City of Benson
City Council Communication

Regular Meeting **November 13, 2017**

To: Mayor and Council Agenda Item # 10

From: Bradley J. Hamilton, P.E., Director of Public Works/City Engineer
Keith Spangler, Fire Chief
Michael McMillan, Brown and Associates

Subject:

Discussion and possible action regarding Ordinance 588 of the Mayor and Council of the City of Benson, Arizona, amending the Benson City Code, Chapter 7, "Uniform Codes", Article 7-1, "Uniform Codes", Section 7-1-1, Adoption

Discussion:

As noted in the previous item, any change to the City Code must be adopted by an ordinance, which must be published in accordance with State law requirements. However, when a change to the City Code is quite lengthy, there is a provision that enables a City to adopt the provision of a code or a public record without setting forth such provisions in the ordinance; enacting the provisions "by reference". The previous item presented to Council, Resolution 36-2017, declared certain Updated Codes to be incorporated by reference into Benson's City Code, Chapter 7, "Building", Article 7-1, "Uniform Codes", Section 7-1-1, "Adoption" as a public record. Council may now adopt Ordinance 588, which will enact the City Code change.

Staff Recommendation:

Approval of Ordinance 588

ORDINANCE 588

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, AMENDING THE BENSON CITY CODE, CHAPTER 7, "BUILDING", ARTICLE 7-1, "UNIFORM CODES", SECTION 7-1-1, "ADOPTION"

WHEREAS, Arizona Revised Statutes Title 9 authorizes the City of Benson to provide regulations for: the construction and maintenance of commercial and residential buildings; the construction, installation and maintenance of plumbing, heating, cooling, gas, mechanical and electrical systems; the prevention and extinguishment of fires; and the conservation of energy; and

WHEREAS, Arizona Revised Statutes, Title 9, authorizes the City of Benson to adopt ordinances needful for the health, safety and welfare of its residents and the good government and orderly regulation of the City; and

WHEREAS, the Mayor and Council of the City of Benson have determined that it is in the best interests of the City and its residents for the City to adopt and establish more recent regulations available for the health, safety and welfare of its residents; and

WHEREAS, the City staff has reviewed and recommended the adoption of several codes, with certain amendments as to some of those codes, because those better advance the health, safety, and welfare of the City's residents; and

WHEREAS, those codes, with certain amendments, have been declared public records by Resolution 36-2017, and

WHEREAS, the Mayor and City Council have amended the Benson City Code from time to time, as is their right; and

WHEREAS, the Mayor and City Council have reviewed the proposed codes discussed herein and have determined that adopting each of them is in the best interests of the City and its residents.

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

Section 1: Three (3) copies of the documents listed below in this section are all on file in the office of the City Clerk of the City of Benson, Arizona, have all been made public records by Resolution 36-2017 of the City of Benson, Arizona, and are hereby adopted, passed and approved by reference and made a part hereof as if fully set forth in this Ordinance.

That those certain documents entitled: The International Building Code, The International Plumbing Code, The International Mechanical Code, The International Residential Code, The International Fuel Gas Code, The International Property Maintenance Code, The International Energy Conservation Code, The International Existing Building Code, The International Swimming Pool and Spa Code, all of which are the 2015 editions, as amended by Exhibit A to Resolution 36-2017; and

The National Electrical Code, 2014 edition, as amended by Exhibit A to Resolution 36-2017; and

The International Fire Code, 2015 edition, as amended by Exhibit B to Resolution 36-2017; and

The International Private Sewage Disposal Code, 2015 edition; and

The Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, as published by the International Conference of Building Officials.

Section 2: Section 7-1-2 of the Benson City Code is hereby deleted in its entirety, and shall not be replaced with any new language at this time.

Section 3: Sections 7-1-1 of the Benson City Code is hereby deleted in its entirety, the same to be replaced with the following:

Section 7-1-1 Adoption

The documents listed in this Section are on file with the City Clerk's office and are adopted and made part of the Benson City Code so that they apply within the City of Benson, Arizona.

The International Building Code, The International Plumbing Code, The International Mechanical Code, The International Residential Code, The International Fuel Gas Code, The International Property Maintenance Code, The International Energy Conservation Code, The International Existing Building Code, The International Swimming Pool and Spa Code, all of which are the 2015 editions, as amended by Exhibit A to Resolution 36-2017 ; and

The National Electrical Code, 2014 edition, as amended by Exhibit A amended by Exhibit A to Resolution 36-2017; and

The International Fire Code, 2015 edition, as amended by Exhibit B to Resolution 36-2017; and

The International Private Sewage Disposal Code, 2015 edition; and

The Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, as published by the International Conference of Building Officials hereto.

Section 4: The material penalty provisions of this Ordinance, in addition to those set forth in Benson City Code Article 1-8(A), are as follows:

A: International Building Code, 2015 Edition

114.4 Violation Penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or

certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

B: International Plumbing Code, 2015 Edition

108.4 Violation Penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5 Stop Work Orders: Upon notice from the code official, work on any plumbing system that is being performed contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's authorized agent, or to the person performing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $50.00 dollars or more than $150.00 dollars.

C: International Mechanical Code, 2015 Edition

108.4 Violation Penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5 Stop Work Orders: Upon notice from the code official, work on any mechanical system that is being performed contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's authorized agent, or to the person performing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work

order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $50.00 dollars or more than $150.00 dollars.

D: International Residential Code, 2015 Edition

113.4 Violation Penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

E: International Fuel Gas Code, 2015 Edition

108.4 Violation Penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5 Stop Work Orders: Upon notice from the code official, work on any fuel gas system that is being performed contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's authorized agent, or to the person performing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $50.00 dollars or more than $150.00 dollars.

F: International Property Maintenance Code, 2015 Edition

106.4 Violation Penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

112.4 Failure to Comply: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

302.4 Weeds: Premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12") inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

G: International Existing Building Code, 2015 Edition

113.4 Violation Penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

H: International Swimming Pool and Spa Code, 2015 Edition

107.4 Violation Penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

107.5 Stop Work Orders: Upon notice from the code official, work on any pool system that is being performed contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's authorized agent, or to the person performing the work. The notice shall state the conditions under which work is authorized to resume. Where

an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $50.00 dollars or more than $150.00 dollars.

I. International Fire Code, 2015 Edition

109.4 Violation Penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

111.4 Failure to Comply: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $50.00 dollars or more than $150.00 dollars. Each day that the work continues after having been served with a stop work order shall be deemed a separate offense.

N-124.1 Liability for damage: The expenses of fighting fires, which result from a violation of Appendix N, shall be a charge against the person whose violation of Appendix N caused the fire. Damages caused by such fires shall constitute a debt of such person and are collectable by the City of Benson Administration in the same manner as in the case of an obligation under a contract, expressed or implied.

J: National Electrical Code, 2014 Edition

90.1.3 Unlawful acts: It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

90.1.4 Notice of violation: The Building Official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

90.1.5 Prosecution of violation: If the notice of violation is not complied with promptly, the Building Official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in

equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

90.1.6 Violation penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or perform work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a Class 1 misdemeanor, punishable by a fine of not more than $2500.00 dollars or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

K. Uniform Code for the Abatement of Dangerous Buildings, 1997 edition

Section 202 Abatement of Dangerous Buildings: All buildings or portions thereof which are determined after inspection by the building official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Section 401 of this code.

Section 203 Violations: It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

Section 701 Compliance, 701.1 General: After any order of the building official or the board of appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who failed to comply with any such order is guilty of a misdemeanor.

701.2 Failure to Obey Order: If, after any order of the building official or board of appeals made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.

701.3 Failure to Commence Work: Whenever the required repair or demolition is not commenced within 30 days of any final notice and order issued under this code becomes effective: 1. The building official shall cause the building described in such notice to be vacated.....3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired…sold and demolished or demolished...

L. The International Energy Conservation Code, 2015 Edition

C108.1 Authority: Where the code official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code

or dangerous or unsafe, the code official is authorized to issue a stop work order.

C108.4 Failure to Comply: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine as set by the applicable governing authority.

M. International Private Sewage Disposal Code, 2015 Edition

108.1 Unlawful Acts: It shall be unlawful for any person, firm or corporation to erect, construct, alter, repair, remove, demolish or use any private sewage disposal system, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

108.5 Stop Work Orders: Upon notice from the code official, work on any private sewage disposal system that is being performed contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease…

108.6 Abatement of Violation: The imposition of penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; to prevent illegal occupancy of a building, structure, or premises or to stop an illegal act, conduct, business or use of the private sewage disposal system on or about any premises.

108.7 Unsafe Systems: Any private sewage disposal system regulated by this code that is unsafe or constitutes a health hazard, insanitary condition or is otherwise dangerous to human life is hereby declared unsafe. Any use of private sewage disposal systems regulated by this code constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, disaster, damage or abandonment is hereby declared an unsafe use. Any such unsafe equipment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

108.7.1 Authority to Condemn Equipment: Whenever the code official determines that any private sewage disposal system, or portion thereof, regulated by this code has become hazardous to life, health, or property or has become insanitary, the code official shall order in writing that such system be either removed or restored to a safe or sanitary condition… No person shall use or maintain a defective private sewage disposal system after receiving such notice… In case of immediate danger to life or property, such disconnection shall be made immediately without such notice.

108.7.2 Authority to Disconnect Service Utilities: The code official shall have the authority to authorize disconnection of a utility service to the building, structure or system regulated by the technical codes in case of emergency, where necessary, to eliminate an immediate danger to life or property…

Section 5: The Table of Contents and headings and sections of the City Code shall be amended to reflect the amended Chapter 7's internal section headings and numbering.

Section 6: All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such conflict.

Section 7: This Ordinance shall take effect thirty days after adoption.

Section 8: The City Clerk is directed to public the text of this Ordinance in the San Pedro Valley News Sun for two (2) consecutive weeks after its effective date, and further to post a copy of this Ordinance in three (3) or more public places within the City of Benson, Arizona.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 13th day of November, 2017.

_____
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