City of Benson
City Council Communication

Special Meeting **September 12, 2016**

To: Mayor and Council Agenda Item # 5

From: Bradley J. Hamilton, P.E. Director of Public Works/City Engineer

Subject:

Discussion and possible action on Resolution 33-2016 of the Mayor and Council of the City of Benson, Arizona, declaring as a public record that certain document entitled, "Benson City Code, Chapter 12 – Traffic and Parking"

Discussion:

The Public Works Department has received many complaints about parking around the City of Benson. A review of the current City Code showed that it was not adequate to establish common Traffic and Parking controls for the City. Staff researched many other cities' traffic and parking codes in Arizona and created the new Chapter 12, Traffic and Parking. The New Chapter 12, if adopted by Mayor and Council, would completely replace the current Chapter 12.

To adopt a proposed Code change, Council must adopt the change by an ordinance, which must be published. However, there is a provision that enables a City to adopt the provisions of a code "by reference" saving on publication costs. In order to do this, the Council must adopt a resolution declaring such provisions as a public record; three copies must be filed in the office of the City Clerk and kept available for public use and inspection. The ordinance can then be acted on and if approved, must be published in full and will notify the public of a City Code change.

Any changes that Mayor and Council want to make to Chapter 12, Traffic and Parking need to be made as part of this item.

Staff Recommendation:

Approval of Resolution 33-2016

RESOLUTION 33-2016

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ENTITLED "BENSON CITY CODE, CHAPTER 12 – TRAFFIC AND PARKING"

BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona, that:

That certain document entitled "Benson City Code – Chapter 12 Traffic and Parking" is hereby declared to be a public record and three copies of such document are on file in the Office of the Benson City Clerk and such copies are hereby ordered to remain on file with the Benson City Clerk for public inspection.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 12th day of September, 2016.

_____
TONEY D. KING, SR., Mayor

ATTEST:

_____
VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:

_____
MESCH CLARK ROTHSCHILD
By Gary J. Cohen
City's Attorney

CHAPTER 12 TRAFFIC AND PARKING

ARTICLE I. IN GENERAL

Section 12-1 Application of Arizona Revised Statutes

Those provisions of the Arizona Revised Statutes, as amended or succeeded, pertaining to the parking and operation of motor vehicles and other means of transportation are hereby incorporated and adopted within the city limits of the City of Benson.

Section 12-2 Definitions in General

The definitions in A.R.S. Title 28 (A.R.S. § 28-101 *et seq*.) apply to this Chapter unless a term is specifically defined in this Chapter, or unless the context requires otherwise.

Section 12-3 Definitions Pertaining to this Chapter

The below words and phrases, when used in this Chapter, are defined as follows:

(a) City – The City of Benson.

(b) Adjacent – Next to.

(c) Curb Loading Zone – Space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

(d) Dumpster – A large metal bin for refuse designed to be hoisted onto a specially equipped truck for emptying or hauling away.

(e) Motor Vehicle or vehicle – A wheeled vehicle that is propelled by an internal combustion engine that does not operate on rails and that is capable of carrying a passenger or passengers.

(f) Non-motorized vehicle – Any trailer or other device that is not self-propelled and is designed with the intended purpose of being towed behind a vehicle.

(g) Official Traffic Control Devices – All signs, signals, parking meters, markings, and devices not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

(h) Operator – A person who operates or is in actual physical control of a motor vehicle.

(i) Oversized Motor Vehicle – Any motor vehicle more than twenty-two (22) feet in length or with a gross vehicle weight rating of eight thousand (8,000) pounds or more.

(j) Owner – A person who holds the legal title to a motor vehicle.

(k) Parade – Any march or procession consisting of people, animals or vehicles, or combination thereof, except funeral processions, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations or controls.

(l) Procession – An orderly file of six (6) or more vehicles with suitable escort, such escort being approved by the Chief of the Police Department.

(m) Rights-of-Way – All property used as a public thoroughfare and lying between the exterior boundary lines of any area granted to or received by the City by grant, gift, easement, deed, dedications or operations of law for street, alley, walk or utility purposes.

(n) Sidewalk – That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

(o) Stand or Standing–Stopping a vehicle, whether occupied or not, other than for the active engagement of receiving or discharging passengers.

(p) Stop or Stopping, when prohibited – Any halting, even momentarily, of a vehicle, whether

occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

(q) Stop or Stopping, when required – The complete cessation from movement of a vehicle.

(r) Temporary Storage Unit – A transportable, non-motorized unit designed and used primarily for temporary storage of building materials (before they are utilized for building purposes), household goods, and other such materials for use on a limited basis on residential property.

ARTICLE II. ROADWAY AND TRAFFIC CONTROL

Section 12-4 Authority to Designate Crosswalks, Establish Safety Zones, Designate No Parking Zones and to Mark Traffic Lanes

The City Engineer or Chief of Police is authorized:

(a) To designate at intersections and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

(b) To establish school zones in accordance with ARS §28-797 and ARS §28-641 and safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(c) To designate permanent or temporary no-parking zones along City streets and rights-of-ways, and to maintain such zones, by appropriate signage, as he may deem necessary for the general health, safety and welfare of the residents of the community.

(d) To mark lanes for traffic on street pavement at such places as he may deem advisable, consistent with the traffic laws of the City.

Section 12-5 Lane Markings; Restricted Turns

(a) The City Engineer is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles traveling through or turning at such intersections, and such courses may conform to or be other than as prescribed by law.

(b) The City Engineer is authorized to determine those intersections at which Operators of vehicles shall not make a right, left, or U-turn and shall place and maintain markers or signs giving notice of such determination at such intersections. The making of such turns may be prohibited entirely or between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs, or such signs may be removed when such turns are permitted.

Section 12-6 One-Way Streets and Alleys

The City Engineer may designate any street or alley to be limited to one-way traffic by placing signs indicating the direction of lawful traffic movement at every affected intersection.

Section 12-7 Regulation of Traffic at Intersections

The City Engineer may designate through streets, intersections where stops are required, and intersections where vehicles shall yield the Right-of-Way.

Section 12-8 Curb Markings

The City Engineer shall designate restricted parking zones by use of signs, painted curbs, or both.

(a) If the curb is painted red, parking shall be prohibited in the area adjacent to the painted curbs at all times. Curbs painted red may also indicate bus loading zones, but only when accompanied by appropriate signs, in which case bus loading and unloading shall not be prohibited.
(b) If the curb is painted yellow, the space adjacent to the curb so painted shall be used exclusively as a Curb Loading Zone during those hours designated by the City Engineer and stated in signs giving notice of such determination at either one or both ends of such zone.

Section 12-9 Gross Vehicle Weight Restrictions

(a) The City Engineer is authorized to establish gross weight limits for vehicles using City streets and to prohibit certain vehicles from using certain designated streets by the placement of appropriate signs limiting the gross weight of vehicles permitted to use those streets.

(b) Vehicles may use the streets designated under this article to make a delivery or pickup or to provide services to a property as permitted under this article. A vehicle regulated under this article may: deliver, pick up, load, or unload merchandise, materials, or equipment, including furniture and other household goods, or provide construction, repair, or similar services to a property.

(c) This section shall not prohibit:
1. The operation of emergency vehicles upon any street in the City.
2. The operation of trucks owned or operated by the City, or contracted by the City, upon any street in the City.
3. The operation of recreational vehicles upon any street in the City.

Section 12-10 Suspension of Traffic and Parking Ordinances

The Chief of Police or designee is authorized to adopt regulations necessary to temporarily suspend traffic and parking ordinances of the City to cover emergencies or special conditions.

Section 12-11 Obedience to Traffic Regulations

It is unlawful, except as otherwise provided in this Code, for any person to do any act forbidden or fail to perform any act required by this Chapter or willfully fail or refuse to comply with any lawful order or direction of any police officer, police volunteer or duly authorized agent of the City in the performance of their duties related to the enforcement of this Chapter.

Section 12-12 Directing Traffic

(a) The City police department, including appointed volunteers, is hereby authorized to direct all traffic by voice, hand or signal.

(b) Fire officials, when at the scene of a fire, may direct or assist the City police department in directing traffic at that scene or in the immediate vicinity thereof.

(c) Public works employees, when at the scene of an emergency or an active construction site may direct or assist the police or fire departments in directing traffic at that scene or in the immediate vicinity thereof.

Section 12-13 Traffic Control Devices

(a) The City Engineer shall provide for the placement and maintenance of traffic control devices, signs, signals, and markers when and as required under the traffic regulations of the City, and may place and maintain such additional traffic control devices as may be deemed necessary to regulate traffic under the traffic laws of the City or under state law or to guide or warn traffic.

(b) The Operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the traffic regulations of the City unless otherwise directed by a police officer or other duly authorized City agent, subject to the exceptions granted in this Chapter or by state law.

Section 12-14 Limitations on Turning Around

The Operator of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street unless such movement can be made safely and without interfering with other traffic.

Section 12-15 Driving on Private Property

(a) No person shall operate, drive or leave any motor vehicle, motorcycle, motor scooter, dune buggy, jeep or other form of transportation propelled by an internal combustion engine upon the private property of another or upon public property which is not held open to the public for vehicle use, without permission from the owner of the property or the person entitled to immediate possession thereof, or the authorized agent of either.

(b) No Operator shall drive upon or through any private property such as a commercial property, oil station, vacant lot or similar property to avoid obedience of any regulation included in this Chapter or any traffic control device.

Section 12-16 Operation of Vehicles on Vacant Lots

No person shall operate a vehicle on or across any portion of a vacant lot other than on an established dustproof driveway, except during activities authorized by the City.

Section 12-17 Processions

No procession or parade, except funeral processions, shall be held without first securing a permit from the City, and all such requests for permits shall state the time, place of formation, proposed line of march, destination and such other information as the City may set forth therein.

Section 12-18 Prohibition Against the Use of Engine Brakes

It shall be unlawful for a person to operate or permit the operation of the engine of a commercial vehicle so as to assist in braking or slowing the vehicle through the use of any engine brake or engine retarding device on any street or roadway within the City unless the vehicle is an emergency services vehicle.

Section 12-19 Placing Debris on a Public Roadway

(a) No person or persons will deliberately place debris, construction material, signage or any other material in or on a public street within the City of Benson that will affect the safe flow of traffic, without having obtained the appropriate construction permit from the City.

(b) This section does not apply to City employees in performance of their roadway related duties.

ARTICLE III. STOPPING, STANDING AND PARKING

Section 12-20 Presumption in Reference to Illegal Parking

In any prosecution charging a violation of this Article, proof that the particular vehicle described in the complaint was parked in violation of this Article, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

Section 12-21 Method of Parking

The City Engineer may have erected signs requiring parking at an angle to the curb, allowing parking on the left hand curb on one-way streets, notifying Operators that parking is prohibited and restricting parking in any way that may be necessary. When such signs have been erected, no person shall stop or stand a vehicle in disobedience to such parking restrictions. City employees, or their agents, may disobey such parking restrictions if necessary to perform their public duties.

Section 12-22 Prohibited Parking

Unless otherwise directed by a police officer or other duly authorized City agent or in accordance with properly erected signage to the contrary, no person shall stop, stand, or park any motor vehicle or non-motorized vehicle on any City street, roadway, or right of way:

(a) In such a manner or under such conditions as to obstruct or impede traffic in any manner.

(b) In such a manner as to block an alley or the entrance to a private driveway except for the loading or unloading of materials, and not then unless such loading or unloading can be accomplished without interference to the free movement of vehicular traffic, including into or from adjacent private property.

(c) In any area designated, signed, and marked as a fire lane.

(d) Within thirty-three (33) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy five (75) feet of the entrance when properly posted.

(e) Within fifteen (15) feet of a fire hydrant.

(f) For the principal purpose of displaying such vehicle thereon for sale, hire or rental.

(g) For the principal purpose of painting, greasing or repairing said vehicle except for repairs

necessitated by an emergency.

(h) For the principal purpose of washing or polishing such vehicle or any part thereof when a charge is made for such services.

(i) Within a lane designated for the making of turning movements or for the operation of bicycles.

(j) Within an intersection.

(k) On a crosswalk.

(l) Within twenty (20) feet of a crosswalk at an intersection.

(m) Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway.

(n) Within an area designated as a public transit stop.

(o) Within fifty (50) feet of the nearest rail of a railroad crossing or within eight (8) feet six (6) inches of the center of any railroad track, except while a motor vehicle with motive power attached is loading or unloading railroad cars.

(p) On the roadway side of any vehicle stopped or parked at the edge or curb of a street (double parking).

(q) On a sidewalk or in that area between the curb and sidewalk or on those roadways without curbs in a manner so as to force a pedestrian to walk in the traveled portion of the roadway.

(r) Upon any bridge or other elevated structure.

(s) Alongside or opposite any street excavation or obstructions when stopping, standing or parking would impede traffic.

(t) Upon any public street, public Right-of-Way or public property when such vehicle does not display current registration.

(u) Except as otherwise provided in this chapter, no person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the curbside wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway.

(v) Directly in front of a community or individual postal box served by the U.S. Postal Service except for the purpose of delivering or collecting mail.

(w) In violation of posted no parking signs or while in the area of a painted red curb.

Vehicles parked in violation of the requirements of this Section are subject to removal and storage at the expense of the registered owner under A.R.S. §28-872.

Section 12-23 Parking Duration

(a) No person shall park any vehicle upon any public street or upon publicly owned, maintained or operated property for a period of seventy-two (72) or more consecutive hours. For purposes of this Section, the vehicle shall be considered to have remained parked unless, during the seventy-two (72) hour period, said vehicle has been moved at least one hundred feet (100') from the position it previously occupied, or the odometer on said vehicle exhibits a change of at least one-tenth of one mile.

(b) Vehicles parked in violation of subsection (a) are subject to removal and storage at the expense of the registered owner.

Section 12-24 Parking on Private Property

(a) Notwithstanding any other law to the contrary, it is unlawful for the Operator of a motor vehicle to park the vehicle in or upon property of another without first obtaining permission of the person legally entitled to possession of the property.

(b) Vehicles in violation of this Section may be subject to removal at the vehicle owner's cost.

Section 12-25 Emergency; No Parking

(a) No person shall park a vehicle upon any public highway, street or parking lot in violation of an emergency no parking sign that has been conspicuously posted.

(b) The City Engineer or designee is authorized to post emergency no parking signs on public highways, streets or parking lots for the purpose of street maintenance, construction, special events or any community related event. The duration of emergency no parking shall be no longer than seventy-two (72) hours. After a reasonable attempt has been made to contact the owner, any vehicle parked in violation shall be removed at the owner's expense.

Section 12-26 Prohibition Against the Parking of Oversized Vehicles

(a) Subject to the exceptions below, no person shall stop, stand, or park any oversized motor vehicle or non-motorized vehicle on any public street, road or alleyway within any residential or commercial district.

(b) The prohibition set forth in subsection (a) shall not apply to oversized vehicles, or non-motorized vehicles parked for a period of less than twelve (12) hours for the purpose of loading, unloading, cleaning, or other activity preparatory to or incidental to travel.

(c) The prohibition set forth in subsection (a) shall not apply to oversized vehicles, or non-motorized vehicles parked in residential areas zoned as rural where the minimum lot size is one acre or more.

Section 12-27 Restricted Parking Areas for the Physically Disabled; Identification

(a) Except as provided in subsection (d), no person may stop, stand or park a motor vehicle within any specially designated and marked parking space provided for a physically disabled person, which includes the area indicated by hash marks painted adjacent to any such space, in accordance with this Section, A.R.S. § 28-882, or any related provision, whether on public or private property, unless the motor vehicle is transporting a person eligible to obtain a special license plate with the

international wheelchair symbol or a placard issued pursuant to state law for this purpose and the vehicle displays either the special plate or the placard.

(b) Parking spaces subject to this Section shall be clearly and conspicuously designated as being reserved for the physically disabled. Such designations shall include a standard symbolic disabled parking sign bearing the number of this section of this Code and conform to specifications for design and placement as approved by the City Engineer. The property owner is responsible for all required postings.

(c) If a police officer or other duly authorized agent finds a motor vehicle in violation of this Section, a complaint shall be issued to the Operator or other person in charge of the motor vehicle, or a notice of violation placed on the vehicle, as appropriate.

(d) Any person who is chauffeuring a physically disabled person shall be allowed, without a distinguishing insignia placard or number plates bearing the international wheelchair symbol, to park momentarily in any such parking space for the purpose of loading or unloading such physically disabled person. No complaint shall be issued to the driver for such momentary parking.

(e) It is unlawful to stop, stand, or park a vehicle in such a manner as to block or deny access to a wheelchair curb access ramp, except that this provision shall not prohibit the operator of a vehicle from temporarily stopping in accordance with other parking regulations for the purpose of and while actually engaged in loading or unloading physically disabled passengers.

Section 12-28 Placement of Temporary Storage Units and Dumpsters

(a) Unless permitted by the City Engineer, Temporary Storage Units and Dumpsters are prohibited from being placed in the public Right-of-Way or streets.

(b) The property owner(s) and/or Lessee(s) of the property and supplier that is found in violation of Section 12-27, shall be fined, upon conviction, a maximum sum of two hundred fifty dollars ($250).

(c) The, Property owner(s) and/or Lessee(s) of the property and Supplier shall all be jointly and severally be liable for all costs incurred by the City for the removal of the Temporary Storage Unit or Dumpster.

Section 12-29 Overnight Camping

It is unlawful for any person, firm, corporation or other organization to camp or park an occupied recreational vehicle between the hours of 11:00 p.m. and 5:00 a.m. upon the private or public property of any other person, firm, corporation or other organization, without first having obtained permission from the owner or occupant of the property upon which such camping or parking is conducted. For the purposes of this section, an RV park/campground receipt or a special use permit approved by the City shall be considered permission.

ARTICLE IV. ADMINISTRATION AND ENFORCEMENT

Section 12-30 Enforcement

(a) It shall be the duty of the City Police Department to provide for the enforcement of the street traffic regulations of the City and all of the State vehicle laws applicable to street traffic in the City, to make arrests for traffic violations, to assist in the prosecution of those persons charged with

violations of law, to investigate accidents and to assist the City Engineer in developing ways and means to improve traffic conditions and to carry out all duties specifically imposed upon the City Police Department by this Chapter.

(b) Any peace officer of the City may be authorized by the Police Chief to perform any of the duties of the police department included in this Chapter.

(c) The City Police Department shall keep a record of all violations of the traffic laws of the City or of the State vehicle laws of which any person has been charged in accordance with the City of Benson Records Management Program[pal1].

(d) All forms for records of violations and notices shall be serially numbered.

Section 12-31 Civil Traffic Procedure

An action or proceeding alleging a violation of this chapter may be initiated and served as provided in the Arizona rules of procedure in civil traffic cases or Arizona rules of procedure in traffic cases. The rules governing individual cases as determined by the governing court shall apply to the determinations of all questions arising out of any initiated action or proceeding.

Section 12-32 Violation; classification; exception; civil traffic violation; surcharge

(a) A person who violates a provision of this title or who fails or refuses to do or perform an act or thing required by this title commits a civil traffic offense unless the statute defining the offense provides for a different classification. Unless otherwise specifically provided, a violation of any of these provisions shall result in the imposition of a civil sanction which shall not exceed five hundred dollars ($500.00).

(b) A person who violates any provision of Section 12-26 shall be assessed a mandatory minimum fine of one-hundred fifty dollars ($150.00), no part of which may be suspended or waived by the court.

(c) A person who violates any other provision of this Chapter which regulates the time, place, or method of parking a vehicle shall be assessed a mandatory minimum fine of fifty dollars ($50.00), no part of which may be suspended or waived by the court.

(d) A person who commits any violation of this Chapter and who within the past two years has previously been convicted of or been found responsible for two or more violations of this Chapter is guilty of a class 1 misdemeanor.

(e) In addition to any other penalty assessment provided in this title, the court shall levy surcharges required by State law.

Section 12-33 Payment of Penalty Fee upon Receipt of Notice of Violation

(a) The presiding judge of the municipal court shall, from time to time, prepare a table of charges and penalty fees for violations of this Chapter consistent with ordinances and resolutions of the City council.

(b) Any person who becomes aware that a notice of violation has been issued with respect to an alleged violation of any provision of this Chapter classified as a civil infraction may, in lieu of court

proceedings, pay the base penalty fee as established by the municipal court and any state or local mandatory surcharges within thirty (30) days of the date of violation indicated on the notice of violation.

(c) The owner or operator of a vehicle for which a notice of violation has been issued may contest the violation by requesting a civil traffic hearing. The request for hearing must be in writing and shall be promptly submitted to the hearing officer or designee.

(d) If the owner or operator of a vehicle for which a notice of violation has been issued fails to pay the amount of the fine or request a hearing within thirty (30) days of the issuance of the notice of violation, then a summons and complaint shall be issued to the registered owner of the vehicle. The notice of violation for a parking violation shall be issued within sixty (60) days from the date of violation. The summons shall command the registered owner to appear in the City court on a date and time certain.

(e) When a person is found responsible for a violation by a judge or a civil traffic hearing officer, whether by default or after a hearing, the judge or hearing officer shall impose a civil sanction for the violation, which shall be not less than the amount of the prescribed fine, as indicated in subsection (a) above.

(f) It is an affirmative defense to an alleged violation of Section 12-58, if at the time of a hearing in municipal court, the vehicle that was the subject of the violation was eligible for and had been issued a valid distinguishing insignia placard at the time of the violation.

Section 12-34 Vehicle Impound Fees

An assessment of a vehicle impound fee shall be collected by the Benson Police Department as necessary revenue to offset the costs of inspection, transmission of required documentation to the Arizona Department of Motor Vehicles, and the provision of facilities and manpower to effectuate the storage of motor vehicles impounded by the City of Benson Police Department. The impound fee shall be assessed as follows:

(a) The vehicle impound fee shall consist of an administrative fee and a daily storage fee calculated as follows:
   1. An administrative fee in the amount of seventy-five dollars ($75.00) shall be assessed on the impound of each vehicle; and,
   2. A daily storage fee at the rate of ten dollars ($10.00) per day, shall accrue starting on the first (1st) day of impoundment.

(b) The total vehicle impound fee assessed against any one vehicle on any single occasion of impound shall not exceed six hundred seventy five dollars ($675.00).

(c) Payment of impound fees shall be by U.S. currency, cashier's check, or money order payable to the City of Benson.

(d) The City shall generate a written receipt upon payment of any impound fees, and provide the same to payor.

(e) The impounded vehicle must be removed from storage on the date impound fees are paid in full, or an additional daily storage fee shall be incurred.