall void the special exception.

(f) Grant a special exception only when and after:

(1) A written application for a special exception is submitted indicating the section of these regulations under which the special exception is sought and stating the grounds on which it is requested.

(2) A public hearing has been held.

(3) Notice of public hearing has been posted on the property in question and at the City Hall, and the owner and applicant or his agent shall have been notified by certified mail, at least fifteen (15) days in advance.

(4) The Board specifically finds that it is empowered under the section of these regulations described in the application to grant the special exception, and that granting the special exception will not adversely affect the public interest.

Variations - Upon appeal in specific cases, the Board shall authorize such variations from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship. A variance shall not be granted by the Board unless and until:

(a) A written application for variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district.

(2) That literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.

(3) That the alleged hardships caused by literal interpretation of the provisions of these regulations do not result from the actions of the applicant. (amended by Ordinance No. 336, 12/17/90)

(4) That granting the variance requested will not confer upon the applicant any special privilege that is denied by these regulations to other lands, structures, or buildings in the same district.

(5) That granting the variance requested will not interfere or injure the rights of other properties in the same district.

(b) A public hearing has been held.

(c) Notice of public hearing has been given in accordance with requirements set forth under “special Exceptions” (f) (3).

(d) The Board finds that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

(e) The Board finds that granting of the variance will be in harmony with the general purpose and intent of these regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with these regulations. Failure to fulfill such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of these regulations.

No non-conforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts, shall be considered grounds for issuance of a variance.

Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.

Decisions of the Board

In exercising its powers and duties, the Board may, so long as such action is in conformity with the terms of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken to reverse an order, requirement, decision, or determination of the Building Inspector, or grant a variance or a special exception. The concurring vote of three (3) members shall be required in all decisions of the Board.

Limitations of the Powers of the Board

Nothing herein contained shall be construed to empower the Board to change the terms of these regulations, to affect changes in the Zoning map, or to add to the uses permitted in any district.

Every decision of the Board shall be based upon findings of fact, and every finding of fact shall be supported in the record of its proceedings. The enumerated conditions required to exist on any regulations shall be construed as limitations on the power of the Board to act. A mere finding or recitation of the enumerated conditions, unaccompanied by the findings of specific fact shall not be deemed findings of fact, and shall not be deemed in compliance with these regulations.

Appeals from the Board

A person aggrieved by a decision of the Board, or a taxpayer, or municipal officer, may, at any time within thirty (30) days after the filing of the decision in the office of the Board, petition a writ of certiorari for review of the Board's decision. Allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and for good cause shown, grant a restraining order, and on final hearing may reverse or affirm, wholly or partly, or may modify the decision reviewed.

Fees and Notice of Publication

Upon filing an application or appeal, the applicant shall pay a filing fee to the City Clerk in accordance with a schedule established, and posed in the office of the Zoning Administrator. No part of any such fee shall be returnable after an application is filed and such fee paid.

In the case of an application for a variance or special exception to more than one provision of these regulations, the filing fee shall be the total for all provisions.

The petitioner(s) shall publish a legal notice of the hearing which shall include, but not be limited to the following:

- (a) Time, date and place of hearing.
- (b) Legal description of property.
- (c) Nature of request (variance, special exception).

The Zoning Administrator will approve format and content prior to publication.

The petitioner(s) shall at or before the time of hearing, present a Publisher's Certificate of Publication.

Deliberations of the Board

Inasmuch as the deliberations, opinions and findings of the Board in all matters which may come before it for action are similar to that of a court, the minds of its several members should remain unbiased and free to act upon the evidence and arguments submitted at the hearing, no member of this Board shall hold conversation with any person concerning the merits of any matter pending before it at any time until final action thereon, except at an open hearing of said Board and shall so advise any person unbiased and free to act upon the evidence and arguments submitted at the hearing, no member of this Board shall hold conversation with any person concerning the merits of any matter pending before it at any time until final action thereon, except at an open hearing of said Board and shall so advise any person attempting to engage in such conversation.

SECTION TWENTY-TWO - SEVERABILITY CLAUSE

Should a section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of these regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION TWENTY-THREE - REPEAL OF CONFLICTING ORDINANCES

All ordinances or part of ordinances and all resolution in conflict with these zoning regulations, or inconsistent with the provisions of these regulations, are hereby repealed.

SECTION TWENTY-FOUR - HISTORIC PRESERVATION ORDINANCE

Definitions

Alteration - Any construction or change of the exterior of a building, object, site, or structure or of an interior space designated a landmark. For buildings, objects, or structures, alternation shall include but is not limited to, the changing of roofing or siding materials; changing, eliminating, or adding doors, door frames, windows, window frames, shutters, fences, railings, porches, balconies, swings, or other ornamentation and the changing of paint color. Alteration shall not include general repair and maintenance. (added by Ordinance No. 336, 12/17/90)

Building A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex, such as a courthouse and jail or a house and barn. (added by Ordinance No. 336, 12/17/90)

Cemetery - Any site which contains at least one burial, marked or previously marked, considered a dedicated cemetery under Arizona State Statutes, even though suffering neglect or abuse. (added by Ordinance No. 336, 12/17/90)

Construction - The act of adding an addition to a structure or the erection of a new principal or accessory structure on a lot or property, that requires a building permit. (added by Ordinance No. 336, 12/17/90)

Contributing Significance - A classification applied to a site, structure or object within a Historic District signifying that it contributes generally to the qualities that give the Historic District cultural, historic, architectural or archaeological significance as embodied in the criteria for designating a Historic District, but without being either a premier or notable representation of those qualities. (added by Ordinance No. 336, 12/17/90)

Demolition - Any act or process that partially or totally destroys a Landmark or structure within a Historic District. (added by Ordinance No. 336, 12/17/90)

Design Guideline - A specific type of design criteria approved by the Commission at the time of designation of a Landmark, Historic District, Historic Landscape District, or Urban Conservation District and to be used in conjunction with other design criteria in the ordinance in reviewing alteration, construction, removal, or demolition. (added by Ordinance No. 336, 12/17/90)

Exceptionally Significant Interior - An interior of a structure that is a unique or exceptional representation of the qualities that give a Landmark, Historic District, or Historic Landscape District cultural, historic, architectural or archaeological significance as embodied in the criteria for designating a Landmark, Historic District, or Historic

Landscape District, and which has an exceptionally high degree of integrity in interior architectural design. (added by Ordinance No. 336, 12/17/90)

Exterior Architectural Appearance - The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design and character of all architectural details and elements, including, but not limited to, windows, doors, walls, roofs, overhangs, signs and yards and/or open spaces. (added by Ordinance No. 336, 12/17/90)

Historic District - An area with definable boundaries designated as a “Historic District” by the City council and in which a substantial number of the properties, sites, structures or objects have a high degree of cultural, historic, architectural, or archaeological significance and integrity, many of which may qualify as Landmarks, and which may also have within it boundaries other properties, sites, structures or objects which, while not of such cultural, historic, architectural or archaeological significance to qualify as Landmarks, nevertheless contribute to the overall visual characteristics or the significant properties, sites, structures or objects located within it. (added by Ordinance No. 336, 12/17/90)

Interior Architectural Design - The architectural character and general composition of the interior of a structure, including but not limited to room design and configuration, materials and the type, pattern and character of all architectural details and elements, including, but not limited to staircases, doors, hardware, moldings, trim, plaster work, light fixtures and wall coverings. (added by Ordinance No. 336, 12/17/90)

Landmark - A property, site, structure, or object designated as a “Landmark” by the City Council that is worthy of rehabilitation, restoration, and preservation because of its historic, cultural, architectural or archaeological significance to the City of Benson. (added by Ordinance No. 336, 12/17/90)

Non-contributing - A designation applied to a site, structure or object within a Historic District indicating that it is not a representation of the qualities that give the Historic District cultural, historic, architectural or archaeological significance as embodied in the criteria for the designating a Historic District. (added by Ordinance No. 336, 12/17/90)

Notable significance - A classification applied to a site, structure or object within a Historic District signifying that it is notable but not necessarily an outstanding representation of the qualities that give the Historic District cultural, historic, architectural or archaeological significance as embodied in the criteria for designating a Historic District. (added by Ordinance No. 336, 12/17/90)

Ordinary Maintenance and Repair - Regular, customary or usual care, reconstruction or renewal of any part of an existing building, structure or object, for the purposes of preserving said property and maintaining it in safe and sanitary condition. (added by Ordinance No. 336, 12/17/90)

Premier Significance - A classification applied to a site, structure or object within a Historic District signifying that it is an outstanding representation of the equalities that give the Historic District cultural, historic, architectural significance as embodied in the criteria for designating a Historic District. (added by Ordinance No. 336, 12/17/90)

Property - Land and improvements identified as a separate lot for purposes of the subdivision and zoning regulations of the City of Benson. (added by Ordinance No. 336, 12/17/90)

Repair - Any change that is not alteration, construction, removal or demolition. (added by Ordinance No. 336, 12/17/90)

Structure - Anything constructed or erected the use of which requires a permanent or semi-permanent location on or in the ground, including without limitation, buildings, garages, fences, gazebos, advertising signs, billboards, antennas, satellite sending or receiving dishes, and swimming pools. (added by Ordinance No. 336, 12/17/90)

Purpose

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past and inasmuch as Benson has many significant historic, architectural and cultural resources which constitute its heritage, this act is intended to:

(a) protect and enhance the landmarks and historic districts which represent distinctive elements of Benson's historic, architectural, and cultural heritage;

(b) foster civic pride in the accomplishments of the past;

(c) protect and enhance Benson's attractiveness to visitors and the support and stimulus to the economy thereby provided, and

(d) ensure the harmonious, orderly, and efficient growth and development of the City.

Historic Preservation Commission

There is hereby created a commission to be known as the City of Benson Historic Preservation Commission.

(a) The commission shall consist of nine (9) members to be appointed, to the extent available in the community, by the City Council as follows:

Preferably at least one shall be an historian;

Preferably at least one shall be a licensed real estate broker;
Preferably at least one shall be a resident of an historic district;
Preferably at least one shall have demonstrated significant interest
in and commitment to the field of historic preservation evidenced either by
involvement in a local historic preservation group, employment or
volunteer activity in the field of historic preservation, or other serious
interest in the field; and all members, including at large members, shall
have a known interest in historic preservation and architectural
development within the City of Benson. (amended by Ordinance No. 441
12/3/01)

(b) Commission members shall serve a term of three (3) years, and the terms shall
be staggered so that at least three seats are up for reappointment each year. (amended by
Ordinance No. 336, 12/17/90 and Ordinance No. 441 12/3/01)

(c) The Chairman and Vice-Chairman of the Commission shall be elected by and
from among the members of the Commission.

(d) The responsibilities of the Commission shall include:

(1) Promulgation of rules and regulations as necessary for the conduct of its
business.

(2) Adoption of criteria for the identification of significant historic,
architectural, and cultural landmarks and for the delineation of historic
districts.

(3) Conduct of surveys of significant historic, architectural, and cultural
landmarks and historic districts within the City.

(4) Recommendation to the City Council of Benson the designation of
identified structures or resources as landmarks and historic districts.

(5) Acceptance on behalf of the City government of the donation of facade
easements and development rights; the making of recommendations to the
City Council Concerning the acquisition of facade easement or other
interests in real property as necessary to carry out the purposes of this
ordinance.

(6) Increasing public awareness of the value of historic, cultural and
architectural preservation by developing and participating in public
education programs.

(7) Making recommendations to the City Council concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the city.

(8) Recommending acquisition of a landmark structure by the City where its preservation is essential to the purposes of this ordinance and where private preservation is not feasible.

(9) Approval or disapproval of applications for certificates of appropriateness pursuant to this act.

(e) The Commission shall meet at least monthly, but meetings may be held at any time on the written request of any two of the commission members or on the call of the Chairman or the Mayor.

(f) A quorum for the transaction of business shall consist of five (5) of the Commission's members, but no less than two-thirds (2/3) of the membership may grant or deny a Certificate of Appropriateness. (amended Ordinance No. 336, 12/17/90 and Ordinance No. 441 12/3/01)

Designation of Landmarks or Historic Districts

(a) The Commission may recommend to the City Council that an individual property be designated as a landmark if it:

(1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation; or

(2) Is identified with historic personages; or

(3) Embodies the distinguishing characteristics of an architectural style; or

(4) Is the work of a designer whose work has significantly influenced an age;

or

(5) Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood,

(6) and the owner(s) of the property concur with the designation.

(b) The Commission may recommend to the City Council that a group of properties be designated as an historic district if it:

(1) contains several properties which meet one or more of the criteria for designation of a landmark; and

(2) by reason of possessing such qualities, it constitutes a distinct section of the City, and

(3) the owner(s) of the properties concur with the designation.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the City Clerk's Office for public inspection.

(c) Notice of a proposed designation shall be sent by registered mail to the owner(s) of the property proposed for designation, either by the Commission or by the owner, describing the property proposed and announcing a public hearing by the Commission to consider the designation. Where the proposed designation involves so many owners that individual notice is infeasible, notice may instead be published at least once in a newspaper of general circulation at least fifteen (15) days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, no building permits shall be issued by the building inspector until the Commission has made its decision.

(d) The Commission shall hold a public hearing prior to designation of any landmark or historic district. The Commission, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

(e) The Commission shall forward notice of each proposed property designated as a landmark and of the boundaries of each designated historic district to the City Council for final designation, and subsequently to the office of the Cochise County Clerk for recording, as appropriate.

Certificate of Appropriateness for Alteration, Demolition or New Construction Affecting Landmarks or Historic Districts.

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within a historic district, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district, without first obtaining a certificate of appropriateness from the Historic Preservation Commission.

Criteria for Approval of Certificate of Appropriateness

(a) In passing upon an application for a certificate of appropriateness, the Historic Preservation Commission shall not consider changes to interior spaces, unless they are

open to the public, or to architectural features that are not visible from a public street or alley.

The Commission's decision shall be based upon the following principles:

(1) properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;

(2) any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district; and

(3) new construction shall be compatible with the district in which it is located.

(b) In applying the principle of compatibility, the Commission shall consider the following factors:

(1) the general design, character and appropriateness to the property of the proposed alteration or new construction.

(2) the scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.

(3) texture materials, and color and their relation to similar features of other properties in the neighborhood.

(4) visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback.

(5) the importance of historic architectural or other features to the significance of the property.

Certificate of Appropriateness Application Procedure

(a) Prior to the commencement of any work requiring a certificate of appropriateness the owner shall file an application for such a certificate with the Historic Preservation Commission. The application shall contain:

(1) name, address and telephone number of applicant.

(2) location and photographs of property.

(3) elevation drawings of proposed changes, if available.

(4) perspective drawings, including relationship to adjacent properties, if available.

(5) samples of color or materials to be used.

(6) where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property.

(7) Any other information which the Commission may deem necessary in order to visualize the proposed work.

(b) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Historic Preservation Commission. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance or the City of Benson.

(c) The Commission shall approve, deny or approve the permit with modifications within twenty-one (21) days from receipt of the completed application. The Commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.

(d) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Commission's decision shall state the reasons for denying or modifying any application.

Hardship Criteria

(a) An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship; the applicant shall establish that:

(1) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;

(2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and

(3) efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(b) An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the grounds of hardship. In order to prove the

existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

Hardship Application Procedure

(a) After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.

(b) The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.

(c) The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.

(d) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

Enforcement

All work performed pursuant to a certificate of appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the City Building Inspector to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Historic Preservation Commission, the Building Inspector shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

Maintenance and Repair Required

(a) Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design, material, color or outward appearance.

(b) No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Preservation Commission, produce a detrimental

effect upon the character of the historic district as a whole or the life and character of the property itself.

(c) Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports.
- (2) Deterioration of roofs or other horizontal members.
- (3) Deterioration of exterior chimneys.
- (4) Deterioration or crumbling of exterior stucco or mortar.
- (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

Violations

(a) Any person found guilty of violating any provision of this ordinance, shall be guilty of a misdemeanor and shall be punished in accordance with the City Code, Ordinance No 261.

(b) Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the City Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

Appeals

Any person approved by a decision of the Historic Preservation Commission relating to hardship or a certificate of appropriateness may, within fifteen (15) days of the decision, file a written application with the City Council for review of the decision.

SECTION TWENTY FIVE – CITIZEN REVIEW PROCESS:
(Section added by Ordinance No. 484, passed 2/7/05)

Prior to a public hearing on any application for a rezoning of property, general plan amendment, creation of a specific plan or planned development, issuance of a conditional use permit or any zoning application the substance of which is requesting the imposition, removal or modification any zoning regulation not previously imposed, a Citizen Review Process complying with this subsection shall be conducted. The purpose of the Citizen Review Process is to provide an opportunity for citizen involvement and public awareness regarding applications requesting rezoning of property, amendment to the general plan, adoption of specific plans or planned developments, approval of conditional use permits, applications requesting a variance and adoption of zoning code text amendments.

- A. Applications for rezoning, specific plans or planned developments, variances, amendments to the general plan or issuance of a conditional use permit.
 1. The applicant, in coordination with the Planning Department, shall establish a time, date, and place for a Citizen Review Session to provide a reasonable opportunity for the applicant, adjacent landowners, and other potentially affected citizens to discuss issues or concerns they may have with the application proposed by the applicant. A planning staff member shall attend the meeting as an observer and shall not conduct the meeting. The applicant shall supply the Planning Department with minutes of the Citizen Review Session and a list of all individuals in attendance. If the staff member in attendance is not the Community Development Director, the staff member in attendance shall report the results of the Citizen Review Session and a list of all individuals in attendance to the Community Development Director. The Community Development Director shall report the results of the Citizen Review Session to the Planning and Zoning Commission and/or City Council at such time as they take action on the submitted application, if any.
 2. Written notice of the Citizen Review Session shall be given at least ten (10) days prior to the meeting and shall include the time, date and location of the Citizen Review Session and sufficient details regarding the substance of the proposed application so as to allow citizens and other affected persons to determine how they might be affected by the proposed application.
 3. The applicant shall provide to the City for mailing such notice by first class mail to:
 - a. Each property owner within 300 feet of all boundaries of the property subject to the application;

- b. All other interested parties who have requested that they be placed on a notification list maintained by the Planning Department;
 - c. Adjoining municipalities sharing borders with the property subject to the application; and,
 - d. All affected school districts.
 - e. Fort Huachuca for Electronic Range Testing (SB 1387) (non known contact)

- 4. In addition to the above required notification, notice of the Citizen Review Process stating the date, time and place of the Citizen Review Session and including a general explanation of the substance of the proposed application shall be:
 - (a) Published in a local newspaper distributed to residents living within the City;
 - (b) Posted at the official posting locations for the City; and,
 - (c) Posted on the subject property.

- 5. Applicants shall provide a written report to the Planning Department stating the results of their Citizen Review Session at least (5) days prior to the public hearing. The report will be provided to the Planning and Zoning Commission and the City Council at the time their respective public hearings on the application are held. At a minimum, the Citizens Review Session final report shall include details of the techniques the applicant used to involve the public, including but not limited to:
 - a. Dates and locations of all Citizen Review Sessions held to discuss the application;
 - b. Dates mailed and the number of mailings, to include examples of the notification letters, meeting notices, newsletter or other publications.
 - c. The location of residents, property owners, and other interested parties receiving notices, newsletters or other written materials;
 - d. The number of people that participate in the process; and,
 - e. A summary of the concerns, issues and problems expressed during the process including the substance of the concerns, issues and problems; and,
 - f. How the concerns, issues and problems have been addressed or resolved after the Citizens Review Session.

- 6. The Community Development Director may establish additional procedures for the Citizen Review Process as is deemed necessary to enhance public participation.

B. Text Amendments to the Zoning Regulations.

1. A Citizen Review Session shall be held at a work-study session of the Planning and Zoning Commission scheduled at least five (5) days prior to the public hearing for the consideration of the proposed zoning text amendment. Landowners and other citizens potentially affected by the proposed text amendments will be invited to gather further information regarding the proposed text amendments at the Citizen Review Session and to express any issues or concerns they may have with the proposed text amendment.
2. Notice of the Citizen Review Session shall be given to landowners and other citizens potentially affected by the proposed zoning text amendments at least ten (10) days prior to the Planning and Zoning Commission work-study session scheduled for the Citizen Review Session regarding the proposed text amendments. This notice shall state the date, time and place of the Citizen Review Session and shall include a general explanation of the substance of the proposed text amendment to the zoning ordinance. The form of notice to be used will vary according to the type of text amendment proposed, and any means deemed by the City to provide the appropriate method of notice for the proposed text amendment shall be considered sufficient. The following forms of notice shall be considered sufficient at the discretion of the Community Development Director:
 - (a) Publication in a local newspaper distributed to residents living within the City;
 - (b) Posting at the official posting locations for the City;
 - (c) Posting on the City's Web site; or
 - (d) Publication on a local radio station.
3. After the Citizen Review Session, the Planning and Zoning Commission may take all issues and concerns raised by landowners and other citizens potentially affected by the proposed text amendments at such session into account when it considers its recommendation to the City Council on the proposed text amendment and shall, prior to the Council's public hearing on the proposed text amendment, report to the Council the issues and concerns raised during the Citizen Review Input and Discussion Session.