

# **Town of Benton**

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CHAPTER 1  
INTRODUCTION

Section

01.01. Authority

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01.03. Purpose

01.04. Enactment Clause

01.01. Authority.

An ordinance, pursuant to the authority granted in Section 13-7-201 through 13-7-210 of the **Tennessee Code Annotated**, to regulate in the Town of Benton, Tennessee, the location, height and size of buildings and other structures; the percentage of lot which may be occupied; the size of yards, courts, and other open spaces; the density and distribution of population; the uses of buildings and structures for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes. Special districts or zones may be established in those areas deemed subject to seasonal or periodic flooding, and such regulations may be applied therein as will minimize danger to life and property, and as will secure to the citizens of Tennessee the eligibility for flood insurance under Public Law 1016, 84th Congress, or subsequent related laws or regulations promulgated thereunder.

01.02. Title.

This ordinance shall be known as the *Zoning Ordinance of the Town of Benton, Tennessee*. The zoning map shall be referred to as the *Official Zoning Map of the Town of Benton, Tennessee*.

01.03. Purpose.

The zoning regulations and districts set forth herein have been made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the Town of Benton. They have been designed to lessen congestion in the streets; to secure safety from fires, floods, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, waste water treatment, schools, parks, and other public requirements. These regulations have been made with reasonable consideration to the character of each district and its peculiar uses, and with the intent of conserving property values and encouraging the most appropriate use of land within the Town of Benton, Tennessee.

01.04. Enactment Clause.

Except as hereinafter provided, no building shall be erected or structurally altered, nor shall any building or premises be utilized for any purpose, other than permitted in the zoning district in which the building or premises is located. No land or lot area shall be reduced or diminished so that the yards or open spaces shall be smaller than prescribed herein, nor shall the lot area per

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family be reduced in any manner except in conformity with the area regulations hereby established for the district in which such building is located.

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**CHAPTER 2**  
**DEFINITIONS**

**Section**

**02.01. Scope**

**02.02. Definitions**

**02.01. Scope.**

In order to carry out the provisions and intent of this ordinance, certain words, terms, and phrases are to be used and interpreted as defined herein. Words used in the present tense shall include the future tense; words used in the singular number include the plural, and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied." *(Additional definitions pertaining specifically to the Special Flood Hazard Areas are located in the Flood Ordinance – Ordinance # 130.)*

**02.02. Definitions.**

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have the meaning customarily assigned to them:

**Abutting.** Having a common border with, or being separated from such common border by, an alley or easement.

**Access.** The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

**Accessory Building.** A subordinate building, the use of which is incidental to that of a main building and located on the same lot therewith.

**Accessory Facility.** The permanent building(s) customarily necessary to support operations of the permanent, principal building, including garages, platforms and docks, maintenance and storage facilities, and other similar structures.

**Accessory Use.** A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

**Addition (to an existing building).** Means a walled and roofed expansion to the perimeter of a building in which the addition is connected by common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.



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**Advertising.** Includes any writing, printing, painting, display, emblem, drawing, sign, or other device designed, used, or intended for advertising, whether placed on the ground, rocks, trees, tree stumps, or other natural structures or on buildings, structures, signboards, billboards, fences, or other man-made structure.

**Alley.** A public or legally established thoroughfare, other than a street, which affords a secondary means of access to abutting property.

**Apartment.** A dwelling unit contained in a building comprised of more than two (2) dwelling units, each of which has an entrance to a hallway or balcony in common with at least one (1) other dwelling unit. (In the central business district an apartment may be a single dwelling unit attached to an existing business.)

**Appeal.** A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this ordinance.

**Approved.** Means acceptable to the appropriate authority having jurisdiction.

**Area, Building.** The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

**Automobile Wrecking.** The dismantling, storage, sale, or dumping of used motor vehicles, trailers, or parts thereof.

**Automobile Wrecking, Junk, and Salvage Yards.** Any lot or place which is exposed to the weather and upon which more than three (3) motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, or found.

**Basement.** A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (1/2) of its height is above the average ground elevation. When used for commercial activities, a basement shall be counted as a story.

**BBZA.** Benton Board of Zoning Appeals.

**Buffer Strip (planted evergreen).** A greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet.

**Building Code.** Unless otherwise designated, this term shall mean the Southern Standard Building Code and its amendments.

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**Building Inspector.** The Zoning and Codes Enforcement Officer or his authorized representative appointed by the Benton Board of Mayor and Commissioners having jurisdiction over the Town for the enforcement of zoning compliance and (the building code when adopted) and other local developmental regulations, including this ordinance.

**Building, Main or Principal.** A building in which is conducted the principal use of the lot on which it is situated.

**Building Setback Line.** A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.

### **Child Care Facilities:**

**Child Care Center.** A place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least thirteen (13) children who are not related to the primary caregiver; provided, that a child care agency shall not be classified as a "child care center" that operates as a "group child care home" and keeps three (3) additional school-age children as permitted in subdivision (10); provided, further, that all children, related or unrelated shall be counted in the adult-to-child supervision ratios and group sizes applicable to child care centers; with the exception, that if the child care center is operated in the occupied residence of the primary caregiver, children nine (9) years of age or older who are related to the primary caregiver will not be counted in determining the adult-to-child supervision ratios or group sizes applicable to child care centers if such children are provided a separate space from that occupied by the child care center. The Department of Human Services may permit children in the separate space to interact with the children in the licensed child care center in such manner as it may determine is appropriate.

**Drop-in Center.** A place or facility operated by any person or entity providing child care, at the same time, for fifteen (15) or more children, who are not related to the primary caregiver, for short periods of time, not to exceed ten (10) hours per week and for not more than six (6) hours per day for any individual child, while the parents or other custodians of the children are engaged in short-term activities that do not include employment of the parent or other custodian of the child; provided, however, that, notwithstanding any other requirements of this part, training requirements for the staff of this class of child care agency shall be limited to basic health and safety precautions and the detection and reporting of child abuse and neglect for children in care; provided, further, that, notwithstanding any other provision of this chapter to the contrary, drop-in centers operated by not-for-profit organizations that provide child care for no more than two (2) hours per day with a maximum of ten (10) hours per week without compensation, while the parent or other custodian is engaged in short-term activities on the premises of the organization, shall register as provided casual care and shall not be deemed to be a drop-in center or regulated as a drop-in center.



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**Family Child Care Home.** Any place or facility which is operated by any person or entity that provides child care for three (3) or more hours per day for at least five (5) children but not more than seven (7) children who are not related to the primary caregiver; provided, that the maximum number of children present in the family child care home, including related children of the primary caregiver shall not exceed twelve (12), with the exception that, if the family child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a “family child care home” if those children are provided a separate space from that occupied by the family child care home. The Department of Human Services may permit children in the separate space to interact with the children in the licensed family child care home in such manner as it may be determine is appropriate.

**Group Child Care Home.** Any place or facility operated by any person or entity that provides child care for three (3) or more hours per day for at least eight (8) children who are not related to the primary caregiver; provided, however, that the maximum number of children present in a group child care home, including those related to the primary caregiver, shall not exceed twelve (12) children, with the exception that, if the group child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a group child care home, if those children are provided a separate space from that occupied by the group child care home; and, provided, further, that up to three (3) additional school age children, related to unrelated to the primary caregiver, may be received for child care before and after school, on school holidays, on school snow days and during summer vacation. The Department of Human Services may permit children in the separate space to interact with the children in the licensed group child care home in such manner as it may determine is appropriate.

**Common Area (mobile home park).** Any area or space designed for joint use by tenants occupying mobile home developments.

**Customary Home Occupation.** (See Section 10.01. for an explanation of Customary Home Occupations.)

**Dedication.** The transfer of property interests from private to public ownership for a public purpose.

**Developer.** The legal or beneficial owner(s) of a lot, parcel of any land, or someone having a proprietary interest in a development with purpose for proceeding, including the holder of an option or contract to purchase.

**Development.** The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of

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any use of land or any clearing; grading, or other movement of land, for which permission may be required pursuant to this ordinance.

**Diagonal Tie (mobile home).** Any tie down designated to resist horizontal forces and which does not deviate less than 30 degrees from a vertical direction.

**District.** Any section or sections of Benton, Tennessee, for which the regulations governing the use of land and the use density, bulk, height, and coverage of buildings and other structures are uniform.

**Drainage.** The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water-supply preservation or prevention or alleviation of flooding.

**Dwelling.** A building or portion thereof used for residential purposes.

**Dwelling, Multiple.** An attached building designed for occupancy by two or more families living independently of each other.

**Dwelling, Single Family.** A detached building designed to be occupied exclusively by one family.

**Dwelling Unit.** One or more rooms and a single kitchen designed as a unit for occupancy by only one family for cooking, living, and sleeping purposes.

**Easement.** Authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

**Electric Feeder (mobile home).** That part of the electric distribution system between the transformer and the electrical connections of a mobile home.

**Erosion.** The detachment and movement of soil or rock fragments by water, wind, ice, and/or gravity.

**Factory Built Housing.** A factory built structure designed for long term residential use. For the purpose of these regulations, factory built housing consists of three types: modular homes, mobile homes and manufactured homes.

**Family.** One or more persons related by blood, marriage, or adoption, or a group of persons not all related by blood or marriage, occupying the premises and living as a single non-profit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use.



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**Filling.** The depositing on land, whether submerged or not, of sand, gravel, earth, or other materials of any composition whatsoever.

**Floor Area.** The sum of the gross floor area for each of the several stories under roof, measured from the exterior limits or faces of a building or structure.

**Grade, Finished.** The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

**Ground Anchor.** Any device at a mobile home stand designed for the purpose of securing a mobile home to the ground.

**Health Department.** The Polk County Office of the Tennessee Department of Health and Environment.

**Height of Building.** The vertical distance from the average ground elevation or finished grade at the building line, whichever is the highest, to the highest point of the building.

**Historic Structure** means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior, or
  - b. Directly by the Secretary of the Interior in states without approved programs.

**Hotel/Motel.** Every building or structure or enclosure or any part thereof kept, used as, maintained as, advertised as, intended for, or held out to the public as a place where sleeping accommodations are furnished - whether with or without meals - to transient guests (in contrast to a boarding, rooming, lodging, or apartment house) shall for the purpose of this ordinance be deemed a hotel and provide the customary hotel services such as maid and linen service, telephone and secretarial or desk service.

in any residential district provided the conditions of section 10.12 Standards for the Appearance of Manufactured Homes.

**Medical Facilities:**

**Convalescent, Rest, or Nursing Home.** A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

**Dental Clinic or Medical Clinic.** A facility for the examination and treatment of ill and afflicted human out-patients provided, however, that patients are not kept overnight except under emergency conditions.

**Dental Office or Doctor's Office.** Same as dental or medical clinics.

**Hospital.** An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, and staff offices which are an integral part of the facility.

**Public Health Center.** A facility primarily utilized by a health unit for the provision of public health services.

**Mini-warehouse/Mini-storage.** A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the dead storage of a customer's goods or wares. No sales, service, or repair activities other than the rental of dead storage units are permitted on the premises.

**Mobile Home (trailer/single-wide).** A detached single-family dwelling unit, which is constructed as a single self-contained unit and mounted on a single chassis designed to be used with or without a permanent foundation and has any or all of the following characteristics:

1. Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
2. Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailer or detachable wheels.
3. Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, locations of foundation supports, connection to utilities and the like.

**Mobile Home Lot.** A parcel of land rented for the exclusive use of the occupants of a single mobile home.



**Mobile Home Park.** A parcel of land within the Town under single ownership which has been improved for the placement of two (2) or more mobile homes for non-transient use.

**Mobile Home Stand.** That part of land subdivided into lots, each lot individually owned to utilize as the site for placement of a single mobile home and its facilities.

**Modular Home.** A residential dwelling which is a structural unit or pre-assembled component unit including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off site and transported to the point of use for installation or erection, with or without other specified components, is a finished building and not designed for ready removal to another site.

**Nonconforming Use.** A building, structure, or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is situated. (See Section 11.02. for further explanation of non-conforming use.)

**Noxious Matter.** Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms, chemical reactions, or detrimental effects on the social, economic, or psychological well-being of individuals.

**Occupied Area.** (Mobile Home Park) The total of all of the lot area covered by a mobile home and its accessory buildings on a lot or space.

**Open Space.** An area on the same lot with a main building which is open, unoccupied, and unobstructed by structures from the ground to the sky except as otherwise provided in this ordinance. Open space lines shall coincide with or be parallel to the building setback lines on the same lot.

**Owner.** The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

**Parking Lot.** An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and getting access, and for entrance and exit, designed so as to be usable.

**Parking Space.** An off-street space available for parking one motor vehicle and having an area of not less than two-hundred (200) square feet (10' X 20') exclusive of passageways and driveways giving access thereto, and having direct access to a street or alley.

**Planning Commission.** The Benton Municipal Planning Commission (BMPC).

**Plat.** A map or plan of an area indicating the location and boundaries of individual properties.

**Principal Use.** The specific primary purpose for which land or a building is used.



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flag, pennant, insignia, or representation used as, or which is in the nature of an announcement, direction, or advertisement. The word "sign" does not include the flag, pennant, or insignia of any nation, state, Town, or other political unit.

**Site Plan.** This shall be the document, the contents of which are outlined within this ordinance representative of the physical design of a commercial site or mobile home park.

**Subdivision Regulations.** This term shall refer to the subdivision regulations adopted by and in force within the Town.

**Special Exception (Use Permitted on Appeal).** Any use which is specifically permitted if the owner can demonstrate to the satisfaction of the BBZA, that he will meet certain enumerated safeguards or qualifying conditions.

**Standard Industrial Classification (SIC).** This is the statistical classification standard underlying all established-based Federal economic statistics classified by industry. The SIC is used to promote the comparability of establishment data describing various facets of the U. S. economy. The classification covers the entire field of economic activities and defines industries in accordance with the composition and structure of the economy. The current version was published in 1987 and is revised periodically. SIC codes are as follows: A two digit number refers to a Major Group, a three digit number refers to an Industry Group No., and a four digit number refers to the Industry No.

**Storm Sewers.** A municipal or community collection and disposal system for the control of storm water drainage.

**Story.** The portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building included between the topmost floor and the roof which is used for human occupancy or in which the floor area with eight (8) feet or more head clearance equals fifty (50) percent or more of floor area of the next story below. Provided it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than (50) percent of the floor area of the story next below shall be a "half-story." A basement shall be considered a story if more than half of its height is above the average ground level from which the "height of building" is measured, or if it is used for commercial purposes.

**Street.** Any public or private thoroughfare which affords the principal means of access to abutting property.

**Structure.** Means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities of infrastructures.

**Tie Down.** Any device designed for the purpose of attaching a mobile home to ground anchors.

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**Toxic Material.** Materials (gaseous, liquid, solid, particulate, or any other form) which are capable of causing injury to living organisms by chemical reaction even when present in relatively small amounts.

**Travel Trailer.** A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty square feet (220 sq. ft.), excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

**Travel Trailer Park.** Any plot of ground within the Town of Benton on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located.

**Usable Floor Space.** Floor space used for retail sale or display; includes permanent outdoor sales, but excludes outdoor motor vehicle sales areas.

**Use.** The purpose for which land or a building or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

**Use, Temporary.** A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

**Variance.** Permission to depart from the literal requirements of this ordinance.

**Water Connection (mobile home).** Consists of all pipes and fittings from the water inlet pipe of the mobile home to the outlet of the water distribution system.

**Yards (mobile home).** That area on the mobile home lot or space between all lot or space lines and the sides of the mobile home and its attachments.

**Yard, Front.** The required open space, unoccupied by buildings between the road or street right-of-way line and the principal building.

**Yard, Rear.** The required space, unoccupied except by a building of accessory use as herein provided, extending from the rear of the principal building to the rear lot line the full width of the lot.

**Yard, Side.** The required space unoccupied except as herein provided measured between the side lot line and the nearest point of the principal building and between the front yard and the rear yard.

**Zoning Ordinance.** This term shall mean the Zoning Ordinance adopted by and in force within the Town.



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**CHAPTER 4**  
**R-1 LOW DENSITY RESIDENTIAL DISTRICT**

**Section**

- 04.01. District Description**
- 04.02. Uses Permitted**
- 04.03. Uses Permitted on Appeal**
- 04.04. Uses Prohibited**
- 04.05. Dimensional Regulations**
- 04.06. Off-Street Parking Space Requirements**
- 04.07. Access Control Requirements**
- 04.08. Signage Requirements**
- 04.09. Site Plan Review Requirements**
- 04.10. Off-Street Loading and Unloading Requirements**

**04.01. District Description.**

This residential district is intended to be used for single family residential areas with relatively low population densities. Additional permitted uses include uses and facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses that are incompatible to the residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

**04.02. Uses Permitted.**

In the R-1 Low Density Residential District, the following uses and their accessory uses are permitted.

1. Single family dwellings, but **not including** mobile home (trailer / single-wide).

**04.03. Uses Permitted on Appeal.**

In the R-1 Low Density Residential District, the following uses and their accessory uses may be permitted subject to review and approval of the Board of Zoning Appeals in accordance with the provisions of Section 10.07.

1. Passive recreational facilities.
2. Customary home occupations as regulated in Section 10.01.
3. The following uses and their accessory uses may be permitted provided that there is a planted evergreen buffer strip and the buildings are located not less than thirty-five (35) feet from any property line:
  - a. Public schools, colleges, and other public educational institutions.

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- b. Churches or similar places of worship, but not including temporary missions or revival tents.

### **04.04. Uses Prohibited.**

In the R-1 Low Density Residential District, all uses except those uses or their accessory uses specifically permitted or permitted upon appeal by the Benton Board of Zoning Appeal are prohibited.

### **04.05. Dimensional Regulations.**

All uses permitted in the R-1 Low Density Residential District shall comply with the following requirements except as provided in Chapter 11.

1. **Front Yard:** The minimum building setback line for the front yard shall be twenty-five (25) feet, except as provided in Section 11.05.
2. **Rear Yard:** The minimum depth of the rear yard shall be twenty (20) feet for the principal structure and five (5) feet for any permitted accessory structure.
3. **Side Yard:** The side yard shall be a minimum of fifteen (15) feet for the one and two story structures, plus five (5) additional feet of side yard for each additional story over two.
  - a. If the side yard abuts an alley, the side yard setback shall be ten (10) feet.
  - b. If the side yard abuts a local street, the side yard setback shall be twenty (20) feet.
4. **Land Area:** No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than 10,000 square feet in area. However, where there is an existing lot of record of less than 10,000 square feet, at the time of adoption of this ordinance, this lot may be utilized for the construction of one single-family dwelling, providing the lot in question has a public water supply and sanitary sewer service and providing that said lot of record is not less than 5,000 square feet in area.
5. **Lot Width:** No lot shall be less than 50 feet wide at the building setback line.
6. **Height Requirement:** No building shall exceed forty (40) feet in height except as provided in Section 11.03.

### **04.06. Off-Street Parking Space Requirements.**

As regulated in Section 10.02.

### **04.07. Access Control Requirements.**

As regulated in Section 10.03.

**04.08. Signage Requirements**

As regulated in Section 10.04.

**04.09. Site Plan Review Requirements**

As regulated in Section 10.05.

**04.10. Off-Street Loading and Unloading Requirements**

As regulated in Section 10.06.



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**CHAPTER 5**  
**R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT**

**Section**

- 05.01. District Description**
- 05.02. Uses Permitted**
- 05.03. Uses Permitted on Appeal**
- 05.04. Uses Prohibited**
- 05.05. Dimensional Regulations**
- 05.06. Off-Street Parking Space Requirements**
- 05.07. Access Control Requirements**
- 05.08. Signage Requirements**
- 05.09. Site Plan Review Requirements**
- 05.10. Off-Street Loading and Unloading Requirements**

**05.01. District Description.**

This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residences in areas which by location and character are appropriate for occupancy by medium density, single-family and multi-family dwellings. One of the important purposes of this district is to create adequate standards of residential development in order to prevent overcrowded and unhealthy conditions. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload existing sanitary facilities. Densities should be limited to provide adequate light, air, and usable open space for occupants and adequate space for all related facilities.

**05.02. Uses Permitted.**

In the R-2 Medium Density Residential District, the following uses and their accessory uses are permitted:

1. All uses permitted in Section 04.02. R-1 Low Density Residential District.
2. Two-family dwellings (Duplexes).

**05.03. Uses Permitted on Appeal.**

In the R-2 Medium Density Residential District, the following uses and their accessory uses may be permitted subject to review and approval by the Benton Municipal Board of Zoning Appeals in accordance with the provisions of Section 12.07.

1. Passive recreational facilities.
2. Three (3) and four (4) unit apartment buildings on individual lots.
3. Customary home occupations as provided in Section 10.01.

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4. The following uses and their accessory uses may be permitted provided that there is a planted evergreen buffer strip and the buildings are located not less than thirty-five (35) feet from any property line:
  - a. Public schools, colleges, and other public educational institutions.
  - b. Churches or similar places of worship, but **not including** temporary missions or revival tents.

**05.04. Uses Prohibited.**

In the R-2 Medium Density Residential District all uses, except those uses or their accessory uses specifically permitted or permitted upon appeal by the Benton Board of Zoning Appeals are prohibited.

**05.05. Dimensional Regulations.**

All uses permitted in the R-2 Medium Density Residential District shall comply with the following requirements except as provided in Chapter 11.

1. **Front Yard:** The minimum building setback line for the front yard shall be twenty-five (25) feet, except as provided in Section 11.05..
2. **Rear Yard:** The minimum depth of the rear yard shall be fifteen (15) feet for the principal structure and five (5) feet for any permitted accessory structure.
3. **Side Yard:** The side yard shall be a minimum of ten (10) feet for the one and two story structures, plus five (5) additional feet of side yard for each additional story over two.
  - a. If the side yard abuts an alley, the side yard setback shall be ten (10) feet.
  - b. If the side yard abuts a local street, the side yard setback shall be twenty (20) feet.
4. **Land Area:** No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than 7,500 square feet in area. However, where there is an existing lot of record of less than 7,500 square feet at the time of adoption of this ordinance, this lot may be utilized for the construction of only one (1) single-family dwelling, providing the lot in question has a public water supply and sanitary sewer service, and providing that said lot of record is not less than 5,000 square feet in area.

On lots or parcels of land where multiple-family dwellings are constructed, the following area requirements shall apply:

**For lots on Sewer**

- 1) Two dwelling units ..... 15,000 sq. ft.
- 2) For each additional Unit add ..... 5,000 sq. ft.

Benton Zoning Ordinance

**For lots on Septic**

- 1) Two dwelling units.....20,000 sq. ft.
- 2) For each additional Unit add ..... 5,000 sq. ft.

5. **Lot Width:** Minimum lot width shall be measured from the building setback line and shall be no less than the following:

- 1) Single family..... 50 ft.
- 2) Two family ..... 75 ft.
- 3) Three family or greater ..... 100 ft.

6. **Height Requirement:** No building shall exceed forty (40) feet, except as provided in Section 11.03.

**05.06. Off-Street Parking Space Requirements.**

As regulated in Section 10.02.

**05.07. Access Control Requirements.**

As regulated in Section 10.03.

**05.08. Signage Requirements**

As regulated in Section 10.04.

**05.09. Site Plan Review Requirements**

As regulated in Section 10.05.

**05.10. Off-Street Loading and Unloading Requirements**

As regulated in Section 10.06.



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**CHAPTER 6**  
**R-3 HIGH DENSITY RESIDENTIAL DISTRICT**

**Section**

**06.01. District Description**

**06.02. Uses Permitted**

**06.03. Uses Permitted on Appeal**

**06.04. Uses Prohibited**

**06.05. Dimensional Regulations**

**06.06. Off-Street Parking Space Requirements**

**06.07. Access Control Requirements**

**06.08. Signage Requirements**

**06.09. Site Plan Review Requirements**

**06.10. Off-Street Loading and Unloading Requirements**

**06.11. Mobile Home Park Regulations**

**06.01. District Description.**

This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residences in areas which by location and character are appropriate for occupancy by high-density, single-family and multiple-family dwellings. One of the important purposes of this district is to create adequate standards of residential development in order to prevent overcrowded and unhealthy conditions. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload existing sanitary facilities. Densities should be limited to provide adequate light, air, and usable open space for occupants of apartment buildings and adequate space for all related facilities.

**06.02. Uses Permitted.**

Within the R-3 Residential District of Benton, the following uses shall be permitted:

1. Any use permitted in Section 04.02. R-1 Low Density Residential and Section 05.02. R-2 Medium Density Residential Districts.
2. Multi-family dwellings.
3. Single-wide manufactured homes on individual lots.
4. Single-wide manufactured homes in an approved mobile home park as regulated in Section 10.13.

**06.03. Uses Permitted on Appeal.**

In the R-3 High Density Residential District, the following uses and their accessory uses may be permitted subject to review and approval by the Benton Board of Zoning Appeals in accordance with the provisions of Section 12.07.

## Benton Zoning Ordinance

1. Active and Active Recreational facilities.
2. Customary home occupations as provided in Section 10.01.
3. Child Care Centers as defined in Chapter 2.
4. The following uses and their accessory uses may be permitted provided that there is a planted evergreen buffer strip and the buildings are located not less than thirty-five (35) feet from any property line:
  - a. Public schools, colleges, and other public educational institutions.
  - b. Churches or similar places of worship, but **not including** temporary missions or revival tents.
  - c. Lodge halls civic organizations, and private clubs, except a club's chief activity of which is customarily carried on as a business.
  - d. Clinics and Nursing Homes.
  - e. Funeral parlors.

### **06.04. Uses Prohibited.**

In the R-3 Medium Density Residential District, all uses except those uses or their accessory uses specifically permitted or permitted upon appeal by the Benton Board of Zoning Appeal are prohibited.

### **06.05. Dimensional Regulations.**

All uses permitted in the R-3 High Density Residential District shall comply with the following requirements except as provided in Chapter 11.

1. **Front Yard:** The minimum building setback line for the front yard shall be twenty-five (25) feet, except as provided in Section 11.05.
2. **Rear Yard:** The minimum depth of the rear yard shall be ten (10) feet for the principal structure and five (5) feet for any permitted accessory structure.
3. **Side Yard:** The side yard shall be a minimum of ten (10) feet for the one and two story structures, plus five (5) additional feet of side yard for each additional story over two.
  - a. If the side yard abuts an alley, the side yard setback shall be ten (10) feet.
  - b. If the side yard abuts a local street, the side yard setback shall be fifteen (15) feet.



Benton Zoning Ordinance

4. **Land Area:** No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than 7,000 square feet in area. However, where there is an existing lot of record of less than 7,000 square feet at the time of adoption of this ordinance, this lot may be utilized for the construction of only one (1) single-family dwelling, providing the lot in question has a public water supply and sanitary sewer service, and providing that said lot of record is not less than 5,000 square feet in area.

On lots or parcels of land where multiple-family dwellings are constructed, the following area requirements shall apply:

**For lots on Sewer**

- 1) Two dwelling units..... 10,000 sq. ft.  
2) For each additional Unit add ..... 5,000 sq. ft.

**For lots on Septic**

- 1) Two dwelling units..... 15,000 sq. ft.  
2) For each additional Unit add ..... 5,000 sq. ft.

5. **Lot Width:** Minimum lot width shall be measured from the building setback line and shall be no less than the following:

- 1) Single family ..... 50 ft.  
2) Two family ..... 75 ft.  
3) Three family or greater ..... 100 ft.

6. **Height Requirement:** No building shall exceed forty (40) feet, except as provided in Section 11.03.

**06.06. Off-Street Parking Space Requirements.**

As regulated in Section 10.02.

**06.07. Access Control Requirements.**

As regulated in Section 10.03.

**06.08. Signage Requirements**

As regulated in Section 10.04.

**06.09. Site Plan Review Requirements**

As regulated in Section 10.05.

**06.10. Off-Street Loading and Unloading Requirements**

As regulated in Section 10.06.

**06.11 Mobile Home Park Regulations**

As regulated in Section 10.13.

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**CHAPTER 7**  
**C-1 CENTRAL BUSINESS DISTRICT**

**Section**

- 07.01. District Description**
- 07.02. Uses Permitted**
- 07.03. Uses Permitted on Appeal**
- 07.04. Uses Prohibited**
- 07.05. Dimensional Regulations**
- 07.06. Off-Street Parking Space Requirements**
- 07.07. Access Control Requirements**
- 07.08. Signage Requirements**
- 07.09. Site Plan Review Requirements**
- 07.10. Off-Street Loading and Unloading Requirements**

**07.01. District Description.**

This district is established to provide an area for the conduct of community and municipal retail and service businesses of an indoor and intensive nature, especially for those sales and service uses which require a central location, which generate substantial pedestrian traffic, and which are mutually benefited by close proximity to other uses of similar nature and requirements; and for only those small-scale industrial uses commonly associated with retail, or business, or personal service activities. It is intended that such areas have properties of size suitable for uses of a variety of scale so developed as to promote pedestrian circulation, avoid "dead" spaces between uses, and to contribute to mutual business advantage. It is further intended to exclude those commercial or industrial activities which are characterized by trucking other than stocking and delivery of retail goods, which cater exclusively to automobiles or traffic or to patrons who remain in their vehicles for service.

**07.02. Uses Permitted.**

The following uses and their accessory uses shall be permitted in the C-1 Central Business District:

1. Newspapers: Publishing or publishing and printing (SIC 2711).
2. U.S. Postal Service (SIC 4311).
3. Travel agencies (SIC 4724).
4. Motor vehicle supplies and new parts (SIC 5013).
5. Hardware stores (SIC 5251).
6. Eating places (SIC 5812).

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7. Drug stores (SIC 5912).
8. Antique stores (SIC 5932).
9. Depository institutions (SIC 60).
10. Non-depository institutions (SIC 61).
11. Security and commodity brokers, dealers, exchanges and services (SIC 62).
12. Insurance carriers and agents (SIC 63 and 64).
13. Real estate (SIC 65).
14. Holding offices (SIC 67).
15. Personal services (SIC 72, excluding 7299).
16. Automobile parking (SIC 7521).
17. Health services (SIC 80).
18. Legal services (SIC 81).
19. Civic, social and fraternal associations (SIC 8641).
20. Engineering, accounting, research, management, and related services (SIC 87).
21. Executive, legislative and general government (SIC 91).
22. Justice, public order, and safety (SIC 92).
23. Public finance, taxation, and monetary policy (SIC 93).
24. Administration (SIC 94, 95, 96).

### **07.03. Uses Permitted on Appeal.**

In the C-1 Central Business District, the following uses and their accessory uses may be permitted subject to the review and approval by the Benton Board of Zoning Appeals in accordance with the provisions in Section 11.07 of this ordinance.

1. Hotels and motels, provided off street parking is provided (SIC 7011), rooming and boarding houses (SIC 7021).
2. Apartments provided the following conditions are met:



## Benton Zoning Ordinance

- a. Apartments shall be located above the ground floor or in the rear of the building, if a one-story building.
- b. Provide a floor layout to ensure adequate space and separate outside entrance.
- c. No more than two (2) apartments shall be allowed in any one (1) building.
- d. One off-street parking space per apartment shall be provided.
- e. Any apartment to be developed shall not be less than eight hundred fifty (850) square feet in area.
- f. The character of the building as a commercial structure shall not be changed by the addition of a residential use.

A sketch plan and floor layout shall be presented to the Planning Commission to ensure the provisions of (a.) through (g.) above are met. Detailed construction information shall be required to ensure compliance with all pertinent codes of the city. Recommendations shall be provided by the Staff Planner, Building Official and Fire Chief prior to the final decision by the Planning Commission.

### **07.04. Uses Prohibited.**

In the C-1 Central Business District, all uses, except those uses specifically permitted or permitted on appeal by the Benton Board of Zoning Appeals are prohibited.

### **07.05. Dimensional Regulations.**

All uses permitted in the C-1 Central Business District shall comply with the following requirements except as provided in Chapter 11.

1. **Front Yard:** No front yard shall be required in the C-1 Central Business District.
2. **Rear Yard:** Where a commercial building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard, or combination thereof of not less than thirty (30) feet in depth. The depth of a rear yard which abuts a residential district shall be not less than twenty-five (25) feet. In all other cases, no rear yard shall be required.
3. **Side Yard:** No side yard shall be required except that a ten (10) foot buffer strip shall be required on any side which abuts a residential district.
4. **Land Area:** For areas served by a sanitary sewer system, there shall be a minimum lot area of not less than three thousand five hundred (3,500) square feet. *Areas that are not served by sanitary sewer system shall not be zoned for the C-3 Central Business District.*

5. **Lot Width:** Each lot shall have a width of not less than twenty-five (25) feet at the building line. *(Twenty-five feet is the standard lot width in the Central Business District).*
6. **Height Requirement:** No building shall exceed forty (40) feet, except as provided in Section 11.03.
7. **Buffer Strip:** Where a commercial building abuts a residential district at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.

**07.06. Off-Street Parking Space Requirements.**

No requirement for uses permitted by right.

**07.07. Access Control Requirements.**

As regulated in Section 10.03.

**07.08. Signage Requirements.**

As regulated in Section 10.04.

**07.09. Site Plan Review Requirements.**

As regulated in Section 10.05.

**07.10. Off-Street Loading and Unloading Requirements.**

As regulated in Section 10.06.

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**CHAPTER 8**  
**C-2 HIGHWAY COMMERCIAL ZONING DISTRICT**

**Section**

- 08.01. District Description**
- 08.02. Uses Permitted**
- 08.03. Uses Permitted on Appeal**
- 08.04. Uses Prohibited**
- 08.05. Dimensional Regulations**
- 08.06. Off-Street Parking Space Requirements**
- 08.07. Access Control Requirements**
- 08.08. Signage Requirements**
- 08.09. Site Plan Review Requirements**
- 08.10. Off-Street Loading and Unloading Requirements**

**08.01. District Description.**

This district is established to provide areas for those amusement, specialized sales, and travel accommodations, activities which depend on visibility from or proximity to automobiles or traffic, serve travelers, cater to local residents in vehicles, or provide services essential to the movement of vehicles in major ways. It is intended that such areas have properties with lot sizes, yards, performance and development standards sufficient to ensure that activities performed on any one lot will not unduly impede the flow of traffic, will not adversely affect activities of adjoining zones, and will not infringe on the efficiency of activities or customer attractiveness to adjacent lots. It is further intended to exclude those uses which are not necessary for service to traffic.

**08.02 Uses Permitted.**

In the C-2 Local Highway Commercial District the following uses may be permitted provided that obnoxious fumes, odors, smells, sounds and noises shall be controlled so as not to interfere with adjoining activities or properties.

1. Communications (SIC 48).
2. Building materials, hardware, garden supply (SIC 52, excluding 5271).
3. General merchandise (SIC 53).
4. Food stores (SIC 54).
5. Auto dealers and gas service stations (SIC 55).
6. Apparel and accessory stores (SIC 56).
7. Home furniture, furnishings and equipment stores (SIC 57).



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8. Miscellaneous retail (SIC 59, excluding 5921 – liquor stores, and excluding 598 – fuel dealers).
9. Recreational vehicle parks and campsites (SIC 7033).
10. Business services (SIC 73, excluding 7389)
11. Auto repair services and parking (SIC 75, excluding 7534).
12. Miscellaneous repair services (SIC 76, excluding 7699).
13. Video tape rental (SIC 7841 – (excludes sexually oriented adult entertainment-see also adult entertainment ordinance)).
14. Physical fitness facilities (SIC 7991).
15. Educational services (SIC 82).
16. Farm and garden machinery and equipment sales.

### **08.03. Uses Permitted on Appeal.**

In the C-2 Local Highway Commercial District, the following uses and their accessory uses may be permitted subject to appeal and approval of the Benton Board of Zoning Appeals in accordance with the provisions of Section 12.07.

1. Amusement parks (SIC 7996), amphitheaters, ball parks or stadiums, fairgrounds (SIC 7999), and group picnic grounds.
2. Commercial activities similar to those uses permitted by right will be considered, and if approved must be recommended to the Board of Mayor and Commissioners to amend the use list.

### **08.04. Uses Prohibited.**

All uses, except those uses or their accessory uses specifically permitted or permitted upon appeal by the Benton Board of Zoning Appeals are prohibited.

### **08.05. Dimensional Regulations.**

The following requirements shall apply to all uses permitted in this district:

1. **Front Yard:** The depth of the front yard shall be thirty (30) feet from any right-of-way for all structures including secondary structures.
2. **Side Yard:** The width of any side yard which abuts a residential district shall be not less than twenty-five (25) feet. In all other cases each side shall be not less than ten (10) feet.

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3. **Rear Yard:** Each lot shall have a rear yard of not less than ten (10) feet; the depth of a rear yard which abuts a residential district shall not be less than twenty-five (25) feet; where a commercial building is serviced from the rear there shall be provided a rear yard of not less than thirty (30) feet; where a commercial building is serviced from the rear and abuts residential property the depth of the rear yard shall not be less than forty-five (45) feet.
4. **Land Area:** For areas served by a sanitary sewer system, there shall be a minimum lot area of not less than seven thousand (7,000) square feet. *In areas that are not served by a sanitary sewer system, the lot area requirements shall be determined by the Health Department.*
5. **Width:** Each lot shall have a width of not less than fifty (50) feet at the building line.
6. **Height Restrictions:** No building or structure shall exceed forty (40) feet, except as provided in Section 11.03.
7. **Buffer Strip:** Where a commercial building abuts a residential district at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.

**08.06. Off-Street Parking Space Requirements.**

As regulated in Section 10.02.

**08.07. Access Control Requirements.**

As regulated in Section 10.03.

**08.08. Signage Requirements.**

As regulated in Section 10.04.

**08.09. Site Plan Review Requirements.**

As regulated in Section 10.05.

**08.10. Off-Street Loading and Unloading Requirements.**

As regulated in Section 10.06.

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**CHAPTER 9**  
**I-1 INDUSTRIAL ZONING DISTRICT**

**Section**

- 09.01. District Description**
- 09.02. Uses Permitted**
- 09.03. Uses Permitted on Appeal**
- 09.04. Uses Prohibited**
- 09.05. Dimensional Regulations**
- 09.06. Off-Street Parking Space Requirements**
- 09.07. Access Control Requirements**
- 09.08. Signage Requirements**
- 09.09. Site Plan Review Requirements**
- 09.10. Off-Street Loading and Unloading Requirements**

**09.01. District Description.**

The industrial district is established to provide areas in which the principal use of land is for manufacturing and assembly plants, processing, storage, warehousing, and distribution. It is the intent that permitted uses are conducted so that most of the noise, odor, dust, and glare of each operation is confined within an enclosed building. These industries may require direct access to rail, water, or street transportation routes.

These regulations are intended to prevent friction between uses within the district and also between adjoining commercial or residential uses.

**09.02. Uses Permitted.**

In the I-1 Light Industrial District, the following uses and their accessory uses are permitted.

1. Building contractors (SIC 15).
2. Heavy construction (SIC 16).
3. Construction special trade (SIC 17).
4. Textile mills (SIC 22).
5. Apparel (SIC 23).
6. Furniture and fixtures (SIC 25).
7. Industrial and commercial machinery and computer equipment (SIC 35).
8. Electronic and other electrical equipment (SIC 36).



9. Transportation equipment (SIC 37, excluding 376).
10. Electric services (SIC 4911).
11. Water supply (SIC 4941).
12. Machinery equipment and supplies (SIC 508).

**09.03. Uses Permitted on Appeal.**

In the I-1 Light Industrial District the following uses and their accessory uses may be permitted, subject to appeal and approval of the Benton Board of Zoning Appeals, in accordance with the provisions of Section 12.07.

When the BBZA considers uses on appeal for manufacturing, fabricating, processing, or assembling processes consideration should be made for uses which do not create any danger to health or safety in surrounding areas and which do not create any objectionable noise, vibration, smoke, dust, odor, heat, or glare and further provided that the facility shall not produce noxious or toxic compounds that could create objectionable conditions and the facility shall conform to the general intent of the I-1 Industrial District.

1. Mining and quarrying (SIC 1422 and 1442). All other industry numbers in Group 14 are excluded.
2. Lumber and wood products (SIC 24, excluding 2411 – logging, and excluding 2491 – wood preserving).
3. Fabricated metal products (SIC 34, excluding Industry Groups 347 and 348).
4. Miscellaneous manufacturing (SIC 39).
5. Motor freight transportation and warehousing (SIC 42).
6. Gas production and storage (SIC 4922).
7. Fuel dealers (SIC 598).

**09.04. Uses Prohibited.**

All uses except those uses specifically permitted in the I-1 Industrial District are prohibited.

**09.05. Dimensional Regulations.**

All uses permitted in the I-1 Industrial District shall comply with the following requirements except as provided in Chapter 11.

1. **Front Yard:** The minimum building setback line for the front yard shall be thirty-five (35) feet.

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2. **Rear Yard:** The minimum depth of the rear yard shall be thirty (30) feet provided if more than one (1) lot shall be owned by one (1) person or entity and in the improvement of such lot a building shall be erected on more than one (1) lot, then the rear setback requirement on the interior lot line or lot lines shall be waived; provided further that if a part of a lot shall be sold before the approved principal building is erected, the line between the part sold and the part retained shall be the lot line to which the setback requirement shall apply.
3. **Side Yard:** The minimum depth of the side yard shall be twenty-five (25) feet provided if more than one (1) lot shall be owned by one (1) person or entity and in the improvement of such lot a building shall be erected on more than one (1) lot, then the side setback requirement on the interior lot line or lot lines shall be waived; provided further that if a part of a lot shall be sold before the approved principal building is erected, the line between the part sold and the part retained shall be the lot line to which the setback requirement shall apply.
4. **Land Area:** Where public water and sewer service are available, there shall be required a minimum land area of one-half (1/2) acres. In areas where only public water is available the minimum lot size shall be determined by the type and size of the industry and the individual sewage disposal needs of that industry. Where septic tank or other private sewage disposal is provided, health department approval shall be required. In no case shall the minimum lot size be less than one acre.
5. **Lot Width:** No lot shall be less than two hundred (200) feet wide at the building setback line or exceed a three-to-one (3:1) ratio.
6. **Height Restrictions:** No building or structure shall exceed forty (40) feet, except as provided in Section 11.03.
7. **Buffer Strip:** Where an industrial building abuts a residential district at either the side or rear yard, a planted buffer strip of not less than ten (10) feet wide shall be provided.
8. **Maximum Lot Coverage:** Buildings and accessory facilities shall not cover more than fifty (50) percent of the lot; buildings, accessory facilities, parking, and materials handling and transfer facilities shall not cover more than eighty (80) percent of the lot. No building or accessory facilities above ground shall extend beyond the building setback line(s) into the setback area(s).
9. **Railroads:** Lots abutting upon a railroad lead track easement or right-of-way shall reserve sufficient space to permit construction of a side track approximately parallel to the railroad easement or right-of-way.

### 09.06. Off-Street Parking Space Requirements.

As regulated in Section 10.02.

**09.07. Access Control Requirements.**

As regulated in Section 10.03.

**09.08. Signage Requirements.**

As regulated in Section 10.04.

**09.09. Site Plan Review Requirements.**

As regulated in Section 10.05.

**09.10. Off-Street Loading and Unloading Requirements.**

As regulated in Section 10.06.



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**CHAPTER 10**  
**SUPPLEMENTARY PROVISIONS APPLYING TO ALL DISTRICTS**

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**Section**

- 10.01. Customary Home Occupations**
- 10.02. Off-Street Parking Requirements**
- 10.03. Access Control Requirements**
- 10.04. Signage Requirements**
- 10.05. Site Plan Review Requirements**
- 10.06. Off-Street Loading and Unloading Requirements**
- 10.07. Accessory Use Regulations**
- 10.08. Temporary Use Regulations**
- 10.09. General Lot Restrictions**
- 10.10. Vision at Street Intersections**
- 10.11. Gasoline Service Station Restrictions**
- 10.12. Standards for the Appearance of Manufactured Homes**
- 10.13. Mobile Home Park Regulations**
- 10.14. Child Care Facility Requirements**

**10.01. Customary Home Occupations.**

A customary home occupation is a gainful occupation or profession conducted by a member or members of a family residing on the premises and conducted within the principal dwelling unit or in an approved accessory building. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. When questions arise regarding the acceptability of specific home occupations, the Board of Zoning Appeals shall determine whether said home occupation is in compliance with these regulations and is compatible with the district in which said home occupation is located.

**10.02. Off Street Parking Requirements.**

The following off-street parking requirements are applicable to all zoning districts.

**10.02.01. Spaces Required.** Off-street automobile storage or standing space shall be provided on each lot upon which any of the following uses are hereafter established. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below:

1. **Dwellings:** Not less than one (1) space for each family dwelling unit.
2. **Tourist Accommodations, Motel, or Hotel:** Not less than one (1) space for each room offered for tourist accommodation.
3. **Any Auditorium, Church, Stadium, or Other Place of Public Assembly:** Not less than one (1) space for every four (4) seats provided in such places of assembly. For places of public assembly where seating is not a measure of capacity, such as clubhouses,

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funeral parlors, etc., at least one (1) space for each one hundred (100) square feet of floor space devoted to that particular use shall be provided.

4. **Manufacturing or Other Industrial Use:** At least one (1) space for every four (4) persons employed on a single shift, where there are more than one shift there should be two (2) spaces for every four employees to allow space when shifts change and there should be a minimum of five (5) spaces provided for any establishment.
5. **Commercial Building or Use:** One (1) space for each one hundred and seventy-five (175) square feet of usable floor space in commercial districts. (Usable floor space is to be determined by the building inspector based on the nature of the business.)
6. **Medical or Dental Clinics and Hospitals:** Four (4) spaces per doctor, plus one (1) additional space per employee.
7. **Service Stations:** Five (5) spaces for each grease rack or similar facility, plus one (1) space for each gasoline pump.
8. **Offices:** One (1) space for each two hundred (200) square feet of office space.
9. **Restaurants:** One (1) space per one hundred fifty (150) square feet of usable floor area, plus one (1) space for every two (2) employees. (For drive-in restaurants, one (1) space per fifty (50) square feet of usable floor area.)

**10.02.02. Certification of Minimum Parking Requirements.** Each application for a building permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the building inspector to determine whether or not the requirements of this section are met.

**10.02.03. Combination of Required Parking Space.** The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

**10.02.04. Remote Parking Space.** If the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within five hundred (500) feet of the main entrance to such principal use, provided such land is in the same ownership as the principal use. Such land shall be used for no other purpose so long as no other adequate provision of parking space, meeting the requirements of this ordinance, has been made for the principal use.

**10.02.05. Requirements for Design of Parking Lots.**



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1. Except for parcels of land devoted to one-, two, three- and four-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
2. Each parking space shall be no less than two hundred (200) square feet in area (20' X 10').
3. Entrances and exists for all off-street parking lots shall comply with the requirements of Section 10.03.
4. The parking lot shall be paved with asphalt or concrete and contoured to provide drainage to eliminate surface water.
5. Handicap spaces should meet the requirements of the ADA.

### **10.03. Access Control Requirements.**

In order to expedite the movement of traffic; to promote the safety of the motorist and pedestrian; and to minimize traffic congestion and conflict, it is necessary to reduce the points of vehicular contact. Therefore, to effectively control vehicular access on to the streets of Benton, it is necessary to classify such streets as follows:

1. Arterial Streets;
2. Collector Streets; and
3. local streets.

The classification of each street shall be as shown on the *Major Road Plan of Benton, Tennessee*, which is kept in Town hall.

**10.03.01. Development Requiring Access Control Plan.** All commercial and industrial establishments and apartment complexes of more than four (4) dwelling units must file an access control plan meeting all requirements of this section and must have such plan approved by the BMPC prior to obtaining a building permit. Although access control plans are not required for single-family homes and duplexes and trailers, the provision of R-1, R-2, and R-3 of this section shall nevertheless be adhered to for access to these land uses.

### **10.03.02. General Access Regulations Applying to All Classifications of Streets.**

1. **Maximum Width of All Access Points:** The maximum width of all access points shall be 30 feet measured at the property line except when the development requiring access generates high overall or high peak traffic volumes, the BMPC may approve a wider channeled access point to allow various turning movements for greater traffic control and safety.



2. **Temporary Access Ways:** Temporary access ways may be generated by the planning commission at locations other than those specified for permanent access where it is expedient for the purpose of staged development. Temporary access ways shall be closed when permanent access to the property is completed.
3. **Off-street Parking Lanes Entirely Independent of Public Streets:** No off-street vehicular storage or parking area shall be allowed where the arrangement requires that vehicles back directly into a public street right-of-way.
4. **Access for Lots Fronting on More Than One Street:** In all commercial and industrial developments where a lot abuts more than one street, the planning commission may require that the access be provided from the street of lowest classification when necessary to lessen serious congestion on the major street. If access is allowed on to two or more streets, the number of access points shall conform to those allowed for each street classification. (See Subsection C.)
5. **Gasoline Service Stations:** Gasoline service stations shall be allowed two (2) access points on to the same street to allow proper circulation past gasoline pumps. This is regardless of lot width or street classification provided the required site plan is approved by the BMPC.

**10.03.03. Specific Number of Access Points Allowed for Each Street Classification.**

Wherever topographical features, existing developmental patterns, or other factors make the construction of frontage roads unfeasible, the planning commission shall allow direct access to the existing streets according to the following minimum requirements for each street classification. Where access is wider than allowed below in subsections (1-3), a curb should be used along the street right of way to limit access to one area.

1. **Access Points for Major Thoroughfares (Arterials):** In the absence of a frontage road, all lots having between 50 and 200 feet of frontage shall have no more than one (1) point of access to the major thoroughfare. For lots with over 200 feet of frontage, additional access points shall be allowed provided they are spaced at least 150 feet apart from each other and from the first access point. For development generating high overall or high peak traffic volumes, the BMPC may lessen the distance between access points to allow improved access provided a carefully planned pattern of internal and external channelization is prepared and approved.  
When a lot of record fronting a major thoroughfare has less than 100 feet of frontage, the BMPC shall first attempt to obtain joint access with either adjacent property or access on to a frontage road. If this is not feasible, one single access point may be allowed, and should be located with consideration to the distance to the access points on the adjacent lots.
2. **Access Points for Collector Streets:** In the absence of a frontage road, all lots less than 150 feet in width shall have no more than one (1) point of access to any one public street.

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For lots with over 150 feet of frontage, additional access points shall be allowed provided they are spaced at least 100 feet apart from each other and from the first access point.

3. **Access Points for Local Streets:** All lots of less than 100 feet shall have no more than one (1) point of access to the local street. For lots with over 100 feet of frontage, additional access points may be allowed provided they are spaced at least 50 feet apart from each other and from the first access point. (Frontage Roads shall also be considered Local Streets in order to provide the most lenient access provisions to developers who construct these beneficial facilities.)

### 10.04. Signage Requirements.

The purpose of this section is to regulate the location, type and structural requirements of outdoor advertising displays in the Town of Benton. The purpose of these regulations is to ensure compatible land uses, public safety, and adequate design standards.

#### **10.04.01. General Sign Regulations Applicable to All Zoning Districts.**

1. No sign shall be erected where by reason of its position, wording, illumination, size, shape or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal or device, nor in any way obstruct pedestrian traffic;
2. The building setback for ground signs shall be one-half the customary building setbacks for the various zoning districts. In the C-1 no ground signs will be permitted on sidewalks or within street rights-of-way;
3. Temporary signs shall not be erected or otherwise fixed to any **pole, tree, stone, fence**, or any other object within the right-of-way of any street;
4. No sign shall be erected, constructed or maintained so as to obstruct any fire escape or any window or door or opening used as a means of egress;
5. All signs which extend over a sidewalk shall be at least nine (9) feet above the sidewalk;
6. Blue, red and amber beacon or blue, red and amber flashing lights are prohibited on any sign in the Town of Benton;
7. The Benton Building Inspector may issue a permit for a non-illuminated temporary sign which he considers compatible with a temporary use permit. In no case shall the sign be more than thirty-two (32) square feet in size and must be removed at the termination of the temporary use permit. Any temporary sign permit shall expire after forty-five (45) days. The building inspector may issue a one time extension for an additional forty-five (45) days for a temporary sign, but only for those temporary signs which have obtained prior approval from the Board of Zoning Appeals.



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8. No sign in the Town of Benton, Tennessee shall exceed two hundred eighty-eight (288) square feet of surface area or forty (30) feet in height.
9. Within the Town limits of Benton, no off-premise sign shall be permitted within six hundred sixty (660) feet of the intersection of any State Highway and any public street right-of-way. State Highways shall include those highways designated and known as: U.S. Highway 411 and State Highway 314.
10. Temporary off-premise signs, which display special events or activities, may be permitted subject to review and approval by the Benton Board of Zoning Appeals. The Board of Zoning Appeals shall determine the type and location for any temporary off-premise sign that it deems permissible. Any temporary off-premise sign permit shall expire after forty-five (45) days. The building inspector may issue a one time extension for an additional forty-five (45) days for a temporary off-premise sign, but only for those temporary off-premise signs which have obtained prior approval from the Board of Zoning Appeals.
11. Off-premise signs that are located in recreational areas, such as signs located on outfield walls or dugouts on ball fields or scoreboard advertising displays may be permitted. The Board of Zoning Appeals shall have the authority to limit the size of off-premise signs in recreational areas.
12. No building permit shall be issued for construction on property where a non-conforming sign is located. Any builder, owner or agent shall have the option of removing all non-conforming signs or altering all non-conforming signs so that they are in compliance with this ordinance, before the building inspector may be authorized to issue a building permit for construction on that site.
13. No building permit shall be issued for any additional, new or replacement sign on property where a non-conforming sign is located. Any builder, owner or agent shall have the option of removing all non-conforming signs or altering all non-conforming signs so that they are in compliance with this ordinance, before the building inspector may be authorized to issue a permit for an additional, new or replacement sign.

### 10.04.02. Signage Classifications and Specific Requirements.

1. **Illuminated Sign:** A sign lighted by or exposed to artificial lighting either by lights on or in the direction towards the sign.
  - a. These signs shall be illuminated with electricity only.
  - b. All spectacular signs shall be constructed of non-combustible materials.
  - c. All spectacular signs shall comply with the applicable provisions of the National Electric Code.



2. **Ground Signs:** These signs are supported by uprights or braces in or upon the ground; or when such sign is mounted upon a vehicle, trailer, or mobile structure principally used for the purpose of advertising.
  - a. A ground sign supported by wood material shall not be at any point over twenty-four (24) feet above the ground level.
  - b. Lighting reflectors may project beyond the face of the sign.
  - c. The bottom coping shall be no less than three (3) feet above the ground which space may be filled with decorative trim or light wooden construction.
  - d. Wherever anchors or supports of wood are embedded in the soil, the wood shall be pressure-treated with an approved preservative.
  - e. The application for a permit to construct a ground sign must be accompanied by a certification from an architect or engineer stating that the sign is designed and shall be constructed in such a manner as to comply with Section 1205 - Wind Loads, of the *Standard Building Code*, Southern Building Code Congress International, Inc.
  - f. All ground signs shall be in compliance with the provisions of the Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising Authorization No. 0206 and any supplements thereto.
3. **Roof Signs:** Any sign erected, constructed, or maintained above the roof of any building.
  - a. All roof signs shall be so constructed as to leave a clear space of not less than six (6) feet between the roof level and the lowest part of the sign and shall have at least five (5) feet clearance between the vertical supports thereof; a portion of a roof sign structure shall not project beyond an exterior wall.
  - b. Every roof sign shall be constructed entirely of steel construction, including the upright supports and braces, except that only the ornamental lattice work may be of wood construction.
  - c. The bearing plates of all roof signs shall distribute the load directly to or upon masonry walls, steel roof girders, columns or beams. The building must be designed to bear the stress of these members.
4. **Wall Sign:** Any sign that is affixed to the wall of any structure, when such sign shall project not more than twelve (12) inches from the building.
  - a. Wall Signs attached to exterior walls of solid masonry, concrete or stone, shall be safely and securely attached to the same by means of metal anchors, bolts or

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expansion screws of not less than three-eighths (3/8) inch in diameter and shall be embedded at least five (5) inches.

Wood blocks shall not be used for anchorage, except in the case of wall signs attached to buildings with walls of wood. A wall sign shall not be supported by anchorage secured to un-braced parapet wall.

- b. Temporary cloth signs with wood frames may be kept in place for a period not exceeding thirty (30) days.
5. **Projection Sign:** Any sign which is affixed to any building wall or structure and extends beyond the building wall, structure, more than twelve (12) inches.
- a. All projecting signs shall be constructed entirely of metal or other non-combustible material and securely attached to a building or structure by metal supports such as bolts, anchors, supports, chains.
  - b. The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported with chains, guy-wires, or steel rods having net cross sectional dimension of not less than three-eighths (3/8) inch in diameter. Such supports shall be erected or maintained at an angle of at least forty-five (45) degrees with the horizontal to resist the dead load and at an angle of forty-five (45) degrees or more with the face of the sign to resist the specified wind pressure. If such projecting sign exceeds thirty (30) square feet in one facial area, there shall be provided at least two (2) such supports on each side not more than eight (8) feet apart to resist the wind pressure.
  - c. All supports shall be secured to a bolt or expansion screw that will develop the strength of the supporting chain, guy-wires or steel rod, with a minimum of five-eighths (5/8) inch bolt or lag screw, by an expansion shield. Turn buckles shall be placed in all chains, guy-wires or steel rods supporting projecting signs.
  - d. Chains, cables, guy-wires or steel rods used to support the live or dead load of projecting signs may be fastened to solid masonry walls with expansion bolts or by machine screws in iron supports, but such supports shall not be attached to an un-braced parapet wall. Where the supports must be fastened to walls made of wood, the supporting anchor bolts must go through the wall and be plated or fastened on the inside in a secure manner.
  - e. A projecting sign shall not be erected on the wall of any building so as to project above the roof or cornice wall or above the roof level where there is no cornice wall; except that a sign erected at a right angle to the building, the horizontal width of which sign perpendicular to such wall does not exceed eighteen (18) inches may be erected to a height not exceeding two (2) feet above the roof or cornice wall or above the roof level where there is no cornice wall. A sign



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attached to a corner of a building and parallel to the vertical line of such corner shall be deemed to be erected at a right angle to the building wall.

6. **Marquee Sign:** A projecting sign which is attached to or hung from a marquee.
  - a. All marquee signs shall be constructed entirely of metal or non-combustible material and may be attached to, or hung from a marquee, and such signs when hung from a marquee shall be at least nine (9) feet at its lowest level above the sidewalk or ground level.
  - b. Marquee signs shall not extend outside the line of a marquee.
  - c. Marquee signs may be attached to the sides and front of a marquee, and such sign may extend the entire length and width of said marquee, provided such sign does not extend more than six (6) feet above, nor one (1) foot below such marquee.
  - d. Under no circumstances shall a marquee sign have a vertical dimension greater than eight (8) feet.
7. **Shingle Sign:** A projection or wall sign not over six (6) square feet in area, constructed of metal or other non-combustible material attached securely to a building and not projecting more than twenty-four (24) inches over public property.
  - a. The specific regulations for the projection and wall sign should also apply to the shingle sign.
8. **Portable Sign:** Any on premise sign which is not affixed to real property in such a manner that its removal would cause serious material damage to the property and which is intended to be or can be removed at the pleasure of the owner, including, but not limited to, single or multi-faced sandwich boards and wheel mounted mobile signs.
  - a. These signs shall be illuminated with electricity only.
  - b. All portable signs shall be constructed of non-combustible materials.
  - c. All portable signs shall comply with the applicable provisions of the National Electric Code.
  - d. All portable signs shall be sufficiently anchored to prevent movement from wind force or flotation.
9. **Billboard:** An off-premise sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located. For the purposes of this ordinance, off-premises signs do not include



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temporary campaign signs for elections to public office, which should be removed within 15 days of the election.

- a. All Billboards shall be in compliance with the provisions of the Tennessee Department of Transportation Rules and Regulations for the Control of Outdoor Advertising.
- b. All Billboards shall be in compliance with the provisions of the Southern Building Code regarding structural elements such as stress factors and wind loads, etc.

### 10.04.03. Specific Outdoor Advertising Display Regulations for Each Zoning District.

#### 1. Signage Regulations for the R-1 Zone.

- a. The following type **ground signs** are permitted in the R-1 Zone:
  - (1) Non-illuminated "For Sale" or "For Rent" signs not exceeding four (4) square feet in area.
  - (2) Non-illuminated signs not more than thirty-two (32) square feet in area giving the names of the contractors, engineers, or architect, during construction of a building.
  - (3) Ground Signs on churches, schools or park grounds which serve the purpose of identifying the particular facility provided the surface area does not exceed thirty-two (32) square feet.
  - (4) All other ground signs are specifically prohibited in the R-1 zone.
- b. The following types of **wall signs** are permitted in the R-1 zone:
  - (1) Nameplates, indicating name, and house number.
  - (2) Signs noting customary home occupations provided the surface area does not exceed four (4) square feet.
  - (3) Church or school bulletin boards provided they do not exceed thirty-two (32) square feet in area.
  - (4) All other wall signs prohibited in the R-1 zone.
- c. All other types of signs are specifically prohibited in the R-1 zone.

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- a. All signs which are permitted in the R-1 zone are permitted in the R-2 zone.
  - b. All other types of signs are specifically prohibited in the R-2 zone.
3. **Signage Regulations for the R-3 Zone.**
  - a. All signs which are permitted in the R-2 zone are permitted in the R-3 zone.
  - b. In addition to the signs permitted in the R-2 zone, ground signs identifying manufactured home parks and apartments are permitted provided they do not exceed thirty-two (32) square feet in area.
4. **Signage Regulations for the C-1 Zone.**
  - a. **Illuminated Signs:** are permitted in the C-1 zone provided they do not exceed sixty-four (64) square feet in area.
  - b. **Ground Signs:** are permitted in the C-1 zone provided they do not exceed sixty-four (64) square feet in area.
  - c. **Roof Signs:** are permitted in the C-1 zone provided they do not exceed sixty-four (64) square feet in area.
  - d. **Wall Signs:** are permitted in the C-1 zone provided that the sign is no larger than one (1) square foot for each one linear foot of building frontage occupied by the establishment.
  - e. **Projection Signs:** are permitted in the C-1 zone provided that they do not extend over the sidewalk more than two-thirds (2/3) the width of the sidewalk and no less than nine (9) feet above the sidewalk and provided they do not exceed thirty-two (32) square feet in area.
  - f. **Marquee Signs:** are permitted in the C-1 zone provided they do not exceed sixty-four (64) square feet in area.
  - g. **Shingle Signs:** are permitted in the C-1 zone and the square footage requirement of the wall sign applies also to the shingle sign.
5. **Signage Regulations for the C-2 Zone.**
  - a. All the signs permitted in the C-1 zone are permitted in the C-2 zone.
  - b. Billboards may be permitted, subject to the review and approval of the Board of Zoning Appeals and should not exceed two hundred eighty-eight (288) square feet of surface area.

6. **Signage Regulations for the I-1 Zone.**

- a. All signs permitted in the C-1 zone are permitted in the I-1 zone.
- b. Billboards may be permitted, subject to the review and approval of the Board of Zoning Appeals.

7. **Signage Regulations for the Flood Zones.**

- a. No outdoor advertising sign shall be permitted in the Floodway Zone. Outdoor signs shall be permitted in the Floodway Fringe Zone upon review and approval of the Benton Board of Zoning Appeals.

**10.04.04. Building Permit Required.** With the exception of "For Sale or "For Rent" signs and nameplates indicating name and house number, all new signs whether permanent or temporary must have a sign permit which shall be issued by the Benton Building Inspector. The sign permit number shall be noted in a permanent manner on each new sign.

**10.04.05. Non-Conforming Signs.** Outdoor advertising displays which are non-conforming at the time of the passage of this ordinance shall be permitted to remain as long as they are properly maintained and are not considered to be a safety hazard. If a non-conforming advertising display ceases to display advertising matter for a period of one year or is damaged beyond fifty (50) percent of its replacement value, such sign shall be considered illegal and subject to removal as outlined in subsection 10.04.07.

**10.04.06. Outdoor Advertising Displays Must be Maintained.** All outdoor advertising displays must be maintained in such a manner so as to not to endanger the public's safety. Upon finding that a sign is a safety hazard, the Benton Building Inspector shall give the owner of the property on which the sign is located a written notice which shall outline the corrective measures that must be completed in a maximum of thirty (30) days. If at the end of thirty (30) days the sign has not been brought into compliance, it shall be subject to removal as outlined in subsection 10.04.07.

**10.04.07. Procedure for Removal of Illegal or Unsafe Outdoor Advertising Displays.** A sign which is not in compliance with this ordinance shall be subject to removal. The procedures which the Benton Building Inspector shall follow to have the illegal sign removed include:

1. The owner of the property on which the sign in question is located shall be given a written notice which shall include:
  - a. A statement as to why the sign is illegal;



- b. A statement that the sign must be brought into compliance with this ordinance in thirty (30) days or the Town will begin necessary court action to have the sign brought in compliance; and
  - c. A statement informing the property owner that he has the right to appeal the Building Inspector's decision to the Benton Board of Zoning Appeals.
2. If, at the end of the thirty (30) day period, the sign has not been brought into compliance with this ordinance, removed, or an appeal made to the BBZA, the Benton Building Inspector shall turn this matter over to the Town attorney who shall initiate the necessary legal steps. The building inspector shall also notify the property owner in writing that legal proceedings have been initiated to bring the sign in question into compliance with this ordinance.

**10.05. Site Plan/Sketch Plan Review Requirements.**

To provide for the orderly and proper development of land within the Town and to protect the public health, safety, and welfare, the following requirements shall be mandatory.

**10.05.01. Exceptions.** The provisions of Section 10.05. shall not apply to:

1. **Exceptions:** The provisions of Section 10.05 shall not apply to:
  - a. Single-family dwellings, two-family dwellings, or accessory buildings thereto
2. **Exceptions:** When the following exceptions apply, only a sketch plan will be required that should meet the requirements of Section 10.05.08.
  - a. Additions to buildings where the total gross floor area of the proposed addition does not exceed one-third (1/3) of the total gross floor area of the existing building or one thousand (1,000) square feet, whichever is smaller.
  - b. New buildings where the total gross floor area does not exceed one thousand (1,000) square feet, provided there is no alteration of drainage flow of land or grading exceeding cut or fill of one (1) foot, the site is not in a flood plain, the site is not in excess of ten thousand (10,000) square feet, or a new access is being built. If the new access is the only provision that would necessitate a site plan, then a sketch plan will be sufficient.
  - c. Improvements to off-street parking to existing buildings and where access will be provided by existing driveways, when such improvement does not provide more than five (5) additional parking spaces.
  - d. Grading of open area, either by excavation or fill for the sole purpose of bringing the land to a grade compatible with the surrounding area, provided that the removal of existing vegetation does not exceed three (3) acres and the designated Town engineer

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finds, upon inspection of the site, that such grading will have no adverse effect on the land of surrounding property owners, will not encroach on or impair existing drainage channels or flood plains, and will not cause problems of erosion, ponding, and/or silting on adjoining properties.

**10.05.02. Approved Site Plan Required to Erect or Enlarge Buildings.** Except as provided in subsection 10.05.01., it shall be unlawful for any person to construct, erect, alter or increase the floor area of any building or structure or change the land area covered by any building on any land within the Town until a site plan has been submitted and approved in accordance with the provisions of this chapter.

**10.05.03. Approved Site Plan Required to Disturb Land.** Except as provided in subsection 10.05.01., it shall be unlawful for any person to alter the grade of any land to change the contours in excess of two (2) feet within ten (10) feet of adjacent land, or in excess of three (3) feet elsewhere; construct any streets, alleys, sidewalks, curbs, or gutters; build any retaining walls; construct any off-street parking facility; construct any drain or sewer; or change or divert the flow of storm or natural watercourses until a site plan has been submitted and approved in accordance with this chapter.

**10.05.04. Development According to Site Plan.** It shall be unlawful for any person to construct, erect, or alter any building or structure or to develop, change, or improve land for which an approved site plan is required by this chapter, except in accordance with the approved final site plan.

**10.05.05. Permits Not to be Issued Without Approved Site Plan.** No permit shall be issued to erect or alter any building or structure or alter the grade of any land that is subject to this chapter until a site plan has been submitted and approved in accordance with the provisions of this chapter.

**10.05.06. Site Plan Submission.** The owner or developer shall submit at least three (3) copies of the proposed site plan seven (7) days prior to his intended date of site alterations. The Planning Commission or designated Town engineer shall consider the site plan in light of the provisions of this chapter and approve or disapprove same as required. The plans then shall be returned to the owner or his agent with the date of such approval or disapproval noted thereon over the signature of the Planning Commission Secretary or designated Town engineer.

**10.05.07. Site Plan.**

1. The site plan shall show the following:
  - a. Name and address of development
  - b. Name and address or owner of record and the applicant
  - c. Present zoning classification of the site and abutting property

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- d. Date, scale, and north point with reference to source of meridian
  - e. Courses and distances of center lines of all streets and all property lines
  - f. All building restricting lines, highway setback lines, easements, covenants, reservation, and rights-of-way
  - g. The total land area
  - h. Topography of existing ground and paved areas, and elevations of streets, alleys, utilities, sanitary and storm sewers, and buildings and structures; topography to be shown by dashed lines illustrating two (2) foot or five (5) foot contours as required by the Planning Commission or designated Town engineer, and by spot elevations where necessary to indicate flat areas as based on United States Conservation and Geographical Survey datum.
2. The site plan shall show the location of the following when existing:
- a. Number of structures or dwelling units
  - b. Number of parking spaces
  - c. Number of loading spaces
  - d. Square feet of floor space
  - e. Number of commercial or industrial tenants and employees
  - f. Plans for collecting storm water and methods of treatment of natural and artificial watercourses, including a delineation of limits of flood plains
  - g. Proposed grading, surface drainage, terraces, retaining wall heights, grades on paved areas and ground floor elevations of proposed buildings and structures; proposed topography of site shall be shown by two (2) or five (5) foot contours as required by the Planning Commission or designated Town engineer
3. The site plan shall include an adequate erosion control plan.
4. Any building or structure shall be reasonably accessible to fire, police, emergency, and service vehicles. When deemed necessary for access by the Fire Chief or designated engineer, emergency vehicle easements shall be provided.



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**10.05.08. Sketch Plan Requirements** The application for a building permit for any structure which does not require a site plan as provided above in **10.05.01.B** shall be accompanied by a sketch or scale plan indicating:

- a. The size and shape of the lot.
- b. The shape, size, location and use of any existing or proposed buildings or structures on the site, or modifications thereto.
- c. The distance between the structure or structures and other structures as well as to front, side and rear boundaries (i.e. setbacks).
- d. The owner's name, the street address of the property, and telephone number.
- e. Driveways and parking spaces where applicable.
- f. Where applicable, location of well(s) and septic system.
- g. The intended use of such structure.

Sketch plans should also be submitted seven (7) days prior to the Planning Commission meeting to the building inspector.

**10.05.09. Appeals.** If an applicant determines that his site plan has been unjustly disapproved or that the Planning Commission or designated Town engineer has made requests for conformity to standards other than those set forth in this Ordinance, he may appeal the decision of the Planning Commission or designated Town engineer to the Benton Board of Zoning Appeals in accordance with Section 12.06.

**10.05.10. Penalties.** As regulated in Section 12.11.

### **10.06. Off-Street Loading and Unloading Requirements.**

Every building or structure hereafter constructed and used for industry, or business or trade in all districts shall provide space for the loading and unloading of vehicles off the street or public alley.

1. This space shall not be considered as part of the space requirements for off-street automobile storage.
2. Behind every building or structure used for business or trade, there shall be a rear yard not less than twenty (20) feet in depth to provide space for loading and unloading vehicles.
3. The Board of Zoning Appeals may hereafter reduce or increase this requirement in the interest of safety where unusual or special conditions merit special consideration.

**10.07. Accessory Use Regulations.**

The uses of land, buildings, and other structures permitted in each of the districts established by this ordinance are designated by listing the principal uses. In addition to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

1. Be customarily incidental to the principal use established on the same lot.
2. Be subordinate to and serve such principal use.
3. Be subordinate in area, intent, and purpose to such principal use.
4. Contribute to the comfort, convenience, or necessity of users of such principal use.

**10.08. Temporary Use Regulations.**

The following regulations are necessary to govern the operation of certain necessary or seasonal uses non-permanent in nature. Application for a Temporary Use Permit shall be made to the building inspector. Said application shall contain a graphic description of the property to be utilized and a description of the proposed use, and sufficient information to determine yard requirements, setbacks, sanitary facilities, and parking space for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

1. **Carnival or Circus:** May obtain a Temporary Use Permit in the C-1, C-2, or I-1; however, such permit shall be issued for a period of not longer than fifteen (15) days.
2. **Christmas Tree Sale:** May obtain a 30-day Temporary Use Permit for the display of Christmas Trees on open lots in the C-1, C-2, and I-1 Districts.
3. **Temporary Buildings:** In any district, a Temporary Use Permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six (6) month extensions; however, not more than three (3) extensions shall be granted to a particular use. Such use shall be removed upon completion of the construction project, or upon expiration of the Temporary Use Permit, whichever occurs sooner.
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 by the planning commission under the Benton Subdivision Regulations. Such office shall contain no living accommodations. The permit will be valid for one (1) year, but may be granted two (2) six (6) month extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.



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5. **Religious Tent Meetings:** In the C-1, C-2, and I-1 Districts, a Temporary Use Permit shall be issued for a tent or other temporary structures to house a religious meeting. Such permit shall be issued for not more than a 30-day period.
6. **Seasonal Sale of Farm Produce:** In all Commercial, Industrial and Floodway Fringe Districts, a Temporary Use Permit may be issued for the sale of farm produce grown locally. Structures utilized for such sales shall be removed when not in use. The permit shall be issued for a five (5) month period. All structures must be set back from the roadway a minimum of thirty-five (35) feet. The setback requirement may be waived by the building inspector for carts, pick-up trucks, trailers, or other structures not left overnight if it is deemed that these temporary "structures" will not create a traffic or other safety hazard.
7. **Miscellaneous Assemblies:** In the C-1, C-2, and I-1 Districts, a Temporary Use Permit may be issued for any assembly such as an outdoor music concert, political rally, etc. Such permit shall be issued for not more than a seven (7) day period.

**10.09. General Lot Restrictions.**

The following general lot restrictions shall be applicable in all districts:

**10.09.01. One (1) Principal Structure for Each Lot.** Only one (1) principal building and its customary accessory buildings may be erected on any lot.

**10.09.02. Public Road Frontage Requirement.** No building shall be erected on a lot which does not abut at least one (1) street for its entire frontage. No building shall be erected on a lot with less than fifty (50) foot frontage, except in the C-1 zone where a twenty-five (25) foot frontage is permissible. Such building shall conform to the lot and yard requirements of the district in which it is located.

**10.09.03. Open Space Limitations.** No yard or other open space provided about any building for the purpose of complying with these regulations shall be considered as providing a yard or other open space for any other building.

**10.09.04. Reductions in Lot Area Prohibited.** No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

**10.09.05. Rear Yard Abutting a Public Street.** When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the street line or property line as required for adjacent properties which front on that street. In addition, any structure located within twenty-five (25) feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street.



**10.10. Vision at Street Intersections.**

On a corner lot in any district, within the area formed by the center-lines of the intersecting or intercepting streets and a line joining points on such center-lines at a distance of seventy-five (75) feet from their intersection, there shall be no obstruction to visions between the height of two and one-half (2 1/2) feet and a height of ten (10) feet above the average grade of each street at the centerline thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall, nor the provisions of the C-3 zone.

**10.11. Gasoline Service Station Restrictions.**

The following regulations shall apply to all gasoline service stations:

1. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands. The depth of the front yard shall also be forty (40) feet from any right-of-way for all secondary structures including secondary structures such as gasoline pumps.
2. Gasoline pumps and canopies shall not be located closer than thirty (30) feet to any street right-of-way line.
3. Sign requirements as established in Section 10.04, shall be met.

**10.12 Standards for the Appearance of Manufactured Homes**

1. Permitted Locations. Modular & manufactured homes, as defined, shall be permitted in all residential districts subject to the requirements and limitations set forth herein and which apply generally to residential use in such zoning classifications, including minimum lot size, setbacks, percentage of lot coverage and off-street parking requirements.
2. The manufactured or modular home must be connected to a public water and sewage system. Provided that where public water or sewer is not available, private well and septic tank installations approved by the Tennessee Department of Environment and Conservation may be utilized.
3. Modular & manufactured homes qualifying as single-family dwellings shall have the same appearance as required for site built homes and shall be built in two (2) or more sections.
4. All towing devices, wheels, axles and hitches must be removed.
5. Within 30 days of placement of a modular or manufactured home, a brick or cinder block skirting compatible with the home's exterior siding shall be securely placed around the structure from the bottom of the home to the ground. Also, steps of a type approved by the building inspector shall be installed with the said time limit as necessary.

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6. Manufactured (mobile) homes shall be installed in accordance with the requirements of the Manufactured Home Anchoring Act (TCA Section 68-36-401).
7. Within 30 days of placing a manufactured (mobile) home, the mobile home shall be skirted with a permanent enclosure similar in design to the mobile home, constructed of weather resistant materials, enclosing the space directly beneath the mobile home.
8. Where installation of the electric meter on a separate pole, not on the structure, is approved by the deputy state fire marshall/electrical inspector, said pole shall be at the rear of the manufactured home. Provided, where the Utility cannot place the meter pole at the rear of the structure, said pole shall be at the side of the structure and shall have an opaque panel fence on the front and open side of the pole eight (8) feet high. The space to the rear of the pole shall be left open for emergency access and for meter readings.

Where applicable, all site-built additions to manufactured homes shall meet the requirements of the Benton Building Code, as amended.

### **10.13 Mobile Home Park Regulations**

#### **10.13.01 DEFINITIONS USED IN THIS SECTION**

Except as specifically defined herein, all words used in this Section (10.13) have their customary dictionary definition where not inconsistent with the context. The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural. Words used in the present tense include the future. For the purpose of this Section certain words or terms are defined in Section 02.02 of this document:

#### **10.13.02 PERMITS**

The following requirements for permits shall apply to any mobile home park within the Town. The purpose of these permits shall be to provide contents to assure compliance with this ordinance and other existing resolutions; the public welfare demanding such.

1. No place or site within the Benton Municipal Planning Jurisdiction shall be established by any group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the building inspector in the name of such person or persons for the specific mobile home park.
2. It shall be unlawful for any person or persons to maintain or operate, within the Benton Municipal Planning Jurisdiction, any existing mobile home park unless such person or persons first obtain a permit therefore. Mobile home parks in existence as of the effective date of this ordinance shall be required to obtain a mobile home park permit. Pre-existing mobile home parks which cannot comply with the requirements regarding mobile home parks shall be considered as a non-conforming use.



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3. Every person holding a mobile home park permit shall give notice in writing to the building inspector within twenty-four (24) hours after having sold, transferred, given away, or otherwise disposed of interest and in control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership of control of such mobile home park for the purpose of transferring the permit.
4. No mobile home park within the Benton Municipal Planning Jurisdiction shall operate without the appropriate Town business permits or licenses.
5. It shall be unlawful to construct any building including accessory buildings, to move or alter any building, or locate a mobile home on any lot or space until the building inspector has issued a building permit for such use.
6. Any permit issued shall become void six (6) months from the date of issuance unless substantial efforts have been made by that date to exercise that power permissible by the permit.
7. Any use, arrangement, or construction at variance with those originally authorized plans submitted as a basis for any permit shall be deemed a violation of this ordinance and void the permit.
8. In accordance with Tennessee State Law, a permit for the installation of the mandatory mobile home anchoring system is required and obtainable from the appropriate state inspector.
9. No mobile home shall be used, place, stored or serviced by utilities within the Benton Municipal Planning Jurisdiction or within any mobile home park in said region unless there is posted near the door of said mobile home a valid Tennessee State License or a HUD inspection sticker.
10. The building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this ordinance.

### **10.13.03 FEES**

In order to assure a more cost effective system for the provision of inspection services, permit fees are hereby established as follows:

1. Mobile Home Park Permit Fee - An annual mobile home inspection fee shall be required for all mobile home parks within the Benton Municipal Planning Jurisdiction. This fee for the mobile home park permit shall be collected by the building inspector.
2. Business Permit (License) Fees - Appropriate Town fees are required for business permits and license and shall be obtained prior to the construction of any mobile home park within the Benton Municipal Planning Jurisdiction.



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3. Electrical Inspection Fee - An electrical inspection fee is required and shall be levied in accordance to Tennessee statutes for inspection services recommended.
4. Anchoring Fee - The state anchoring system inspection fee as required by Tennessee statutes shall be levied in accordance with said statutes.
5. Tennessee License Fee - A state license fee for mobile homes is required by Tennessee statutes and shall be levied in accordance with said statutes.

### 10.13.04 INSPECTION SERVICES

The building inspector, Town health officer and all other authorized inspectors are hereby authorized and directed to make inspections within the Benton Municipal Planning Jurisdiction for the purpose of safeguarding the health and safety of the occupants of mobile home parks and of the general public. These representatives on behalf of the Town shall have the authority to enter at reasonable times upon any private or public property for the purpose of inspections and investigations related to the performance of their duties concerning the enforcement of this ordinance and other related regulations. Specifically, their inspections shall include but not be limited to the following duties:

1. Building Inspector - Upon inspection of a mobile home park or a mobile home by the building inspector, the following actions shall be undertaken for compliance with this ordinance and other related regulations of the Town which apply:
  - a. Article VI through Article XI of this ordinance concerning the minimum standards acceptable for the development and operation of a designated mobile home park.
  - b. Appendix "H" of the Southern Standard Building Code outlining minimum mobile home standards.
  - c. A review shall be conducted of all necessary permits for not only the park but also individual mobile homes with all violations reported by the building inspector to the appropriate authority.
  - d. A visual review of the general health and safety conditions with any possible violations noted and reported by the building inspector to the appropriate authority.
2. Town Health Officer - The State Department of Public Health shall make inspections of the water system, sewage disposal system, and solid waste disposal facilities in accordance with Sections 53-3201 and 53-3220 of the Tennessee Code Annotated and other State regulations.
3. Electrical Inspector - The electrical inspector shall make inspections in accordance with those powers designated by the appropriate State regulations.

4. The officials noted in the above subsection in the performance of their respective duties shall have the authority to inspect that register containing a record of all residents of a mobile home park.
5. It shall be the duty of the owners or occupants of mobile home parks and mobile homes or of the person in charge thereof to give the designated inspectors free access to such premises at reasonable time for the purpose of inspection.
6. It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of such mobile home park or its premises at reasonable times for the purpose of making alterations as are necessary to comply with this or other local regulations.
7. Upon inspection of any mobile home park in which conditions or practices exist in violation of this ordinance or other related regulations, the building inspector shall give notice in writing to the person to whom the permit was issued that unless such conditions or practices are corrected within a six (6) month period, the mobile home park shall be revoked and the operation of the mobile home park shall cease operation.

**10.13.05      APPLICATION PROCEDURE**

1. The developer shall consult early and informally with the planning commission and all applicable Town departments for advice and assistance before the preparation of the site plan and the formal application for approval in order to become familiar with all regulations and area plans.
2. Applications for a mobile home park shall be filed with the planning commission for review and recommendation. Plans of the proposed mobile home park shall be filed with the building inspector at least seven (7) days prior to the planning commission meeting at which it is to be considered. The plan shall contain the following information and conform to the following requirements:
  - a. The plan shall be clearly and legibly drawn to a scale not smaller than one hundred (100) feet to one (1) inch;
  - b. Name and address of owner of record;
  - c. Proposed name of park and the total acreage involved;
  - d. Existing zoning classification;
  - e. North point and graphic scale and date;
  - f. Vicinity map showing location and acreage of mobile home park;

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- g. Exact boundary lines of the tract by bearing and distance;
  - h. Names of owners of record of adjoining land;
  - i. Existing streets, utilities, easements and water courses on and adjacent to the tract;
  - j. Contour lines at 2' intervals or as required by the planning commission;
  - k. Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;
  - l. Provisions for water supply, sewerage and drainage;
  - m. Such information as may be required by the Town to enable it to determine if the proposed park will comply with legal requirements;
  - n. The applications and all accompanying plans and specifications shall be filed in triplicate with the building inspector;
  - o. Certification that the applicant is the land owner;
  - p. Certification by the state health officer concerning the acceptability of the sewage disposal and/or water system;
  - q. Certification by the appropriate Utility District of the acceptability of the public water system;
  - r. Certification of approval by the Town Superintendent of Public Works;
  - s. Certification of approval to be signed by the secretary of the planning commission;
3. Within sixty (60) days after submission of the site plan, the planning commission will review it and recommend approval or disapproval, or approval subject to modification. If disapproved, reasons for such shall be stated in writing.

### 10.13.06 DEVELOPMENT SITE

- 1. The proposed mobile home park shall be located only in zones as prescribed by the Benton Zoning Ordinance.
- 2. The development site shall be suitable for residential use. It shall not be subject to hazards such as insect or rodent infestation, objectionable smoke, noxious odors, unusual



noise, or the probability of flooding or erosion. The soil, ground water level, drainage, and topography shall not create hazards to the property or to the health and safety of occupants.

3. The development site for a mobile home park shall comprise an area of not less than two (2) acres. All sites shall consist of a single plat so dimensioned and related as to facilitate efficient design and management.
4. Essential community facilities and services for residential development shall be reasonably accessible to the development site or provisions shall be made to assure that such facilities and services will be provided.
5. Direct vehicular access to the development site shall be provided by an abutting improved public street of at least a "Collector" classification (as shown on the Town's major street plan).

#### 10.13.07 SITE IMPROVEMENT

1. Site improvements shall be harmoniously and efficiently developed in relation to topography and the shape of the site. Full attention should be paid to use, appearance, and livability. Site improvements shall be fitted to the terrain with a minimum disturbance of the land. Existing trees, rock formations, and other natural site features should be preserved to the extent practical.
2. When necessary, grading shall be utilized to preserve desirable site features through the diversion of surface water away from mobile home stands, the prevention of standing water and excess soil saturation, and the disposal of water from each mobile home space or lot. In no cases, however, shall grading be permitted to direct excessive surface water flow onto adjacent property.
3. In the case of fill work at the development site, all fill material shall be uniform in texture and free from debris. Fill material shall be applied in uniform layers, raked and compacted to minimize settlement.
4. Specific areas for the collection and disposal of surface and subsurface water shall be provided to protect the mobile home and provide safe use of other improvements. Surface water shall be directed toward existing off-site drainage facilities located in public right-of-ways. Internal drainage facilities shall be of adequate size, design, and construction and assured of permanent maintenance through easements or other means.

The planning commission upon advice from technical staff such as engineers or planning staff may require other drainage measures such as interjectional drains, drop inlets, bridges, etc., as deemed necessary.

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5. Exposed ground surfaces in all parts of every development site shall be either paved, covered with stone or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
6. An evergreen buffer strip consisting of trees shrubs, or hedge which will grow to a height of not less than ten (10) feet and be spaced not less than ten (10) feet apart shall be planted along all boundaries of the mobile home park. It is also recommended that trees or shrubs be utilized for internal screening of garbage collectors and to provide adequate privacy among the units.
7. The provision of designated open space and recreation areas is required to the extent necessary to meet the anticipated needs of the occupants. A centralized location is preferable for convenience and efficient maintenance. An area totaling 10% of the total mobile home park area shall be provided at such centralized location, and shall not be used for placement of mobile homes, or parking spaces.

### 10.13.08 TRANSPORTATION SYSTEM

1. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot and other improvement park facilities. Access shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic.
2. The street system shall be designed to recognize existing easements, utility lines, etc., which must be preserved and to permit connection of existing facilities where necessary for the proper functioning of the drainage and utility systems. Streets shall also be adapted to the topography, have suitable alignment for traffic safety, and have satisfactory surface and ground water drainage.
3. All streets either public or internal (private) shall be constructed to the standards established in the Benton Subdivision Regulations. The minimum will be to meet or exceed the *Minor Residential Street* requirement of eighteen feet of pavement width.
4. Before any proposed street may be constructed, the area must first be inspected by the Town Superintendent of Public Works who will at that time review the size of culvert necessary, to prevent future drainage problems. The developer will be responsible for the provision of specified culvert and in the manner as is indicated by the Superintendent.
5. Surfaced streets are required, and all streets shall meet the technical specification for base and asphaltic concrete paving as required in the Benton Subdivision Regulations.
6. All streets located within a mobile home park shall be illuminated with lighting units consisting of 400 watt mercury vapor lamps at intervals of 100 feet approximately 30 feet from the ground.



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7. Off-street parking areas shall be provided in all mobile home parks for the use of the occupants and guests without interference with the normal movement of traffic. Each mobile home space shall be provided with sufficient area to meet the off street parking standards for that space. All parking spaces shall be located so access can be gained only from internal streets of the mobile home park. Specific parking facility requirements are detailed in Article X, Section Nine (9).
8. All mobile home parks shall be provided with safe and convenient pedestrian access between mobile homes and park facilities. A common walk system is recommended for those areas in which pedestrian traffic is concentrated in a large development.

### 10.13.09 UTILITIES

1. Water Supply - An adequate supply of safe water under adequate pressure shall be provided in each mobile home park. Where a public supply of water is satisfactory quantity, quality, and pressure is available, connection shall be to this system and used exclusively.
  - a. The bacteriological and chemical quality of the water shall be acceptable to the Town Health Officer in accordance with minimum requirements for the State of Tennessee.
  - b. The source of water supply shall be capable of supplying a minimum volume of 250 gallons of water per day per mobile home with pressure of not less than twenty (20) pounds residential pressure per square inch under normal operating conditions at each mobile home. The individual size of the feeder water lines shall be minimum of 6".
  - c. The water system must be adequate to provide 500 gallons per minute fire flow and maintain a 20 psi residential pressure. Fire hydrants are required throughout the mobile home park and must be located within 500 feet of every space.
  - d. The water supply system shall be connected by pipes to all mobile homes and other facilities requiring water in such a manner that neither underground nor surface contamination will reach the water from any source. All water piping, fixtures, and other equipment shall be constructed and maintained in accordance with the Southern Standard Plumbing Code and Tennessee State Health regulations. Written approval from the Tennessee Department of Public Health shall be required for all water line extensions.
  - e. In the case of all developments, the fire hydrants shall be the 3 way type as specified by Town standards.
2. Sewage Disposal - An adequate and safe sewerage disposal system shall be provided in all mobile home parks for conveying and disposing of all sewage. The type of sewage



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disposal system utilized shall be appropriate for the area in which the mobile home park is located. Multi-user septic tanks are encouraged if a public sewage disposal system is clearly not feasible. Specific requirements for alternative sewage disposal shall be established by the Tennessee Department of Public Health and clearly displayed on the mobile home park site plan. In addition, the sewage disposal system shall meet the following general requirements:

- a. The sewage disposal system shall be approved in writing by the Tennessee State Health Department and subject to maintenance inspections.

*If a public sewage disposal system is utilized, the following additional requirements must be met:*

- b. All sewer lines shall be located in trenches of sufficient depth to prevent breakage from traffic or other movements and constructed in such a manner as to have water tight joints. Sewer lines shall be separated from the water supply system and be constructed and maintained in accordance with the Southern Standard Plumbing Code and Tennessee State Health Regulations.
  - c. All sewer lines shall be at a grade which will insure a velocity of two feet per second when flowing full and designed for a minimum volume flow of 250 gallons of sewage per day per mobile home.
3. Electrical Distribution - Every mobile home park shall contain an electrical wiring system consisting of wiring, fixtures, and equipment installed and maintained in accordance with the applicable codes and regulations governing electrical distribution systems. The electrical distribution system shall also meet the following general requirements:
    - a. Main primary lines not located underground shall be suspended at least eighteen (18) feet above the ground. There shall be a minimum horizontal clearance of three (3) feet between overhead wiring and any mobile home or other structure.
    - b. All direct buried cables shall be without splices or taps between junction boxes and protected by ridged conduit at all points of entry or exit from the ground. Such cables shall be located no less than eighteen (18) inches below the ground surface and located in a separate trench not less than one (1) foot radial distance from water, sewer, gas, and other piping.
    - c. Demand factors for feeder and service lines shall be calculated in accordance with the Southern Standard Building Code to determine the appropriate line sizes.
  4. Gas Supply - Natural gas and liquefied petroleum gas systems equipment and installations within a mobile home park shall be designed and constructed in accordance with the applicable codes and regulations. The natural gas supply system shall meet the following general requirements:

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- a. Underground piping shall be buried at a sufficient depth to protect it from physical damage as outlined in the Southern Standard Gas Code. No piping shall be installed underground beneath a mobile home or other structure.
  - b. All gas regulators, meters, valves and other exposed equipment shall be protected from physical damage by vehicles or other causes.
  - c. A readily accessible and identified emergency shut-off valve controlling the flow of gas to the entire internal gas piping system of a mobile home park shall be installed near to the point of connection to the service piping.
  - d. Demand factors for use in calculating gas piping systems shall be in accordance with the Standard Gas Code.
5. Oil Supply - Oil supply systems equipment and installations within a mobile home park shall be designed in accordance with the applicable codes and regulations. Oil may be supplied by either an outside underground tank, an outside above ground tank or a centralized oil distribution system designed and installed in accordance with accepted engineering practices which comply with national codes.
6. Garbage Disposal - The storage, collection, and disposal of refuse in a mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. A commercial dumpster system shall be utilized exclusively for solid waste disposal. In addition, the refuse disposal system shall meet the following general requirements:
  - a. All refuse shall be stored in fly proof, water tight, and rodent proof containers, which shall be located not more than 150 feet from any mobile home space or lot. These containers shall be located on concrete dumpster pads designed to prevent or minimize spillage and container deterioration. Fencing or natural screening is encouraged.
  - b. A sufficient number of containers of adequate capacity in accordance with Town approval shall be provided to properly store all refuse. The refuse within these containers shall be collected and disposed of on at least a weekly basis in the approved manner.

### 10.13.10 MOBILE HOME SITE

1. Every mobile home site shall meet the minimum requirements set forth in this section for the development of individual sites. These criteria are for the purpose of assuring privacy, adequate natural light and air, and convenient access and circulation around each mobile home.



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2. Within mobile home parks - Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least twenty-eight (28) feet of open space between mobile homes or any attachment such as a garage or porch, and at least thirty (30) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and fifty (50) feet from the right-of-way of any public street or highway. In addition, each mobile home space shall contain:
  - a. A minimum lot area of four thousand (4,000) square feet.
  - b. A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet.
  - c. A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet; and
  - d. A minimum width of at least forty (40) feet and a minimum depth of at least seventy-five (75) feet with the limits of each mobile home space being clearly marked by permanent ground stakes.
3. Each mobile home space shall have an area designated as a mobile home stand or pad which meets all the setback requirements and affords practical access for the placement and removal of a mobile home. It is recommended that these stands consist of runways (24" wide) running vertical to the mobile home and spaced, at a minimum, every eight (8) feet for the length of the mobile home. These piers shall meet the following construction requirements or the Southern Standard Building Code whichever is the most restrictive:
  - a. Piers less than forty (40) inches in height shall be constructed of open or closed cell, eight (8) inch by eight (8) inch by sixteen (16) inch concrete blocks (with open cells vertically placed upon the footer). Single-stacked block piers shall be installed with sixteen (16) inch dimension perpendicular to the main (I-beam) frame. The piers shall be covered with a two (2) inch by eight (8) inch by sixteen (16) inch wood or concrete cap.
  - b. Piers between forty (40) and eighty (80) inches in height and all corner piers over three blocks high shall be double blocked with blocks interlocked and capped with a four (4) inch by sixteen (16) inch wood or concrete cap.
4. All mobile homes shall be secured to the site through an anchorage system consisting of over the top tie downs to restrict overturning and frame tie downs to restrict the unit from being pushed from its piers. These tie downs shall meet the anchorage requirements specified by Tennessee State Statutes and the Southern Standard Building Code for installation and inspection requirements.



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5. An individual water connection shall be provided at each site with at least a 3/4 inch connecting water riser pipe. This pipe shall extend in a vertical position at least four (4) inches above ground level at the appropriate location. Adequate provisions shall be made to prevent the freezing of service lines, valves, and riser pipe. The riser pipe shall be capped when the site is unoccupied. At each site a shut off valve located below the frost line shall be provided near the water riser.
6. Each site shall be provided with at least four (4) inch corrosive resistant sewer riser pipe. This pipe shall extend in a vertical position at least four (4) inches above the ground level at the appropriate location. This service pipe shall consist of water tight joints and slope at least one-fourth (1/4) inch per foot to a collector line. Provisions shall be made to plug the drain when the site is unoccupied. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.
7. Electrical service drops from feeder distribution lines shall be provided, installed, and maintained in accordance with the National Electrical Code and Tennessee Department of Insurance and Banking Regulations Number 15, entitled "Regulations Relating". A weather-proof over-current protection device and disconnecting means shall be provided for each site. All exposed non-current carrying metal parts of the mobile home shall be properly grounded.
8. Each site provided with natural or liquefied petroleum shall have an approved manual shut off valve installed upstream of the gas outlet. Underground piping shall be at a sufficient depth to be protected from physical damage and shall not be installed beneath a mobile home stand unless it is installed in an approved gas tight conduit. Liquefied petroleum gas or oil containers shall be securely but not permanently fastened to prevent accidental over-turning. No containers shall be stored within or beneath any mobile home. All gas or oil systems shall be installed and maintained in accordance with the applicable codes and regulations governing such systems.
9. Off-street parking spaces shall be provided in sufficient number to meet the needs of the occupants and their guests. Such facilities shall be provided at the rate of at least three (3) spaces per mobile home. The size of the individual parking space shall consist of a minimum width of not less than ten (10) feet and a length of not less than twenty-two (22) feet. Each space shall be constructed of either a hot mix or concrete hard surface.
10. It is recommended that provision be made for external storage facilities at each site. These facilities should be designed in a manner that would enhance the appearance of the development.

### 10.13.11 SERVICE FACILITIES

1. The requirements of this section shall apply to permanent service facilities including, but not limited to management offices, laundry facilities, sanitary facilities. Such facilities

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are required for developments for the convenience of the occupants. All recreational open space shall consist of a minimum area of not less than 100 square feet per space.

2. The growth of brush, weeds, and grass in open areas shall be controlled and maintained to prevent heavy undergrowth of any description. Special emphasis shall be on the preventing of the growth of ragweed, poison ivy, poison oak, poison sage, and other noxious weeds considered to be detrimental to health.
3. Care shall be taken to control dry brush, litter, rubbish and other such flammable materials which might communicate fire between mobile homes and other structures.
4. A mobile home shall not be occupied for dwelling purposes unless it is properly installed on a mobile home stand and connected to all utilities. The park management shall supervise such installations.
5. No mobile home shall be admitted to a mobile home park unless it can be demonstrated that it meets the requirements of the Mobile Home Standards for Plumbing, Heating, and Electrical Systems or any state administered code insuring equal or better systems. Mobile homes manufactured prior to 1976 shall be exempt from this requirement.
6. No dogs, cats, or other domestic animals shall be permitted unrestrictive freedom within the limits of a mobile home park. Any kennels or pens for such animals shall be maintained in a sanitary condition at all times.
7. Pre-existing mobile home parks shall comply with all state regulations applicable thereto which were in force prior to the establishment of this mobile home park ordinance. Expansion shall only occur after compliance with the requirements of this ordinance.
8. Every mobile home park within the Benton Municipal Planning Jurisdiction shall be operated with adequate supervision to assure the park, its facilities and equipment are maintained in good repair and operated in a clean and sanitary condition at all times.
9. No travel trailers shall be placed on a mobile home stand or connected to utilities either in a mobile home park for occupancy at all times.

### 10.13.12 **ENFORCEMENT**

1. It shall be the duty of the building inspector to enforce the provisions of this ordinance and the duty of those inspectors specifically mentioned within this ordinance to enforce those regulations under their jurisdiction as those regulations apply to this ordinance.
2. The developer or the person to whom a permit for a mobile home park is issued shall be the sole individual responsible for compliance with this ordinance and the other related regulations. Actions toward the enforcement of this ordinance and all other related



regulations shall be directed toward the person to whom the mobile home park permit is issued.

**10.13.13      AMENDMENT**

1. Whenever the public necessity, convenience or general welfare justifies such action, the Benton Board of Mayor and Commissioners may amend or supplement this chapter. Any person may petition the Town Board of Mayor and Commissioners for an amendment or amendments to this ordinance.
2. Any proposed amendment or supplement shall be first submitted to the planning commission for its recommendation to the Town Board of Mayor and Commissioners. Absence of action after thirty-five (35) days after submission to the planning commission shall be a positive recommendation for such amendment to the Board of Mayor and Commissioners.

**10.13.14      TRAVEL TRAILER PARK REQUIREMENTS**

1. Unlawful Use of a Travel Trailer.  
It shall be unlawful for any travel trailer to be occupied or serviced outside of any properly permitted designated travel trailer park. This provision shall not apply to the storage of travel trailers that are neither temporarily nor permanently occupied as a dwelling unit while within the Town limits.
2. Permit for Travel Trailer Park.  
No place or site within the Town of Benton shall be established or maintained by any person, group of persons, or corporation as a travel trailer park unless a valid permit has been issued by the Town Building Inspector in the name of such person or persons for the specific travel trailer park. The Town Building Inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this ordinance.
3. Inspections by Town Building Inspector or County Health Officer.  
The Town Building Inspector or County Health Officer is hereby authorized and directed to make inspections to determine the condition of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and the general public. The Town Building Inspector or County Health Officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this ordinance.
4. Length of Occupancy.  
Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than thirty (30) days.
5. Location.



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Travel trailer parks should be located in the C-2 Highway Commercial Zoning District.

**NOTE:** Travel trailer parks, properly regulated, fit well into general commercial complexes in which a variety of complimentary facilities are available nearby – groceries, general stores, filling stations, coin operated laundries, for example, are often in demand by persons looking for trailer parks.

6. Minimum Size of Travel Trailer Park.  
The tract of land designed to be used as a travel trailer park shall conform to those same minimum lot area standards as established by the Benton Subdivision Regulations.
7. Minimum Size of Travel Trailer Space.  
Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet. Each space, upon which the travel trailer will be located, shall be situated such that there is at least fifteen (15) feet from side-to-side and at least eight (8) feet end-to-end from the edge of one travel trailer to the edge of the next.
8. Street Requirements.  
A loop or other system of internal private roads shall be built so that all travel trailer spaces take their access from such internal roads rather than directly from a public road. The use of pull-through spaces shall be allowed if the owner wants this arrangement.

The minimum widths of various streets or roads within a travel trailer park shall comply with the following:

One-way street ..... 10 feet wide;  
(with a twenty foot right of way and no on-street parking)

Two-way street ..... 16 feet wide;  
(with a twenty foot right of way and no on-street parking)

Parallel parking..... 8 feet of additional width;  
(on one side)

Parallel parking..... 16 feet of additional width.  
(on two sides)

9. Sewage Disposal.  
Each travel trailer park shall provide an adequate sewage disposal system approved in writing by the health officer. Each travel trailer space designed to accommodate travel trailers requiring external connections to the sewage disposal system shall have such connections approved by the health officer. A collection and disposal system for liquid waste shall also be provided within the park for those travel trailers having self-contained

waste systems. The liquid disposal and collection system shall meet all health department requirements.

The developer of a travel trailer park shall first attempt to dispose of sewage through a public sewerage system. If this attempt is not feasible, then a septic tank and subsurface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available.

No travel trailer shall be placed over a soil absorption field.

An officially-approved treatment plant may be used instead of a public sewerage or septic tank system.

#### **10.14 Child Care Facility Requirements**

Whenever a Child Care Facility, as defined in the Definitions Section 2.02, is established in an allowed Zoning District the following requirements should be met:

**10.14.01 Child Care Facilities.** In districts where Child Care Facilities are allowed, a permit for such use shall not be issued until a plan including a sketch of the site is submitted to the Board of Zoning Appeals for review, and further subject to the following minimum standards:

1. All dimensional regulations of the district shall apply.
2. A fenced play area of not less than fifty (50) square feet of open space per child shall be provided. The fence shall be at least five (5) feet in height.
3. Along the site boundary of the facility, buffering, screening, and landscaping must be provided to adequately protect any abutting residential property.
4. All outdoor play activities shall be conducted within the fenced play area. The fenced play area shall not be located within any required front yard.
5. The facilities' operation and maintenance shall meet the requirements of the Tennessee Department of Human Services.
6. Off-street parking shall be provided at the rate of one space for Family Day Care Homes, two spaces for Group Day Care Homes, and three spaces for Day Care Centers caring for up to fifteen children with an extra space for every five children accommodated above fifteen, plus the specific required space(s) for the district in which the facility is located.
7. In order that the Board of Zoning Appeals may make an accurate determination of the character of the proposed use, the applicant shall submit an accurately and legibly drawn site plan showing existing and proposed buildings, fences, landscaping, parking and access facilities.

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**10.14.02 Child Care Facilities as Accessory uses to Churches.** In any district where a church is established as a permitted use or a use permissible on appeal, Day Care Facilities, as defined by the Municipal Zoning Ordinance, may be approved by the Board of Zoning Appeals as an accessory use to said church, provided that the Day Care Facility is operated and maintained by said church, on the church premises and further provided the following conditions are met, as determined by the Board of Zoning Appeals:

1. All dimensional regulations of the district shall apply.
2. A fenced play area of not less than fifty (50) square feet of open space per child shall be provided. The fence shall be at least five (5) feet in height.
3. Along the site boundary of the facility, buffering, screening, and landscaping must be provided to adequately protect any abutting residential property.
4. All outdoor play activities shall be conducted within the fenced play area. The fenced play area shall not be located within any required front yard.
5. The facilities' operation and maintenance shall meet the requirements of the Tennessee Department of Human Services.
6. Off-street parking shall be provided at the rate of one space for Family Day Care Homes, two spaces for Group Day Care Homes, and three spaces for Day Care Centers caring for up to fifteen children with an extra space for every five children accommodated above fifteen, plus the specific required space(s) for the district in which the facility is located.



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**CHAPTER 11**  
**EXCEPTIONS AND MODIFICATIONS**

**Section**

**11.01. Scope**

**11.02. Nonconforming Uses**

**11.03. Exceptions to Height Limitations**

**11.04. Lots of Record**

**11.05. Exceptions to Front Yard Setback Requirements**

**11.06. Absolute Minimum Lot Size**

**11.01. Scope.**

Chapter 11 of this ordinance is devoted for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided for in Chapter 10.

**11.02. Nonconforming Uses.**

It is the intent of this ordinance to recognize that the elimination, as expeditiously as is reasonable, of the existing buildings and structures or uses that are not in conformity with the provisions of this ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this ordinance. It is also the intent of this ordinance to so administer the elimination of non-conforming uses, buildings, and structures as to avoid an unreasonable invasion of established private property rights.

**Lawful non-conforming uses, buildings, and structures existing at the time of the passage of this ordinance or any amendment thereto, shall be allowed to remain subject to the following provisions:**

1. An existing non-conforming use of a building may be changed to a conforming use or to another non-conforming use of the same or higher classification, providing, however, that the establishment of another non-conforming use of the same or higher classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.
2. A non-conforming use of land shall be restricted to the area occupied by such use as of the effective date of this ordinance (See a. exceptions). A non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this ordinance (See a. exceptions).
  - a. Any commercial or industrial business established prior to this ordinance shall be allowed to continue in operation and be permitted; provided, that no change in the use of the land is undertaken by such industry or business. A commercial or industrial business shall also be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the

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activities of the industry or business which were permitted and being conducted prior to the change in zoning; provided, that there is reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

3. When a non-conforming use of any structure of land, excepting non-conforming manufactured homes or mobile home parks has been discontinued for a period of six (6) months, it shall not be re-established or changed to any use not in conformity with the provisions of this ordinance. Immediately upon the removal of a non-conforming manufactured home or discontinuance of a non-conforming manufactured home park, the nonconformity of such structure and use of land shall lapse.
4. Any non-conforming building or non-conforming use, which is damaged by fire, flood, wind, or other act of God or man, may be reconstructed and used as before, if it be done within twelve (12) months of such damage, unless damaged to extent of more than sixty (60) percent of its fair market value immediately prior to damage in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance. If the owner of property wishes to request an extension due to hardship, such as, weather, or insurance claim, the request can be made to the BMPC and must be approved by a majority of the members present at an official meeting.
5. **A non-conforming building or building housing a non-conforming use shall not be structurally altered except in conformance with the provisions of this ordinance.** This provision shall not be construed to prevent normal maintenance and repairs of alterations required for structural safety.
6. An existing non-conforming use or building which is located within the Floodway District and/or Floodway Fringe Floodway Fringe District shall meet the requirements of those districts.

### **11.03. Exceptions to Height Limitations.**

The height limitations of this ordinance can be exceeded provided the following conditions are met.

1. The developer must present, at the time he applies for a building permit, a copy of the building plans which have been approved by the Benton Fire Chief. These plans must show all of the following:
  - a. A wet standpipe riser with one and one-half (1 1/2) inch fire hose connections,
  - b. A wet automatic sprinkler protection system for the entire building,
  - c. Enclosed exit stairways,
  - d. Smoke and heat detection units, and



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- e. Any other fire protection and prevention requirements which the fire chief feels are necessary for the building, including a height requirement not to exceed the capability of the Benton Fire Department.

*The design and installation of these fire protection measures must be in conformance with the National Fire Protection Association Standards (NFPA).*

2. Before the building can be occupied, the developer must secure a statement from the fire chief that the fire protection systems have been installed according to the plans and that the system is functioning properly.
3. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, silos, grain elevators, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts, and aerials.

### **11.04. Lots of Record.**

The following provisions shall apply to all existing lots of record:

1. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the **Board of Zoning Appeals for a variance from the terms of this ordinance**. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as in the opinion of the Board of Zoning Appeals is possible.
2. No lot which is not or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.
3. Where two or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

### **11.05. Exceptions to Front Yard Setback Requirements.**

The front setback requirement of this ordinance for structures shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet on each side of the lot. In residential



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districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

### **11.06. Absolute Minimum Lot Size.**

In no case shall the Board of Zoning Appeals permit a residence to be erected on a lot whose width at the building setback line is less than fifty (50) feet and/or whose total lot area is less than five thousand (5,000) square feet.

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**CHAPTER 12**  
**ADMINISTRATION AND ENFORCEMENT**

**Section**

- 12.01. Administration of the Ordinance**
- 12.02. The Enforcement Officer**
- 12.03. Building Permits**
- 12.04. Temporary Use Permits**
- 12.05. Certificate of Occupancy**
- 12.06. Board of Zoning Appeals**
- 12.07. Procedure for Authorizing Uses Permitted on Appeal**
- 12.08. Variances**
- 12.09. Amendments to the Ordinance**
- 12.10. Remedies**
- 12.11. Penalties for Violations**
- 12.12. Conflict with Other Regulations**
- 12.13. Separability**
- 12.14. Effective Date**

**12.01. Administration of the Ordinance.**

Except as otherwise provided, no structure or land shall after the effective date of this ordinance be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

**12.02. The Enforcement Officer.**

The provisions of this ordinance shall be administered and enforced by the Benton Building Inspector. The building inspector shall administer and enforce this ordinance and, in addition, he/she shall:

1. Issue all Building Permits and make and maintain records thereof.
2. Issue all Certificates of Occupancy and make and maintain records thereof.
3. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
4. Maintain and keep current zoning maps, and records of amendments thereto.
5. Conduct inspections as required in this ordinance and such other inspections as are necessary to ensure compliance with the various other general provisions of this

ordinance. The building inspector shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his/her authorized duties.

6. Administer and enforce the Town's flood plain management program.

#### **12.03. Building Permits.**

Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, fill or excavate land lying within any flood hazard areas, or to erect or construct a sign of any description, or to install or alter fire-extinguishing apparatus, elevators, engines, or to install a steam boiler, furnace, heater, incinerator, or other heat producing apparatus, or other appurtenances, the installation of which is regulated by this code, or to cause any such work to be done, in excess of one thousand (\$1,000.00) dollars shall first make application to the building official and obtain the required permit therefore. Where such work is less than (\$1,000.00) dollars a permit is still required but no fee will be charged. Permit fees will be set by the Board of Mayor and Commissioners and will be listed in the city's fee schedule.

A general permit shall carry with it the right to install in any building or structure, or part thereof, heating apparatus, elevators, sidewalk elevators, vaults, chutes, coal holes, lifts, cranes, derricks, steam power boilers, steam, oil, gas or vapor engines, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit; but where these are not shown on the drawings and covered by the specifications submitted with said application, special permits shall be required.

Minor repairs may be made with the approval of the building official without a permit; provided that such repairs shall not violate any of the provisions of this code.

Any building permit issued becomes invalid if work authorized by it is not commenced within six (6) months of the date of issuance or if work authorized by the permit is suspended or discontinued for a period of one (1) year.

#### **12.04. Temporary Use Permits.**

It shall be unlawful to commence construction or development of any use of a temporary nature until a permit has been secured from the Benton Building Inspector. Application for a Temporary Use Permit shall be made in writing to the building inspector on forms provided for that purpose.

#### **12.05. Certificate of Occupancy.**

No land or building or their structure or part thereof hereafter erected, moved, or altered in its use shall be used until the building inspector shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) working days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the building inspector to make a final inspection thereof, and to issue a Certificate of Occupancy, if the building or premises or part



thereof is found to conform with the provisions of this ordinance; of, if such certificate is refused, to state the refusal in writing with the cause for such refusal.

**12.06. Board of Zoning Appeals.**

A Benton Board of Zoning Appeals (BBZA) is hereby established in accordance with Section 13-7-205 through 13-7-207 of the Tennessee Code Annotated. The Benton Municipal Planning Commission shall also serve as the Board of Zoning Appeals.

**12.06.01. Procedure.** Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the BBZA may determine. Such chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the BBZA shall be open to the public. The BBZA shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

**12.06.02. Appeals to the BBZA.** An appeal to the Benton Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental office, department, board, or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing an application (see appendix) with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The building inspector shall transmit to the BBZA all papers constituting the record upon which the action appealed was taken. The BBZA shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person by agent, or by attorney.

**12.06.03. Powers of the BBZA.** The Benton Board of Zoning Appeals shall have the following powers as empowered by Tennessee Code Annotated 13-7-207.

1. **Administrative Review:** To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the building inspector or other administrative official in the carrying out of enforcement of any provision of this ordinance.
2. **Special Exceptions:** To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the Board of Zoning appeals is authorized to pass.
3. **Variances:** To hear and decide applications for variances from the terms of this ordinance.

**12.07. Procedure for Authorizing Uses Permitted on Appeal.**

The following procedure is established to provide procedures for appeal of a proposed use by the Board of Zoning Appeals. The procedure shall be the same whether review is required by this ordinance or whether a review is requested by the building inspector to determine whether a

proposed use is potentially noxious, dangerous, or offensive. This procedure shall also be used in submitting special exceptions to the Board of Zoning Appeals.

1. **Application.** An application shall be filed with the Board of Zoning Appeals for review. Said application shall show the location and intended use of the site, the names of the property owners, and existing land uses within two hundred (200) feet, and any other material pertinent to the request which the BBZA may require. Application for a building permit shall be made in writing to the building inspector on forms provided for that purpose. It shall be unlawful for the building inspector to approve the plans or issue a building permit for any excavation, filling or construction until such plans have been inspected in detail and found to be in conformity with this ordinance. To this end, the application for a building permit for excavation, filling, construction, moving, or alteration, shall be accompanied by a plan or plat drawn to a scale showing the following in sufficient detail to enable the building inspector to ascertain whether the proposed excavation, filling, construction, moving, or alteration is in conformance with this ordinance:
  - a. The actual shape, location, and dimensions of the lot to be built upon;
  - b. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot;
  - c. The existing and intended use of all such buildings or other structures;
  - d. Location and design of off-street parking areas and off-street loading areas. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.
  - e. In areas that are subject to flooding, the following additional information is required:
    - (1) Elevation in relation to mean sea level (MSL) of the lot;
    - (2) MSL elevation of the lowest floor (including basement) of all structures;
    - (3) MSL elevation to which any nonresidential structure is proposed to be flood-proofed.
  - f. The location of the foregoing in relation to any stream within the vicinity.

*If the proposed excavation, filling, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the building inspector shall issue a building permit for such excavation or construction. If an application for a building permit is not approved, the building inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any*



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*provisions of this ordinance, and building permits shall be void after six (6) months from date of issue, unless substantial progress on the project has been made by that time.*

2. **Restrictions.** In the exercise of its approval, the planning commission may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance.
3. **Validity of Plans.** All approved plans, conditions, restrictions, and rules made a part of the approval of the planning commission shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.
4. **Time Limit.** All application reviewed by the planning commission shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

### 12.08. Variances.

The purpose of the variance provision is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional **physical conditions**, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of **the reasonable use of his land**. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

1. **Application.** After written denial of a permit, a property owner may make application for a variance, using the standard form made available by the Board of Zoning Appeals.
2. **Hearings.** Upon receipt of an application and ten (\$10.00) dollar fee, the BBZA shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The BBZA shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.
3. **Standards for Variances.** In granting a variance, the BBZA shall ascertain that the following criteria are met as outlined in Subsection 3 of **Tennessee Code Annotated** Section 13-7-207.
  - a. Variances shall be granted only where special circumstances or conditions, fully described in the finding of the BBZA, do not apply generally in the district;
  - b. Variances shall not be granted to allow a **use** otherwise excluded from the particular district in which requested;
  - c. For reasons fully set forth in the findings of the BBZA, the aforesaid circumstances or conditions are such that the strict application of the provisions of



this ordinance would deprive the applicant of any reasonable use of his land. Mere loss of value shall not justify a variance. There must be a deprivation of beneficial use of land.

- d. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development;
  - e. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the person applying therefore.
4. **Factors to Consider within Flood Hazard Areas.** Consult the Appendix of this ordinance.

**12.09. Amendments to the Ordinance.**

1. **General.** The Town council may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions wherever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity, convenience, and general welfare require such amendment. However, no amendment shall become effective unless it be first submitted to and approved by the planning commission, or if disapproved, shall receive the favorable vote of a majority of the entire membership of the chief legislative body.
2. **Initiation of Amendment.** Amendments may be initiated by the Town council, the planning commission, or by all of the owners of property affected by the proposed amendment. An application by an individual for an amendment shall be accompanied by a fee of twenty-five (\$25.00) dollars payable to the Town of Benton. The application shall be made on the form in the appendix and shall also be accompanied by maps, drawings, two (2) petitions signed by the adjoining property owners, and data necessary to demonstrate that the proposed amendment is in general conformance with the General Plan of the Town of Benton and that public necessity, convenience, and general welfare, require the adoption of the proposed amendment. An accurate legal description and scale drawing of the land and existing buildings shall be submitted with the application.
3. **Review and Recommendation by the Planning Commission.** The Benton Municipal Planning Commission shall review and make recommendations to the Board of Mayor and Commissioners on all proposed amendments to the ordinance.
4. **Grounds for an Amendment.** The planning commission in its review and recommendation, and the Town council in its deliberations, shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:
  - a. The amendment is in agreement with the general plan for the area.

- c. When the previous application was denied for the reason that the proposed zoning would not conform with the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

**12.10. Remedies.**

In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the building inspector or any other appropriate authority or any adjacent or neighborhood property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

**12.11. Penalties for Violations.**

Upon conviction, any person violating any provision of this ordinance shall be fined not less than two (\$2.00) dollars nor more than fifty (\$50.00) dollars for each offense. Each day such violations continue shall constitute a separate offense.

**12.12. Conflict with Other Regulations.**

Whenever the regulations of this ordinance require more restrictive standards than are required in or under any other statute; the requirements of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards that are required by this ordinance, the provisions of such statute shall govern.

**12.13. Separability.**

Should any action or provisions of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the facility of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**12.14. Effective Date.**

This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

**Ordinance First Reading -**

DATE: 6-26-05

**Ordinance Second Reading -**

DATE: 7-7-05

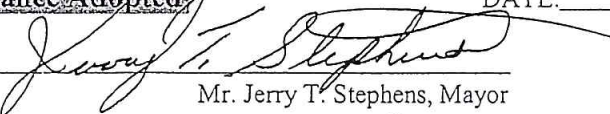
**Date of Public Hearing -**

DATE: 6-28-05

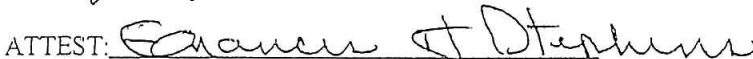
**Ordinance Adopted**

DATE: 7-7-05

Signed: \_\_\_\_\_

  
Mr. Jerry T. Stephens, Mayor

ATTEST: \_\_\_\_\_

  
Frances H. Stephens, Benton City Recorder

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