

ORDINANCE NO. 934

AN ORDINANCE OF THE CITY OF BENTON CITY, WASHINGTON, AMENDING SECTION 20.06.010 "CLASSIFICATIONS OF ZONE; SECTION 20.09.295 "MODULAR HOME"; SECTION 20.15.070 ENTITLED "ADDITIONAL REQUIREMENTS"; REPEALING CHAPTER 20.26 "R-1M RESIDENTIAL LOW DENSITY MANUFACTURED HOME DISTRICT"; REPEALING CHAPTER 20.27 "R-2M RESIDENTIAL MEDIUM DENSITY MANUFACTURED HOME DISTRICT"; AMENDING SECTION 20.30.010 "PERMITTED LOCATIONS"; AND SECTION 20.60.260 "ADULT ENTERTAINMENT"

WHEREAS, the City Council of Benton City provides for the public health, welfare and safety of the city through the orderly development of land through its comprehensive plan and zoning ordinances; and

WHEREAS, the City Council of Benton City is charged with preparing ordinances to reflect the policy direction in the City Comprehensive Plan; and

WHEREAS, the City Council entered into a process to review and revise its Zoning Ordinance of the City of Benton City (Benton City Municipal Code Title 20) in 2014 to ensure compliance with updated State regulations; and

WHEREAS, the Planning Commission is the reviewing body or fact-finding hearing body for site-specific rezones and textual amendments of the Zoning Code, and such amendments having been submitted to the Planning Commission for review; and the Planning Commission having held a public hearing thereon and having made recommendations to the City Council for its consideration and final decision; and

WHEREAS, the Mayor, pursuant to the State Environmental Policy Act, has determined that the proposed amendment will not have a probable significant adverse impact on the quality of the environment; and

WHEREAS, the City Council, having received the recommendation of the Planning Commission finds that recommendations of the Planning Commission is are appropriate and that amendment of Title 20 is consistent with the land use policies adopted in the Benton City Comprehensive Plan; **NOW THEREFORE,**

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. That Section 20.06.010 entitled "Classifications of Zones" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

20.06.010 Classification of Zones.

A. For the purpose of Chapters 20.02 through 20.67, the following zoning districts are established:

- A ~~_____~~ Agricultural
- AS Agricultural Suburban
- R-1 Residential, Low Density
- R-2 Residential, Medium Density
- R-3 Residential, High Density

- ~~R-1M Residential, Low Density Manufactured Home~~
- ~~R-2M Residential, Medium Density Manufactured Home~~
- R-3M Residential, High Density Manufactured Home
- C-1 Commercial
- IL Industrial Light
- PR Public Reserve

- B. Any property zoned and classified above to which has been added any special condition or limitation not generally applicable to property within the same zone, shall be designated by the suffix "L" to indicate a special limitation or condition is applicable to that property. (Ord. 765, September 2003; Ord. 715, October 2000.)

Section 2. That Section 20.09.295 entitled "Modular Home" of the Definitions Chapter of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

20.09.295 Modular Home. "Modular Home" shall mean either a factory built structure constructed in accordance with the Uniform Building Code or HUD and bearing the appropriate insignia indicating such compliance ("Gold Seal"), or which will include those dwellings indicated as "prefabricated", "panelized" and "factory built". A "modular home" shall also include any dwelling originally constructed as a permanent stick-built dwelling, in whole or in part, and will thereafter move to a different geographical site and upon relocation shall comply with all applicable Building Codes and this Title. ~~and the minimum habitability standards as identified in BCMC 20.30.104(C).~~ The minimum size shall be 720 square feet of living space. (Ord. 765, September 2003; Ord. 704, April, 2000; Ord. 628, August 1995.)

Section 3. That Section 20.15.070 entitled "Additional Requirements" in the AS-Agricultural Suburban District of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

20.15.070 Additional Requirements.

- A. No manufactured or modular home, or any addition or accessory building thereto, may be placed upon a lot in any AS District without first obtaining a building permit and sewer and water connection permits from the building inspector. Any required fees shall be in accordance with the current City Fee Schedule.
- ~~B. No manufactured or modular home shall be placed on a lot within any AS District having a fair market value at the time of its placement less than eighty percent (80%) of the average assessed valuation, as determined by the records of the Benton County Assessor, on dwellings on other properties within five hundred (500) feet of the anticipated site of placement.~~
- ~~C.~~B. Any attached addition or attached accessory building shall be compatible with the design, color and exterior covering, including roofing, to the manufactured or modular home.
- ~~D.~~C. Any addition or accessory building shall be in compliance with Chapters 20.02 through 20.67 and the City Building Code.

E.D. All plumbing in any AS District shall comply with state and city plumbing laws and regulations. Connections shall be made to the city sewer systems, if available. The sewer connection shall be provided with suitable fittings so that a watertight connection shall be so constructed that it can be closed, when not linked to a manufactured home, and shall be capped so as to prevent any escape of odors.

F.E. All equipment, including but not limited to tires, wheels and axles, which are needed to transport the structure to the site shall be removed from the structure, and said structure shall be attached to a permanent foundation to the approval of the building inspector. (Ord. 774, March 2004.)

Section 4. That Chapter 20.26 entitled "R-1M Residential Low Density Manufactured Home District" of the Benton City Municipal Code shall be and hereby is repealed in its entirety.

Section 5. That Chapter 20.27 entitled "R-2M Residential Medium Density Manufactured Home District" of the Benton City Municipal Code shall be and hereby is repealed in its entirety.

Section 6. That Section 20.30.010 entitled "Permitted Locations" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

20.30.010 Permitted Locations.

A. A "modular home" may be located in any residential zone.

B. A manufactured home may be placed on any lot that is appropriately zoned for a single-family residence proved that:

1. Manufactured home be a new manufactured home;
2. The manufactured home shall be set upon and attached to a permanent foundation, as specified by the manufacturer, and the space from the bottom of the home to the ground shall be enclosed by concrete or an approved permanent wall finished with standard residential materials, which can be either load bearing or decorative;
3. The manufactured home shall comply with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;
4. The manufactured home shall be thermally equivalent to the state energy code;
5. The manufactured home otherwise meets all other requirements for a designated manufactured home as defined in RCW 35.63.160; and
6. This section does not override any legally recorded covenants or deed restrictions of record.

~~B. Manufactured homes may be located within the AS — agricultural suburban zone; R-1M or R-2M low/medium residential manufactured home districts; and R-3M residential manufactured home park district.~~

~~C. A mobile home currently located in the AS agricultural suburban zone, R-1M or R-2M residential manufactured home district, and the R-3M residential manufactured home park district will be allowed to remain at its present location. Replacement of said mobile home must be in compliance with dwelling standards. (Ord. 765, September 2003; Ord. 704, April 2000.)~~

Section 7. That Section 20.60.260 entitled "Adult Entertainment" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

20.60.260 Adult Entertainment. It is recognized that some uses by their very nature are incompatible with the maintenance and enjoyment of other necessary and existing uses and inherently possess serious objectionable operational characteristics particularly when concentrated in close proximity to each other and other incompatible uses, which may have deleterious effect upon adjacent areas and neighborhoods. Special regulation of these uses is necessary to ensure these adverse effects will not cause or contribute to the blighting or downgrading of the surrounding neighborhood. Adult entertainment and uses, as defined by Section 20.09.025, is recognized as being such a use that may prove detrimental in certain circumstances to its surrounding neighborhoods and thereby the following regulations are imposed:

- A. Prohibition. No property or premises shall be used for an adult entertainment or use business within the City of Benton City, Washington, except as permitted by this section.
- B. Permitted location and permitted uses.
 - 1. An adult use business, as defined in this Code, shall be permitted to locate in the Commercial, General (C-1) only; provided, it meets all of the location requirements set forth in Section C of this section.
 - 2. Nothing within the location requirements set forth herein and in Section C shall preclude an adult use business from conducting more than one adult use activity within a single structure; provided, the adult use business complies with the provisions of this Code and all other applicable sections of the Benton City Municipal Code.
- C. Where prohibited.
 - 1. Adult use businesses shall be prohibited in and within two hundred (200) feet of the City of Benton City zones for residential purposes or any occupied residential premises. Residential districts shall include:
 - a. ~~Agricultural (A).~~
 - b. Agricultural Suburban (AS).
 - c. Residential, Low Density (R-1).
 - d. ~~Residential, Low Density Manufactured Home (R-1M).~~
 - e. Residential, Medium Density (R-2).
 - f. ~~Residential Manufactured Home (R-2M).~~
 - g. Residential, High Density (R-3).
 - h. Residential Manufactured Home Park (R-3M).

- i. Any residential zone hereafter adopted by the City of Benton City or adjacent county.
 2. Adult use businesses shall be prohibited within two hundred (200) feet of any areas defined as sensitive land uses.
 3. Adult use businesses shall be prohibited within two hundred (200) feet of any other adult use business, as defined in this Code.
 4. The distances provided herein shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult use business is located or is to be located, to the nearest point of the parcel of property or the zoning district boundary line from which the proposed adult use business is separated or is to be separated. Location and configuration of adult use businesses shall be situated to prevent the adult use business main entrance or marquee from being visual from existing residence or other sensitive land use.
- D. Signs. All adult use businesses shall comply with the following standards for exterior advertising;
1. Exterior advertising shall be limited to one, two-square foot non-illuminated double-faced sign or its equivalent.
 2. All signs shall meet all other regulations for such signs as set forth in the zoning requirements for the applicable zone.
- E. General requirements. All adult use business located within the City of Benton City shall comply with the following general requirements:
1. At no time shall material or performances that display specified sexual activities or exhibit specified anatomical areas as described herein be visible from outside the establishment.
 2. All state and local licenses required by law shall be posted and maintained in a conspicuous location on site.
- F. Lighting requirements. All adult use businesses located within the City of Benton City shall comply with the following lighting requirements:
1. These premises of an adult use business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 30 lux/3 foot candles as measured at the floor level.
 2. It shall be the duty of the owners and manager and of any employee(s) present in the premises to ensure that the required illumination is maintained at all times while any patron is present in or on the premises.
 3. An adult mini theater and an adult motion picture theater shall be subject to the lighting requirements set forth in the section relating to such theaters.
- G. Responsibilities of the manager, owner, operator.
1. A manager shall have a station located within the adult use business from which all areas of the business are open to view without visual barriers at all times when the adult use business is "open for business", and shall comply with the following standards:

- a. Ensure that all entertainers, employees, and patrons abide by and comply with the standards of conduct and the standards of operation set forth in this chapter.
 - b. Verify that all persons who offer or provide live adult entertainment within the premises possess a current and valid entertainer's license issued by the City of Benton City for that specific premises.
 - c. Ensure that no patron is admitted onto the premises or is served or entertained therein if such patron is obviously under the influence of alcohol or drugs.
 - d. Upon the request of any law enforcement officers or the City of Benton City's code enforcement officer for purposes of ensuring compliance with the law, make available for inspection:
 - 1) The premises;
 - 2) All materials offered for display, exhibit, rent, or sale; and
 - 3) All licenses required to be on the premises.
 - e. Ensure that no sexual conduct is allowed on the premises of an adult use business at any time.
2. An owner and also an operator shall be responsible for the provisions of the above.
- H. Live adult entertainment establishments. Any establishment or place offering live adult entertainment shall:
1. Comply with the lighting requirements, general requirements, and the requirements set forth in the section relating to the responsibilities of manager, owner, and operator.
 2. Ensure that all live adult entertainment is performed on a stage. The stage must be at least eighteen (18) inches above the immediate floor level and be at least six (6) feet away from the nearest patron, and have a continuous railing on all sides located at floor level.
 3. Be physically arranged in such a manner that the stage on which live adult entertainment is provided shall be visible from the common areas of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever.
 4. Ensure that live adult entertainment occurring on the premises is not visible at any time from any public place.
- I. Theaters -- mini theaters and motion picture theaters. Every mini theater and motion picture theater offering adult entertainment shall meet the following standards:
1. All adult mini theaters and motion picture theaters shall utilize seating arrangements equipped with immovable armrests between the seats. No bench-type seating allowing for more than one (1) person in a seat will be permitted.

2. A manager or other employee must walk through the theater portion of the building at ten (10) minute intervals during the time period in which the film is showing and the lighting is down. It shall be the duty of this employee, as well as the manager or owner, to ensure that no sexual activity be allowed in the theater, either by patrons or employees or both.
 3. Full house lights must meet the lighting requirements and must come on for at least ten (10) minutes at the end of each feature.
- J. Theaters --- adult panorama theaters. Every adult panorama theater shall meet the following requirements.
1. A designated manager's station shall be located in the common areas of the premises.
 2. The interior of the premises shall be configured so that there is only one common area and no winding corridors. Warning devices shall be prohibited. Holes in walls shall be repaired immediately. Restrooms may not contain video reproduction equipment.
 3. For premises having two or more designated manager's stations, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's station. The view must be in direct line of sight from the manager's station.
 4. It shall be the duty of the owners and manager, and it shall also be the duty of any employees present in the premises, to ensure:
 - a. That such view remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times; and
 - b. That no patron is permitting access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 5. No viewing room may be occupied by more than one person at any time. (Ord. 765, September 2003.)

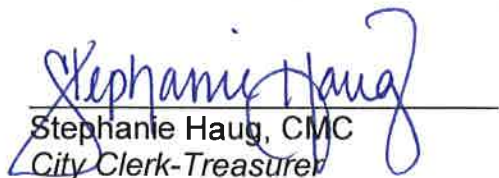
Section 8. This Ordinance shall take full force and effect five (5) days after its approval, passage and publication as required by law.

PASSED by the City Council of the City of Benton City, Washington, and approved as provided by law this 16 day of September, 2014.


 Lloyd R. Carnahan
 Mayor

Attest:

Approved as to Form:


 Stephanie Haug, CMC
 City Clerk-Treasurer


 Kerr Law Group
 City Attorney

