City of Benson
City Council Communication

Regular Meeting **December 14, 2015**

To: Mayor and Council Agenda Item # 4

From: Bradley J. Hamilton, P.E. City Engineer

Subject:

Discussion and possible action regarding Ordinance 579 of the Mayor and Council of the City of Benson, Cochise County, Arizona, pertaining to the National Flood Insurance Program, adopting by reference Flood Insurance Study, Flood Insurance Rate Maps and Floodplain Management Regulations; providing for repeal of conflicting ordinances; providing for severability; and providing penalties

Discussion:

The National Flood Insurance Program (NFIP) is the federal agency under FEMA responsible for providing homeowner flood insurance. The agency regularly updates information via a Physical Map Revision, a process which looks at the physical terrain to determine flood risk zones, flood elevations, floodplains and floodway delineations. These constant updates affect whether or not a specific property becomes listed as having potential flood hazards, as shown on the Flood Insurance Rate Maps (FIRM), which are accessible via FEMA's Flood Map Service Center. Whether or not your property is shown, and in what degree of hazard area, determines your personal flood insurance rate. New FIRM maps for this area are to be published on February 3, 2016.

The City of Benson operates as a District-dependent community in regard to floodplain management. This means the City does not have its own floodplain management program and assumes no responsibility for floodplain management actions. Instead, with Resolution 43-2006, the City operates under the existing Flood Control District of Cochise County.

Resolution 43-2006 no longer meets the NIFP requirements for district-dependent communities because it does not clearly define authority, duties and responsibilities of Benson, the district-dependent community. Therefore, the City needs to adopt an ordinance that is in compliance with NFIP requirements PRIOR to the publishing of new FIRM maps on February 3, 2016. The proposed ordinance was created by FEMA and ADWR as the State Model Ordinance, designed to address all NFIP and state requirements for district-dependent communities.

Staff Recommendation:

Approval of Ordinance 579

ORDINANCE 579

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, COCHISE COUNTY, ARIZONA, PERTAINING TO THE NATIONAL FLOOD INSURANCE PROGRAM, ADOPTING BY REFERENCE FLOOD INSURANCE STUDY, FLOOD INSURANCE RATE MAPS, AND FLOODPLAIN MANAGEMENT REGULATIONS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING PENALTIES

The City of Benson, located in Cochise County, has elected NOT to assume floodplain management responsibility as authorized in A.R.S. § 48-3610 and *shall be known as District Dependent.* The City of Benson shall appoint a Floodplain Administrator who will be responsible for (1) coordinating with County Flood Control District staff regarding floodplain management and (2) verifying that the Community's participation in the National Flood Insurance Program is maintained and remains in good standing through adoption and enforcement of these Regulations.

The Community Floodplain Administrator shall also be, at a minimum, responsible for the following:

1. Keep and maintain current Flood Insurance Studies and Flood Insurance Rate Map(s) applicable to their community;
2. Keep and maintain copies of the most current "Cochise County Floodplain Regulations" at the office of the City Clerk;
3. Keep and maintain elevation certificates (or acceptable records of lowest floor elevations) for all structures within the Special Flood Hazard Areas; and
4. Repeal or modify all existing local ordinances that conflict with these Regulations.

WHEREAS, the City of Benson, Arizona joined the National Flood Insurance Program (NFIP) as a separate community on June 25,1976, and under the NFIP, is the entity responsible for floodplain management within the City, and,

WHEREAS, the continued participation in the NFIP is in the best interest of the citizens of the City of Benson; and,

WHEREAS, the Federal Emergency Management Agency (FEMA) published a countywide Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs), Cochise County, Arizona and Incorporated Areas Dated February 3, 2016, and each community that participates in the NFIP is required to adopt floodplain management regulations consistent with Federal and State criteria; and,

WHEREAS, A.R.S. § 48-3609 assigns powers and duties for floodplain management to the Flood Control District of Cochise County and the City of Benson has elected NOT to assume those powers and duties as provided for in A.R.S. § 48-3610; and,

WHEREAS, the Flood Control District of Cochise County has adopted Floodplain Regulations that meet the minimum requirements of the NFIP and,

WHEREAS, those certain documents entitled "Cochise County, Arizona and Incorporated Areas Dated February 3, 2016" and "Cochise County Floodplain Regulations", dated July 30, 1984 and all subsequent amendments and/or revisions are hereby designated as public records.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Benson, Arizona, as follows:

Section 1. The City of Benson elects NOT to assume the responsibility of floodplain management from the Flood Control District of Cochise County as provided for in A.R.S. §§ 48-3609 - 3610. The City Engineer is appointed as the NFIP Floodplain Administrator for the City, is responsible for coordinating with the Flood Control District of Cochise County, and will serve as the community point of contact on NFIP issues for County, State and Federal officials.

Section 2. Those public records entitled "Flood Insurance Study for Cochise County, Arizona and Incorporated Areas" dated February 3, 2016 with accompanying FIRMs dated February 3, 2016 and all subsequent amendments and/or revisions, at least three copies of which shall be kept on file in the office of the City Clerk, are hereby adopted by reference as the basis for establishing the Special Flood Hazard Areas in the City of Benson. The Special Flood Hazard Areas documented in the FIS and FIRMs are the minimum area of applicability of the floodplain management regulations and may be supplemented by studies for other areas as allowed in the regulations.

Section 3. That public record designated as the "Cochise County Floodplain Regulations," dated July 30, 1984, and all subsequent amendments and/or revisions, copies of which shall be kept on file in the office of the City Clerk, is hereby adopted as the legal basis for implementing floodplain management in this community.

Section 4. Repeal of conflicting ordinances. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Severability. If any portion of this ordinance is determined by a court of competent jurisdiction to be invalid, all remaining portions of this ordinance shall remain in full force and effect.

Section 6. Violations and Penalties. It shall be a violation of this Chapter to develop land contrary to or in violation of any provision of this Chapter, to violate any provision or requirement of this Chapter, or to fail to comply with the Floodplain Management Regulations:

1. A person who violates this Chapter is guilty of a Class 2 Misdemeanor.
2. In addition to the penalties set forth in the above paragraph, if the Floodplain Administrator determines that there has been a violation of this Chapter, the Building Official is authorized to issue a stop work order, or to withhold, suspend or revoke a Certificate of Occupancy, Certificate of Completion, or Temporary Certificate of Occupancy issued under the provision of Chapter 7 of the Benson City Code.
3. A violation of this Chapter shall also be deemed to be a violation of Title 48, Chapter 21, Article 1 of the Arizona Revised Statutes and is subject to penalties described in A.R.S. §48-3615; and the City shall be entitled to seek injunctive and all other applicable legal and equitable remedies as provided by law for any development that diverts, retards or obstructs the flow of waters in a watercourse or Special Flood Hazard Area without the written authorization of the Flood Control District of Cochise County.

4. Nothing in this Chapter precludes any private or public right of action by any person or entity damaged by another's unauthorized diversion, retardation or obstruction of a watercourse.

Section 7. Warning and Disclaimer of Liability. The degree of flood protection required by this Chapter and applicable state and county regulations is considered reasonable for regulatory purposes. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City or any officer or employee thereof.

PASSED, ADOPTED AND APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, COCHISE COUNTY, ARIZONA, this 11th day of December, 2015.

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TONEY D. KING, SR., Mayor

ATTEST:

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VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:

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MESCH, CLARK & ROTHSCHILD
by GARY J. COHEN
City's Attorney