CHAPTER 15.18

RURAL WATER SUPPLY PROGRAM

SECTIONS:

15.18.010	Title
15.18.020	Purpose
15.18.030	Applicability
15.18.040	Definitions
15.18.050	Creation and Use of County Water Bank
15.18.060	Building Permits for Dwelling Units
15.18.070	Applications for Short Subdivisions or Subdivisions
15.18.080	Mitigation Certificates from the County
15.18.090	Consumptive Use of Water
15.18.100	Metering Requirements
15.18.110	Administration
15.18.120	Violations—Infraction—Misdemeanor
15.18.130	Injunctive Relief
15.18.140	Violations—Investigations—Evidence
15.18.150	Failure to Provide Information Identifying Person
15.18.160	Notice of Infraction—Service
15.18.170	Form—Contents
15.18.180	Filing—Hearing in District Court
15.18.190	Determination Infraction Committed
15.18.200	Response – Requesting a Hearing - Failure to Respond or Appear – Order Set Aside
15.18.210	Representation by Attorney
15.18.220	Infraction – Hearing – Procedure – Burden of Proof – Order - Appeal
15.18.230	Explanation of Mitigating Circumstances
15.18.240	Civil Penalty—Infraction
15.18.250	Violation—Penalties
15.18.260	Severability
15.18.270	Effective Date

15.18.010 TITLE. There is hereby added a new chapter to the Benton County Code, entitled "Rural Water Supply Program" and which shall include the sections that follow.
[Ord. 619 (2020) § 1]

15.18.020 PURPOSE. The purpose of this chapter is to: (1) protect the public health, safety and welfare of the citizens of Benton County: (2) comply with the requirements of the Growth Management Act set forth in chapter 36.70A RCW related to the protection of the quantity and quality of ground and surface water; and (3) protect the rural character of the County, while continuing to provide opportunities for citizens that desire rural residential lifestyle in areas not served by public water systems.
[Ord. 619 (2020) § 2]

15.18.030 APPLICABILITY. This chapter shall only apply to development of parcels for residential uses which are located wholly or partially within that portion of unincorporated Benton County as set forth in the two Mitigation Area maps attached hereto as Exhibit A, which in general terms is that portion of water resource inventory area 37 delineated by the Benton County line to the west, the northern and southern boundaries of water resource inventory area 37, and on the east as set forth in the Mitigation Area maps.
[Ord. 619 (2020) § 3; Ord. 645 (2022) § 1]

15.18.040 DEFINITIONS. The following words and phrases used in this chapter shall be given the meaning attributed to them by this section. Except where specifically defined below, all words used in this chapter shall carry their customary meaning as set forth in a commonly accepted dictionary.

(a) "Dwelling Unit" shall mean a room or rooms located within a structure that is designed, arranged, occupied or intended to be occupied by not more than one (1) household. The existence of food preparation and bathroom areas within the room or rooms shall be evidence of the existence of a dwelling unit.

(b) "Irrigation District" shall mean a district organized pursuant to chapter 87.03 RCW.

(c) "Water Resource Inventory Area 37" shall mean that area so designated by chapter 173-500 WAC, as now in existence or hereafter amended.
[Ord. 619 (2020) § 4]

15.18.050 CREATION AND USE OF COUNTY WATER BANK. Benton County has acquired certain water rights that will be placed into the State of Washington trust water rights program pursuant to chapters 90.38 and 90.42, RCW, and future acquired water rights may also be placed into the trust water rights program by Benton County. Mitigation certificates and supplemental mitigation certificates may be issued under BCC 15.18.080 only to the extent the aggregate amount of water considered to be consumptively used pursuant BCC 15.18.090 does not exceed the amount of water placed into the trust water rights program by Benton County for this purpose.
[Ord. 619 (2020) § 5; Ord. 645 (2022) § 2]

15.18.060 BUILDING PERMITS FOR DWELLING UNITS. An applicant for a building permit under Title 3 of the Benton County Code to construct a new building that will contain one or more dwelling units may rely on a private well for which no water right has been obtained for the necessary domestic water supply for such building only if the provisions of RCW 90.44.050 are satisfied and the applicant acquires a mitigation certificate from the Benton County Water Bank under the terms of this chapter or from a private water bank in a quantity of water equal to or greater than that required if the mitigation certificate were obtained from the Benton County Water Bank.
[Ord. 619 (2020) § 6]

15.18.070 APPLICATIONS FOR SHORT SUBDIVISIONS OR SUBDIVISIONS. An applicant for a short subdivision or subdivision under Title 9 of the Benton County Code may rely on one or more private wells for which no water right has been obtained for the necessary domestic water supply for the lots to be created only if the provisions of RCW 90.44.050 are satisfied and the applicant acquires the required mitigation certificates for each proposed parcel from the Benton County Water Bank under the terms of this chapter or from a private water bank in quantities of water equal

to or greater than that required if the mitigation certificates were obtained from the Benton County Water Bank.
[Ord. 619 (2020) § 7]

15.18.080 MITIGATION CERTIFICATES FROM THE COUNTY.

(a) An applicant for a building permit on a parcel within the boundaries of an irrigation district at the time of application approval and that must acquire a mitigation certificate pursuant to BCC 15.18.060, may purchase one Package A Mitigation Certificate per dwelling unit from the County. A Package A Mitigation Certificate shall authorize an annual average of two hundred (200) gallons per day of private well water for indoor use only on the parcel, provided, so long as the daily annual average is not exceeded in any twelve (12) month period, the maximum withdrawal on any given day for parcels with a Package A Mitigation Certificate shall be six hundred seventy five (675) gallons. The price of a Package A Mitigation Certificate shall be set by resolution of the Board of County Commissioners.

(b) An applicant for a building permit that must acquire a mitigation certificate pursuant to BCC 15.18.060 with respect to a parcel that will not be within the boundaries of an irrigation district or that will be within the boundaries of an irrigation district but provides written confirmation from the district that the parcel will not be subject to assessments by the irrigation district at the time of application approval, may purchase either one Package B Mitigation Certificate or one Package C Mitigation Certificate per dwelling unit from the County. The prices of Package B and Package C Mitigation Certificates shall be set by resolution of the Board of County Commissioners.

(i) Package B Mitigation Certificates shall authorize the use of an annual average of three hundred (300) gallons per day, in the aggregate, of private well water for indoor use and outdoor irrigation of an area up to 1500 square feet. So long as the annual daily average is not exceeded in any twelve (12) month period, the maximum daily withdrawal on any given day for parcels with a Package B Mitigation Certificate shall be one thousand (1000) gallons.

(ii) Package C Mitigation Certificates shall authorize the use of an annual average of four hundred (400) gallons per

day, in the aggregate, of private well water for indoor use and outdoor irrigation of an area up to 3000 square feet. So long as the annual daily average is not exceeded in any twelve (12) month period, the maximum daily withdrawal on any given day for parcels with a Package C Mitigation Certificate shall be one thousand three hundred (1300) gallons.

(c) An applicant for a short subdivision or subdivision that needs to acquire one or more mitigation certificates pursuant to BCC 15.18.070 may purchase after preliminary approval of the short subdivision or subdivision one mitigation certificate per dwelling unit to be built on each buildable parcel proposed to be created.

(i) Package A Mitigation Certificates as described in BCC 15.18.080(a) above may be purchased for proposed parcels that will at the time of final plat approval be within the boundaries of an irrigation district.

(ii) Package B or Package C Mitigation Certificates as described in BCC 15.18.080(b)(i) and (ii) above may be purchased for proposed parcels that will at the time of final plat approval be outside the boundaries of an irrigation district or within the boundaries of an irrigation district if a written statement is provided by the irrigation district stating that the proposed parcels will not be subject to assessment by the district.

(d) Use of water pursuant to a mitigation certificate acquired from the County may be curtailed in extreme low water supply conditions notwithstanding the amounts of water otherwise set forth above. Any valid priority calls against the County's Trust Water Right based on local limitations of water availability and/or impairment of senior water rights shall result in temporary curtailment of the use of water under a mitigation certificate until the priority call for water ends.

(e) A mitigation certificate issued under subsections (a),(b), or (c) above satisfies the adequate water supply requirement for one dwelling unit. A building permit applicant for a parcel with multiple dwelling units and short subdivision and subdivision

applicants proposing to have multiple dwelling units on proposed parcels must obtain mitigation certificates for each dwelling unit if they are relying on mitigation certificates to satisfy the requirement for an adequate water supply.

(f) Owners of a parcel for which only a Package B Mitigation Certificate has been issued and recorded may apply for a Supplemental Mitigation Certificate that shall authorize the use of an annual average of an additional one hundred (100) gallons per day, in the aggregate, of private well water for indoor use and outdoor irrigation of an additional fifteen hundred (1500) square feet. So long as the annual daily average is not exceeded in any twelve (12) month period, the maximum daily withdrawal on any given day for parcels with a Package B Mitigation Certificate and a Supplemental Mitigation Certificate shall be one thousand three hundred (1300) gallons. The price of a Supplemental Mitigation Certificate shall be set by resolution of the Board of County Commissioners.

(g) Each mitigation certificate and Supplemental Mitigation Certificate must be recorded with the Benton County Auditor and indicate: (1) the parcel on which the water will be used; (2) the amount of use authorized; (3) the maximum number of square feet, if any, that may be irrigated thereunder; (4) the parcel on which the well is located; and (5) the maximum amount of water authorized for use daily and in any consecutive twelve (12) month period. [Ord. 619 (2020) § 8; Ord. 645 (2022) § 3]

15.18.090 CONSUMPTIVE USE OF WATER. (a) For each Package A Mitigation Certificate issued under this chapter, the annual consumptive use of water under that mitigation certificate shall be deemed to be .045 acre-feet per year.

(b) For each Package B Mitigation Certificate issued under this chapter, the annual consumptive use of water under that mitigation certificate shall be deemed to be .146 acre-feet per year.

(c) For each Package C Mitigation Certificate issued under this chapter, the annual consumptive use of water under that mitigation certificate shall be deemed to be .314 acre-feet per year.

(d) For each Supplemental Mitigation Certificate issued under this chapter, the annual consumptive use of water under that supplemental mitigation certificate shall be deemed to be .168 acre-feet per year.

(e) For each building permit issued between February 14, 2018, and the last business day prior to the effective date of this chapter authorizing the construction of a new building on a parcel within the Mitigation Area that will contain one or more dwelling units for which the domestic water source is a private well with no water right, the consumptive use of water shall be deemed as follows:

(i) .045 acre-feet per year for each dwelling unit located on parcels within an irrigation district; and

[**NOTE: This chapter is continued on the following page.]**

(ii) .146 acre-feet per year for each dwelling unit located on parcels outside of an irrigation district.

[Ord. 619 (2020) § 9; Ord. 645 (2022) § 4]

15.18.100 METERING REQUIREMENTS. (a) All dwelling units relying on private wells pursuant to a mitigation certificate issued by Benton County or by a private water bank shall meter their water usage through a meter approved by the County and pay an annual fee, in the amounts set forth by resolution adopted by the Board of County Commissioners, for the administration of a metering and monitoring program.

(b) Participants are responsible for the installation of meters and metering equipment and any associated costs as determined by County specifications, with the equipment and inspection fees set by Board of Commissioner resolution. Meter installment must meet the following specifications and will be subject to inspection:

(i) The meter must be installed on the mainline prior to any ~~residential~~ lateral connections or~~,~~ spigots. Additionally, the meter may be installed immediately after the ~~, or~~ pressure tank, but must still be installed prior to any lateral connections or spigots.~~s in a well house~~.

(ii) Meters must be accessible.

(iii) The meter must be installed according to the manufacturer specifications despite varying pipe-fitting, pipe size, well locations and landscape conditions.

(iv) Meter installation must have an accessible, weather resistant, meter structure, such as a meter box or equivalent, and be appropriate for location and geographic area.

(v) Meter installation must contain provisions for cellular endpoints for automatic reading. Below ground installations shall utilize a manufacturer's recommended meter box and lid specifications with accommodations for the end point. Installations inside a building shall properly mount the end point in accordance with the manufacturer's recommendations. End points shall be mounted on the building exterior if necessary to ensure adequate signal strength.

(c) Installation of metering equipment and functional water flow must be complete and approved prior to the inspection and issuance of a Certificate of Occupancy.

(d) If metering equipment requires maintenance, repair, and/or replacement, the property owner is responsible for ensuring proper equipment functionality. If the property owner does not comply with any needed maintenance, repair, and/or replacement of the metering equipment at the cost of the property owner Benton County may undertake such work and recover the costs from the property owner through either an invoice for costs or a lien on the parcel. [Ord. 619 (2020) § 10]

15.18.110 ADMINISTRATION. Both the Benton County Planning Administrator and the Benton County Building Official and their authorized representatives shall have the responsibility for the administration and enforcement of this chapter.
[Ord. 619 (2020) § 11]

15.18.120 VIOLATIONS--INFRACTION--MISDEMEANOR. The first violation of any provision of this chapter shall constitute an infraction. Upon final disposition of an infraction, a determination of a continuing violation of the same provision by an official authorized to enforce the provision at issue shall constitute a second or subsequent offense. The court's finding of a second or subsequent violation of the same provision of this chapter shall constitute a misdemeanor.
[Ord. 619 (2020) § 12]

15.18.130 INJUNCTIVE RELIEF. Notwithstanding the existence or use of any other remedy or means of enforcement of the provisions hereof, Benton County may seek legal or equitable relief to enjoin any acts or practices which constitute a violation of any of the provisions hereof and compel compliance with all provisions of this chapter. The costs of such action shall be taxed against the person violating the provisions of this chapter. The Planning Administrator may accept written assurance of discontinuance of any act in violation of this chapter from any

person who has engaged in such act. Failure to comply with the assurance of discontinuance shall be a further violation of this chapter.
[Ord. 619 (2020) § 13]

15.18.140 VIOLATIONS - INVESTIGATIONS - EVIDENCE. If the name of the person allegedly or apparently in violation of this chapter is not known, or if the name of the person does not appear on the latest list of permits compiled by the County, upon presentation of credentials, an authorized official may inspect parcels for which a mitigation certificate has been issued as is required under this chapter to determine compliance with this chapter. Upon request of the authorized representative of either authorized department, the person allegedly or apparently in violation of this chapter shall provide information identifying themselves.
[Ord. 619 (2020) § 14]

15.18.150 FAILURE TO PROVIDE INFORMATION IDENTIFYING PERSON. Willful refusal to provide information identifying a person as required by BCC 15.18.140 is a misdemeanor.
[Ord. 619 (2020) § 15]

15.18.160 NOTICE OF INFRACTION--SERVICE. If an authorized official reasonably believes that a provision of this chapter that he or she is authorized to enforce has been violated, that authorized official or the Prosecuting Attorney may issue a notice of infraction for the first such violation. A notice of infraction issued under this chapter shall be personally served upon the person named in the notice or filed with the court for service.
[Ord. 619 (2020) § 16]

15.18.170 FORM--CONTENTS. The notice of infraction shall include the following:

(a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued, the date and place the infraction occurred and the date the notice was issued;

(d) A statement that the civil penalty shall not exceed five hundred dollars ($500) for said violation and that the person may be ordered to pay court costs, if applicable, and restitution for any damages caused by said violation;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options, including the name, address, and phone number of the court where the notice of infraction is to be filed and that the defendant must respond within fifteen (15) days;

(f) A statement that a mailed response must be mailed not later than midnight on the day the response is due; and

(g) A statement that at any hearing to contest the determination the county has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses, including the authorized official who issued and served the notice of infraction.
[Ord. 619 (2020) § 17]

15.18.180 FILING - HEARING IN DISTRICT COURT. A violation designated as an infraction under this chapter can be heard and determined by either a district or superior court.
[Ord. 619 (2020) § 18]

15.18.190 DETERMINATION INFRACTION COMMITTED. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction.
[Ord. 619 (2020) § 19]

15.18.200 RESPONSE - REQUESTING A HEARING - FAILURE TO RESPOND OR APPEAR - ORDER SET ASIDE.

(a) A person who receives a notice of infraction shall respond to the notice as provided in this section within fifteen (15) days of the date the notice was served.

(b) If the person named in the notice of infraction does not want to contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department.

(c) If the person named in the notice of infraction wants to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing. The date of the hearing shall not be sooner than fourteen (14) days from the date of the notice of hearing, except by agreement of the parties.

(d) If any person issued a notice of infraction (1) fails to respond to the notice of infraction as provided in subsection (b) of this section, or (2) fails to appear at a hearing requested pursuant to subsection (c) of this section, the court shall enter an appropriate order assessing the monetary penalty prescribed for the infraction and shall notify the authorized official of the failure of the person to respond to the notice of infraction or to appear at a requested hearing.

(e) An order entered by the court under subsection (d)(2) of this section may, for good cause shown and upon such terms as the court

deems just, be set aside for the same grounds a default judgment may be set aside in civil actions.
[Ord. 619 (2020) § 20]

15.18.210 REPRESENTATION BY ATTORNEY. A person subject to proceedings under this chapter may appear or be represented by counsel. Each party to an infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in an infraction case.
[Ord. 619 (2020) § 21]

15.18.220 INFRACTION - HEARING - PROCEDURE - BURDEN OF PROOF - ORDER - APPEAL.

(a) A hearing held to contest the determination that an infraction has been committed shall be without a jury.

(b) The court may consider the notice of infraction and any sworn statement submitted by the authorized official who issued and served the notice in lieu of his or her personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the authorized official who issued and served the notice, and has the right to present evidence and examine witnesses present in court.

(c) The burden of proof is on the authorized official to establish the commission of the infraction by a preponderance of the evidence.

(d) After consideration of the evidence and argument, the court shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. If it has been established that the infraction was committed, an appropriate order shall be entered in the court's records.
[Ord. 619 (2020) § 22]

15.18.230 EXPLANATION OF MITIGATING CIRCUMSTANCES.

(a) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(b) After the court has heard the explanation of the circumstances surrounding the commission of the infraction an appropriate order shall be entered in the court's records.

(c) The person may not appeal the court's determination or order. [Ord. 619 (2020) § 23]

15.18.240 CIVIL PENALTY--INFRACTION. A civil penalty imposed by the court under this chapter is immediately payable. If the person or contractor is unable to pay at that time, the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court shall notify the Planning Administrator of the failure to pay the penalty and the County shall not issue the person or contractor any future permits for any work until the penalty has been paid.
[Ord. 619 (2020) § 24]

15.18.250 VIOLATION--PENALTIES.

(a) Upon a finding of a first violation of any provision of this chapter, any person or contractor shall be punished by a civil penalty not to exceed five hundred dollars ($500) for said violation, shall be responsible for court costs, if applicable, and shall be ordered to pay restitution for any damages caused by said violation.

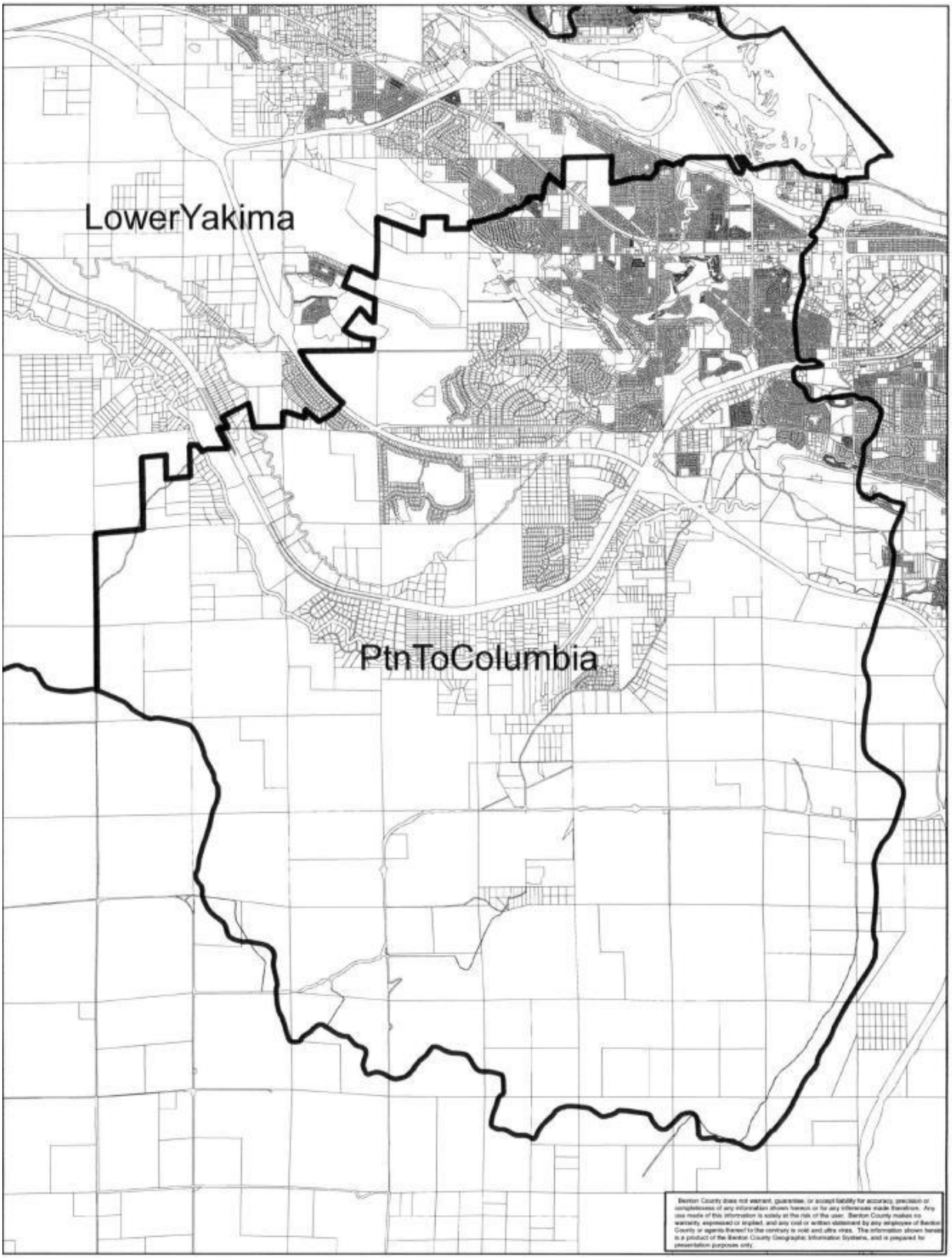
(b) Upon the court's finding of a second or subsequent violation of the same provision of this chapter, any person or contractor shall be found guilty of a misdemeanor.
[Ord. 619 (2020) § 25]

15.18.260 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 619 (2020) § 26]

15.18.270 EFFECTIVE DATE. This chapter shall take effect and be in full force on February 1, 2020.
[Ord. 619 (2020) § 27]

Exhbit A
LowerYakima
West Richland
Richland
Benton City
Prosser
Kennewick
PtnToColumbia

EXHIBIT A



CHAPTER 17.10

PERMIT REVIEW PROCESS

SECTIONS:

17.10.010	Applicability
17.10.020	Purpose
17.10.030	Definitions
17.10.040	Exemptions
17.10.050	Types of Project Permit Applications
17.10.060	Project Permit Application Processing Framework
17.10.070	Combined Processing of Project Permit Applications
17.10.080	Joint Public Hearings
17.10.090	Submission and Acceptance of Application
17.10.100	Notice of Project Permit Application
17.10.110	Administrative Approval and Appeals
17.10.120	~~Board of Adjustment~~Hearings Examiner Actions
17.10.130	Planning Commission Actions
17.10.140	Board of County Commissioners
17.10.150	Final Decision
17.10.160	Judicial Appeals
17.10.170	Administrative Interpretations
17.10.180	Severability
17.10.190	Effective Date
17.10.200	Effective Date (Ord. 503)

17.10.010 APPLICABILITY. This Chapter shall apply to all project permit applications processed under the Benton County Code, except those applications exempted pursuant to BCC 17.10.040.
[Ord. 281 (1996) § 2]

17.10.020 PURPOSE. The purpose of this Chapter is to comply with the requirements of the Revised Code of Washington Chapter

36.70B by providing for the review of project permit applications to achieve the following objectives:

(a) Combine the environmental review process, both procedural and substantive, with the procedure for review of project permit applications; and

(b) Except for the appeal of a Determination of Significance as provided in RCW 43.21C.075, provide for no more than one open record hearing and one closed record appeal on a project permit application.
[Ord. 281 (1996) § 3]

17.10.030 DEFINITIONS. The following definitions shall apply to this Title:

(a) ”Building Department Manager” means the Manager of the Benton County Building Department or appointed designee.

(b) "Closed Record ~~Appeal~~Hearing" means a~~n~~ hearing conducted by ~~appeal to~~ the Benton County Board of Commissioners, on the record where no new evidence or information being submitted, ~~of a~~to render a decision ~~made following an open record hearing on a project permit application~~.

(c) "County" means the County of Benton, a political subdivision of the State of Washington.

(d) "Open Record Hearing" means a hearing, conducted by a single hearing body or officer authorized by the Benton County Board of Commissioners, wherein a record will be created through the receipt of testimony and other appropriate evidence and information under procedures prescribed by the Benton County Code or by such body's or officer's rules of procedure.

(e) "Planning Director/Administrator" means the Manager of the Benton County Planning Department or appointed designee.

(f) "Project Permit Application" means any application made for a permit, license or approval required in connection with a proposed land use action. This includes, but is not limited to, ~~building permits~~, subdivisions, planned unit developments, special permits, conditional use permits, shoreline substantial development permits, approvals required by critical area ordinance, or site specific rezones ~~authorized by a comprehensive plan or subarea plan~~which do not require a comprehensive plan amendment. The adoption of or amendments to a comprehensive plan, subarea plan, or

development regulations are not classified as project permit applications.
[Ord. 281 (1996) § 4; Ord. 558 (2014) § 1]

17.10.040 EXEMPTIONS. (a) The following project permit applications are exempt from the provisions contained within this Title:

(1) Applications for street vacations.

(2) Applications for approval relating to the use of public areas or facilities, including encroachment permits.

(3) Completed project permit applications received before the effective date of this Title.

(4) Projects for interior alterations are excluded from BCC 17.10, provided that the interior alterations do not result in the following:

(a) Additional sleeping quarters or bedrooms;

(b) Nonconformity with federal emergency management agency substantial improvement thresholds;

(c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

(d) Nothing in this section exempts interior alterations from otherwise applicable portions of BCC Title 3 "Building and Construction".

(e) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

Commented [DH1]: Enacts 36.70B.140(3),(4),(5) as required.

(b) Pursuant to RCW 36.70B.140(2), project permit applications for boundary line adjustments, building permits, short plat exemptions, and similar administrative approvals which are categorically exempt from environmental review under RCW 43.21C and Chapter 6.35 BCC, or for which environmental review has been completed in connection with other project permit applications, are not subject to the following procedures:

(1) Determination of completeness (BCC 17.10.090);

(2) Notices of application (BCC 17.10.100);

(3) Optional consolidated project permit review processing (BCC 17.10.070);

(4) The right to a joint public hearing (BCC 17.10.080).

(c) The following decisions are legislative and are not subject to the procedures in this chapter, unless otherwise specified:

(1) Zoning code text amendments; and

(2) Adoption of development regulations and amendments; and

(3) Area-wide rezones to implement new County policies; and

(4) Adoption of a comprehensive plan and any plan amendments; and

(5) Annexations.

[Ord. 281 (1996) § 5]

[**NOTE: This chapter is continued on the following page.]**

17.10.050 TYPES OF PROJECT PERMIT APPLICATIONS. For the purpose of project permit application review processing, all project permit applications shall be classified as shown in Table 17-1 below.

[NOTE: This section is continued on the following page.]

Table 17-1 Project Permit Application Types

Type I	Type II	Type III	Type IV	Type V	Type VI	Type VII
FACTORY ASSEMBLED STRUCTURES INSTALLATION AND PLACEMENT PERMITS	BUILDING/ SIGN PERMITS	BOUNDARY LINE ADJUSTMENT	FLOODPLAIN DEVELOPMENT PERMIT OR FLOODPLAIN PUBLIC UTILITY DISTRICT	CONDITIONAL USE PERMIT	SHORT PLAT VACATION	~~PLANNED DEVELOPMENT PERMIT~~
		CHILD DAY CARE FACILITY, TYPE A - PERMIT	AMENDED ~~SHORT PLAT~~ SHORT SUBDIVISION	~~SPECIAL USE PERMIT~~	~~SUBDIVISION ALTERATION~~	~~PRELIMINARY PLAT~~
		HOME OCCUPATION PERMIT	SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT	SHORELINE CONDITIONAL USE PERMIT	SUBDIVISION VACATION	SITE SPECIFIC ZONE CHANGE
		TEMPORARY DWELLING PERMIT	CRITICAL AREA PROJECT REVIEW	SHORELINE VARIANCE PERMIT		
		MULTIPLE DETACHED DWELLING PERMIT	COMMUNICATION FACILITIES PERMIT	ZONING CODE VARIANCE		
		TEMPORARY OUTDOOR RETAIL SALES PERMIT	MINERAL RESOURCE PROTECTION DESIGNATION	FLOODPLAIN DEVELOPMENT VARIANCE		
		NON-COMMERCIAL MINERAL EXTRACTION PERMIT		CRITICAL AREA REASONABLE USE EXCEPTION		
		MINOR SETBACK VARIATIONS		CRITICAL AREA PUBLIC AGENCY/UTILITY EXCEPTION		
		SUBDIVISION EXEMPTION		PRELIMINARY SUBDIVISION		
		LOT CONSOLIDATION		MAJOR SUBDIVISION AMENDMENT		
		ATTACHED ACCESSORY DWELLING PERMIT				
		SHORT ~~PLAT~~SUBDIVISION				
		MINOR SHORT SUBDIVISION/SUBDIVISION AMENDMENTS				

[Ord. 281 (1996) § 6; Ord. 388 (2003) § 1; Ord. 503 (2011) § 1;

(BCC 12/21/2020)

Commented [DH2]: No longer in use

Formatted Table

Formatted: Left

Commented [DH3]: Verify/remove as needed

Ord. 558 (2014) § 2; Ord. 614 (2018) § 1; Ord. 628 (2020) § 1]

17.10.060 PROJECT PERMIT APPLICATION PROCESSING FRAMEWORK. Table 17-2 below shows the general process and hearing body for each category of project permit application. Except as otherwise required under BCC 17.10.070, the administrative process for each project permit application is governed by the Benton County Code provisions governing the application at issue.

Table 17-2 - Project Permit Applications - Administrative Process

	Type I	Type II	Type III	Type IV	Type V	Type VI	Type VII
Recommendation made by	N/A	N/A	N/A	N/A	N/A	N/A	Planning Commission
Final Decision made by	Building Department Manager	Building Department Manager	Planning Director	Planning Director	Hearings Examiner	Board of County Commissioner	Board of County Commissioner
Notice of Application	No	Yes, if SEPA required	~~No~~Yes, if SEPA is required	Yes, if SEPA required. Yes for all SSDP.	Yes~~, if SEPA required~~	Yes, if SEPA required	Yes
Open Record Public Hearing	No	If appealed, open record hearing before Board of appeals	If appealed, open record hearing before Hearing Examiner	If appealed, open record hearing before Hearings Examiner	Yes, before Hearings Examiner	Yes, before Board of County Commissioner	Yes, before Planning Commission
Closed Record ~~Appeal~~Hearing/Final Decision	No	No	No	No	No	No	Yes, Before Board of County Commissioner
Judicial Appeal	Yes	Yes	Yes	Yes	Yes	Yes	Yes

[Ord. 281 (1996) § 7; Ord. 558 (2014) § 3; Ord. 563 (2015) § 1]

17.10.070 COMBINED PROCESSING OF PROJECT PERMIT APPLICATIONS. (a) If an applicant submits a project permit application that involves two or more of the administrative processes set forth in Table 17-2 above, the applicant may, at the time of application submittal, elect to have the project permit applications processed collectively under the highest numbered process required for any of the project permit applications submitted. If no such election is made at the time of application, each project permit application will be processed individually under each of the procedures identified by the Benton County Code. If the applications are

processed individually, the application with highest category number must be processed prior to the lower numbered application.

(b) Except for an appeal of a Determination of Significance, the combined processing of project permit applications shall include no more than one open record hearing and one closed record appeal. [Ord. 281 (1996) § 8]

17.10.080 JOINT PUBLIC HEARINGS. (a) At the discretion of the Planning Director, a public hearing on a project permit application may be combined with any hearing that may be held by another local, state, regional, federal or other agency on the project for which a project permit application is sought if:

(1) The hearing is held within Benton County;

(2) The other agency is not expressly prohibited by law from holding a joint hearing; and,

(3) Sufficient notice of the hearing may be given so that each of the agencies can meet their adopted notice requirements as set forth in statute, ordinance, or rule.

(b) A joint hearing shall be held if requested by a project permit applicant as long as such hearing can be held in compliance with BCC 17.10.080(a) and, if deemed necessary by the Planning Director to allow a final decision within the applicable time periods set forth in BCC 17.10.150, the applicant agrees to extend the time period for a final decision.
[Ord. 281 (1996) § 9; Ord. 405 (2004) § 1]

17.10.090 SUBMISSION AND ACCEPTANCE OF APPLICATION.

(a) Within twenty-eight (28) days after receiving a project permit application, the County shall provide a written determination to the applicant stating that:~~review the application and mail or personally deliver a written determination to the applicant stating that the application is complete or that the application is incomplete and identifying what is necessary to make the application complete.~~

(i) That the application is complete; or

(ii) That the application is incomplete and that the procedural submission requirements of the County have not been met. If the application is deemed incomplete, the written determination shall outline what is necessary to make the application procedurally complete.

(b) A project permit application shall be declared complete only when it meets the procedural submission requirements as outlined in the project permit application. Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the County.~~contains all the following materials:~~

~~(1) Payment of all applicable fees;~~

~~(2) A completed project permit application signed by the applicant(s) and all persons with an ownership interest (as that term is defined by BCC 9.02.040(26)) in the parcel(s) on which the land use action is proposed; provided, (i) holders of mineral rights separate and apart from the ownership of the surface estate shall also be required to sign petitions for change of classification, and (ii) if the ownership of mineral rights for a parcel is separate and apart from ownership of the surface estate, then only holders of mineral rights shall be required to sign applications for permits for mineral extraction.~~

~~(3) A completed and signed environmental checklist for projects subject to review under RCW 43.21C;~~

~~(4) The information specified for the desired permit, license or approval as required by the applicable provisions of the Benton County Code; and,~~

(c) The determination of completeness shall not preclude the

Commented [DH4]: Updated language and consistent with 36.70B.070

Commented [DH5]: Completeness is now 'procedural' completeness not 'technical'.

Formatted: Line spacing: Multiple 0.9 li

Formatted: Indent: Left: 0", Line spacing: Multiple 0.9 li

Formatted: Line spacing: Multiple 0.9 li

Formatted: Normal, Justified, Line spacing: Multiple 0.9 li, Tab stops: 0.5", Left + 1", Left + 1.88", Left + 2.5", Left

Formatted: Line spacing: Multiple 0.9 li

Formatted: Normal, Justified, Line spacing: Multiple 0.9 li, Tab stops: 0.5", Left + 1", Left + 1.88", Left + 2.5", Left

Formatted: Indent: Left: 0", Line spacing: Multiple 0.9 li

county from requiring additional information or special studies at any time prior to project permit approval if new information is required or substantial changes in the proposed action occur.

(d) To the extent known by the County, other agencies with jurisdiction over a project permit application shall be identified in the County's written determination required in BCC 17.10.090(a).

(e) An application shall be deemed procedurally complete on the 29th day after receiving a project permit application if the County does not provide a written determination to the applicant that the application is procedurally complete

~~(d)~~ (~~e~~f) If a project permit application is determined to be incomplete, the applicant shall submit the additional necessary information requested. Within fourteen (14) days of receipt of the additional information from the applicant, the County shall issue a written determination of completeness or identify what remaining information is required. If the applicant either refuses in writing to submit additional information or does not submit the required information within the ninety (90) days, the application shall lapse.

Formatted: Superscript

Formatted: Font color: Auto

Commented [DH6]: Consistent with 36.70b.070

Commented [DH7]: This is no longer in statute. Retain?

[Ord. 281 (1996) § 10; Ord. 388 (2003) § 2; Ord. 405 (2004) § 2; Ord. 573 (2016) § 1; Ord. 625 (2020) § 1]

17.10.100 NOTICE OF PROJECT PERMIT APPLICATION. (a) Within fourteen (14) days of issuing a written determination of completeness under BCC 17.10.090, the County shall issue a notice of project permit application for (i) all Type VII project permit applications; and (ii) Type II, IV, V and VI project permit applications that are not categorically exempt from environmental review under RCW 43.21C.

Commented [DH8]: Still consistent with 36.70B

(b) The notice shall include at least the following:

(1) The name and/or address of the applicant.

(2) Date of application.

[NOTE: This section is continued on the following page.]

(3) The date of the written determination of completeness.

(4) The location of the proposed project.

(5) The requested approval, actions, and/or required studies.

(6) The public comment period, which shall be not less than fourteen (14) nor more than thirty (30) days.

(7) A project description.

(8) The contact person for additional information.

(9) The date, time, and place of a open record hearing, if one has been scheduled.

(c) The notice shall be published in ~~a newspaper of general circulation~~the newspaper of record for Benton County ~~in Benton County~~ and mailed to all recorded owners of real property, as shown in the records of the Benton County Assessor, located within three hundred (300) feet of the outer boundaries of the parcel described in the project permit application.

Commented [DH9]: Change to "the paper of record"?

Commented [DH10R9]: Confirmed

(d) If an open record hearing is to be held with respect to a project permit application, the required notice of application shall be published and mailed at least fifteen (15) days prior to such hearing.

Commented [DH11]: Consistency

(e) Notwithstanding BCC 17.10.100(c), notice of a project permit application under the purview of the Benton County Shoreline Master Program shall be given by at least one of the following methods:

(1) Mailing of the notice to the recorded owners of real property, as shown by the records of the County Assessor, within three hundred (300) feet of the boundary of the property upon which the substantial development is proposed; or

(2) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(3) Any other manner deemed appropriate by the County to

accomplish the objectives of reasonable notice to adjacent landowners and the public.

(f) Notwithstanding BCC 17.10.100(b), any notice of a project permit application under the purview of the Benton County Shoreline Master Program shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit comments or request for decision to the County within thirty (30) days of the last date the notice is to be published pursuant to this BCC 17.10.100. The County shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision. If a hearing is to be held on an application, notice of such hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(g) The public comment period to be identified in a notice under BCC 17.10.100(f) with respect to project permit applications for substantial development permits for a limited utility extension or for the construction of a bulkhead or other measures to protect a single family residence and its appurtenant structures from shoreline erosion, shall be twenty-one (21) days. The notice shall include the manner in which the public may obtain a copy of the decision on the project permit application, no later than two (2) days following its issuance.
[Ord. 281 (1996) § 11; Ord. 388 (2003) § 3]

Commented [DH12]: 30 by statute now, right? WAC 173-27-110€. Or strike section altogether in lieu of the SMP

Commented [DH13R12]: confirmed

17.10.110 ADMINISTRATIVE APPROVAL AND APPEALS. (a) The Building Department Manager may approve, approve with conditions, or deny Type I and Type II project permit applications.

(b) The Planning Director may approve, approve with conditions, or deny Type III and Type IV project permit applications.

(c) Any decision by the Building Department Manager on a Type I project permit application shall be final on the date notice of decision is delivered or mailed. No administrative appeals of such decisions are allowed. Any decision of the Building Department Manager on Type II or the Planning Director on Type III and Type IV project permit applications shall be final on the date delivered or mailed, unless a timely appeal is filed with the

Planning Director.

(d) The decision/interpretations of the Building Department Manager on Type II permits must be appealed to the Board of Appeals under Chapter 3.04 of the Benton County Code within fourteen (14) days of the Building Department Manager's decision.

(e) The decision of the Planning Director on Type III and Type IV permits must be appealed to the Benton County Hearings Examiner within fourteen (14) days of the date of the decision; provided, that BCC 17.10.110(e) shall not extend the time period to appeal the adequacy of a Final or Supplemental EIS set forth in BCC 6.35.118.
[Ord. 281 (1996) § 12; Ord. 336 (1998) § 1; Ord. 405 (2004) § 3. Ord. 558 (2014) § 4]

17.10.120 HEARINGS EXAMINER ACTIONS. (a) The Benton County Hearings Examiner shall conduct an open record hearing and approve, approve with conditions, or deny Type V project permit applications, shall hear appeals of decisions on all appeals of Type III and Type IV project permit applications, and shall hear appeals of the adequacy of any Final or Supplemental EIS issued in connection with a Type III, Type IV or Type V project permit application. The appeal of the adequacy of a Final or Supplemental EIS issued in connection with a Type III, Type IV or Type V application must be heard as part of an open record hearing or open record appeal hearing on those applications.

(b) A decision by the Hearings Examiner shall be effective on the date the Hearings Examiner provides a written notice of decision on the project permit application. The notice of decision for project permit applications considered by the Hearings Examiner shall be mailed to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.
[Ord. 281 (1996) § 13; Ord. 405 (2004) § 4; Ord. 558 (2014) § 5]

17.10.130 PLANNING COMMISSION ACTIONS. (a) The Benton County Planning Commission shall conduct an open record hearing on ~~Type VII~~ any project permit applications for which they are the charged with conducting such hearings and any appeals of the adequacy of a Final or Supplemental EIS issued in connection therewith. Environmental threshold determinations shall be made at least fifteen (15) days prior to its open record hearing.

(b) The Planning Commission shall prepare and adopt findings, conclusions and recommendations on Type VII project permit applications and appeals of Final or Supplemental EIS adequacy and promptly forward them to the Benton County Board of Commissioners. [Ord. 281 (1996) § 14; Ord. 405 (2004) § 5]

Commented [DH14]: Remains accurate

17.10.140 BOARD OF COUNTY COMMISSIONERS. (a) Upon receiving a recommendation from the Planning Commission or notice of any matter requiring the attention of the Board of County Commissioners, the Board shall make final decisions on all Type VII~~Type VI and VII~~ project permit applications and on appeals of the adequacy of a Final or Supplemental EIS issued in connection therewith, provided the Board may not hold an open record hearing if an open record hearing was held by the Planning Commission on the project permit application. If no open record hearing is held by the Board of County Commissioners, the Board will make its decisions after a closed record ~~appeals~~hearing.

[NOTE: This chapter is continued on the following page.]

(b) The Benton County Board of Commissioners shall make its final decision by motion, resolution, or ordinance as appropriate. The final decision of the Benton County Board of Commissioners shall be effective on the date stated in the decision, motion, resolution, or ordinance, provided that the date from which the appeal period shall be calculated shall be the date the Board makes written determination on the project permit application. The notice of decision for project permit applications considered by the Board shall be mailed to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application. [Ord. 281 (1996) § 15; Ord. 405 (2004) § 6; Ord. 558 (2014) § 6]

17.10.150 FINAL DECISION. 1. Timelines for issuance of specific project permit types are as follows: ~~(a) Unless a longer period is agreed to by the applicant or unless the Planning Director or the final decision maker for an application makes written findings justifying a need for a specified additional amount of processing time, final decisions on Type I through Type VII project permit applications, except for short plat, preliminary plat, and attached communication facility applications, shall be made within one hundred twenty (120) days after the date the County sends the applicant notice by mail or personally serves notice on the applicant that the application is complete.~~

(a) For Type I and II project permits which do not require public notice, the County must issue a final decision within 65 days of the determination of completeness under BCC 17.10.090(a).

(b) For Type II, III, and IV project permits which require public notice, the County must issue a final decision within 100 days of the determination of completeness under BCC 17.10.090(a).

(c) For Type V, VI, and VII project permits which require public notice and a public hearing, the County must issue a final decision within 170 days of the determination of completeness under BCC 17.10.090(a).

2.The number of days an application is in review with the County shall be calculated from the day completeness is determined under BCC 17.10.090(a) to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting every calendar day and excluding the following time periods:

(a) Any period between the day that the County has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant; and

(b) Any period after an applicant informs the County , in writing, that they would like to temporarily suspend review od the project permit application until the time that they applicant notifies the County, in writing , that they would would like to resume the application; and

(c) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

3. The time periods for the County to process a project permit set forth in BCC 17.10.150(1) shall start over if the applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use, as required by the County.

4. If at any time the applicant informs the County in writing, that they applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the County has notified the applicant, in writing, that additional information is required to further process the applicant, an additional 30 days may be added to the permit timelines for the County to issue a final decision, as set forth in BCC17.10.150(1). Any written notice from the County to the applicant that additional notice is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in the 30 days being added to the time for review.
"Nonresponsivness" for the purposes of this chapter means that the applicant is not making demonstrable progress on providing additional requested information to the County, or that there is no ongoing communication from the applicant to the County on the applicant';s ability or willingness to provide the additional information.

Formatted: Font: Courier New

5. Annual amendments to the comprehensive plan are not subject to the requirements of this section.

~~6. When permit time periods provided in BCC 17.10.150(1) are not met by the County, a portion of the permit fee must be refunded to the applicant as provided below:~~

~~(a) 10 percent of the fee shall be refunded if the final decision of the project permit application was made after the applicable deadline but the period from the passage of the deadline to the time of issuance of the final decision did not exceed 20 percent of the original time period; or~~

~~(b) 20 percent of the fee shall be refunded if the period from the passage of the deadline to the time of issuance of the final decision exceeded 20 percent of the original time period.~~

Commented [DH15]: Repetitive

Commented [DH16]: This could be omitted if we were to implement at least three of the options in 36.70B.160(1) a through j at the time an application is deemed procedurally complete.

Commented [DH17R16]: We have at least three of the options in 36.70B.160 enacted:
(a) Expediting review for project permit applications for projects that are consistent with adopted development regulations;
(b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law;
(c) Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources;
(d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly; (e) Having new positions budgeted that are contingent on increased permit revenue;
(f) Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute;
(g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;
(h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;
(i) Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or
(j) Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.

~~(b) Unless a longer period is agreed to by the applicant or unless the Planning Director or the final decision maker for an application makes written findings justifying a need for a specified additional amount of processing time, (i) final decisions on short plat applications shall be made within thirty (30) days; and (ii) final decisions on applications for preliminary plats and attached communication facilities, as defined in Benton County Code, Chapter 11.04, shall be made within ninety (90) days after the date the County sends the applicant notice by mail or personally serves notice on the applicant that the application is complete.~~

Commented [DH18]: Suggest striking entirely, rely on time limits imposed by 17.10.150 instead.

[NOTE: This section is continued on the following page.**]**

(c) If a project permit application of any type is deemed materially revised by the Planning Director, the time limits set forth in BCC 17.10.150~~(a) and BCC 17.10.150(b)~~ shall be calculated from the time that the Planning Director determines the revised application is complete and not from the date of the initial determination of completeness.

~~(d) Unless otherwise agreed upon by the applicant, all closed record administrative appeals shall be decided within sixty (60) days of the filing of the appeal.~~

(~~c~~d) Unless otherwise agreed upon by the applicant, all administrative appeals based on an open record appeal hearing shall be decided within ninety (90) days of the filing of the appeal.

(~~f~~e) If a notice of decision or appeal decision will not be issued in accordance with this section, the County shall provide a written notice to the applicant stating the reasons why a notice of decision will not be issued within the required time period and an estimated date of issuance of a decision.
[Ord. 281 (1996) § 16, Ord. 368 (2001) § 1; Ord. 372 (2001) § 1; Ord. 378 (2001) § 1; Ord. 503 (2011) § 2]

17.10.160 JUDICIAL APPEALS. Judicial appeals of decisions on project permit applications must be made in accordance with state law and only after all administrative appeals on a project permit application have been exhausted.
[Ord. 281 (1996) ə 17]

17.10.170 ADMINISTRATIVE INTERPRETATIONS. A decision by the Planning Director as to the meaning, application or intent of any development regulation as it relates to a specific piece of property may be requested by the applicant at any time prior to a final decision on a project permit application to which development regulations may apply. The request shall be on a form provided by the Planning Director and which includes identification of the regulation in question, a description of the property, and a clear statement of the issue or question to be decided.
[Ord. 281 (1996) ə 18]

Commented [DH19]: okay

Commented [DH20R19]: strike

Commented [DH21]: okay

17.10.180 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 281 (1996) ə 19]

17.10.190 EFFECTIVE DATE. This chapter shall take effect after passage of this chapter; however, the procedures and time frame for issuance of permits and/or approvals as set forth in this chapter shall apply only to project permit applications filed on or after April 1, 1996.
[Ord. 281 (1996) ə 20]

17.10.200 EFFECTIVE DATE. Ordinance 503 shall take effect and be in full force on September 1, 2011.
[Ord. 503 (2011) § 4]

Commented [DH22]: update

CHAPTER 9.02

INTRODUCTION

SECTIONS:

9.02.010 Title
9.02.020 Purpose and Intent
9.02.030 Applicability
9.02.040 Definitions
9.02.050 Administration
9.02.060 Exemptions
9.02.070 Exemption Approval
9.02.080 Complete Application
9.02.090 Residential Density- Lot Size
9.02.100 Water Supply
9.02.110 Building Permit Issued Prior to Finalization
9.02.120 Vacation
9.02.130 Appeal of Administrative Decision
9.02.140 Fees
9.02.150 Violations and Penalties
9.02.160 Severability
9.02.170 Effective Date

9.02.010 TITLE.

This title shall be known as the Benton County Subdivision Regulations.
[Ord. 612 (2018) § 2]

9.02.020 PURPOSE AND INTENT.

In addition to those purposes set forth in Revised Code of Washington (RCW) 58.17.010, as now existing or hereafter amended, the following purposes are also essential to the regulation of the

subdivision of land within the unincorporated areas of Benton County:

(a) To prescribe procedures for the subdivision of land in accordance with officially adopted plans, policies, and standards, including the provisions of the Benton County Zoning Code and Benton County Comprehensive Plan; and

(b) To provide for consistent and efficient processing of applications without undue delay; and

(c) To provide uniform standards and regulations for the division of land; and

(d) To promote effective use of land consistent with environmentally sensitive development practices; and

(e) To implement State Environmental Policy Act chapter 43.21C RCW and WAC 197-11 as now existing or hereafter amended; and

(f) To require uniform monumentation of land subdivisions and conveyancing by accurate legal descriptions.
[Ord. 612 (2018) § 3]

9.02.030 APPLICABILITY.

This title applies to all division of land into two or more lots, and to subdivisions, short subdivisions, tax parcel separations, boundary line modifications, amendments, alterations, and vacations of short subdivisions and subdivisions hereafter established in unincorporated Benton County.
[Ord. 612 (2018) § 4]

9.02.040 DEFINITIONS.

(a) Whenever the following words and phrases appear in this chapter they shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always

mandatory, and the word "may" indicates a use of discretion in making a decision. Except where specifically defined in this chapter all words in this title shall carry the customary meanings.

(1) "Alley" means a strip of land no more than sixteen (16) feet in width that abuts a public road, is dedicated to public use, and provides vehicular and pedestrian access to the rear portion of the properties.

(2) "Block" means a piece or parcel of land entirely surrounded by public highways, streets, stream, railroad rights-of-way, park, etc., or a combination thereof.

(3) "Board of County Commissioners" means the Board of County Commissioners of Benton County, Washington.

(4) "Boundary line adjustment" means the relocation of the boundaries between two or more lots, which does not result in the creation of any additional lot or lots.

(5) "Closed Record Appeal" means an appeal to the Benton County Board of Commissioners, on the record where no new evidence or information being submitted, of a decision made following an open record hearing on a project permit application.

(6) "Comprehensive Plan" means that plan or plans adopted by the Benton County Planning Commission and the Board of County Commissioners indicating the general locations recommended for major arterials, parks, streets, public buildings, other public improvements, and zoning districts.

(7) "County" means the County of Benton located in the State of Washington.

(8) "County Auditor" shall have the definition as set forth in Chapter 36.22 RCW as it now exists or is hereafter amended.

(9) "County Engineer" shall have the definition as set forth in Chapter 36.80 RCW as it now exists or is hereafter amended.

(10) “County Treasurer” shall have the definition as set forth in Chapter 36.29 RCW as it now exists or is hereafter amended.

(11) "Cul-de-sac" means a street closed at one end with such closed end of sufficient size to a fire truck to turn around.

(12) "Dedication" means the deliberate appropriation of land by an owner for any general and public uses, reserving unto himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the presentment for filing of a final subdivision or short plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the final approval of such plat for filing by the appropriate governmental unit.

(13) "Developer", "Subdivider", or "Platter" means any person, firm, or corporation undertaking the subdivision or re-subdivision of any lot, tract, or parcel of land.

(14) "Discrepancy" means a boundary hiatus, an overlapping boundary or a physical appurtenance, which indicates encroachment, lines of possession, or conflict of title.

(15) "Easement" means a person or the public’s interest in land owned by another person, consisting of the non-landowner’s right to use or control the surface of the land for a specific limited purpose. For purposes of this chapter, the term “easement” does not include mineral easements.

(16) "Final Approval" means that approval given by the Planning Administrator or the Board of County Commissioners which authorizes the recording of the short plat, subdivision, and/or dedication.

(17) "Final Plat" means the plan of a plat, subdivision or dedication of any portions thereof prepared for filing for record by the County Auditor and containing those elements

and requirements as set forth for final plats in these regulations.

(18) "Final Short Plat" means the final drawing of the short subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in this chapter.

(19) "Hazardous Product" means petroleum, petroleum products, anhydrous ammonia, carbon dioxide, natural gas, flammable gas, or gas that is toxic or corrosive.

(20) "Hearings Examiner" means an examiner appointed by the Board of County Commissioners authorized to hear and make decisions on variances, land use permits, and certain appeals.

(21) "Hydrology Report" means a report prepared by a qualified hydrogeologist or professional engineer licensed in the State of Washington for the removal of excess water from the subdivision site. The report shall evaluate probable storm events that will generate excess water and compares the water discharges onto and from the site for pre-development conditions to post-development conditions. The report shall identify improvements and management practices to safely convey drainage and mitigate any impacts due to the proposed subdivision, all prepared in accordance with Benton County standards. A preliminary hydrology report shall be submitted with the preliminary plat. The final hydrology report shall be submitted with the final plat/road construction drawings.

(22) "Improvements" means street grading or gravelling, permanent street and corner monuments, street pavement, curbs and sidewalks, pedestrian ways, water mains, and storm and sanitary sewers.

(23) "Lot" means a fractional part of subdivided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

(24) "Lot Consolidation" means the consolidation of contiguous lots of record which are under one ownership. The purpose of the consolidation shall be for planning and building purposes and any consolidation shall comply with all applicable zoning, subdivision, and other land use controls as deemed necessary by the Planning Administrator. Tax parcel consolidation requests shall be submitted to the Planning Administrator on forms provided by the Planning Department.

(25) "Open Record Hearing" means a hearing, conducted by a single hearing body or officer authorized by the Benton County Board of Commissioners, wherein a record will be created through the receipt of testimony and other appropriate evidence and information under procedures prescribed by the Benton County Code or by such body's or officer's rules of procedure.

(26) "Ownership Interest" means a fee interest in the surface of the parcel proposed for division and does not include lien holder interests, mineral right interests, mineral easements or easements of any other kind that are separate from the fee interest in the surface rights.

(27) "Pedestrian Way" means a right-of-way dedicated to the public use as a footpath which cuts across a block to facilitate pedestrian movement and access to adjacent streets and properties.

(28) "Planning Administrator" means the Benton County Planning Manager or his/her designated representative who shall be responsible for the administration of this title.

(29) "Planning Department" means the Benton County Planning ~~Department~~Division of the Community Development Department.

(30) "Planning Commission" means the Benton County Planning Commission.

(31) "Preliminary Plat" means a neat and approximate drawing of the proposed subdivision showing the general layout of

streets, blocks, lots and other elements of a subdivision consistent with the requirements of this chapter and which shall be the basis for the approval or disapproval of the general layout of the subdivision.

(32) "Private Road" means a road not dedicated to, nor maintained by, Benton County.

(33) "Public Road" means any improved road maintained by a city, the state or County at public expense.

(34) "Registered Engineer" means an individual, licensed by the State of Washington to practice civil engineering.
(35) "Short Plat" means the map or representation of a short subdivision.

(36) "Short Subdivision" means the division or re-division of land into four (4) or fewer lots, tracts, parcels, sites, or divisions for the purposes of sale, lease, or transfer.

(37) "Street Dead-end" means a street open at one end and not provided with a turn-around at the closed end.

(38) "Street - Marginal" or "Street - Frontal Access" means an access street which is generally parallel to and adjacent to arterial streets, limited access highways, or railroad rights-of-way and which provides direct access to abutting properties and protection to through traffic.

(39) "Street - Local Residential," or "Street - Minor" means a public way of limited continuity which serves or is intended to serve the local traffic needs of the immediate vicinity.

(40) "Subdivision" means every division or re-division of any land within unincorporated Benton County for the purpose of sale, lease, or transfer of ownership that does not fall within the definition of short subdivision.

(41) "Surveyor," "Land Surveyor" or "Registered Land Surveyor" means a professional land surveyor registered in

the State of Washington in accordance with Chapter 18.43 RCW as now in effect or hereafter amended.

(42) "Urban Growth Area" means an area designated as such by the Benton County Board of Commissioners pursuant to RCW 36.70A.110, as now in effect or hereafter amended.

[Ord. 612 (2018) § 5]

9.02.050 ADMINISTRATION.

The administration of this title lies with the Planning Administrator. It is the purpose of these regulations to grant to the Planning Administrator, the Hearing Examiner, or Board of County Commissioners, the authority to approve, approve with conditions, or deny any land use action prescribed in this title. It is recognized that not all possible variations of requirements or processes which are required to administer this title can be listed or categorized. Any interpretation, administrative policies, or procedures which the Planning Administrator deems essential for the effective administration of this title shall be adopted by the Planning Administrator and shall be made available to the public upon request.

[Ord. 612 (2018) § 6]

9.02.060 EXEMPTIONS.

The provisions of this title shall not apply to the following:

(a) Any cemetery or burial plot, while used for that purpose.

(b) Any division made by testamentary provision or the laws of descent.

(c) A division of land into lots or tracts each of which is one-~~thirty-second (1/32)~~ ~~sixteenth (1/16)~~thirty-second (1/32) of a section of land or larger, or ~~twenty (20) forty (40)~~twenty (20)acres or larger if the land is not capable of description as a fraction of a section of land; provided, that there is no dedication of land to a public body in connection with such division and for the purposes of computing the size of any lot

under this section that borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street and the side lot lines of the lot running perpendicular to such centerline.

(d) Any division of property made by recorded survey or contract sale prior to July 1, 1974.

(e) Any division made pursuant to court order.

(f) Any division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.

(g) Any division of land into lots or tracts of less than three (3) acres that is recorded in accordance with Chapter 58.09 RCW and will be used only for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from any other zoning or permitting laws and regulations of Benton County. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed.
[Ord. 612 (2018) § 7]

9.02.070 EXEMPTION APPROVAL.

An exemption approval shall be obtained from the Planning Administrator for those exempt activities in section BCC 9.02.060 above. Any person considering himself/herself exempt thereunder shall apply for an exemption approval, which includes a minimum review for conformance to adopted county regulations and ordinances. An application for exemption approval shall be processed by the Planning Administrator and shall be approved or denied within ten (10) days following the submittal of a complete application and the payment of application fees.

(a) A complete application shall include the following:

(1) Completion of an application form supplied by the Planning Department.

(2) A non-refundable application fee as established by resolution of the Board of Benton County Commissioners.

(3) Copy of a record survey showing division(s) as prepared by a Washington State Licensed Surveyor~~, as applicable~~.

(4) Copy of legal descriptions as prepared by a Washington State Licensed Surveyor~~, as applicable~~.

(b) The Planning Administrator shall determine whether:

(1) The proposed division complies with BCC 9.02.060.

(2) The proposed division is served with a legal means of access including a recorded private access easement/road unless the newly created lot(s) has frontage on a public road/street.

(3) The proposed division is in conformance with adopted county regulations and ordinances including, but not limited to, the Benton County Comprehensive Plan and BCC 9.02.100 for water supply.~~.~~

Commented [GW1]: remove

Commented [GW2]: remove

(c) The record survey, required in (a)(3), shall be recorded with the Benton County Auditor. A copy of the recording document containing the recording certificate shall be returned to the Planning Administrator including a digital copy of the survey in a format that is compatible with the County's current CAD system.

Commented [GW3]: New language- added

Ord. 612 (2018) § 8]

9.02.080 COMPLETE APPLICATION.

An application is required for all actions administered by this title. An application shall be determined to be complete upon the applicant's submittal of all required application materials including the maps and exhibits required in the applicable section or chapter of this title, and the payment of fees required in conjunction with the processing of an application.
[Ord. 612 (2018) § 9]

9.02.090 RESIDENTIAL DENSITY- LOT SIZE.

(a) Residential densities and lot sizes shall conform to the Benton County Comprehensive Plan and Benton County Code. Residential density and lot size shall also conform to the lot size requirements of the Benton-Franklin Health District's on-site waste disposal standards, if applicable.

(b) Lot sizes in excess of minimum standards may be required for reason of sanitation, steep slopes, geological hazards, poor drainage, flood hazards or other unique conditions or features that warrant protection of the public interest.
[Ord. 612 (2018) § 10]

9.02.100 WATER SUPPLY.

(a) Water from a public water system(s) shall be provided to each lot in a short plat or subdivision, except as specified in subsection (b) of this section.

(b) Private water supplies may be utilized to serve a short plat or subdivision if an applicant demonstrates that the proposed water source is consistent with RCW 90.44.050, as existing or hereafter amended, with applicable rules adopted pursuant to RCW 90.22 and 90.54, as existing and hereafter amended, and with Chapter 15.18 BCC, if applicable.
[Ord. 612 (2018) § 11; Ord. 622 (2020) § 1]

9.02.110 BUILDING PERMIT ISSUED PRIOR TO FINALIZATION.

A single building permit may be issued on land which is located within the boundaries of a preliminary subdivision or short subdivision provided:

(a) The site does not contain any structures which are being used primarily for residential uses;

(b) The building permit application illustrates the following:

(1) Boundary of the preliminary subdivision plat or short plat;

(2) Location of the structure for which a permit is requested; and

(3) Lot dimensions of the lot which the permit is being requested on.

(c) The building site has access which meets fire marshal requirements;

(d) The lot corners are established;

(e) The structure meets all required setbacks as if the lot were platted; and

(f) All state and local land development laws and regulations were met at the time the lot was created or can be met prior to the issuance of the building permit.
[Ord. 612 (2018) § 12]

9.02.120 VACATION.

(a) When any person wishes to vacate any or all of the land from a short subdivision or subdivision, an easement granted by the plat or an entire area designated or dedicated for public use, that person shall file an application for vacation, as provided by the Planning Administrator, with the Board of County Commissioners and pay a non-refundable application fee as established by resolution of the Board of County Commissioners. The application shall set forth the reasons for vacation and shall contain

signatures indicating approval of all parties having an ownership interest in the land to be vacated from the subdivision and if an easement or area dedicated for public use is to be vacated, then the signature of all parties having an ownership interest within that portion of the subdivision. If the subdivision is subject to restrictive covenants filed at the time of approval of the subdivision, and the application for vacation would result in a violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants agreeing to terminate or alter the relevant covenants to accomplish the purpose of the vacation.

When the vacation application is specifically for a county road or street, the procedure for road vacation or street vacation in Chapter 36.87 RCW or Chapter 35.78 RCW, as now existing or hereafter amended, shall be used and shall take precedence over any inconsistencies within this chapter. When the application is for vacation of the entire plat together with the roads and/or streets, the procedure for vacation in this section shall be followed.

(b) The Board of County Commissioners shall give notice as provided in RCW 58.17.080 and RCW 58.17.090, as now existing or hereafter amended, and shall conduct an open record hearing on the application for vacation. If the subdivision is located within a city's Urban Growth Area boundary, such notice shall also be sent to that city. The notice shall also be given to cities located within one mile of the subdivision. If the subdivision is located adjacent to a state highway or within two (2) miles of a state or municipal airport, the notice shall be given to the Washington State Department of Transportation.

(c) The Board of County Commissioners shall determine whether the public use or benefit is served by the vacation of the subdivision. Those portions of the land contained in the subdivision that were dedicated to the public for public use or benefit but are approved for vacation shall be deeded to the county unless the Board of County Commissioners determines that the public use or benefit would not be served in retaining title to those lands.

(d) Title to vacated property shall vest with the rightful owners, as shown in county records. If the vacated land is land that was dedicated to the public for public use, other than a road or street, and the Board of County Commissioners has found that retaining title to the land is not in the public interest, title thereto shall vest with the rightful owners of the property on each side thereof, as determined by the Board of County Commissioners. When the road or street that is to be vacated is contained wholly within the subdivision and/or is part of the boundary of the subdivision, title to the vacated road or street shall vest with the owner or owners of property contained within the vacated subdivision.

(e) This section shall not be construed as applying to the vacation of any plat of state granted tide or shore lands.
[Ord. 612 (2018) § 13]

9.02.130 APPEAL OF ADMINISTRATIVE DECISION.

(a) Not later than fourteen (14) days following the mailing of the written decision of the Planning Administrator, the decision may be appealed to the Benton County Hearings Examiner by the applicant or any interested parties as defined below. The notice of appeal shall be on a form provided by the Planning Department and shall be filed with the Planning Administrator.

(b) Only persons or entities that have submitted written comments on the proposed land use action prior to the Planning Administrator's decision shall be considered interested parties for the purpose of BCC 9.02.130.

(c) A written appeal shall include:

(1) A statement containing specific references to any portions of the written findings contained in the Planning Administrator's decision alleged to be in error and any alleged errors of law.

(2) A statement of the relief sought, such as reversal of the Planning Administrator's decision or modification of conditions.

(3) The signature, mailing address, and telephone number of the appellant or the appellant's representative.

(4) An appeal fee as set by resolution of the Board of County Commissioners.

(d) The Planning Administrator shall notify the applicant and all interested parties, as defined in BCC 9.02.130(b) above, that an appeal has been filed. The Planning Administrator shall also forward the appeal to the Hearings Examiner and schedule an open record hearing.

(e) The Hearings Examiner shall conduct an open record hearing to consider the appeal. Written notice of the hearing shall be mailed to the appellant and all interested parties, as defined in BCC 9.02.130(b) above, and shall be published in the official county newspaper at least ten (10) days prior to the hearing.

(f) The Hearings Examiner shall review the written appeal, the record of the Administrator's decision, and receive any written or verbal public testimony at the open record hearing. After reviewing the record and any testimony presented, the Hearings Examiner shall either:

(1) Deny the appeal and affirm the Planning Administrator's decision; or

(2) Amend, reverse, or remand the Planning Administrator's decision.

(g) The Hearings Examiner shall enter findings of fact and conclusions of law based in support of his or her decision.
[Ord. 612 (2018) § 14]

9.02.140 FEES.

All applications shall be accompanied by the required fee. Fees for the administration of this title shall be established by resolution of the Board of County Commissioners.
[Ord. 612 (2018) § 15]

9.02.150 VIOLATIONS AND PENALTIES.

(a) It shall be unlawful to sell, lease, trade, or otherwise convey or offer to sell, lease, trade or otherwise convey any lot or parcel of land as part of, or in conformity with any plan, plat, or replat, of any short subdivision or subdivision unless and until said plat, replat, or plan shall have been first recorded in the office of the County Auditor.

(b) It shall be unlawful to receive or record in any public office any plan, plat, or replat of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public or private use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto and located within the County until said plan, plat or replat has complied with the provisions of this chapter.

(c) No deed or contract for the sale of any parcel, lot or tract created or divided in violation of this title shall be recorded. The Benton County Treasurer shall neither receive nor certify the satisfaction of real estate excise taxes, if any, upon any such parcel, lot or tract unless and until all applicable provisions of this title have been complied with.

(d) The violation of any of the provisions of this chapter shall constitute an infraction, subject to a maximum penalty of five hundred (500) dollars, plus costs and assessments. Each such violation shall constitute a separate infraction for each and every day or portion thereof during which such violation is committed, continued or permitted.
[Ord. 612 (2018) § 16]

9.02.160 SEVERABILITY. Shall any chapter, section, subsection, paragraph, sentence, clause or phrase of this title be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this title.
[Ord. 612 (2018) § 17]

9.02.170 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 612 (2018) § 85]

CHAPTER 9.03

SHORT SUBDIVISIONS

SECTIONS:

9.03.010	General Provisions
9.03.020	Pre-Application Meeting
9.03.030	Application Requirements
9.03.040	Short Plat Requirements
9.03.050	Administrative Review
9.03.060	Administrative Determinations
9.03.070	Administrative Decision
9.03.080	Appeal of Administrative Decision
9.03.090	Preliminary Short Subdivision Approval-Expiration-Null & Void Status
9.03.100	Preliminary Short Subdivision Approval-Expiration—Extension of Time
9.03.110	Final Short Subdivision-Review and Approval
9.03.120	Recording of Short Plat
9.03.130	Amending a Recorded Short Plat
9.03.140	Re-Subdivision Procedure
9.03.150	Severability
9.03.160	Effective Date

9.03.010 GENERAL PROVISIONS.

(a) The purpose of this chapter is to provide procedures and consistent criteria for the efficient and timely review and approval of the division of land into four (4) or fewer lots, parcels or tracts.

(b) Any person seeking to divide or re-divide land situated in unincorporated Benton County for the purpose of sale, lease, or transfer of ownership, unless exempted from the provisions of this title in BCC 9.02.050 shall submit an application for the approval

of a short subdivision to the Planning Administrator with the application requirements in BCC 9.03.030.

(c) If two or more short subdivisions on adjacent parcels under common ownership are proposed within a 6-month period, such contiguous platting must comply with the Subdivision-Preliminary Plat chapter of this title if the total number of resultant lots will exceed four (4). This includes contiguous parcels that have one or more common owners, one or more persons who have an interest in the entity that owns or has an ownership interest in contiguous parcels, or a developer who intends to develop contiguous properties.
[Ord. 612 (2018) § 18]

9.03.020 PRE-APPLICATION MEETING.

Any person(s) proposing a short subdivision pursuant to this title may request from the Benton County Planning Department a pre-application meeting. The purpose of the pre-application meeting is to enable the applicant to obtain the input of the affected county departments as to applicable standards and provisions of this title and other state and county regulations and how they relate to the proposed short subdivision.
[Ord. 612 (2018) § 19]

9.03.030 APPLICATION REQUIREMENTS.

Any person desiring to subdivide a parcel of land in unincorporated Benton County under the provisions of this chapter shall submit to the Planning Administrator an application for a short subdivision. An application for short subdivision shall consist of the following:

(a) A short subdivision application form completed and signed by all persons with an ownership interest in the parcel to be divided. The forms shall be supplied by the Planning Department.

(b) Copies of preliminary short plat:

(1) ~~Ten (10)~~ Three (3) copies of a short plat prepared in accordance with the provisions of BCC 9.03.040; and

Commented [GW1]: Update number of copies from 10 to 3.

(2) One (1) reduced copy of the short plat map on eight and one-half (8 1/2) inch by eleven (11) inch or eleven (11) inch by seventeen (17) inch paper; and

(3) An electronic copy of the short plat.

(c) A title certificate from a title company that is not over two (2) months old showing the names and addresses of anyone with an ownership interest in the land being subdivided and showing all easements on the property proposed for division.

(d) Written verification from the Benton-Franklin Health District that the applicant has provided all necessary information to enable the health district to review and make recommendations on the proposed site.

(e) A non-refundable application fee as established by resolution of the Board of Benton County Commissioners.

(f) A completed SEPA Environmental Checklist, only if required by WAC 197-11-800 (6)(d), as currently existing or hereafter amended. [Ord. 612 (2018) § 20]

9.03.040 SHORT PLAT REQUIREMENTS.

A short plat shall be made by or under the supervision of a registered land surveyor of the State of Washington as a result of a land survey in compliance with the requirements of the Survey Recording Act, Chapter 58.09 RCW and the Washington Administration Code (WAC) 332-130 as they now exist or are hereafter amended, and all other requirements of this chapter pertaining to short subdivision of land. A short plat shall be drawn in ink on good quality paper, sheet size eighteen (18) inches by twenty-four (24) inches to a scale not to exceed one (1) inch equal to one-hundred (100) feet unless a larger scale has been specifically approved by the Planning Administrator.

The short plat shall be a sketch of the entire contiguous tract owned by the applicant(s) showing the following information:

(a) Boundaries of the total parcel included in the short subdivision and of each individual lot being created. The perimeter of the short subdivision shall be depicted with heavier lines than appear elsewhere on the short plat.

(b) Legal description of the total parcel included in the short subdivision.

(c) Land Surveyor Certificate:

"I, _____, a registered land surveyor, hereby certify that the short plat as shown is based upon actual field survey of the land described and that all angles, distances, and courses are hereon correctly shown and that the lot corners have been staked on the ground as shown on the map."

Signed_____Registered Land Surveyor

_____SEAL

(d) Location of any roads, easements or rights-of-way proposed to serve the short plat. The County Auditor's fee number shall be shown for all existing easements.

(e) All existing or proposed easements or rights-of-ways proposed to be dedicated for any public use or for the common use of the property owners of the short subdivision. All such easements shall be depicted with dashed lines.

(f) The notarized signatures of all persons with an ownership interest in the lands being subdivided as well as notarized signatures of all persons with an ownership interest in property not being subdivided over which access or utility easements are proposed to pass (unless such easements are already recorded by separate instrument with the County Auditor's office) certifying the following statement:

(1) "We _____ hereby certify that we are all parties having ownership interest in the land described hereon, that said land has been surveyed and short platted into lots as shown with our consent and in accordance with our desires and that the easements on the short plat are hereby granted for the uses shown thereon; and

(2) In the case of a short subdivision containing a dedication of a public road:

"DEDICATION AND WAIVER OF CLAIMS"

"Know all persons by these present that _____ are all parties having ownership interest in the land hereon described; have with their free consent and in accordance with their desires caused the same to be surveyed and short platted as shown hereon; do hereby dedicate those roads and or rights-of-way shown as public dedications hereon to the use of the public; do hereby waive on behalf of themselves and their successors in interest all claims for damages against Benton County and other governmental authority which may occasioned to the adjacent land by the established construction, drainage and maintenance of said dedicated roads and/or rights-of-way; and do hereby grant and reserve the easements as shown hereon for the uses indicated."

_____
Name

_____
Name

(g) The notarial certificates used for notarization of signatures shall comply with the requirements of RCW 42.44.100 as it now exists or is hereafter amended or the law of the state where the notarization of signatures are completed.

(h) A vicinity map.

(i) Signature Blocks:

(1) Benton County Planning Administrator. A signature block for the Benton County Planning Administrator stating that the short plat is hereby approved by and for the County of Benton, State of Washington;

(2) Benton Franklin Health District. A signature block for the Benton Franklin Health District stating that the short plat is hereby approved by and for the Benton Franklin Health District.

(3) Benton County Engineer. A signature block for the Benton County Engineer stating that the short plat is hereby approved by the Benton County Engineer. For short subdivisions with road dedications and or improvements, the signature block shall also state that the proposed dedication and road improvements have been completed and approved by the Benton County Engineer.

(4) County Treasurer. County Treasurer's office certificate in substantially the following form:

> "I hereby certify that all chargeable regular and special assessments collectible by this office that are due and owing on the property described hereon on the date of this certification have been paid."
>
> Dated this _____ day of _____,_____.
> Parcel Number: _____
>
> _____
> Benton County Treasurer's Office

(5) County Auditor. A County Auditor's certificate that states:

"Filed for record at the request of _____ at _____ minutes past _____ this _____ day of _____ and recorded in Volume _____ of short plats at page _____ records of Benton County, Washington."

_____ _____
Benton County Auditor Fee Number

(6) Irrigation District. When the property lies wholly or partially within an irrigation district, a certificate of approval of the irrigation district and/or the manager or administrator of the project for the bureau of reclamation, if required by RCW 58.17.310 as it exists or is hereafter amended.

(j) When a survey of a proposed short plat reveals a discrepancy, the discrepancy shall be noted on the face of the short plat. Any discrepancy shall be disclosed in a title report prepared by a title insurer and issued after the filing of the short plat.

(k) Where any proposed short subdivision is located within a resource zoning designation or within five hundred (500) feet of a resource zoning designation, the following note must be placed on the face of the short plat map:

(1) "The property subject to this short subdivision is located is within or near designated agricultural lands, forestlands, or mineral resource lands on which a variety of commercial activities may occur that are nor compatible with residential development for certain periods of limited duration. Where mineral lands exist on or near this site an application may be made for mining related activities, which includes mining, extraction, washing, asphalt and concrete production, crushing, stockpiling, blasting, transporting and recycling of minerals which may also not be compatible with residential uses for a period of time."
[Ord. 612 (2018) § 21]

9.03.050 ADMINISTRATIVE REVIEW.

(a) Upon receipt of a complete application, as determined in BCC 9.02.080, for a short subdivision, the Planning Administrator shall distribute copies of the information to:

(1) Benton County Engineer;

(2) Benton-Franklin Health District;

(3) Benton County Fire Marshal;

(4) Benton County Assessor's Office;

(5) Applicable Fire District;

(6) Applicable Irrigation District;

(7) Applicable Utility provider(s);

(8) The legislative authority of any city adjacent to or within one mile of the proposed short subdivision;

(9) The State Department of Transportation, if the proposed short subdivision is within one mile of the right-of-way of any state highway or within two miles of the boundary of a state or municipal airport;

(10) The State Department of Ecology, or its successor, if the proposed short subdivision lies within a flood control zone designated pursuant to Chapter 86.16 RCW as now existing or hereafter amended; and

(11) Other involved parties, County Departments, or agencies as necessary for review.

(b) In transmitting the proposed short subdivision to the parties referenced above, the Planning Administrator shall solicit their comments and recommendations, and note the date by which comments and recommendations must be received by the Planning Administrator into order to be considered.

(c) Applicable comments are to be received by the Planning Department within 15 days. These comments shall be incorporated into the formal findings which will form the basis of the Planning Administrator's decision on the short subdivision. If no comments are received from any of the parties referenced above, the Planning Administrator may make such findings as he/she reasonably deems appropriate.
[Ord. 612 (2018) § 22]

Commented [DH2]: Verify in Permit Review; Recommend 14 days so that SEPA timelines and 36.70B timelines are consistent.

9.03.060 ADMINISTRATIVE DETERMINATIONS.

(a) The Planning Administrator shall, after conferring with appropriate officials and agencies, determine whether:

(1) The proposed short subdivision meets the requirements of this title.

(2) The proposed short subdivision is in compliance with the Benton County Comprehensive Plan, any applicable zoning requirements or other land use controls that may exist, and the provisions of Chapter 58.17 RCW.

(3) The proposed short subdivision contributes to the orderly development and land use patterns in the area and meets concurrency requirements for levels of service;

(4) The proposed short subdivision provides adequate provisions for public health, safety, and general welfare, for open spaces, drainage ways, street or roads, alleys, other public was, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks including safe walking conditions for students.~~is served with adequate road system/means of access, means of drainage, water supply, sewage disposal, or other necessary services and contain all necessary easements related thereto.~~

Commented [DH3]: Updated to match RCW 58.17.110 and provide consistency with BCC 9.05

(5) The public use and interest will be served by permitting the proposed division of property, which includes but is not limited to considering any objections to the proposed short subdivision submitted by the Benton-Franklin Health District or the Benton County Road Department.

(6) The applicable irrigation district has reviewed the proposed short subdivision to ensure compliance with RCW 58.17.310 as now existing or hereafter amended.

(7) The proposed short subdivision is in compliance with Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC, as now existing or hereafter amended.

[Ord. 612 (2018) § 23]

9.03.070 ADMINISTRATIVE DECISION.

(a) ~~Within thirty (30) days of the receipt of a complete application for a short subdivision, unless a longer period is~~

~~agreed to by the applicant or the Planning Administrator makes written findings justifying a need for an additional amount of processing time,~~Consistent with the applicable timelines established in BCC 17.10, the Planning Administrator shall notify the applicant of:

(1) Preliminary approval; or

(2) Preliminary approval with conditions; or

(3) Denial of the application.

(b) The applicant shall be notified in writing of the Planning Administrator's decision, sent by regular mail.
[Ord. 612 (2018) § 24]

9.03.080 APPEAL OF ADMINISTRATIVE DECISION.

Any decision to approve, condition, or deny a short application based up on the requirements of this title may be appealed by any person aggrieved to the Benton County Hearings Examiner subject to the requirements in BCC 9.02.130.
[Ord. 612 (2018) § 25]

9.03.090 PRELIMINARY SHORT SUBDIVISION APPROVAL-EXPIRATION-NULL & VOID STATUS.

Preliminary approval of an application for a short subdivision, pursuant to BCC 9.03.070, shall automatically expire one (1) year after any preliminary approval is granted unless the final short plat is recorded within such time in accordance with this chapter or an application for time extension is approved. If a short plat is not so recorded or an application for an extension of time is not timely submitted and approved within the one (1) year period, the preliminary approval of the short subdivision shall be null and void.
[Ord. 612 (2018) § 26]

9.03.100 PRELIMINARY SHORT SUBDIVISION APPROVAL-EXPIRATION-EXTENSION OF TIME.

(a) A completed application for an extension of time, together with supporting information, must be submitted to the Planning Administrator not less than thirty (30) days prior to the expiration of the approval of a preliminary short subdivision.

Commented [DH4]: Verify (if applicable) in Permit Review

(b) The Planning Administrator may, but is not required to, approve an extension of time only if:

(1) There has been significant changes in conditions since the approval that would render filing of the final short plat contrary to the public health, safety or general welfare, and

(2) The applicant has taken substantial steps toward satisfying conditions of approval.

(c) The Planning Administrator may grant a one-time only extension for one (1) year under this section. The Planning Administrator shall issue a written decision approving or denying the time extension request and provide copies to affected agencies, the applicant, and those parties requesting a copy of such decision. No additional time extensions may be granted.
[Ord. 612 (2018) § 27]

9.03.110 FINAL SHORT SUBDIVISION-REVIEW AND APPROVAL.

(a) If the short subdivision application is approved pursuant to BCC 9.03.070, the applicant may submit the short plat to the Planning Administrator for final approval after satisfying all conditions of approval.

(b) The submittal of a final short subdivision to the Planning Administrator shall include the following:

(1) A short plat drawn on an eighteen (18) inches by twenty-four (24) inches sheet of material approved by the County Auditor. All information provided on the short plat shall be in permanent black ink. The scale shall not exceed one hundred (100) feet to the inch, unless specifically approved by the Planning Administrator. If the entire plat cannot be contained on one sheet, two (2) or more sheets shall be used. Each sheet used shall have a title block in the lower right hand corner showing the name of the plat, the sheet number and the total number of sheets. Each sheet shall have a two (2) inch margin on the left side and a one-half (1/2) inch margin on all other sides;

(2) The short plat shall contain all signatures as required in BCC 9.03.040, except for those of the County Treasurer,

County Auditor, County Engineer and the Planning Administrator as these signatures will be obtained by the Planning Administrator.

(3) A digital copy of the final short plat in a format that is compatible with the County's current CAD system;

(4) An updated title certificate dated not more than two (2) months prior to the date of recording of the final short plat containing all information required by BCC 9.03.030(c).

(c) The Planning Administrator shall review the file and the final short plat to determine if:

(1) The final short plat complies with this title;

(2) The final short plat is consistent with the approved preliminary short plat;

(3) All changes and conditions of approval imposed by the preliminary short subdivision approval have been made and complied with;

(d) If the Planning Administrator makes the affirmative determinations required above by subsection (b), he/she shall approve the final short plat. The Planning Administrator will be the final signature block approval.
[Ord. 612 (2018) § 28]

9.03.120 RECORDING OF SHORT PLAT.

Once the final short plat has been signed by the Planning Administrator, the Planning Administrator shall record the original with the County Auditor. Auditor recording fees shall be paid by the short subdivision applicant. The short subdivision is not a legal subdivision until the short plat has been recorded with the County Auditor.
[Ord. 612 (2018) § 29]

9.03.130 AMENDING A RECORDED SHORT PLAT.

(a) Once a short plat has been recorded with the Benton County Auditor, no further division shall be made of any portion of said property for a period of five (5) years from the date of recording the short plat, unless the division has been granted an exemption under this title.

(b) A recorded short plat shall be amended only by recording an amended short plat in accordance with the following provisions:

(1) The amended short plat must meet all requirements of this title; except, that if the amendment does not alter the sizes of the lots, the requirements of the zoning ordinance and intent of the comprehensive plan in effect at the time of submittal of the short plat being amended shall be satisfied, rather than the zoning ordinance and comprehensive plan in effect at the time of the amendment.

(2) The title of the amended short plat shall be:

"Short Plat No. _____
Amending Short Plat No. _____"

(3) The amended short plat shall show all of the parcels shown in the original short plat and shall bear notarized signatures of all parties with an ownership interest in any of the lots in the original short plat.

(4) An amended short plat may increase the number of lots to a total of four (4) lots if the original short plat contained less than four (4) lots.

(5) The required five-year period before resubdivision shall run from the recording date of the short plat being amended rather than the recording date of the amended short plat if no new lots are created.

(6) An amended short plat may not be recorded until real property taxes and assessments on all lots changed or affected

by the amendment have been paid through the current year.

(c) Nothing in these requirements shall preclude the ability to correct a minor error by the affidavit of correction procedure outlined in Benton County Resolution No. 2477 dated October 13, 1970.
[Ord. 612 (2018) § 30]

9.03.140 RE-SUBDIVISION PROCEDURE.

Land within a short subdivision may not be further divided in any manner within a period of five (5) years without the recording of a final plat in compliance with Chapter 9.07 BCC or an amended short plat as allowed by BCC 9.03.130.
[Ord. 612 (2018) § 31]

9.03.150 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 612 (2018) § 84]

9.03.160 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 612 (2018) § 85]

CHAPTER 9.05

SUBDIVISION-PRELIMINARY PLAT

SECTIONS:

9.05.010	General Provisions
9.05.020	Pre-Application Meeting
9.05.030	Application Requirements
9.05.040	Public Hearing
9.05.050	Review by Other Agencies
9.05.060	Preliminary Plat
9.05.070	Open Record Hearing
9.05.080	Consideration of Preliminary Subdivision
9.05.090	Disapproval Due to Flood, Inundation, or Wetland Condition
~~9.05.100~~	~~Planning Commission Recommendation for a Preliminary Subdivision~~
9.05.110	Preliminary Plat Approval
9.05.120	Phasing
9.05.130	Large Developments
9.05.140	Amendments to Preliminary Plats
9.05.150	Severability
9.05.160	Effective Date

9.05.010 GENERAL PROVISIONS.

(a) The purpose of this chapter is to provide procedures and consistent criteria for the efficient and timely review and approval of a division of land into five (5) or more lots, parcels or tracts.

(b) Any person seeking to divide or re-divide land situated in unincorporated Benton County into five (5) or more lots, for the purpose of sale, lease, or transfer of ownership, unless exempted

from the provisions of this title in BCC 9.02.050, shall submit an application for the approval of a subdivision to the Planning Administrator with the application requirements in BCC 9.05.030. [Ord. 612 (2018) § 32]

9.05.020 PRE-APPLICATION MEETING.

Any person(s) proposing to subdivide a parcel of land pursuant to this chapter may request from the Benton County Planning Department a pre-application meeting. The purpose of the pre-application meeting is to enable the applicant to obtain the input of the affected county departments as to applicable standards and provisions of this chapter and other state and county regulations and how they relate to the proposed subdivision. [Ord. 612 (2018) § 33]

9.05.030 APPLICATION REQUIREMENTS.

(a) Every application for preliminary plat consideration shall include the following:

(1) A complete preliminary plat application in the form provided by the Planning Department.

(2) Copies of preliminary plat map:

(i) ~~Forty (40)~~ Three (3) copies of a preliminary plat map prepared in accordance with the provisions of BCC 9.07.070; and

(ii) One (1) reduced copy of the preliminary plat map on eight and one-half (8 1/2) inch by eleven (11) inch or eleven (11) inch by seventeen (17) inch paper; and

(iii) An electronic copy of the preliminary plat map.

(3) A non-refundable fee as established by resolution of the Board of Benton County Commissioners.

Commented [GW1]: Change from 40 copies to 3 copies

(4) A title certificate from a title company that is not over two (2) months old showing the names and addresses of anyone with an ownership interest in the land being subdivided and showing all easements on the property proposed for division.

(5) Written verification from the Benton-Franklin Health District that the applicant has provided all necessary information to enable the health district to review and make recommendations on the proposed site.

(6) A completed environmental checklist as referenced in WAC 197-11 as now existing or hereafter amended, the State Environmental Policy Act (S.E.P.A.) Rules.

(7) A preliminary hydrology report with information required by the Benton County Road Department. Hydraulic calculations shall be based on the Stormwater Manual for Eastern Washington (04-10-076) as now existing and hereafter amended, using a minimum of a 25 year return frequency storm event.

(8) For properties within one-hundred and fifty (150) feet of a hazardous product transmission pipeline as reflected by the County's Geographic Information Systems, written documentation that the owner/operator of the pipeline has been contacted by the applicant, is aware of the project specifics, and has or does not have concerns that need to be considered in the project review.

(9) All additional materials required in writing by the Planning Department.

(b) The Planning Administrator shall not review any preliminary plat nor establish a hearing before the Planning Commission until all of the above elements are submitted and a complete application, consistent with BCC 9.02.080, has been determined for the application.
[Ord. 612 (2018) § 34]

9.05.040 PUBLIC HEARING.

(a) Upon receipt of a complete application, the Planning Administrator shall establish a file number for the subdivision. The ~~Planning Commission~~Hearings Examiner shall conduct an open record hearing on the preliminary plat proposal for the purpose of taking testimony, hearing evidence, considering the facts relevant to the proposal, and evaluating the proposal for consistency with the Benton County Code and Comprehensive Plan.

(b) Notice of the ~~Planning Commission~~Hearings Examiner hearing shall be given as follows:

(1) ~~Publication of one or more legal notices at least ten (10) days prior to the hearing in a paper of general circulation in the County~~Publication and distribution of the notice shall conform with the requirements of BCC 17.10.

~~(2) By sending copies of the notice by U. S. mail not less than ten (10) days prior to the date of the hearing to all landowners of parcels within the boundaries of the plat, as identified on the title certificate, and to all adjacent landowners of properties within three hundred (300) feet of the exterior boundaries of the proposed subdivision, as identified by the records of the County Assessor.~~

~~(3) If the owner of the real property that is proposed to be subdivided owns another parcel or parcels adjacent to the parcel(s) at issue, notification shall be mailed to landowners of property located within three hundred (300) feet of any portion of such adjacent parcels as well.~~

Commented [DH2]: Move to 17.10

(~~4~~2) If the property proposed for subdivision is located within an Urban Growth Area for a city, that city shall be notified.

(~~5~~3) The notice shall also be given to all cities located within one (1) mile of the proposed subdivision.

(~~6~~4) If the location of a proposed subdivision is within one

mile of the right-of-way of a state highway or within two (2)

miles of the boundary of a state or municipal airport, the notice shall be given to the Washington State Department of Transportation.

~~(7) By U.S. mail to any other interested party or agency as determined by the Planning Administrator.~~

(c) All hearing notices shall include a description of the location of the proposed subdivision, which may be in the form of a legal description, a vicinity map or a written description other than a legal description. Failure to send notice to a person specified above in BCC 9.05.040(b) or failure of a person to receive the notice shall not invalidate any proceedings in connection with the application.
[Ord. 612 (2018) § 35]

9.05.050 REVIEW BY OTHER AGENCIES.

(a) The Planning Administrator shall use his or her best efforts to forward copies of the preliminary plat to other departments, municipalities, utility companies, owners or operators of a hazardous product transmission line located within one hundred and fifty (150) feet of any part of the plat, and public agencies determined by the Planning Administrator to have an interest in the subdivision. These agencies include, but are not limited to, the following:

(1) Benton County Engineer;

(2) Benton-Franklin Health District;

(3) Benton County Fire Marshal;

(4) Applicable fire district;

(5) Applicable irrigation district;

(6) Applicable utility provider(s);

(7) The legislative authority of any city adjacent to or within one mile of the proposed preliminary plat;

(8) The State Department of Transportation, if the proposed short plat is adjacent to the right-of-way of any highway or within two miles of the boundary of a state or municipal airport;

(9) The State Department of Ecology, ~~or its successor,~~ when SEPA is required and/or if the proposed preliminary plat lies within a flood control zone designated pursuant to Chapter 86.16 RCW as now existing or hereafter amended; and

(10) Other involved parties, County Departments, or agencies as necessary for review.

(b) In transmitting the proposed preliminary plat to the parties referenced above, the Planning Administrator shall solicit their comments and recommendations, and note the date by which comments and recommendations must be received by the Planning Administrator in order to be considered.

(c) Applicable comments are to be received by the Planning Department within 15 days. These comments shall be incorporated into the formal findings which will form the basis of the Planning Administrator's recommendation on the preliminary plat. Failure to report within (15) days from the date of transmittal shall be interpreted to indicate that the proposed subdivision will not adversely affect the agency or utility involved.
[Ord. 612 (2018) § 36]

9.05.060 PRELIMINARY PLAT.

The preliminary plat shall be drawn on a standard size sheet of paper twenty-four (24) inches by thirty-six (36) inches to a scale not to exceed one hundred (100) feet to the inch (unless specifically approved by the Planning Administrator) and shall include the following information:

(a) General

(1) Proposed name of the subdivision. (Names proposed shall not closely resemble those of existing subdivisions and given names or initials shall not be used with surnames in a plat name.)

(2) A legal description of the property showing location of boundary lines in relation to section, quarter-section, quarter-quarter section lines and any adjacent corporate limits, describing the property clearly and precisely.

(3) Names, addresses and telephone numbers of the developer and engineer or surveyor.

(4) Name, address and telephone of an individual designated by the applicant to act as a contact person for all information and correspondence relating to the preliminary plat.

(5) Date, scale and north arrow.

(6) Contour lines, not to exceed ten (10) foot intervals to adequately show the topography of the land to be subdivided referenced to the North American Vertical Datum of 1988 (NAVD 88). Those areas within the land to be subdivided having a slope of fifteen (15) percent or greater shall be indicated on the preliminary plat.

(7) A vicinity sketch, at a legible scale, showing the relation of the proposed plat to existing schools, parks, shopping centers, and so forth shall accompany the preliminary plat application.

(8) Tabular Summary showing the following information:

Land Use Summary
Gross acreage
Net lot acreage
Total number of lots

Average lot size
Minimum lot size
Average density
Present zoning
Type of water service
Type of sewerage
Area of public roads

(9) Indication on face of plat that it is a preliminary plat.

(b) Existing Development

(1) The location of permanent buildings, wells (including wells within one-hundred (100) feet of the proposed subdivision), water courses, bodies of water, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over and under the land proposed to be subdivided.

(2) Names of adjacent subdivisions and the location and names of all adjacent streets, as well as, names of adjacent property owners to the subdivision.

(3) The location, name, right-of-way widths, and type of surfacing of all streets and alleys located within and adjacent to the land to be subdivided.

(4) The location of any existing walks, curbs, gutters, culverts, buried conduits and subsurface drains on or within 100 feet of the parcel(s) to be subdivided.

(5) Approximate width, location and purpose of all existing easements on or within 100 feet of the parcel(s) to be subdivided.

(6) Delineation of the location and approximate boundaries of any natural features such as rivers, streams, drainageways, one hundred (100) year floodplain and floodways as shown on official FEMA maps, slopes in excess of fifteen

(15) percent, and wetlands within or adjacent to the land to be subdivided.

(7) Existing uses of parcel(s) to be subdivided, including the location and use of all existing structures and wells and which such structures and wells will remain on the property after platting.

(c) Proposed Development

(1) Location, width and names of proposed streets, alleys, pedestrian ways, and all necessary easements, including but not limited to easements for all utilities, watercourses, drainage ways, channels, or streams that traverse the subdivision with a width determined by the County Engineer for all easements for watercourses, drainage ways, channels or streams.

(2) Indication of any portion or portions of the plat for which successive or separate final plats are to be filed.

(3) Layout, number, and approximate dimensions of lots and blocks, the size of each lot in acres and square feet, and any structural setback requirements identified in Title 15 BCC. Lot sizes shall be in compliance with the size prescribed by the applicable zoning code.

(4) Location and size of all parks, playgrounds, church sites, or other special uses of land considered for dedication, or reservation by deed or covenant, for special use or for the use of all property owners within the subdivision and any conditions of such dedication or reservation.

(5) Indication of any lots of which a use other than residential is proposed by the developer.

(d) Supplemental Information

(1) Two (2) copies of proposed street grades may be required

by the County Engineer where, in his or her opinion, conditions warrant them.

(2) Preliminary grading plan.

(3) Where any proposed subdivision is located within a resource zoning designation or within five hundred (500) feet of a resource zoning designation, the following note must be placed on the face of the plat map:

(a) "The property subject to this subdivision is located is within or near designated agricultural lands, forestlands, or mineral resource lands on which a variety of commercial activities may occur that are nor compatible with residential development for certain periods of limited duration. Where mineral lands exist on or near this site an application may be made for mining related activities, which includes mining, extraction, washing, asphalt and concrete production, crushing, stockpiling, blasting, transporting and recycling of minerals which may also not be compatible with residential uses for a period of time."

[Ord. 612 (2018) § 37]

9.05.070 OPEN RECORD HEARING BEFORE THE HEARINGS EXAMINER.

(a) The open record hearing on the proposed subdivision shall be held before the ~~Planning Commission~~Hearings Examiner. The ~~Planning Commission~~Hearings Examiner shall consider all relevant information, including but not limited to:

(1) The complete record of the application submitted by the applicant.

(2) The report of the Planning Department.

(~~2~~3) Any written comments or concerns expressed by other reviewing agencies.

(~~3~~4) Oral and written testimony from persons present at the hearing.

Formatted: Indent: Left: 0", Hanging: 1"

(b) If the ~~Planning Commission~~Hearings Examiner finds that additional information is needed, the ~~Planning Commissi~~Hearings Examiner may hold the record open for a period of time that they deem sufficient but not more than ~~on may continue the hearing for up to~~ thirty-five (35) days for ~~or such longer period as agreed to by the applicant and direct that~~ the additional information be gathered.
[Ord. 612 (2018) § 38]

9.05.080 CONSIDERATION OF PRELIMINARY SUBDIVISION.

After conducting the open record hearing and ~~considering all information presented,~~ prior to approving any preliminary subdivision, the Hearings Examiner shall determine and make written findings of fact that: the public interest will be served by the subdivision, the proposed subdivision is in conformity with all applicable development regulations, and that appropriate provisions have been made for the following: ~~the Planning Commission shall consider a recommendation to the Board of County Commissioners regarding whether the preliminary plat subdivision be approved, approved with conditions, or denied as proposed. Prior to making any recommendation for approval, the Planning Commission shall make the following written findings:~~

(a) That the proposed subdivision conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;

(b) That the County Engineer, or designee, has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;

(c) That the proposed subdivision meets the requirements of this chapter;

(d) That the public interest will be served by the proposed division and dedication and meets concurrency requirements;

(e) That appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;

Commented [DH3]: Mirror in short plat

(f) That the Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and,

(g) If any portion of the proposed subdivision is located within an irrigation district, that the applicant has compiled with RCW 58.17.310 as it now exists or is hereafter amended.
[Ord. 612 (2018) § 39]

9.05.090 DISAPPROVAL DUE TO FLOOD, INUNDATION, OR WETLAND CONDITION.

(a) Pursuant to RCW 58.17.120 as it now exists or is hereafter amended, the ~~Planning Commission~~Hearings Examiner shall consider the physical characteristics of a proposed subdivision site and may recommend disapproval of the proposed subdivision because of flood, inundation or wetland conditions.

(b) If consistent with Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC, as amended, construction of protective improvements may be required as a condition of approval and such improvements shall be noted on the final plat.

(c) No preliminary plat shall be approved that includes land situated in a flood control zone as provided in Chapter 86.16 RCW, as it now exists or is hereafter amended, without the prior written consent of the Washington State Department of Ecology.
[Ord. 612 (2018) § 40]

~~**9.05.100 PLANNING COMMISSION RECOMMENDATION FOR A PRELIMINARY SUBDIVISION.**~~

~~The Planning Commission's written record, including its findings, conclusions and recommendation, if any, shall be submitted to the Benton County Board of Commissioners no later than fourteen (14) days from the date of the execution of the written recommendation by the Chairman or Chairman Pro Tem of the Planning Commission. The Planning Administrator shall forward the Planning Commission's recommendation to the Board of County Commissioners for the Board to consider the application.~~
~~[Ord. 612 (2018) § 41]~~

Formatted: Tab stops: -1", Left + -0.5", Left + 0.5", Left + 1", Left + 3.8", Left

9.05.110 PRELIMINARY PLAT APPROVAL.

(a) ~~Upon the Board of County Commissioners receipt of the Planning Commission's written record and recommendation, if any, the Planning Administrator shall set a date for a closed record appeal for the Board to consider the application. Following its closed record appeal, the Board of County Commissioners may adopt, modify or reject the recommendation of the Planning Commission. The decision of the Board of County Commissioners to approve, conditionally approve or deny the preliminary plat shall be based on the written record prepared by the Planning Commission. The decision of the Board of County Commissioners shall be in writing and effective upon its adoption.~~Every decision of the Hearings Examiner shall be in writing and shall include findings of fact and conclusions of law to support the decisions.

(b) The written decision of the Hearings Examiner on an application for preliminary subdivision shall be final. There are no administrative appeals on the applications for a preliminary subdivision. Judicial appeals of the Hearings Examiner's decision must be made in accordance with applicable state law.

(C) The ~~Board of County Commissioners'~~ Hearings Examiner's decision to approve, conditionally approve or deny the preliminary plat shall be made within the timelines established in BCC 17.10. ~~ninety (90) days of the County's receipt of the complete preliminary plat application, except as follows:~~

~~(1) If an Environmental Impact Statement is required, the ninety (90) day period shall not include the time spent preparing and circulating the statement;~~

~~(2) If the plat is located in a flood control zone as provided in Chapter 86.16 RCW as now existing or hereafter amended, the ninety (90) days shall be extended if necessary until the project receives written approval from the Department of Ecology; or~~

~~(3) If the applicant consents in writing to an extension of such ninety (90) day period.~~

A copy of the ~~resolution~~decision, along with the findings and conclusions, indicating the action of the ~~Board of County Commissioners~~Hearings Examiner shall promptly be sent to ~~the Planning Department, the County Engineer, the County Assessor, the Benton-Franklin Health District, the applicant, the applicant's surveyor, to any person who submitted substantive comments on the application and to any person who, prior to the rendering of the decision, requested notice of the decision~~all agencies and parties of record.

(~~c~~d) The approval of a preliminary subdivision by the Hearings Examiner~~Board of County Commissioners, if it approves the preliminary plat,~~ authorizes the applicant to proceed with the preparation of the final plat map in accordance with all the requirements of this chapter and any conditions of preliminary plat approval imposed by the ~~Board of County Commissioners~~Hearings Examiner.

(~~d~~e) Preliminary ~~plats~~ subdivisions approved on or before December 31, 2007 shall be effective for ten years from the date of approval by the Board of County Commissioners. Such preliminary ~~plats~~ subdivisions shall be null and void after the ten (10) year period unless:

(1) A final plat for all phases has been submitted, reviewed and signed by the ~~Chairman of the Planning Commission~~County and all required infrastructure improvements including as

Formatted: Indent: Left: 0", First line: 0"

Formatted: Indent: Left: 0", First line: 0"

Formatted: Indent: Left: 0", First line: 0"

Commented [DH4]: Can remain...

built drawings and data of all underground utilities necessary to serve said plat must be constructed and accepted by the county engineer. In lieu of actually completing all improvements, the developer may provide the county with a bond or

irrevocable line of credit in an amount equal to one hundred twenty-five (125) percent of the county engineer's estimate of the cost to complete the required infrastructure; or

(2) A written application for time extension has been submitted to the Planning Administrator at least thirty (30) days prior to the expiration of the ten (10) year period and the applicant demonstrates that the applicant has attempted in good faith to satisfy the conditions of plat approval for all phases within the ten (10) year period. In such case, one extension of one year shall be granted, but additional or altered conditions and requirements may be imposed.

(~~e~~f) Except as otherwise provided in subsection (f) below, preliminary ~~plats~~ subdivision approved on or after January 1, 2015 shall be effective for five (5) years from the date of ~~approval by the Board of County Commissioners~~. Such preliminary ~~plats~~ subdivision shall be null and void after the five (5) year period unless:

(1) A final plat map for all phases has been submitted, reviewed and signed by the Chairman of the Planning Commission and all required infrastructure improvements including as built drawings and data of all underground utilities necessary to serve said plat must be constructed and accepted by the county engineer. In lieu of actually completing all improvements, the developer may provide the county with a bond or irrevocable line of credit in an amount equal to one hundred twenty-five (125) percent of the county engineer's estimate of the cost to complete the required infrastructure; or

(2) A written application for time extension has been submitted to the Planning Administrator at least thirty (30) days prior to the expiration of the five (5) year period and the applicant demonstrates that the applicant has attempted in good faith to satisfy the conditions of plat approval for all phases within the five (5) year period. In such case, one extension of one year shall be granted, but additional or altered conditions and requirements may be imposed.

(f) Preliminary plats that were approved between January 1, 2008 and December 31, 2014 shall be effective for seven (7) years from the date of such approval by the Board of County Commissioners. Such preliminary plats shall be null and void after the seven (7) year period unless:

(1) A final plat map for all phases has been submitted, reviewed and signed by the ~~Chairman of the Planning Commission~~County and all required infrastructure improvements including as built drawings and data of all underground utilities necessary to serve said plat must be constructed and accepted by the county engineer. In lieu of actually completing all improvements, the developer may provide the county with a bond or irrevocable line of credit in an amount equal to one hundred twenty-five (125) percent of the county engineer's estimate of the cost to complete the required infrastructure; or

(2) A written application for time extension has been submitted to the Planning Administrator at least thirty (30) days prior to the expiration of the seven (7) year period and the applicant demonstrates that the applicant has attempted in good faith to satisfy the conditions of plat approval for all phases within the seven (7) year period. In such case, one extension of one year shall be granted, but additional or altered conditions and requirements may be imposed.

[Ord. 612 (2018) § 42]

9.05.120 PHASING.

(a) Any subdivision may be developed in phases or increments. Phasing of short subdivisions is not permitted. A master phasing plan shall be submitted with the preliminary plat for approval by the Planning Administrator. The phasing plan may be approved provided:

(1) The phasing plan includes all land identified within the legal notice; and

(2) The sequence of phased development is identified by a

map; and

(3) Each phase has reasonable public or private infrastructure to support the number of dwelling units contained in that phase; and

(4) Each phase constitutes an independent planning unit with facilities, adequate circulation, and any requirements established for the entire subdivision; and provided that any unfinalized portion meets the minimum lot size of the underlying zone for the proposed use; and

(5) The County Engineer approves the necessary documents so that all road improvement requirements are assured for that phase.

(b) A phasing plan may be amended following preliminary approval. Said plan may be approved administratively provided the above criteria are met.
[Ord. 612 (2018) § 43]

9.05.130 LARGE DEVELOPMENTS.

When a developer or group of developers have in their control an area of land which they wish to plat, they may prepare a preliminary plat of the entire area of the development. Once the total preliminary plat is approved, the project may be final platted and developed in two or more phases provided that:

(1) Each phase is final platted in accordance with the provisions of Chapter 9.07 BCC Final Plat and the provisions of preliminary plat approval; and

(2) Each final plat is developed to allow for the systematic and logical extension of roads and utilities; and

(3) No final plat for any phase may be submitted after the preliminary plat for the entire area of the development has expired pursuant to BCC 9.05.110.
[Ord. 612 (2018) § 44]

9.05.140 AMENDMENTS TO PRELIMINARY PLATS.

An approved preliminary plat may be amended prior to submission of a final plat in accordance with the following criteria and limitations. Such a request for amendment shall be submitted on a form provided by the Planning Administrator. The Planning Administrator shall determine whether to process a proposed amendment as a minor or major amendment.

(a) Minor Amendments. Minor amendments may only address changes to an approved preliminary plat that the Planning Administrator determines fall within the scope of the original approval and do not have the likely potential to increase impacts to governmental agencies or surrounding properties.

(1) General Requirements. Any additions or expansions proposed through minor amendments that exceed the requirements of this section shall be reviewed as a major amendment and shall be subject to current development regulations.

~~(2) Planning Commission Review. A copy of all applications and any pre-decision Department recommendation that exists shall be routed to the Planning Commission. The Planning Commission may provide comments to the Planning Administrator regarding the preliminary plat amendment proposal.~~

(~~3~~2) Required Written Findings and Determinations. The Planning Administrator's written decision on a minor plat amendment shall include findings and conclusions, based on the record, to support the decision. A proposed minor plat amendment shall not be approved unless the Planning Administrator makes written findings that:

(i) The proposal does not result in a change of use of any proposed lot from what was identified in the original approval;

(ii) There are no proposed changes to conditions of approval;

(iii) Proposed changes to the proposal will not modify the intent of the original decision or result in increased storm water, traffic, open space, noise or any other type of impacts to the surrounding property owners;

(iv) The perimeter boundary of the original site is not being increased;

(v) The change does not increase the number of residential lots, residential units, or residential density;

(vi) The proposed change does not increase the number of dwelling units on any lot created by the plat;

(vii) The proposal does not reduce the designated buffers or open space set forth in the preliminary plat;

(viii) Access points identified on the preliminary plat are not reduced, increased or significantly altered;

(ix) The amendment will not negatively impact the future owners of the lots, tracts or parcels created by the subdivision;

(x) The proposal does not reduce required setbacks;

(xi) The proposal does not alter the location or grade of any public roadways; and,

(xii) The proposal does not alter the course of any drainage way or drainage easement.

(~~4~~3) Approvals. ~~After reviewing comments, if any, of the Planning Commission, t~~The Planning Administrator has the authority to approve or deny any proposed minor amendment and may impose additional or altered conditions and requirements

as necessary to assure that the proposal conforms with the intent of the Comprehensive Plan and other applicable County codes and state laws.

(b) Major Amendments. Any proposed amendment to an approved preliminary ~~plat~~ subdivision that is not considered minor by the Planning Administrator shall constitute a major amendment. The following are required for all proposed amendments that are not considered minor amendments by the Planning Administrator or that the Planning Administrator elects to have considered under the criteria and limitations for major amendments.

(1) Open Record Hearing Required. The Department shall set a date for an open record hearing before the ~~Planning Commission~~Hearings Examiner after all requests for additional information under BCC 9.05.030(a)(9) have been satisfied and, if applicable, either a determination or a mitigated determination of non-significance, or an environmental impact statement, if required, has been issued pursuant to the State Environmental Policy Act (SEPA). The open record hearing shall follow the procedures set forth in BCC 9.05.040 and BCC 9.05.070.

(2) Other Land Use Actions. Any amendment that requires a discretionary permit other than those granted in conjunction with the original preliminary plat approval shall require the approval of such permit before or with the decision on the proposed major plat amendment.

(3) Written Findings and Determinations. The ~~Planning Commission~~Hearings Examiner shall ~~consider making a written recommendation and the Board of County Commissioners shall~~ make the final decision on a proposed major amendment following the same procedure and the same criteria as for the initial decision to approve, conditionally approve or deny the preliminary plat. Additionally, the proposed preliminary plat, as amended by the proposed major change, shall not be approved unless the ~~Board of Commissioners~~Hearings Examiner can and does make the written findings required for the approval of all preliminary plats.

(4) Approvals. The ~~Board of County Commissioners~~Hearings Examiner has the authority to approve or deny any proposed major amendment and may impose additional or altered conditions and requirements as necessary to assure that the proposal conforms with the intent of the Comprehensive Plan and other applicable County codes and state laws.

[Ord. 612 (2018) § 45]

9.05.150 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

[Ord. 612 (2018) § 84]

9.05.160 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.

[Ord. 612 (2018) § 85]

CHAPTER 9.07

SUBDIVISION-FINAL PLAT

SECTIONS:

9.07.010 General Provisions
9.07.020 Final Plat-General Requirements
9.07.030 Request for Final Plat Approval
9.07.040 Final Plat Review by Agencies
9.07.050 Final Plat Review by Planning Administrator
9.07.060 ~~Board of County Commissioners'~~Planning Administraotrs Approval
9.07.070 Recording
9.07.080 Final Plat Requirements
9.07.090 Certificates Required-Final Plat
9.07.100 Recording Requirements
9.07.110 Alteration of Plat
9.07.120 Severability
9.07.130 Effective Date

9.07.010 GENERAL PROVISIONS.

(a) The purpose of this chapter is to provide procedures and consistent criteria for the efficient and timely review and approval of a final plat.

(b) Any person seeking to finalize and record a plat that is creating five (5) or more lots that has completed the preliminary plat approval process pursuant to Chapter 9.05 BCC shall submit an application for the approval of a final plat to the Planning Administrator with the application requirements in BCC 9.07.020. [Ord. 612 (2018) § 46]

9.07.020 FINAL PLAT-GENERAL REQUIREMENTS.

(a) Developers shall submit to the Planning Administrator all

final plats prepared in accordance with the provisions of BCC 9.07.080 and the provisions of the preliminary plat approval.

(b) The following information shall be submitted to the Planning Department in order to seek final plat approval:

(1) A request for final plat approval on a form provided by the Planning Department.

(2) ~~Ten (10)~~ Three (3) copies of the final plat as specified in BCC 9.07.080, one eleven (11) inches by seventeen (17) inches reproducible copy of the final plat and any required supplementary materials.

Commented [GW1]: Change from 10 copies to 3 copies

(3) Proof that road and utility plans prepared in accordance with the provisions of BCC 9.09.030 through BCC 9.09.060 have been prepared and submitted to the County Engineer. All required infrastructure improvements including as built drawings and data of all underground utilities necessary to serve said plat must be constructed and accepted by the county engineer. In lieu of actually completing all improvements, the developer may provide the county with a bond or irrevocable line of credit in an amount equal to one hundred twenty-five (125) percent of the county engineer's estimate of the cost to complete the required infrastructure.

(4) A title certificate from a title company that is not more than two (2) months old, showing the names and addresses of anyone with an ownership interest in the land being subdivided and all easements on the property proposed for division.

(5) Written verification from the Benton-Franklin Health District that it has reviewed the final plat and that the applicant has included all necessary information and notes on the final plat as directed by said District.

(6) Complete field and computation notes showing original or re-established corners with descriptions of them and actual traverse showing error of closure and method of balancing,

and a sketch showing all distances, angles, and calculations required to determine distances and corners of the plat. The allowable error shall not exceed one (1) foot in ten thousand (10,000) feet.

(7) A digital format of the final plat that is fully compatible with the County's current CAD system.

(8) A non-refundable fee as established by resolution of the Board of Benton County Commissioners.

[Ord. 612 (2018) § 47]

9.07.030 REQUEST FOR FINAL PLAT APPROVAL.

After receiving a request for final plat approval, the Department shall review the request for completeness as if it were an application under BCC 17.10.090 to determine if it is complete and contains all the information as required in BCC 9.07.020.

[Ord. 612 (2018) § 48]

9.07.040 FINAL PLAT REVIEW BY AGENCIES.

(a) The Planning Administrator shall forward copies of the final plat map to other County departments, the relevant municipality if the plat is located in an Urban Growth Area, and utility companies or public agencies determined to have an interest in the subdivision.

(b) All reviewing agencies shall have fourteen (14) days from the date of mailing to forward their comments to the Planning Administrator.

[Ord. 612 (2018) § 49]

9.07.050 FINAL PLAT REVIEW BY PLANNING ADMINISTRATOR.

(a) The Planning Administrator shall review the file and the final plat map to determine if:

(1) The final plat complies with the requirements of this title;

(2) The final plat is consistent with the approved preliminary plat;

(3) All changes and conditions imposed in connection with the approved preliminary plat approval have been made and complied with;

(4) The County Engineer has approved the road and utility plans. All required infrastructure improvements including as built drawings and data of all underground utilities necessary to serve said plat must be constructed and accepted by the county engineer. In lieu of actually completing all improvements, the developer may provide the county with a bond or irrevocable line of credit in an amount equal to one hundred twenty-five (125) percent of the county engineer's estimate of the cost to complete the required infrastructure; and,

(5) All fees and charges for engineering plan review and construction inspection shall be paid.

(b) If the Planning Administrator makes the affirmative determinations required above by subsection (a), the applicant shall promptly submit:

(1) one (1) final plat on material approved by the Benton County Auditor, the signatures of the County Engineer, County Assessor, County Treasurer and any applicable irrigation district must be on the final plat as required by BCC 9.07.090.., ~~and the Planning Administrator shall inform the Chairman of the Planning Commission of his or her determination who, in turn, shall sign the final plat and authorize that it be forwarded to the Board of County Commissioners.~~

(2) If applicable, bond documentation for any improvements not being constructed prior to recording the final plat map.

(3) Any other necessary certificates, bonds, or endorsements.

(c) Prior to scheduling the final plat before the Board of County Commissioners for approval at a public meeting, ~~the signatures of the County Engineer, Planning Commission Chairman, County~~

~~Assessor, County Treasurer and any applicable irrigation district must be on the final plat as required by BCC 9.07.090.~~
[Ord. 612 (2018) § 50]

9.07.060 ~~BOARD OF COUNTY COMMISSIONERS'~~ PLANNING ADMINISTRATOR APPROVAL.

~~(a) The Board of County Commissioners shall consider each final plat at a public meeting. The Planning Administrator shall, in~~

~~coordination with Board of County Commissioners' staff, set the time, date and place for the meeting to review the following information:~~

~~(1) The original final plat complete with all signatures EXCEPT those of the Chairman of the Board and the County Auditor.~~

~~(2) An updated title certificate dated no more than two (2) months from the date the final plat was submitted to the Benton County Board of Commissioners, containing all information required by BCC 9.07.020(b)(4).~~

~~(3) The developers' provision for bond for improvements.~~

~~(4) Any other necessary certificates, bonds or endorsements.~~

(b) The ~~Board of County Commissioners~~Planning Administrator shall review ~~the Planning Administrator's recommendation~~ and approve the final plat for recording if the following standards are met:

(1) The final plat is consistent with the preliminary plat;

(2) The final plat includes all of the information required by BCC 9.07.080;

(3) All changes and conditions imposed on the preliminary plat approved by the Board have been made and complied with; and

(4) All applicable requirements of the state law and this title have been satisfied.

(c) If the ~~Board of County Commissioners~~PLanning Administrator determines that the above standards are met, the ~~Chairman of the Board~~ Planning Administrator shall sign on the appropriate signature block on the face of the plat. If the ~~Board of County Commissioners~~Planning Administrator finds these standards have not been met, the ~~Board~~ Administrator shall deny the final plat and

return it to the applicant

for correction. The ~~Board's~~ Adminstrator's approval of the final plat shall constitute County acceptance of all dedications.
[Ord. 612 (2018) § 51]

9.07.070 RECORDING.

(a) The final plat shall be recorded with the Benton County Auditor after receiving final approval from the Board of County Commissioners.
[Ord. 612 (2018) § 52]

9.07.080 FINAL PLAT REQUIREMENTS.

(a) Scale and sheet size - The final plat shall be drawn in black ink on good quality material approved by the Benton County Auditor with a scale of not more than one hundred (100) feet to the inch unless otherwise specifically approved by the Planning Administrator. All plats shall be drawn on a standard sheet twenty-four (24) inches by thirty-six (36) inches. If the entire plat cannot be contained on one standard sheet, two (2) or more sheets shall be used. Each sheet shall have a title block in the lower right hand corner showing the name of the plat, the sheet number and the total number of sheets. Each sheet shall have a two (2) inch margin on the left side and a one-half (1/2) inch margin on all other sides.

(b) Map Information - The final plat shall be made by or under the supervision of a registered land surveyor of the State of Washington as a result of a land survey in compliance with the requirements of the Survey Recording Act, Chapter 58.09 RCW and the Washington Administration Code (WAC) 332-130 as they now exist or are hereafter amended. Each final plat shall include an accurate map of the subdivided land, based upon a complete survey thereof and shall include the following information:

(1) Primary control points and descriptions and ties to such control points, to which all angles, bearings, dimensions, and similar data on the plat shall be referred.

(2) The final plat shall be accompanied by complete field and computation notes showing original or re-established corners with descriptions of them and actual traverses showing error of closure and method of balancing, with sketch showing all distances, angles, and calculations required to determine distances and corners of the plat. The allowable error shall not exceed one (1) foot in ten-thousand (10,000) feet.

(3) Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines or residential lots and other sites with accurate bearings, dimensions, deflection angles, complete curve data for street centerlines and property lines and other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curves to lot lines.

(4) Name and right-of-way width of each street and other rights-of-way or easements.

(5) Locations, dimensions, and purposes of each easement.

(6) Purpose for which sites, other than residential lots, are dedicated or reserved.

(7) Number to identify each parcel or lot.

(8) Location and description of all monuments.

(9) Reference to recorded plats of adjoining land by record name, date and number.

(10) Located on the bottom or right edge of each sheet of the final plat:

(i) A title block identifying the business name of the firm and/or land surveyor that performed the survey;

(ii) On every sheet of multiple sheets, an identification number, i.e., "sheet 1 of 5";

(iii) A County Auditor's Certificate that states:

> "Filed for record at the request of _____ at_____ minutes past _____, this _____ day of _____, __, and recorded in Volume _____ of plats at page _____, records of Benton County, Washington.
>
> _____
> Benton County Auditor Fee Number

The Auditor's Certificate shall be on the first sheet of multiple sheets; however, space on each sheet of a multiple page final plat shall be provided for the Auditor's fee number, volume, and page numbers.

(iv) The surveyor's certificate on the first sheet of multiple sheets stating:

> "I _____, Professional Land Surveyor, do hereby certify that the plat of _____ is based upon an actual survey of the above described property; that the distances, courses and angles are shown thereon correctly and that the monuments and lot corners have been set on the ground as shown on the plat."
>
> _____
> Surveyor's Signature and seal

On each additional sheet, the seal and signature of the land surveyor and the date signed.

(c) General Information - In addition to the map or maps, every final plat shall contain the following written data:

(1) Name of the subdivision.

(2) The legal description of land contained within the subdivision.

(3) The date, north point and scale. In general, all plats shall be oriented on the paper with the north towards the upper edge of the sheet.

(4) The area of each lot within the subdivision shall be placed on the face of the plat or a separate sheet accompanying the plat showing lot acreage or square footage.

(5) A vicinity map showing the location of the plat.

(6) The street address of each lot, tract, and/or parcel, as determined by Benton County or applicable agency.

[Ord. 612 (2018) § 53]

9.07.090 CERTIFICATES REQUIRED-FINAL PLAT.

The following certificates shall be shown and all signatures affixed to a final plat shall be original signatures written in permanent black ink by the landowner's, the official involved or their designated representative:

(a) County Engineer
County Assessor
County Treasurer
~~Chairman of County Planning Commission~~
~~Chairman of the Board of County Commissioners~~
County Planning Administrator
Benton Franklin Health District
Public Utility District
Owners' certificate in the form set forth below in subsection (d).
Certificates, if any, required by subsection (e) below.

(b) The final plat shall be accompanied by complete field and computation notes showing original or re-established corners with

descriptions of them and actual traverses showing error of closure

and method of balancing, with sketch showing all distances, angles, and calculations required to determine distances and corners of the plat. The allowable error shall not exceed one (1) foot in ten-thousand (10,000) feet.

(c) Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines or residential lots and other sites with accurate bearings, dimensions, deflection angles, complete curve data for street centerlines and property lines and other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curves to lot lines.

(d) A certificate in the following form shall be executed by all parties having an ownership interest in the lands subdivided and acknowledged before a Notary Public:

> Know all persons by these present that _____ are all parties having ownership interest in the land hereon described; have with their free consent and in accordance with their desires caused the same to be surveyed and subdivided as shown hereon; do hereby dedicate those roads and/or rights-of-way shown as public dedications hereon to the use of the public; do hereby waive on behalf of themselves and their successors in interest all claims for damages against Benton County and any other governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said dedicated roads and/or rights-of-way; and do hereby grant and reserve the easements as shown hereon for the uses indicated.
>
> _____
> (Name)
>
> _____
> (Name)

(e) When the subdivision lies wholly or in part within an irrigation district, a certificate of approval of the irrigation district and/or the manager or administrator of the project for

the bureau of reclamation, if required by RCW 58.17.310 as now existing or hereafter amended.
[Ord. 612 (2018) § 54]

9.07.100 RECORDING REQUIREMENTS.

(a) The original final plat shall be submitted to the County Auditor who may accept it for recording only if all certifications and requirements of this title have been complied with.

(b) At the time of the recording of a final plat, the subdivider shall pay to the County Auditor the statutory recording fees.

(c) When restrictive covenants or other deed restrictions are to be placed upon the lots created by the subdivision, such covenants shall be recorded with the final plat.
[Ord. 612 (2018) § 55]

9.07.110 ALTERATION OF PLAT.

(a) When any person wishes to alter any portion of an approved final subdivision plat that person shall submit to the Planning Administrator an application to request the alteration with a preliminary plat map and a non-refundable application fee as established by resolution of the Board of County Commissioners. Plat alterations may consist of a change in designation on a plat or a change in location or size of a parcel or easement or other feature of a plat. The elimination of land from a plat, the elimination of an easement granted by the plat, or the elimination of an area dedicated for public use from the plat, shall require a vacation and must be processed under BCC 9.02.120.

(b) Application for plat alteration shall contain the signatures of those persons having an ownership interest in the majority of lots, tracts, parcels or sites in the subject subdivision or portions thereof to be altered. If a parcel is owned by more than one person, all persons with an ownership interest in said parcel shall sign the application in order to count said parcel when determining if owners of a majority of lots, parcels, tracts, or sites have signed the application. If the subdivision is subject

to restrictive covenants which were filed at the time of the approval of the subdivision and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relative covenants to accomplish the purpose of the subdivision or portion thereof.

(c) Upon issuance of a letter of completeness of such application pursuant to BCC 17.10~~.090~~, the Planning Administrator shall place the item on the Benton County ~~Planning Commission~~Hearings Examiner's agenda for the appropriate regular meeting. The ~~Planning Commission~~Hearings Examiner shall review ~~and consider recommending either~~make a decision to either ~~approval~~approve, ~~approval~~ approve with conditions, or ~~disapproval of~~deny the proposed application for alteration. ~~Any Planning Commission recommendation shall be submitted to t~~The ~~Board of County Commissioners~~Hearings Examiner~~, who~~ shall conduct an open record hearing on the application for alteration, and, as provided for in RCW 58.17.080 and RCW 58.17.090, as they now exist or hereafter amended, provide notice for such open record hearing and describe the plat to be altered. The notice shall establish a place, date and time for an open record hearing. If the subdivision is located within a city's Urban Growth Area boundary, such notice shall also be sent to that city. The notice shall also be given to cities located within one mile of the subdivision. If the subdivision is located adjacent to a state highway or within two (2) miles of a state or municipal airport, the notice shall be given to the Washington State Department of Transportation.

(d) The ~~Board of County Commissioners~~Hearings Examiner shall determine the public use and interest in the proposed alteration, and may approve or
deny the application for alteration. If any land within the alteration is part of an assessment district, all outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration. If an alteration results in a reduction in size, but not elimination of a parcel or area dedicated to the general use of persons residing within the

subdivision, the area no longer dedicated as a result of the alteration may be divided equitably among the adjacent properties.

(e) After approval of an alteration, the applicant shall produce a survey containing a revised drawing of the approved alteration of the final plat. The survey shall contain information as required in BCC 9.07.080 and BCC 9.07.090. The information to be provided by the applicant, prior to obtaining permission to record an altered plat, shall include:

(1) One altered plat on materials approved by the Benton County Auditor and ten (10) copies of the altered plat as specified in BCC 9.07.080, one eleven (11) inches by seventeen (17) inches paper copy of the altered plat and any required supplementary materials.

(2) A title certificate no older than two (2) months, containing all information required by BCC 9.07.020(b)(4).

(3) Written verification from the Benton-Franklin Health District that it has reviewed the altered subdivision and that the applicant has provided all necessary information and notes on the final plat.

(4) Complete field and computation notes showing original or reestablished corners with descriptions, actual traverse showing error of closure and method of balancing, and a sketch showing all distances, angles, and calculations required to determine distances and corners of the plat. The allowable error shall not exceed one (1) in ten thousand (10,000) feet.

(f) After obtaining the signature of the ~~Board of County Commissioners~~Planning Administrator, the final plat as altered shall be filed with the County Auditor and become the plat of the property. This section shall not be construed as applying to the alteration or replatting of any plat of state granted tide or shore lands, and the alteration shall be disclosed in a title report prepared by a title insurer and issued after the filing of the final plat.
[Ord. 612 (2018) § 56]

9.07.120 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any

person or circumstance is held invalid, the constitutionality of

the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 612 (2018) § 84]

9.07.130 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 612 (2018) § 85]

CHAPTER 9.09

DESIGN AND IMPROVEMENTS

SECTIONS:

9.09.010	General Provisions
9.09.020	Short Subdivision-Private Access Easement Requirements
9.09.030	Design and Construction Standards-General Layout Design Standards
9.09.040	Road Design and Construction
9.09.050	Utility Design and Construction
9.09.060	Monuments
9.09.070	Severability
9.09.080	Effective Date

9.09.010 GENERAL PROVISIONS.

(a) All subdivisions and short subdivisions shall comply with the following standards of design and improvements except as noted elsewhere in this title.

(b) The design of plats shall conform to the requirements of all applicable county plans and standards, and any official control relating to land use which has been adopted to implement the Benton County Comprehensive Plan. In addition:

(1) The design, shape, size, and orientation of the lots should be appropriate for the use for which the divisions are intended, and the character of the area in which they are located.

(2) Block dimensions should reflect due regard to the needs of convenient access, public safety, emergency vehicle

access, topography, road maintenance, and the provision of suitable sites for the land use planned.

(3) Road alignments should be designed in accordance with Benton County Standards For the Design and Construction of Roads and Bridges; with appropriate consideration for existing and planned roads, anticipated traffic patterns, topographic and drainage conditions, public safety, and the proposed use of the land so divided.

(4) Where a lot is platted into lots of one (1) acre or more in size, the Planning Administrator may require an arrangement of the lots and roads, such as to permit a subsequent re-division in conformity with roads or plans adopted by Benton County.

(5) Lots should not be divided by the boundary of any city, county, zoning designation, public right-of-way, or drainage easement.

(c) All installation of improvements required in connection with the approval of a plat, including those serving a subdivision but located outside the subdivision, shall be installed in conformance with all applicable ordinances, codes and policies adopted by Benton County.

(d) Private Road Easements.

(1) Short Subdivision: ~~New p~~Private road easements are permissible to meet the access requirements for a new short subdivision subject to the requirements in BCC 9.09.020.

(2) Subdivisions: ~~New p~~Private road easements are not permissible to meet the access requirements for a new subdivision.

[Ord. 612 (2018) § 57]

9.09.020 SHORT SUBDIVISION-PRIVATE ACCESS EASEMENT REQUIREMENTS.

(a) All lots in a short subdivision must have a means of legal access to a city street, county road or state highway. In those

cases where the lots are served by private access easement, the access shall be labeled on the plat map as "Private Road Easement," and a statement placed on the plat that construction and maintenance responsibility for the easement is not Benton County's. If the private road easement extends to land outside the boundaries of the short plat, recording details and parcels served outside the short plat shall be shown.

(b) Except as set forth in BCC 9.09.020(d), private access easements are permissible to meet the access requirements for a new short subdivision imposed by BCC 9.09.020(a); provided, the width of such easement shall be at least forty (40) feet.

(c) Private access easements may be combined with utility easements, but not irrigation easements.

(d) A private access easement does not constitute adequate means of ingress and egress for the proposed lots if approval of the short plat would result in ~~one~~ private access easements serving more than twelve (12) lots. In such instances, access must be by a dedicated and constructed public road with widths and standards as required by the County Engineer.

(e) Private access easements are not built, improved, or maintained by Benton County, and the enforcement of all easement rights are the responsibility of the holder(s) of such rights and not Benton County.

(f) Road Approach~~encroachment p~~ Permits ~~for~~ all proposed private access easements abutting a county maintained public road shall be obtained, and all improvements completed, prior to final short plat approval. When adjacent to a public road, the approach shall be shown on the final short plat.

Commented [DH1]: Left out acronym (RAP) because it is not used elsewhere in this code.

(g) All dead-end private access easements shall be designed to include provisions for emergency vehicle turnarounds in accordance with standards established by the Benton County Code.

(h) Cul-de-sacs and other dead-end streets, roads, or access easements will be permitted where topography or other conditions

justify their use. Cul-de-sacs and other dead-end streets, roads,

or access easements shall be limited to six hundred (600) feet in length unless a longer length is approved in writing by the Fire Marshal. Cul-de-sacs and other dead-end streets, roads, or access easements exceeding two hundred (200) feet shall end with a turn-around approved by the Benton County Fire Marshal. The turnaround shall be designed so that a pumper fire truck has to make no more than one back-up motion in order to reverse its direction.
[Ord. 612 (2018) § 58]

Commented [DH2]: Check with FM

9.09.030 DESIGN AND CONSTRUCTION STANDARDS-GENERAL LAYOUT DESIGN STANDARDS.

(a) Location and alignment of all proposed streets within a short subdivision or subdivision shall conform to any corresponding provisions in the County Comprehensive Plan and shall be compatible with existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by such streets.

(b) Where future alignment of roads is not shown in the County Comprehensive Plan, the alignment of roads in a subdivision shall:

(1) Be designed with appropriate consideration, as determined by the County Engineer, for existing and projected roads, anticipated traffic volumes and patterns, topographic and drainage conditions, public convenience, public safety, and the proposed uses of the land served; and

(2) Conform to all other standards set by the County Engineer.

(c) Proposed streets shall continue as extensions of existing streets unless good site planning dictates a different solution. Street patterns shall take into consideration access needed to develop all adjacent properties presently unsubdivided. Sketches of a proposed street system for adjoining properties may be required if owned by the subdivider or if the arrangement of the large tracts makes it necessary to provide future access through the property under consideration.

(d) Local access streets shall be planned so as to discourage through traffic and to conveniently channel traffic onto collector streets and arterial roads.

(e) When a tract is subdivided into larger than normal lots or parcels, such parcels shall be so arranged as to permit the logical resubdivision and opening of future streets with provision for adequate utility connections for such resubdivisions.

(f) When dead end streets are created by the development of a portion of a larger plat because of the desirability of continuing a street into a presently unplatted parcel a temporary turnaround shall be provided unless the length of the dead end street, as measured from the center of the nearest intersection, is 100 feet or less or the County Engineer recommends against the provision of such a turnaround. If such turnaround includes private property the right of way for the turnaround shall be protected by an easement that shall remain in force until such time as the street is extended and the need for the turnaround has ceased to exist. Private driveways shall not be permitted to be used as a turnaround. All temporary turn arounds shall be surfaced in the same manner as the adjacent plat roads and the size and configuration of such turn arounds shall be approved by the County Engineer.

(g) Dead end streets created by the development of a parcel that are not planned to be extended in the future shall be terminated with a cul-de-sac regardless of their length. ~~No dead~~ Dead end streets exceeding 600 feet, as measured from the center of the nearest intersection to the center of the cul-de-sac are not~~shall be~~ permitted, except in situations when the County Engineer determines there is no other feasible alternative. Cost and/or convenience to the developer shall ne be factors in the determination of feasibility. Cul-de-sacs shall be designed and constructed in accordance with the standards on file at the office of the County Engineer.

Commented [DH3]: Added this language instead of PW version with was "if"

(h) Street names shall be assigned to conform with existing streets on the same or similar alignment. New street names shall not be so similar to existing street names as may cause confusion.

(i) Streets shall be laid out so as to intersect as nearly as possible to right angles, EXCEPT where topography or other

conditions justify variations. The minimum angles of intersection of streets shall be seventy-five (75) degrees.

(j) Intersections and driveways~~on arterial and collector roads~~ shall be spaced in accordance with the Benton County Standards For the Design and Construction of Roads and Bridges.~~not less than 300 feet apart measured centerline to centerline. Intersections on local access roads shall be spaced not less than 200 feet apart measured centerline to centerline.~~

~~(k) Driveways on arterial and collector streets shall be spaced at not less than 300 feet measured centerline to centerline. Where the Developers property frontage does not permit such spacing the County Engineer may fix driveway locations to allow for a lesser spacing.~~

(~~l~~k) Sight~~e~~ distance calculations shall be done utilizing the WSDOT Design Manual for all intersections and driveways within the project. Dedication of additional right of way may be required to encompass clear vision triangles. Use the following guidelines for determining required site distances:

(1) For residential driveways and residential private roads use design vehicle P.

(2) For commercial driveways and commercial private roads use design vehicle (SU-30 & CITY-BUS).

(3) For all roadway intersections within the urban growth area use design vehicle (SU-30 & CITY-BUS).

(4) For all roadway intersections in the rural area use deign vehicle (WB-40 & WB-67). On a case by case basis the County Engineer may permit a lower design vehicle in the rural area when the nature of the approaching road is determined to be primarily residential.

(~~m~~l) Wherever the proposed land division contains or is adjacent to a railroad right-of-way or the right-of-way of a limited access highway, freeway, or primary arterial, provision may be required

for a marginal or frontal access street at a distance appropriate to the proposed use of land between the right-of-way and the

marginal access street. Such distance shall be determined with due consideration to future grade separations and for required lot depths.

(~~m~~m) Corner lots in residential areas shall be ten (10) percent wider than minimum lot widths to allow for adequate setback of a building from both streets.

(~~n~~n) Side lines of lots shall be approximately at right angles to the street in front or radial to curved street lines.

(~~o~~o) Lots with double frontage shall be avoided wherever possible.

(~~p~~p) All lots shall front on a dedicated street other than an alley.

(~~q~~q) In developments where individual sewage disposal systems are to be used, the size of the lots shall be subject to the approval of the Benton-Franklin Health District.

(~~r~~r) Drainage easements for storm sewers or open channel ditches may be required where it is not feasible to carry storm drainage under the streets or rights-of-way. Open channel easements may be required where there is evidence of a present or future natural drainage pattern which may carry water at such time as the general water table of the area is raised, or increased runoff will result from altered land use. Drainage easements shall be placed adjoining or straddling property boundary lines. The developer may be required to alter the grading of the proposed development in order to direct the drainage pattern to the established easements.

(~~s~~s) Where the roadway is at a higher elevation than the adjacent terrain the Developer shall be required to show how runoff from the roadway impacts the adjacent land in relation to ponding or pass through of stormwater, and design and construct all necessary facilities to mitigate said impacts, as approved by the County Engineer.

(~~t~~t) Storm water analysis and facility design shall be based on the Stormwater Management Manual for Eastern Washington. The

design storm for all calculations shall be the SCS Type IA storm with a 25 year return period. The Developer shall, at a minimum,

retain the difference between the pre-developed condition storm water runoff volume and the post developed condition storm water runoff volume within the project boundary. Impervious surfaces that are not infiltrated on-site shall be limited to no more than 10% in rural areas.

(~~t~~u) Infiltration rates for untested soils shall be fixed at ~~2~~ 1.5 inches/hour. If the developer wishes to utilize a higher~~different~~ infiltration rate they shall ~~be required to~~ provide certified infiltration test results from a licensed professional engineer qualified to perform such tests.

(~~u~~v) All stormwater originating from the roadways shall be contained on the plat and shall utilize surface infiltration (ditches, swales, ponds) for detention, unless otherwise approved by the County Engineer. Roadside ditches and drainage facilities shall be capable of storing and infiltrating all runoff from the required design storm without overtopping. Particular attention must be paid to low points in roadways to ensure adequate stormwater retention is provided. Roadside ditches in excess of a 2% gradient shall not be considered to store any runoff except at locations where a barrier causes the water to pool (e.g. driveway crossing with no culvert). Check dams will only be permitted in the ditch with express approval of the County Engineer. The developer shall have an infiltration test performed at each proposed detention area. Tests shall be done with an infiltrometer using the falling head or constant head method. Other methods of infiltration rate determination require approval from the County Engineer or their designated representative.

Commented [DH4]: Added to PW proposed language

Commented [DH5]: PW proposed:"The developer shall have an infiltration test performed at each proposed detention area. Tests shall be done with an infiltrometer using the falling head or constant head method. Other methods of infiltration rate determination shall be approved by the County." I modified this language in the last sentence to note that 'other methods' require approval from CE...the original wording *could* be interpreted that the County Engineer *must* approve any other methods presented and that this was not discretionary.

(~~v~~w) Connection to an approved public water supply and/or an approved public sewer system may be required if deemed to be in the best interest of the public and/or the future residents of the subdivision.

(~~w~~x) Irrigation distribution facilities shall be provided as required under RCW 58.17.310 as now existing or hereafter amended, as directed by the applicable irrigation district.

(~~x~~y) Maximum profile gradient for rural roadways of all classes is

7.0%. Maximum profile gradient for urban roadways of all classes is 10.0%. All roadways with curb and gutter shall have a minimum profile gradient of 0.5%.

(~~aa~~z) Horizontal and vertical alignments shall be based on the requirements set forth in the Washington State Department of

Transportation Design Manual in order to provide stopping sight distance. The County Engineer shall determine the design speed for each roadway to be used in alignment design.

(~~bb~~aa) All fore slopes and back slopes of a height greater than 12 inches shall be within the County right of way. Additional right of way and/or slope easements may be required to encompass the slope areas.

(~~cc~~bb) All subdivision plats with an average lot size of less than one (1) gross acre in size and more than sixteen (16) proposed dwelling units must include a second public road for access if otherwise served by a single public road over six hundred (600) feet in length.

(~~dd~~cc) All subdivision plats containing more than fifty (50) lots shall have a second access via a public road.
[Ord. 612 (2018) § 59]

9.09.040 ROAD DESIGN AND CONSTRUCTION.

(a) Required Improvements - Before the final plat or final short plat is recorded, all streets and other public rights-of-way shall be improved in accordance with minimum road requirements as set forth hereinafter, or if improvements are greater than the minimum requirements herein set forth, then as approved by the County Engineer; or in lieu thereof, a bond must be provided for the full amount of the cost of such work as estimated and/or approved by the County Engineer, including construction inspection costs, but in no case less than one thousand (1,000) dollars. Said bond shall be for a period of not less than two (2) years and shall guarantee that all construction inspection costs be paid and all streets and other public rights-of-way shall be improved within a period of one (1) year in accordance with the approved plans. If, after one (1) year, and total costs are not paid and/or all streets are not so improved, Benton County may cause such streets to be improved in accordance with the approved plans, and the cost thereof, including inspection costs shall be paid by the bonding company. The bond shall be approved by the County Engineer. If the road improvements are bonded, no building permits shall be issued for

lots within the final plat or final short plat until the roads are constructed to at least subgrade standards.

(b) All design and/or construction of plat streets shall be performed in accordance with standards, specifications and policies adopted by the Board of County Commissioners and on file in the office of the Benton County Engineer.
[Ord. 612 (2018) § 60]

9.09.050 UTILITY DESIGN AND CONSTRUCTION.

(a) Required Improvements - Before the final plat or final short plat is recorded, all proposed utilities shall be installed in accordance with the minimum utility requirements as set forth hereinafter, or if improvements are greater than the minimum requirements herein set forth, then as approved by the County Engineer and utility provider; or in lieu thereof, a bond must be provided for the full amount of the cost of such work as estimated and/or approved by the County Engineer, including construction inspection costs, but in no case less than one thousand ($1,000) dollars. Said bond shall be for a period of not less than two (2) years and shall guarantee that all construction inspection costs be paid and all proposed utilities shall be improved within a period of one (1) year in accordance with the approved plans. If, after one (1) year and total costs are not paid and/or all utilities are not so improved, Benton County may cause such utilities to be improved in accordance with the approved plans, and the cost thereof, including inspection costs, shall be paid by the bonding company. The bond shall be approved by the County Engineer.

(b) All utility design and construction pertaining to subdivisions shall be performed in accordance with the standards, specifications and policies adopted by the Board of County Commissioners and on file in the office of the Benton County Engineer.

~~(1) Office of the Benton County Engineer - Guidelines for Road and Utility Planning and Construction for Subdivisions, December 3, 1973, as amended.~~

~~(2) Other standards as set by the County Engineer and adopted by the Board of County Commissioners.~~

[Ord. 612 (2018) § 61]

9.09.060 MONUMENTS.

(a) Concrete or iron pipe monuments approved by the County Engineer shall be set at the intersection of the centerlines of all streets; all angle points of street centerlines; all points of curvature and points of tangents in street centerlines at the radial point on cul-de-sacs; and all external corners of the subdivisions.

(b) The corners of all lots within the subdivision shall be marked by a 1" minimum diameter iron pipe or 5/8" minimum diameter iron pin thirty (30) inches in length firmly driven into the ground to a depth of at least twenty-four (24) inches.

[Ord. 612 (2018) § 62]

9.09.070 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

[Ord. 612 (2018) § 84]

9.09.080 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.

[Ord. 612 (2018) § 85]

CHAPTER 9.10

BOUNDARY LINE ADJUSTMENT

SECTIONS:

9.10.010	General Provisions
9.10.020	Application
9.10.030	Record Survey for Boundary Line Adjustment
9.10.040	Administrative Review
9.10.050	Criteria for Approval
9.10.060	Approval of Boundary Line Adjustment
9.10.070	Appeal of Administrative Decision
9.10.080	Recording
9.10.090	Expiration
9.10.100	Severability
9.10.110	Effective Date

9.10.010 GENERAL PROVISIONS.

(a) The purpose of this chapter is to provide procedures and consistent criteria for the efficient and timely review and approval of a boundary line adjustment.

(b) Any person seeking to modify the boundary lines between two (2) or more lots of record in unincorporated Benton County shall submit an application for a Boundary Line Adjustment to the Planning Administrator with the application requirements in BCC 9.10.020.

(c) The intent of a boundary line adjustment is to address existing problems pertaining to building encroachment, irregular shaped lots, non-conforming lots sizes or to modify lot lines to promote orderly and efficient community growth.
[Ord. 612 (2018) § 63]

9.10.020 APPLICATION.

(a) An application for the review and approval of a boundary line adjustment is required. An application is deemed complete when it meets the requirements of subsection (b).

(b) A complete application for review and approval of a boundary line adjustment consists of the following:

(1) Submission of a completed application on a form provided by the Planning Administrator signed by all persons with an ownership interest in the parcels or lots being proposed for adjustment;

(2) Payment of a non-refundable application fee as set by resolution adopted by the Board of County Commissioners; and

(3) Submission of two (2) copies and one (1) electronic copy of a Record Survey for Boundary Line Adjustment. The Record Survey for Boundary Line Adjustment shall comply with the requirement of BCC 9.10.030.

[Ord. 612 (2018) § 64]

9.10.030 RECORD SURVEY FOR BOUNDARY LINE ADJUSTMENT.

A Record Survey for Boundary Line Adjustment is to be submitted with all applications. The survey is to be prepared by a land surveyor registered in the State of Washington. The survey shall contain the following items at a minimum.

(a) Legal descriptions of all existing and proposed lots prepared by a land surveyor registered in the State of Washington;

(b) Unless otherwise required by law, existing property lines that will remain and proposed new property lines shall be drawn as solid black lines. Existing property lines proposed for removal shall be shown as dashed lines. All new and removed lines shall be clearly labeled;

(c) Dimensions of all property lines and total square footage of the lots less than one acre in size or total acreage for lots larger than one acre, both before and after the adjustment;

(d) Location and footprint of all existing structures on the site and the setbacks of such structures from existing and newly created property lines;

(e) Location and purposes of all existing easements other than mineral easements within the boundaries of all existing and proposed lots;

(f) Location and purposes of any newly created or extended easements; and

(g) Location of adjacent public roads and points of access from the public roads (if a lot does not front on a public road, show how and where access is provided).
[Ord. 612 (2018) § 65]

9.10.040 ADMINISTRATIVE REVIEW.

An application for a boundary line adjustment shall be approved, approved with conditions, returned to the applicant for modifications or denied within ~~fifteen (15)~~thirty (30) days of its receipt by the Planning Administrator. The Planning Administrator shall not be considered to be in receipt of a complete application unless and until such time as the application meets the requirements of BCC 9.10.020 as determined by the Planning Administrator.

(a) The Planning Administrator shall forward one (1) copy of the proposed boundary line adjustment to the County Assessor's Office and Benton County Engineer for review. Other agencies ~~will~~ may be contacted by the Planning Administrator if determined to be applicable to the review of the boundary modification. These agencies include.

(1) Benton-Franklin Health District;

(2) Benton County Fire Marshal;

(3) Applicable Fire District;

(4) Applicable Irrigation District;

(5) Applicable Utility provider(s);

(6) Other involved parties, County Departments, or agencies as necessary for review.

(b) Following review of the comments submitted, ~~but no later than fifteen (15) days following receipt of a complete application,~~ the Planning Administrator shall approve or deny the requested boundary line adjustment. If the boundary adjustment is denied the Planning Administrator shall make appropriate findings of fact in writing. Following a decision, the Planning Administrator shall notify the applicant.
[Ord. 612 (2018) § 66]

9.10.050 CRITERIA FOR APPROVAL.

The proposed boundary line adjustment may only be approved if it complies with the requirements and limitations set forth in this section. The Planning Administrator shall review the application and determine whether the survey complies with this section prior to approving the proposed boundary line adjustment:

(a) The Record Survey for Boundary Line Adjustment and all legal descriptions of the existing and proposed lots have been prepared by a land surveyor registered in the State of Washington;

(b) The boundary line adjustment may not result in the creation of any additional lots, sites, parcels, or tracts of land;

(c) The boundary line adjustment may not result in the creation of nonconforming lots, sites, parcels or tracts of land with respect to lot area, lot depth, setbacks or lot coverage requirements set forth in Title 11 of the Benton County Code;

(d) The degree of nonconformance of existing nonconforming lots, sites, parcels or tracts may not be increased with respect to lot area, lot depth, setbacks or lot coverage;

(e) The boundary line(s) to be adjusted must be a common boundary line between two adjacent lots, sites, parcels or tracts;

(f) The plan must not be inconsistent with any restrictions or conditions of approval for a recorded final plat or short plat;

(g) The boundary line adjustment must not result in the violation of the applicable building code, fire code, Benton Franklin Health District regulation or any other locally administered applicable regulation; and

(h) The boundary line adjustment must not result in a lot, site, parcel or tract that does not have legal access to a public road. [Ord. 612 (2018) § 67]

9.10.060 APPROVAL OF BOUNDARY LINE ADJUSTMENT.

Upon approval of the boundary line adjustment and prior to the recording of any documents to implement the boundary line adjustment, the following must be submitted to the Planning Administrator:

(a) Completed and executed deeds and excise tax affidavit forms with the record survey and legal descriptions of the adjusted lots that have been prepared by a land surveyor registered in the State of Washington; provided, all deeds must be executed in the presence of a notary public and include a certification of the property owners that all owners have signed the document;

(b) Any other documentation necessary to demonstrate that any conditions of approval imposed by the Planning Administrator have been met;

(c) The signature of the Benton County Treasurer, on forms provided by the County, certifying that all property taxes due and owing for the affected property have been paid; and

(d) The payment of any fees which may be required by any office prior to completion of the transaction.
[Ord. 612 (2018) § 68]

9.10.070 APPEAL OF ADMINISTRATIVE DECISION.

Any decision to approve, condition, or deny a boundary line adjustment application based upon the requirements of this title may be appealed by any person aggrieved to the Benton County Hearings Examiner subject to the requirements in BCC 9.02.130.
[Ord. 612 (2018) § 69]

9.10.080 RECORDING.

The applicant shall record the Record Survey for Boundary Line Adjustment documents with the Benton County Auditor, and supply ~~and a copy of the recorded documents containing the recording certificate shall be returned to the Planning Administrator including~~ a digital copy of the survey in a format that is compatible with the County's current CAD system to the Planning Administrator.

Commented [GW1]: New language- added

[Ord. 612 (2018) § 70]

9.10.090 EXPIRATION.

A boundary line adjustment application approval shall expire if all documents necessary to implement the boundary line adjustment have not been recorded within one (1) year from the date of approval. Upon such expiration, a new application must be submitted in accordance with BCC 9.10.020.
[Ord. 612 (2018) § 71]

9.10.100 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any

person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 612 (2018) § 84]

9.10.110 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 612 (2018) § 85]

CHAPTER 11.03

DEFINITIONS

SECTIONS:

11.03.010 Definitions
11.03.020 Severability
11.03.030 Effective Date

11.03.010 DEFINITIONS. Whenever the following words and phrases appear in this title they shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the words "should" and "may" indicate a use of discretion in making a decision. Words used in this title which are not defined in this section shall (when necessary) be defined as to the meaning used in a college level dictionary; or (where required or necessary) as defined in state law under the appropriate RCW, WAC regulations, or County ordinances. The terms "agricultural," "agriculture," "agriculturally," "horticulture," "agronomy," "viticulture," "aquaculture," "floriculture," "food processing," and "farming," shall not be construed to include or relate to marijuana, useable marijuana, or marijuana-infused products.

(1) "Accessory/Ancillary Use or Building" means a subordinate use or building clearly incidental to and located upon the same lot occupied by the main use or building.

(2) "Accessory Dwelling Unit" an additional room or set of rooms located within a single family structure and designed, arranged, occupied or intended to be occupied by not more than one (1) household as living accommodations independent from any other household and not exceeding 800 square feet in area.

(3) "Accessory Equipment Structure" means an un-staffed structure used to contain the equipment necessary for processing communication signals. The accessory equipment structure does not include guyed, lattice, or monopole towers.

(4) "Adult" means a person eighteen years of age and older.

(5) "Adult Family Home" means a regular family abode of a person or persons who are providing personal care, room and board to more than one but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the services.

(6) "Agricultural Building" means a structure designed and constructed to store farm implements or hay, grain, poultry, livestock, fruit and other agricultural products. The structure shall not be used for human habitation, process, treating, or packaging agriculture products, nor shall it be a place to be used by the public.

(7) "Agricultural Market" means a use primarily engaged in the retail sale of fresh agricultural products, grown either on or off the site, but may include as incidental and accessory to the principle use, the sale of factory sealed or prepackaged food products and some limited non-food items. This definition does not include the sale of livestock.

(8) "Agricultural Recreational Facility" means a facility where a fee is charged in return for access to agriculturally-related recreational opportunities, including but not limited to: enclosed arenas, rodeo, grounds and/or building for livestock exhibits, shows and competitions.

(9) "Agricultural Related Industry" means specifically:

(a) Packaging Plants - may include but are not limited to the following activities: washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially

unaltered. Does not include processing activities, or slaughter houses, animal reduction yards, and tallow works.

(b) Processing Plants - may include but are not limited to those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughter houses or rendering plants.

(c) Storage Facilities - may include those activities which involve the warehousing of processed and/or packaged agricultural products.

(10) "Agricultural Stand" means a structure up to 1000 square feet in area used for the retail sale of agriculture products, excluding livestock, grown on the premises.

(11) "Agricultural Use" means raising crops and livestock, horticultural activities, viticulture, animal husbandry, beekeeping, the storage of equipment for the above and related activities normally and routinely a part of such uses.

(12) "Agricultural Wastes" means wastes on farms resulting from the production of agricultural products including but not limited to crop residues, manures, and carcasses of dead animals weighing each or collectively in excess of fifteen pounds.

(13) "Agriculture Lands" refer to lands that are not already characterized by urban growth and are of long term significance for the commercial production of horticulture, agronomy, silviculture, aquaculture, apiary, animal products, turf, seed, Christmas trees not subject to excise tax, or livestock.

(14) "Agri-tourism Accommodation" means an agricultural business or organization offering overnight lodging in an agricultural setting. The purpose is to provide temporary tourist accommodations that are accessory to an onsite or adjacent agricultural use. ~~Overnight lodging facilities are not to exceed~~

~~a maximum of 5 guest units~~. An agri-tourism accommodation does not include bed and breakfast establishments, motels, hotels, and other similar uses.

Commented [DH1]: Move this sentence to new ag tourism regs, it's regulatory, not defining.

(15) "Agronomic Rates" or fertilizer guide means the rates of application of sludge, manure, or crop residues in accordance with rates specified by the appropriate fertilizer guide or by recommendation from a qualified soil scientist, for the crop under cultivation.

(16) "Airport/Heliport" means a runway or landing area or other facility designed or used by public carriers for the landing and taking off of aircraft, including the following associated facilities: taxiways, aircraft storage and tie-down areas, hangars, servicing, and passenger and air freight terminals.

(17) "Airstrip (personal)" means a runway without normal airport functions maintained for the private use of the owner of the property on which it is located.

(18) "Airstrip commercial crop-dusting" means a private runway with service and maintenance facilities which serves the commercial crop-duster.

(19) "Allowable Use" or "Permitted Use "means a use which is allowed outright, i.e., the land use itself does not require obtaining Planning Administrator review and approval, or a conditional use permit.

(20) "Amateur (or Ham) Radio Facilities" means a radio transmission or receiving antenna or communication device operated for non-commercial purposes by individuals licensed by the Federal Communications Commission (FCC).

(21) "Animal Feedlot" refers to a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of Benton

County, open lots used for feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these definitions. Seasonal use during the months of November through February is exempt from feedlot status.

(22) "Animal Unit" is the volume of waste produced over a period of time by a horse, slaughter steer, or heifer.

(23) "Animal Unit Equivalent" equals the number of other farm animals, (chickens, sheep, turkeys, etc.,) needed to produce the equivalent in waste of an animal unit; i.e., it takes fifty (50) chickens to produce the same volume of waste as a horse.

NOTE: This section is continued on the following page.

For purposes of Benton County, the following equivalents apply:

TABLE 11.03.010-1 ANIMAL UNIT EQUIVALENT CONVERSION TABLE

Type of Livestock	Animal Unit Equivalent (per half acre)
Cattle:	
1 slaughter steer, or bull, or dairy cow, or heifer	1.0
2 weaned calves to yearlings	1.0
Horses:	
1 horse	1.0
Sheep:	
2 ewes, with or without unweaned lambs at side	1.0
1 ram	1.0
4 weaned lambs	1.0
Swine:	
2 brood sows	1.0
5 feeder pigs (up to 200 lbs.)	1.0
1 boar	1.0
Other:	
2 goats	1.0
2 llamas	1.0
3 alpacas	1.0
1 ostrich	1.0
3 emus	1.0
5 rhea	1.0
40 ducks or geese	1.0
20 turkeys	1.0
50 chickens	1.0
50 rabbits	1.0
Other animals, not listed above	As may be determined by the Planning Administrative Official

(24) "Antenna Array" means one or more rods, panels, discs or similar devices used for the transmission or reception of communication signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the communication tower.

(25) "Apartment House" means a building containing three or more family-dwelling units each of which, though independent of the other, is provided with joint service such as central heat, common hallways, common entrance or entrances to the building, janitor service, refuse disposal and similar services.

(26) "Aquifer" A body of rock or soil that contains sufficient saturated permeable material to conduct groundwater and to yield economically significant quantities of groundwater to wells and springs.

(27) "Asphalt Production" means the act of or the facility where asphalt's raw ingredients are combined to create hot mix asphalt.

(~~27~~28) "Attached Communication Facility" means an antenna array that is attached to a building or structure. The building or structure may be but is not limited to a utility pole or a water tower.

(~~28~~29) "Bakeries" means the conversion of raw materials through a baking process to finished consumable products and may include the marketing and sale or serving of such products and related accessory items on-site and/or off-site.

(~~29~~30) "Bed and Breakfast" means an owner occupied single family dwelling in which not more than five bedrooms are rented for money or other valuable consideration to the traveling public and only one meal, breakfast, may be served to guests.

(~~30~~31) "Best Management Practices (BMP's) "means physical, structural, and/or managerial practices

that when used singularly or in combination, protect the functions and values of critical resources. Acceptable BMP's are found in the County's Administrative design Manual. BMP's are current and evolving conservation practices, or systems of practices, management or

operational measures, or design and construction techniques; or normal and accepted industry standards that are applied to land uses and land use activity in a manner which:

(a) controls soil loss and reduces water surface and groundwater quality degradation caused by nutrients, animal wastes, toxins, and sediment; and

(b) mitigates adverse impacts to the natural chemical, physical and biological environment of the County.

(c) utilizes the county's natural resources on a long term, sustainable yield basis.

(~~31~~32) "Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process that can be beneficially recycled and meets all requirements of Chapter 70.95J RCW, as it now exists or is hereafter amended.

(~~32~~33) "Buffer" means a designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

(a) buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;

(b) buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, are setbacks which avoid the hazard;

(c) buffers to separate incompatible uses, such as residential from industrial, airports or certain activities common to commercial agriculture, are generally open or sparsely populated.

(~~33~~34) "Business activity" means the production or sale of goods, or the sale of services that is clearly incidental and secondary to the use of the property for residential purposes and that complies with the criteria set forth in this title.

(~~34~~35) "Child" means a person seventeen years of age and under.

(~~35~~36) "Child Day Care Facility - Type A" means a dwelling unit where a childcare provider cares for twelve (12) or fewer children for periods of less than 24 hours a day, includes Family Day Care Provider as defined in RCW 43.216.010.

(~~36~~37) "Child Day Care Facility - Type B" means a dwelling unit where a childcare provider cares for thirteen (13) or more children for periods of less than 24 hours a day, or a building or structure other than a dwelling unit where a childcare provider cares for any number of children for periods of less than 24 hours a day.

(~~37~~38) "Childcare provider" means an agency, person, or persons who regularly provide childcare for one or more children for compensation for periods of less than 24 hours a day while such children are apart from their parents or guardians.

(~~38~~39) "Church" means a structure, or group of structures, which by design and construction are primarily used for religious services and instruction.

(~~39~~40) "Citizen Band Radio" means two-way radio facilities used for short-range personal and business communications and operated without the need of a federal license.

(~~40~~41) "Closed record appeal" means an appeal to the Board of County Commissioners, on a decision made during an open record hearing where no new evidence or

information is being submitted, of a decision made following an open record hearing on a project permit application.

(42) "Co-living" means a residential development with sleeping units that are independently rented and locakable and provide living and sleeping space, and residents share kitchen facilities with other sleeping units in the building.

(43) "Commercial Dairy" means any premises where three or more animal units are kept, milked, or maintained for licensed commercial sale of product.

(44) "Commercial Hog Ranch" means the keeping of six (6) or more feeder pigs exceeding six (6) weeks of age, or more than two (2) brood sows.

(45) "Commercial Horticulture" means the cultivation of fruits, vegetables, flowers, or plants on twenty (20) acres or more under common ownership.

(46) "Commercial Poultry/ Rabbit Operation" means premises where more than one hundred (100) birds or fifty (50) rabbits are kept.

(47) "Commercial Recreational Facility" means a parcel of land or structures used to generate revenue in return for access to recreational facilities such as: batting cages, billiard parlors; bowling alleys, fishing and fly casting ponds, golf driving ranges, golf pitch and putt courses, lawn and court games, miniature golf courses, skating rinks, tennis courts, swim parks, sports fields, gymnasiums, and other similar recreational uses.

(48) "Commercial Significance, Long Term" means the growing capacity, productivity and soil composition of the land for long term commercial production in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

~~(47) "Common Facilities" means any facility within the area of a planned development which is designed and constructed for the use of all residents of the development.~~

(49) "Common Open Space" means any area of land or water or combination thereof within the area of planned development which is designed and intended for the use of all residents of the planned development.

Commented [DH2]: Relates to PD

(50) "Communication Facility" means any facility used for the transmission and/or reception of communication services. Such facility usually, but not necessarily, consists of an antenna array, connection cables, and a communication tower to achieve the necessary elevation.

(51) "Communication Facility Height" means the distance measured from ground level to the highest point on the communication facility, including the antenna array.

(52) "Communication Services" means any communication services as defined in the Telecommunication Act of 1996, which includes: cellular services, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), radio and television towers, paging services and similar services that currently exist or that may in the future be developed.

(53) "Communication Tower" means a freestanding structure designed and constructed specifically to support an antenna array. The structure may include a monopole tower, self-supporting (lattice) tower, guyed tower and other similar structures.

(54) "Compatibility" means the congruent arrangement of land uses and/or project elements to avoid, mitigate, or minimize (to the greatest extent reasonable) conflicts.

(55) "Comprehensive Plan" means the Benton County Comprehensive Plan and any amendments, addenda, or supplemental plans that are duly adopted under Chapter 36.70 RCW and Chapter 36.70A RCW, as they now exist or is hereafter amended, for Benton County or any portion thereof.

(56) "Concentrated Animal Feeding Operation" means a structure or pens for the concentrated feeding or holding of animals or poultry, including but not limited to horses, cattle, sheep or swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens, poultry and/or egg production facilities and fur farms but does not include animal husbandry.

(57) "Concrete Batching" means the act of or a facility where concrete's raw ingredients are combined to create a variety of concrete slurries.

(58) "Condition(s) of Approval" means restrictions or

requirements imposed by a reviewing official pursuant to authority granted by this title.

(59) "Conditional Use Permit" means a permit which is granted for a conditional use. The term "conditional use" means a use subject to specified conditions which may be permitted in one (1) or more classifications as defined by this title but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, or impacts to ground or surface water requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be adverse to the public interest.

~~(58) "Concrete batching and asphalt processing and manufacture, batch plant" A site where concrete or asphalt is manufactured on site for use and delivery elsewhere.~~

Commented [DH3]: Added above

(60) "County" means Benton County.

(61) "Crisis Residential Center" means a facility operated as a temporary shelter within a single family dwelling and providing twenty-four (24) hour a day care for up to six (6) children that is established and licensed by the State of Washington in accordance with RCW 74.13.032 as now in effect or hereafter amended.

(62) "Designated Manufactured Home" means a new manufactured home constructed in accordance with state and federal requirements for manufactured homes, and which:

(a) is comprised of at least two (2) fully enclosed parallel sections each of which is not less than twelve (12) feet wide by thirty-six (36) feet long;

(b) is constructed with a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;

(c) has exterior siding similar in appearance to siding materials commonly used on conventional site-built single-family residences under the International Residential Code;

(d) is set upon a permanent foundation, as specified by the manufacturer, and the space from the bottom of the home to the ground is enclosed by concrete or an approved concrete

product which can be either load bearing or decorative; and,

(e) the manufactured home is thermally equivalent to the state energy code.

(63) "Designated Provider" has the definition of that term as set forth under chapter 69.51A, RCW.

(64) "Development" means "use" as defined by this title.

(65) "Duplex" A single structure containing two (2) dwelling units, neither of which is defined as an accessory dwelling unit.

(66) "Dwelling Unit" A room or rooms located within a structure, designed, arranged, occupied or intended to be occupied by a household. The existence of food preparation and bathroom areas within the room or rooms shall be evidence of the existence of a dwelling unit.

(67) "Dwelling, Single-Family" or "Single Family Dwelling" or "One Family Dwelling" means one of the following types of buildings or structures designed to contain a single dwelling unit:

(a) a site built home - see "Site Built Home";

(b) a modular home - means a residential structure which meets the requirements of the Uniform Building Code or International Residential Code and is constructed in a factory and transported to the building site;

(c) a designated manufactured home - see "Designated Manufactured Home".

(68) "Dwelling, Single-Family Detached" means one dwelling located on one lot and not attached to any other dwelling unit.

(69) "Electric Vehicle Charging Station" means a parking space containing battery-charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in

an electric vehicle and that does not meet the definition of a Rapid Charging Station.

(70) "Equipment Rental Facility" means a facility that stores equipment that can be rented for a specified period of time in return for payment.

(71) "Factory Assembled Commercial Structure" means a factory assembled structure (FAS) designed or used for industrial, educational, assembly, professional, or commercial purposes.

(72) "Family" means any number of individuals living together as a single housekeeping unit, and doing their own cooking on the premises exclusively as one household.

(73) "Fence" means a substantial material serving as an enclosure, barrier, or boundary consisting of wood, metal, masonry wall, solid board fence, screen chain link or other substantial material.

(74) "Fire Department Facility" means a building housing all or a portion of a duly organized fire department, fire protection district or fire company regularly charged with the responsibility of providing fire protection to a jurisdiction.

(75) "Floodplain" means the total area subject to inundation by the base flood.

(76) "Floodway" means the channel or waterway or those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwaters of the watercourse without causing more than a one foot rise in the water surface elevation of a 100-year flood.

(77) "Front Property Line" means the front property line as shown upon the official recorded plat of the property. In all cases where the front property line cannot be determined from a recorded plat, it shall be the property line abutting or adjoining a public or private road, street, highway, or lane. If there is more than one property line adjoining or abutting a public or private road, street, highway or lane, the front property line shall be considered to be the property line along the principal or main travelled public way. In the event there is question as to which public way is the principal one, the Planning Administrator shall, upon request from the County Engineer or any interested party, designate the front property line for any specific lot and such designation shall be final for the purposes of this title.

(78) "Front Yard" means the required open space between the front property line and the nearest part of any building on the lot.

(79) "Golf Course" means a parcel or tract of land that is improved for the purposes of playing golf e.g., greens, tees or fairways, shelters, clubhouses, and ancillary maintenance buildings.

(80) "Guyed Tower" means any structure, including but not limited to lattice towers or monopoles, which uses guy wires to connect above-grade portions of a communication tower diagonally with the ground in a radial pattern around the tower.

(81) "Hazardous Waste and/or Material" means all dangerous and extremely hazardous waste as defined in RCW 70.105.010, as it now exists or is hereafter amended, except for moderate-risk waste.

(82) "Hazardous Waste Storage" means the holding of hazardous waste for a temporary period as regulated by State Dangerous Waste Regulations, Chapter 173-303 WAC, as amended.

(83) "Hazardous Waste Treatment" means the physical, chemical, or biological processing of hazardous waste to make wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for

storage, or reduced in volume.

(84) "Hazardous Waste Treatment and Storage Facility, Off site" means treatment and storage facilities that treat and store waste from generators on properties other than those on which the treatment and storage facilities are located.

(85) "Hazardous Waste Treatment and Storage Facility" means treatment and storage facilities that treat and store wastes.

(86) "Hearings Examiner" means an examiner appointed by the Board of County Commissioners, authorized to hear and make decisions on variances, land use permits, and certain appeals.

(87) "Holding pens" means enclosed areas used for short term occupation by livestock and customarily serves as a staging area when moving livestock from place to place or for general livestock maintenance activities.

(88) "Home Occupation" means any business use that is clearly incidental and secondary to the use of the property for residential purposes.

(89) "Hotel" means a facility offering transient lodging accommodations to the general public and may provide additional services, such as restaurants and meeting rooms. Includes motels.

(90) "Household" means a group of people living together and sharing common areas, such as for cooking.

(91) "Housing for People with Functional Disabilities" means housing used, or intended for use, by persons with functional disabilities. The term includes, but is not limited to, Adult Family Homes, Residential Care Facilities, and housing for any Supported Living Arrangement, as therein defined.

(92) "Hunting, Fee Access" means an activity where hunters pay a fee to lease private property from property owners allowing them access onto the property for hunting purposes.

(93) "Hunting Preserve" means a parcel or contiguous parcels encompassing at least three hundred and twenty (320) acres used for hunting.

(94) "Impervious Surface" means any material which prevents absorption of storm water into the ground.

(95) "Industrial Solid Wastes" means waste by-products from manufacturing and processing operations such as scraps, trimmings, packing, and other discarded materials not otherwise designated as dangerous waste under chapter 173-303 WAC, as it now exists or is hereafter amended.

(96) "Infiltration" refers to the penetration of water into soil or other material.

(97) "Kennel, Commercial" means any premises on which more than four (4) dogs, each more than six (6) months old are housed, groomed, bred, boarded, trained, or sold.

(98) "Kennel, Private" means any premises on which one or more dogs are housed, groomed, bred, boarded, trained, or sold but that does not meet the definition of a commercial kennel as defined herein.

(99) "Land" means any lot, parcel or tract of real property (ground, soil, or earth).

(100) "Land Use" means the method or manner in which land and structures are occupied or utilized.

(101) "Landscaping" means the planting, removal, and maintenance of vegetation along with the movement and displacement of earth, topsoil, rock, bark, and similar substances done in conjunction with the planting, removal and maintenance of vegetation. Landscaping products would include trees, shrubs, topsoil, landscaping rock, bark, irrigation supplies, ornamental fixtures, and/or similar materials used in landscaping property.

(10100) "Lattice Tower" means a structure that consists of a network of vertical and horizontal supports and crossed metal braces which form a tower that is usually triangular or square in cross-section.

(1012) "Law Enforcement Facility" means an office for the administration of any public agency responsible for the public order and safety, i.e., police, sheriff, or state patrol. Law enforcement facilities do not include outdoor storage areas or maintenance shops.

(1023) "Lot" means:

(a) a parcel of land on which a principal building and its accessory buildings are placed or are to be placed, together with the required open spaces; or a "lot" designated as such on an officially recorded plat;

(b) any subdivision of land by metes and bounds description prior to the adoption of this title and held under one ownership separate and distinct from the adjoining and abutting land shall be considered a "lot" as shown by the last conveyance of record; and,

(c) when a tract of land consisting of more than one platted lot held under one ownership is to be developed as one unit, all the parcels or lots shall be considered as one lot for the purpose of this title.

(1034) "Lot Area" means the total horizontal area within the boundary lines of a lot.

(1045) "Lot Coverage" means the percentage of area of a lot which is occupied by a primary building or structure and its accessory buildings or structures, not including uncovered patios, driveways, open steps and buttresses, terraces, and ornamental features projecting from buildings or structures which are not otherwise supported by the ground.

(10~~5~~6) "Lot Depth" means the horizontal length of a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.

(10~~6~~7) "Lot Line, Front:"

(a) in the case of an interior lot - the front lot line shall be the property line separating the lot from the road;

(b) in the case of a corner lot - the front lot line shall be the property line with the narrowest street frontage, except, the Planning Administrator, or his/her designee, shall designate the front lot line for corner lots in residential districts.

(c) in the case of a flag lot, when an access easement or right-of-way extends across the lot, the front lot line shall be the line separating the lot from the right-of-way or access easement. When the right-of-way or access easement does not extend across the property, the front lot line shall be determined by the building official.

(10~~7~~8) "Lumber Yard" means facilities used for the storage and sale of dimensional lumber.

(10~~8~~9) "Manufactured Home" means a manufactured, relocatable living unit which, when erected on site, is designed to be permanently connected to required utilities and used as a dwelling, exceeds forty (40) feet in length and eight (8) feet in width, and bears the insignia of the U. S. Department of Housing and Urban Development.

(1100~~9~~) "Manufactured Home/FAS Park" includes mobile home park. A site, lot or tract of land under the ownership or management of one person, firm or corporation, intended for occupancy by five (5) or more manufactured (mobile) homes/FAS for dwelling or sleeping purposes. This definition shall not include parks for the location of recreational vehicles for travel or recreation.

(111~~0~~) "Manure" means animal waste.

(11~~1~~2) "Manure Storage Area" refers to an area associated with an animal feedlot where animal manure or runoff containing animal manure is stored until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage.

(11~~2~~3) "Marijuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(a) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(b) Industrial hemp as defined in RCW 15.120.010.

(11~~3~~4) "Marijuana Concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having THC concentration greater than ten percent.

(11~~4~~5) "Marijuana-Infused Products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (112) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(11~~5~~6) "Marijuana Processing" means the processing of marijuana, by a person licensed by the Washington State Liquor and Cannabis Board, into marijuana concentrates, useable marijuana, or marijuana-infused products for sale in retail outlets, or marijuana concentrates, useable marijuana, or marijuana-infused products for sale at wholesale to marijuana retailers.

(11~~6~~7) "Marijuana Production" means the production and sale of marijuana at wholesale to marijuana processors and other marijuana producers by a person licensed by the Washington State Liquor and Cannabis Board.

(11~~7~~8) "Marijuana Products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(11~~8~~9) "Marijuana Retail Sales" means the sale of marijuana concentrates, useable marijuana, or marijuana-infused products in a retail outlet by a person licensed by the Washington State Liquor and Cannabis Board.

(120~~19~~) "Master Planned Resorts/Summer Resorts" means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities. A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

(12~~0~~1) "Medical Facility" means an office from which emergency or routine health care services are provided and that does not involve overnight ~~inpatient~~ care.

Commented [GW4]: Remove reference to -inpatient-

(12~~1~~2) "Medical Use of Marijuana" means the manufacture, production, possession, transportation, delivery, ingestion, application, or administration of marijuana for the exclusive benefit of a qualifying patient or designated provider in the treatment of his or her terminal or debilitating medical condition.

(123~~2~~) "Monopole Tower" means a structure that consists of a single pole to support antennas and connecting appurtenances.

(124~~3~~) "Multi-family Dwelling" means a building arranged or designed to be occupied by more than two families, such as an apartment house, flat or rowhouse.

(1254) "New Manufactured Home" means any manufactured home required to be titled under Title 46 RCW, as it now exists or is hereafter amended, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2), as it now exists or is hereafter amended.

(1256) "Non-agricultural Accessory Use" means the production or sale of goods, or the sale of services that are not normally and routinely a part of the chain of production and harvesting of an agricultural or horticultural crop, or livestock.

(1276) "Nonconforming" means a lot, use, building or structure which was lawful prior to the adoption, revision or amendment of this title, but which fails, by reason of such adoption, revision or amendment, to conform to the current requirements of the zoning district.

(1287) "Nursery" means an establishment where trees, shrubs and other plant materials are grown on site for the purpose of sale.

(1298) "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the Benton County Board of Commissioners, wherein a record will be created through the receipt of testimony and other appropriate evidence and information under procedures prescribed by the Benton County Code or by such body's or officer's rules of procedure.

(130) "Organic Materials Management" means management of organic materials through composting, anaerobic digestion, vermiculture, black soldier fly, or similar technologies. See also "Solid Waste".

(131129) "Outdoor Storage" means all materials, equipment, merchandise or objects kept or placed on the lot or not within an enclosed structure, for preservation or later use or disposal; it is not intended, however, to include the following exceptions:

(a) Those objects customarily stored outside an enclosed structure due to their size and due to their being of such character as to not readily deteriorate when exposed to the

elements, such as automobiles, ~~mobile homes~~, boats and other vehicles, farm machinery, irrigation and heavy construction equipment, and those objects which are themselves enclosures; provided, however, such objects are being kept primarily for immediate sale to others or for rental to others.

(b) Neat and orderly outdoor displays of items or objects for immediate sale when such displays are incidental or accessory to an established commercial principal activity conducted from an enclosed structure.

(130~~2~~) "Parcel" means land having fixed boundaries created in accordance with Benton County Code and/or state law. The term includes lots or tracts.

(133~~1~~) "Park" means a public or privately owned area with facilities for active or passive recreation by the public, including but not limited to: sports fields, skating facilities, water access facilities, trails for non-motorized uses, caretaker residences, and supporting infrastructure.

(132) "Passive Housing Requirements" means the criteria for certific ation as a passive house by Phius or the international passive house institute.

(133~~2~~) "Pasture" refers to areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

(134~~3~~) "People with Functional Disabilities" means a person who, because of a recognized chronic physical or mental condition or disease, is functionally disabled to the extent of:

(a) needing care, supervision or monitoring to perform activities of daily living or instrumental activities of daily living, or;

(b) needing support to ameliorate or compensate for the effects of the functional disability so as to lead as independent a life as possible, or;

(c) having a physical or mental impairment which substantially limits one or more of such person's major life activities, or;

(d) having a record of such an impairment, or;

(e) being regarded as having such an impairment, but such

term does not include current illegal use of or active addiction to a controlled substance.

(1354) "Permit" means written government approval issued by an authorized official empowering the holder thereof to take some action permitted.

(1365) "Person" refers to any natural person, any state, municipality, or other governmental or other political subdivision or other public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, and any other entity.

~~(136) "Planned Development" means any residential development approved and filed with the county auditor and developed in accordance with the provisions of this title.~~

Commented [DH5]: Strike - Relates to PD?

(137) "Planning Administrator" means the Benton County Planning Director or Manager or his/her designee.

(138) "Planning Administrator Review" means the administrative review process in which the County Planning Director/Manager or his/her designee makes the administrative decision regarding a proposed use after all notifications to state and local agencies to assure consistency with applicable county, state and local requirements have been met.

(139) "Planning Commission" means the duly constituted and appointed Planning Commission of Benton County.

(140) "Planning Department" means the Benton County Planning Department.

(141) "Premises" means a lot, parcel, or plot of land together with the buildings and structures thereon.

(142) "Professional Office" means an office used as a place of business by the following licensed professionals or persons in the following generally recognized professions using training or

knowledge of technical, scientific or other academic discipline as opposed to manual skills and that do not involve outside storage or fabrication or on-site sale or transfer or commodities:

(a) Financial Services, Insurance and Real Estate Agents;

(b) Accounting, Auditing, and Bookkeeping Services;

(c) Legal Services;

(d) Management and Public Relations Services; and

(e) Engineering, Architectural, Planning and Surveying Services.

(143) "Public Garage" means any building or premises used for the storage or housing of more than three self-propelled vehicles (except farm implements used on the premises) or where such vehicles are repaired or kept for hire.

(144) "Public Transit Center" means a facility where public transportation passengers interchange from one route or vehicle to another.

(145) "Public Utility Office" means an office used as a place of business by a government/special purpose district, water or sewer district, gas or electric district that provides services to the community.

(~~145~~146) "Qualifying Patient" has the definition of that term as set forth under chapter 69.51A, RCW.

(147~~6~~) "Rapid Charging Station" means a facility offering electrical outlets to be used by consumers for a fee to expeditiously recharge electric vehicle batteries through high power levels that meet or exceed applicable standards under state law.

(147~~8~~) "Rear Property Line" means the property line of a lot

most nearly parallel to the front property line of the same lot as defined in this title except that for a triangular shaped lot the rear property line shall be represented by the point of intersection of the two property lines which are not the front property line as defined in this title.

(1498) "Rear Yard" means the required open space on a lot extending along the rear property line through the whole width of the lot.

(15049) "Reception Facility" means a private building with restroom facilities and/or kitchen, and associated grounds used for social, educational, or cultural activities.

(1510) "Recreational Vehicle" means a motorized or non-motorized vehicle designed and manufactured for recreational use, including but not limited to boats, travel trailers, snowmobiles, go carts, motorcycles (including three and four wheelers), and dune buggies.

(1521) "Recreational Vehicle (R.V.) Park" means any site, lot or parcel of ground occupied7 or intended for occupancy by two (2) or more recreational vehicles for travel, recreational or vacation uses, whether or not a fee is charged. Storage of two (2) or more unoccupied recreational vehicles does not constitute an R.V. park.

(1532) "Recycling Center" means a facility used to recycle, reprocess, and/or treat the following materials to then return to a condition in which they may be used again: newspapers, magazines, books, and other paper products, glass, metal cans.

(1543) "Red Mountain American Viticultural Area (AVA) " means the approximately 4,600-acre, federally designated grape-growing and wine-producing region on the south-facing slope of Red Mountain located in unincorporated Benton County.

(1554) "Rental Storage Facility" means a structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented individually for varying periods of time.

(1565) "Resource Lands" refer to agricultural and mineral lands.

(1576) "Retail Sales Establishment" means a facility used for the sale of goods directly to customers including, but not limited

to: mini marts, farm supply and hardware stores, florists, and agricultural markets.

(1587) "Riding Academy" means any establishment where horses are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

(1598) "Sand" refers to large particles of soil from 0.5 to 2 millimeter in diameter. Sand soil contains at least 85 per cent sand with the percentage of silt plus 1.5 times the percentage of clay not exceeding 15 per cent.

(1589) "Satellite Earth Station" means the facilities used for reception and processing of programming services from a satellite prior to transfer to terrestrial distribution systems or for processing of programming services from a terrestrial source before transmission via satellite.

(1610) "School" means a public or private educational learning institution from which instruction is given to children no younger than three (3) years old, and includes high schools, colleges, and agricultural or technical schools or facilities.

(1621) "Setback, Front" is the minimum horizontal distance measured perpendicularly from the centerline of the adjacent right-of-way to the nearest wall of the structure. Where there is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline.

(1632) "Setback, Side and Rear" is the minimum horizontal distance measured perpendicularly from the nearest property line to the nearest wall of the structure. Except that a side setback on a corner lot, along the adjacent right-of-way shall be measured perpendicularly from the center line of right-of-way. When there is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline.

(1643) "Shooting Range Facility" means a range, building or location used for practice with firearms and/or archery equipment.

The facility may include limited retail sales and services to support shooting and archery activities and operated only during the time the shooting range facility is open. All sales and service must comply with federal, state and local regulations.

(1654) "Side Yard" means the required open space on a lot between the side wall line of a building and the side line of the lot, and extending from the front yard to the rear yard.

(1665) "Site built home" means a dwelling primarily constructed on the site to be occupied by the structure and which is permanently affixed to the ground by footings and foundation.

(1676) "Slaughterhouse" means a commercial establishment where animals are butchered.

(1687) "Solar Power Generator Facility, Major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Major facilities are developed as the primary land use for a parcel on which it is located and does not meet the siting criteria for a minor facility in BCC 11.03.010(168).

(1698) "Solar Power Generator Facility, Minor" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Minor facilities are sited on the power beneficiary premises, are intended primarily to offset part or all of the beneficiary's requirements for electricity/gas, and are secondary or accessory to the beneficiary's use of the premises.

(17069) "Solid Waste" means all putrescible and non-putrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles, or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural

operations. Solid waste includes but is not limited to wood waste, dangerous waste, organic materials management and problem wastes. Agricultural wastes are exempt from this definition provided the wastes are limited to manures and crop residues returned to the soil at agronomic (fertilizer) rates.

(170~~0~~1) "Solid Waste Handling Facility" means a parcel of land or structure, or part thereof, larger than two hundred (200) square feet used for the storage, collection, or abandonment of solid waste; provided, establishments for the sale, purchase, storage and dismantling of vehicles and machinery are not considered solid waste handling facilities.

(171~~+~~2) "Solid Waste Transfer Station" means a parcel of land or structure, or part thereof, used as a facility that receives and consolidates solid waste and at which solid waste may be loaded onto tractor trailers, railcars, or barges for long-haul transport to a distant disposal facility.

(173~~2~~) "Stable, Commercial" means a building in which horses are kept for remuneration, hire, or sale.

(174~~3~~) "Stable, Private" means a building in which horses are kept for private use.

(175~~4~~) "Stockyards" see "Animal Feedlots."

(176~~5~~) "Structure" means that which is built or constructed.

(177~~6~~) "Subsurface Water" refers to any water below the surface of the ground, including but not limited to water in the saturated and unsaturated zones.

(178~~7~~) "Supported Living Arrangement" means a living unit owned or rented by one or more persons with functional disabilities who receive assistance with activities of daily living, and/or medical care from an individual or agency licensed and/or reimbursed by a public agency to provide such assistance.

(179~~8~~) "Urban Growth Area" means an area designated by Benton

County in its Comprehensive Plan where urban growth and municipal services are allowed and encouraged and where annexation by cities can occur.

(~~179~~180) "Use" means the activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

(181~~0~~) "Use District" means a portion of Benton County within which certain uses of land and structures are permitted and certain other uses of land and structures are prohibited, certain yards and other open space are required and specific lot areas are established, all as set forth and specified in this title. This definition also includes the term "zone" and "zoning district."

(182~~1~~) "Utilities" means those business, institutions, or organizations which use pipes or conductors in, under, or along streets, alleys or easements to provide a product or service to the public.

(183~~2~~) "Utility Substation Facility" means above or below ground structures that are necessary to provide or facilitate distribution, transmission, or metering of water, gas, sewage, and/or electric energy. Such facilities may consist of, but are not limited to, the following:

(a) Water, gas, and electrical distribution or metering lines and sites;

(b) Water or sewage pumping stations;

(c) Water towers and reservoirs;

(d) Public water wells and any accessory treatment facilities; and/or

(e) Telephone switching facilities.

(1834) "Variance" means a modification of specific regulations in accordance with the terms of this title for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zone district classification. Except as set forth or referenced herein, variances do not apply to use, minimum lot size, or required density standards.

(1854) "Vegetation" means all native and non-native plant species and tree growth. Vegetation includes but is not limited to lawns, grasses, natural vegetation, bushes, trees, shrubs, vines, perennial plants and flowers, and other similar plantings.

(1865) "Vegetative Cover" means that portion of a parcel that is covered by vegetation and includes the canopy area of trees, vines, shrubs, bushes, plants, and other similar plantings. Vegetative cover can be measured in the field by assessing the percentage of the ground that is covered by vegetation.

(1876) "Vehicle, Inoperable" means any motor vehicle, recreational vehicle, boat, trailer or semitrailer which lacks a current registration or component part which renders the vehicle unfit for legal use upon the public right-of-way.

(1887) "Veterinary Facility" means a business establishment or facility which renders surgical and medical treatment to animals and which includes inside or outside accommodations for animals.

(1898) "Warehouse" means a structure used for the storage of goods and materials. Also see "Agricultural Building."

(19089) "Wastes" see "Agricultural Wastes," "Industrial Solid Wastes," or "Solid Wastes."

(1910) "Wind Turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution or transmission lines, or electrical substations.

(1921) "Wind Turbine Farms" means two or more wind turbines on one parcel.

(1932) "Wind Turbine Height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades.

(1943) "Yard Sale" means the occasional sale of used household goods and personal items on the seller's premises. "Yard sale" includes but is not limited to garage sales, moving sales, patio sales, estate sales and rummage sales.

(1954) "Wineries/Breweries/Distilleries" means facilities where fruit or other products are processed into wine or spirits and related storage, bottling, shipping, sampling, tasting and sale of such.

(1965) "Wrecking Yard" means a lot, parcel of land or structure, or part thereof, larger than 200 square feet, used for the collecting, dismantling, storage, salvaging, or sale of machinery or vehicles not in operable condition or parts thereof; provided that this definition shall not be deemed to include lots used for the outdoor display and sale of used vehicles in operable condition; nor shall it include that part of a farm used for the storage of agricultural machinery kept for salvage by the owner for his own use, and not for sale, on farms having an area of not less than forty (40) acres.

(1976) "Zoning District" means a portion of Benton County within which certain uses of land and structures are allowed or conditionally permitted, certain other uses of land and structures

are prohibited, and certain development standards may be specified, and includes the terms "zone" and "use district". [Ord. 611 (2018) § 7; Ord. 617 (2019) § 1; Ord. 636 (2021) § 1]

11.03.020 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.03.030 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.05

ESTABLISHMENT OF ZONING DISTRICTS

SECTIONS:

11.05.010 Purpose
11.05.020 Establishment of Zoning Districts
11.05.030 Maps
11.05.040 Boundary Determinations
11.05.050 Severability
11.05.060 Effective Date

11.05.010 PURPOSE. For the purpose of promoting public health, safety, and general welfare, this section establishes zoning districts that are consistent with the Benton County Comprehensive Plan.
[Ord. 611 (2018) § 8]

NOTE: This chapter is continued on the following page.

11.05.020 ESTABLISHMENT OF ZONING DISTRICTS. The following zoning districts are hereby established for all land within unincorporated Benton County:

TABLE 11.05.020-1

ZONING DISTRICT	MAP SYMBOL
Urban Growth Area Residential	UGAR
Community Center Residential	CCR
Rural Lands One Acre	RL-1
Rural Lands Five Acre	RL-5
Rural Lands Twenty Acre	RL-20
Park	P
~~Planned Development~~	~~PD~~
GMA Agricultural	GMAAD
Red Mountain Agricultural	RMAD
Community Commercial	CC
General Commercial	GC
Interchange Commercial	IC
Light Industrial	LI
Heavy Industrial	HI
Unclassified	U
Open Space Conservation	OSC
Highway Scenic	HS
Landing Field	LF

Commented [DH1]: Strike

Commented [GW2]: Adding OSC....this zone was created 10/2024

[Ord. 611 (2018) § 9]

11.05.030 MAPS. The location and boundaries of the above zoning districts are established by separate ordinances and shall be as set forth on the official zoning maps of Benton County attached to said ordinances. Said official zoning maps in their entirety, including all amendments thereto, shall be a part of this code as if fully set forth and described herein. The official zoning maps shall be identified by signatures of the County Commissioners and shall carry the following words:

"We hereby certify that this map constitutes the Official Zoning Map as approved by Ordinance _____ of the Board of County Commissioners and signed by its chairman dated this _____ day of _____."
[Ord. 611 (2018) § 10; Ord. 615 (2018) § 1]

11.05.040 BOUNDARY DETERMINATIONS. (a) In the event uncertainty exists as to the exact location of the boundaries of any district shown on the zoning maps for the applicable district, the following principles shall apply:

(1) If a district boundary is along a publicly owned right-of-way, such as a highway, street, alley, road, canal, or railroad, the centerline of the right-of-way shall be the boundary of the zoning district.

(2) A publicly owned right-of-way, waterway or body of water shall, unless otherwise indicated, be included within the zoning district of the abutting property. If such right-of-way or body of water serves as a boundary between two (2) or more zoning districts, the centerline shall be considered the boundary between the districts.

(3) If a vacated right-of-way was the established boundary of a zoning district, the abutting zoning districts shall continue to extend to the centerline of the former right-of-way.

(4) When a land use district boundary or zoning designation unintentionally bisects a parcel of record, creating two different designations or zones for one parcel, the designations or district that covers the largest portion of the parcel shall apply to the whole parcel.

(5) If application of the above principles does not clarify the zoning district boundary location, the zoning of the

entire parcel shall be interpreted to be the zoning that is the largest portion of the parcel of record.
[Ord. 611 (2018) § 11]

11.05.050 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.05.060 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.06

COMMUNITY CENTER RESIDENTIAL DISTRICT (CCR)

SECTIONS:

11.06.010	Purpose
11.06.020	Applicability
11.06.030	Allowable Uses
11.06.040	Accessory Uses
11.06.050	Uses Subject to Planning Administrator Review and Approval
11.06.060	Uses Requiring a Conditional Use Permit
11.06.070	Uses Prohibited
11.06.080	Property Development Standards—General Standards
11.06.090	Property Development Standards—Setback Requirements
11.06.100	Severability
11.06.110	Effective Date

11.06.010 PURPOSE. The purpose of the Community Center Residential District (CCR) is to provide for the development of dwelling units within established rural activity areas characterized by mixed use and residential developments that utilize a variety of small scale rural services outside of Urban Growth Areas as allowed under Chapter 36.70 RCW. These areas are considered limited areas of more intensive rural development as allowed under RCW 36.70A.070.
[Ord. 611 (2018) § 12]

11.06.020 APPLICABILITY. The provisions of this chapter shall apply to the areas designated as a Community Center Residential District (CCR) on the official zoning maps of Benton County and located in unincorporated Benton County.
[Ord. 611 (2018) § 13]

11.06.030 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed within the Community Center Residential District (CCR) on a single parcel of record:

(a) Single Family Dwelling (SFD).

(b) Manufactured home if no older than five (5) years from the calendar year the home is placed.

(c) Duplex, subject to the provisions of BCC 11.06.080(a)(1).

(d) Fire department facility, law enforcement facility, public utility office and/or medical facility.

(e) On any tract of land having an area of one (1) acre or more, the keeping of one animal unit equivalent per one-half acre of ground, exclusive of suckling animals.

(f) Adult family home.

(g) Utility substation facility.

(h) Crisis residential center.

(i) Hiking and non-motorized biking trails.

(j) Church.

(k) Professional office.

[Ord. 611 (2018) § 14]

11.06.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the Community Center Residential District (CCR) on a single parcel of record:

(a) One (1) or more accessory buildings and uses (commonly appurtenant to a single family dwelling).

(b) Yard Sales occurring for no more than three (3) consecutive days on two (2) different occasions during a calendar year.

(c) Kennel, Private.

(d) Solar Power Generator Facility, Minor

(e) Uses subject to Planning Administrator review and approval, as specified in BCC 11.06.050(b)(C)(d).
[Ord. 611 (2018) § 15]

11.06.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the Community Center Residential District (CCR) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Temporary dwelling, subject to the provisions of BCC 11.42.110.

(b) Home occupation, subject to the provisions of Chapter 11.49 BCC, involving business activities not otherwise expressly allowed or requiring a permit under BCC 11.06.060.

(c) Child day care facility, Type A, subject to the provisions of BCC 11.42.050.

(d) Accessory dwelling unit (within or attached to a single family home), subject to the provisions of BCC 11.42.020.
[Ord. 611 (2018) § 16]

11.06.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Community Center Residential District (CCR) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided in BCC 11.50.040.

(a) School, library, community clubhouse, grange hall, senior center, and/or other non-profit organizational hall.

(b) Multi-family dwelling containing three (3) or four (4) dwelling units.

(c) Public transit center.

(d) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(e) Cemetery, columbarium and/or mausoleum.

(f) A Park.

(g) Bed and Breakfast Establishment.

(h) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under Chapter 11.49 BCC.
[Ord. 611 (2018) § 17]

11.06.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.06.030, BCC 11.06.040, BCC 11.06.050 or BCC 11.06.060 is prohibited within the Community Center Residential District (CCR).
[Ord. 611 (2018) § 18]

11.06.080 PROPERTY DEVELOPMENT STANDARDS-GENERAL STANDARDS. All lands, structures and uses in the Community Center Residential District (CCR) shall conform to the following general standards, and if applicable, to the standards set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Minimum parcel size. Except as otherwise set forth herein, the minimum parcel size that may be created in the CCR District is fourteen thousand (14,000) square feet; provided, the Benton-

Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions. In order to meet maximum density objectives, the following uses require the specified larger minimum lot sizes:

(1) Duplexes may only be located on parcels of at least twenty-eight thousand (28,000) square feet; provided, the Benton-Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions.

(2) Multi-family dwellings may only be located on parcels equal in size to at least fourteen thousand (14,000) square feet multiplied by the number of dwelling units; provided, the Benton-Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions.

(b) Lot Width. Each parcel shall have an average width of not less than ninety (90) feet.

(c) Maximum Lot Coverage. Each parcel shall have a maximum lot coverage of forty (40) percent.

(d) Vegetative Cover. Each parcel shall have a minimum vegetative cover of at least forty-five (45) percent, unless doing so would preclude the proposed development. If forty-five (45) percent vegetative cover is not possible, the parcel shall have the maximum amount of vegetative cover that does not preclude the proposed development.

(e) Impervious Surface. No more than ten (10) percent of any parcel may be covered by impervious surfaces that does not infiltrate all storm-water on that parcel.
[Ord. 611 (2018) § 19; Ord. 615 (2018) § 2; Ord. 617 (2019) § 2]

11.06.090 PROPERTY DEVELOPMENT STANDARDS--SETBACK REQUIREMENTS. All lands, structures, and uses in the Community Center Residential District (CCR) shall meet the following setback requirements, and if applicable, the setback requirements set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Setback Requirements. The following minimum setbacks shall apply:

(1) Each dwelling unit, accessory building, and accessory use on a parcel shall have a front setback of fifty-five (55) feet from the centerline of any public road right-of-way or twenty-five (25) feet from the property line bordering any public road right-of-way, whichever is greater; and a setback of twenty-five (25) feet from the closest edge of any legally-established boundary line of a private access easement.

(2) Each dwelling unit shall have a setback of twenty-five (25) feet from the rear parcel lines.

(3) Each accessory building and accessory use shall have a setback of ten (10) feet from all alleys and the rear parcel lines.

(4) Each dwelling unit, accessory building, and accessory use on a parcel shall have a setback of ten (10) feet from the side parcel lines.

(5) All shelters, coops, or other structures used for the habitation of livestock shall have a setback of at least thirty (30) feet from every property line of the parcel on which it is located, unless a greater setback is otherwise required under the Benton County Code.

(6) Cornices, eaves, belt courses, sills, fireplace chimneys, and open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project from a

building three (3) feet into any required setback area; provided, none of these architectural features may be located within any easements.

(7) Ground floor uncovered, unenclosed porches, platforms, or landings may extend or project from a building six (6) feet into the setback area but no closer than five (5) feet from any parcel line; provided, none of these architectural features may be located within any easements.

(8) All dwelling units and swimming pools shall have a setback of one hundred fifty (150) feet from any parcel located partially or wholly within the Growth Management Agricultural Act District (GMAAD) and from any adjacent orchard, hop field or vineyard (or combination thereof) of ten (10) acres or more on one parcel or on contiguous parcels under common ownership.

(9) No building or structure shall be located within an easement or any public road right-of-way.

Formatted: Indent: Left: 0", Hanging: 0.5"

(b) Any additional setbacks required pursuant to Chapter 3.18 BCC shall apply.
[Ord. 611 (2018) § 20]

11.06.100 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.06.110 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.07

URBAN GROWTH AREA RESIDENTIAL DISTRICT (UGAR)

SECTIONS:

11.07.010	Purpose
11.07.020	Applicability
11.07.030	Allowable Uses
11.07.040	Accessory Uses
11.07.050	Uses Subject to Planning Administrator Review and Approval
11.07.060	Uses Requiring a Conditional Use Permit
11.07.070	Uses Prohibited
11.07.080	Property Development Standards--General Standards
11.07.090	Property Development Standards--Setback Requirements
11.07.100	Severability
11.07.110	Effective Date

11.07.010 PURPOSE. The Urban Growth Area Residential District (UGAR) are lands within Urban Growth Areas (UGAs) that have been designated to accommodate the land use needs of a city's projected future population growth. The UGAR District allows higher densities and a variety of uses similar to those typically found in the adjacent cities. The densities, uses and development provisions allowed within this district assure that development prior to annexation by a city results in densities, land uses and development patterns that are consistent with that city's Comprehensive Plan.
[Ord. 611 (2018) § 21]

11.07.020 APPLICABILITY. Provided all applicable code provisions are satisfied, the provisions of this chapter shall apply to the areas designated as an Urban Growth Area Residential

District (UGAR) on the official zoning maps of Benton County and located within an Urban Growth Area of unincorporated Benton County.
[Ord. 611 (2018) § 22]

11.07.030 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed within the Urban Growth Area Residential District (UGAR) on a single parcel of record:

(a) Single Family Dwelling (SFD).

(b) Duplex, subject to the provisions of BCC 11.07.080(a).

(c) On any tract of land having an area of one (1) acre or more, the keeping of one animal unit equivalent per one-half acre of ground, exclusive of suckling animals.

(d) Church.

(e) Adult Family Home.

(f) Crisis residential center.

(g) Co-living housing on lots that support six multi-family residential units.
[Ord. 611 (2018) § 23]

11.07.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the Urban Growth Area Residential District (UGAR) on a single parcel of record:

(a) One (1) or more accessory buildings and uses (commonly appurtenant to a single family dwelling).

(b) Yard Sales occurring for no more than three (3) consecutive

days on two (2) different occasions during a calendar year.

(c) Kennel, Private.

(d) Solar Power Generator Facility, Minor

(e) Uses subject to Planning Administrator review and approval, specified in BCC 11.07.050(b)(c)(d).
[Ord. 611 (2018) § 24]

11.07.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the Urban Growth Area Residential District (UGAR) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Temporary Dwelling, subject to BCC 11.42.110.

(b) Home Occupation, subject to the provisions of Chapter 11.49 BCC, involving business activities not otherwise expressly allowed or requiring a permit under BCC 11.07.060.

(c) Child Day Care Facility, Type A, subject to the provisions of BCC 11.42.050.

(d) Accessory dwelling unit (within or attached to a single family home), subject to the provisions of BCC 11.42.020.
[Ord. 611 (2018) § 25]

11.07.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Urban Growth Area Residential District (UGAR) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided in BCC 11.50.040.

(a) School, library, community clubhouse, grange hall, senior center and/or other non-profit organizational hall.

(b) Fire department facility, law enforcement facility, and/or ~~medical facility~~ public utility office.

Commented [GW1]: Remove Medical Facility option from UGAR

(c) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(d) Public transit center.

(e) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

(f) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under Chapter 11.49 BCC.

(g) Nursery.

(h) A Park.

(i) Hiking and non-motorized biking trails.

(j) Utility substation facility.

(k) Detached accessory dwelling unit.
[Ord. 611 (2018) § 26]

11.07.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.07.030, BCC 11.07.040, BCC 11.07.050 or BCC 11.07.060 is prohibited within the Urban Growth Area Residential District (UGAR).
[Ord. 611 (2018) § 27]

11.07.080 PROPERTY DEVELOPMENT STANDARDS--GENERAL STANDARDS. All lands, structures and uses in the Urban Growth Area Residential District (UGAR) shall conform to the following general standards, and if applicable, to the standards set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Minimum parcel size. Except as otherwise set forth herein, the minimum parcel size that may be created in the UGAR District is seven thousand five hundred (7,500) square feet; provided, the Benton-Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions.

Duplexes may only be located on parcels of at least fifteen thousand (15,000) square feet; provided, the Benton-Franklin

Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions.

(b) Lot Width. Each parcel shall have an average lot width of no less than seventy (70) feet.

(c) Maximum Lot Coverage. Sixty (60) percent.

(d) Co-living housing must comply with all requirements of RCW 36.70A.535.
[Ord. 611 (2018) § 28]

11.07.090 PROPERTY DEVELOPMENT STANDARDS--SETBACK REQUIREMENTS. All lands, structures, and uses in the Urban Growth Area Residential (UGAR) shall meet the following setback requirements, and if applicable, the setback requirements set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Setback Requirements. The following minimum setbacks shall apply:

(1) Each dwelling unit, accessory building, and accessory use on a parcel shall have a front setback of twenty (20) feet from the property line bordering any public road right-of-way; and a setback of twenty (20) feet from the closest edge of any legally-established boundary line of a private access easement.

(2) Each dwelling unit shall have a setback of fifteen (15) feet from the rear parcel lines.

(3) Each accessory building and accessory use shall have a setback of ten (10) feet from all alleys and the rear parcel lines.

(4) Each dwelling unit, accessory building, and accessory use on a parcel shall have a setback of ten (10) feet from

the side parcel lines.

(5) All shelters, coops, or other structures used for the

habitation of livestock shall have a setback of at least thirty (30) feet from every property line of the parcel on which it is located, unless a greater setback is otherwise required under the Benton County Code.

(6) All dwelling units and swimming pools shall have a setback of one hundred fifty feet (150) from any parcel located partially or wholly within the Growth Management Act Agricultural District (GMAAD) and from any adjacent orchard, hop yard, or vineyard (or combination thereof) of ten (10) acres or more on one parcel or on contiguous parcels under common ownership.

(7) Cornices, eaves, belt courses, sills, fireplace chimneys, and open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project from a building three (3) feet into any required setback area. However, none of these architectural features may be located within any easements.

(8) Ground floor uncovered, unenclosed porches, platforms, or landings may extend or project from a building six (6) feet into the setback area but no closer than five (5) feet from any parcel line; provided, none of these architectural features may be located within any easements.

(9) No building or structure shall be located within an easement or any public road right-of-way.

Formatted: Indent: Left: 0", Hanging: 0.5"

[Ord. 611 (2018) § 29]

11.07.100 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.07.110 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.09

RURAL LANDS ONE ACRE DISTRICT (RL-1)

SECTIONS:

11.09.010	Purpose
11.09.020	Applicability
11.09.030	Allowable Uses
11.09.040	Accessory Uses
11.09.050	Uses Subject to Planning Administrator Review and Approval
11.09.060	Uses Requiring a Conditional Use Permit
11.09.070	Uses Prohibited
11.09.080	Property Development Standards--General Standards
11.09.090	Property Development Standards--Setback Requirements
11.09.100	Severability
11.09.110	Effective Date

11.09.010 PURPOSE. The purpose of the Rural Lands One Acre District (RL-1) is to provide for the appropriate development within areas where past actions have created smaller parcel sizes than generally allowed in the Rural Lands Five Acre District (RL-5) or that are adjacent to Urban Growth Areas (UGAs) given that these areas are considered limited areas of more intensive rural development as allowed under RCW 36.70A.070.
[Ord. 611 (2018) § 30]

11.09.020 APPLICABILITY. The provisions of this chapter shall apply to the areas designated as a Rural Lands One Acre District (RL-1) on the official zoning maps of Benton County and located in unincorporated Benton County.
[Ord. 611 (2018) § 31]

11.09.030 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed within the RL-1 District on a single parcel of record:

(a) Single Family Dwelling (SFD).

(b) Duplex, subject to the provisions of BCC 11.09.080(a).

(c) Fire department facility, law enforcement facility, and/or ~~medical facility~~ public utility office.

Commented [GW1]: Remove medical facility

(d) On any tract of land having an area of one (1) acre or more, the keeping of one animal unit equivalent per one-half acre of ground, exclusive of suckling animals.

(e) Adult family home.

(f) Utility substation facility.

(g) Crisis residential center.

(h) Hiking and non-motorized biking trails.

(i) Equestrian trail.

(j) Church, provided structures used as part of the operation of the church collectively shall not exceed three thousand five hundred (3,500) square feet in size.
[Ord. 611 (2018) § 32]

11.09.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the RL-1 District on a single parcel of record:

(a) One (1) or more accessory buildings and uses (commonly appurtenant to a single family dwelling).

(b) Yard Sales occurring for no more than three (3) consecutive days on two (2) different occasions during a calendar year.

(c) Kennel, Private.

(d) Solar Power Generator Facility, Minor

(e) Uses subject to Planning Administrator review and approval, specified in BCC 11.09.050 (b)(c)(d).
[Ord. 611 (2018) § 33]

11.09.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the Rural Lands One Acre District (RL-1) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Temporary dwelling, subject to the provisions of BCC 11.42.110.

(b) Home occupation, subject to the provisions of Chapter 11.49 BCC, involving business activities not otherwise expressly allowed or requiring a permit under BCC 11.09.060.

(c) Child Day Care Facility, Type A, subject to the provisions of BCC 11.42.050.

(d) Accessory dwelling unit (within or attached to a single family home), subject to the provisions of BCC 11.42.020.
[Ord. 611 (2018) § 34]

11.09.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands One Acre District (RL-1) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) School, library, community clubhouse, grange hall, senior center and/or other non-profit organizational hall.

(b) Storage yard owned by a utility.

(c) Public transit center.

(d) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(e) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

(f) Cemetery, columbarium, and/or mausoleum.

(g) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under Chapter 11.49 BCC.

(h) Sewage treatment facility for industrial and/or domestic waste.

(i) A Park.

(j) Church, if not otherwise allowed under BCC 11.09.030.

(k) Business activities, other than those set forth above, that are compatible with the allowed uses and purpose of the underlying zone and the surrounding land uses may be conducted from within an approved accessory building detached from all dwelling units if the following criteria as well as any other conditions required by the Hearings Examiner are satisfied:

(1) The business activity must take place on a parcel of land that is 2.0 acres or greater in size.

(2) There must be a residence on site, and at least one (1) of the proprietors of the business must be the owner or lessee of the property where the business and the residence are located and must reside in said residence.

(3) No more than four (4) non-resident persons, whether they work on site or not, may be employed by or be partners in the business.

(4) The business activity, including all storage space, shall not occupy more than two thousand (2000) square feet of total floor area within the detached accessory building.

(5) Only one (1) approved detached accessory building on a parcel may be used for business activities. If more than one (1) business will be conducted within an approved detached accessory building, then a separate application must be submitted for each business activity, provided that the total area used by all business activities shall not exceed that permitted by BCC 11.09.060(k)(4).

(6) No more than two (2) non-illuminating signs, with a maximum area of four (4) square feet each, shall be permitted in connection with the business activity. The posting of such signs is limited to the parcel on which the approved detached accessory building is located. On-street (inside the road right-of-way) sign posting and sign posting which interferes with the line-of-site for road intersections are prohibited.

(7) Not more than three (3) vehicles marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the business activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business.

(8) The property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state and federal regulations pertinent to the business activity

pursued. The requirements of or permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations.

(9) Adequate off-street parking, as determined by the Hearings Examiner, must be provided.

(10) Any waste created as a result of the business activity must be disposed of off-site in compliance with all local, state and/or federal regulations.

(11) The presence of customers/clients and non-resident employees at the location of the business activity shall be limited to the days and hours of operation as determined by the Hearings Examiner.

(12) The business activity does not require a marijuana processor or retailer license from the Washington State Liquor Control Board.

(l) Detached accessory dwelling unit, subject to the provisions of BCC 11.42.020.

[Ord. 611 (2018) § 35]

11.09.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.09.030, BCC 11.09.040, BCC 11.09.050 or BCC 11.09.060 is prohibited within the Rural Lands One Acre District (RL-1).
[Ord. 611 (2018) § 36]

11.09.080 PROPERTY DEVELOPMENT STANDARDS--GENERAL STANDARDS. All lands, structures, and uses in the Rural Lands One Acre District (RL-1) shall conform to the following general standards, and if applicable, to the standards set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Minimum parcel size. Except as otherwise set forth herein, the minimum parcel size that may be created in the RL-1 District is one (1) acre; provided, the Benton-Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary

well and sewer provisions. In order to meet maximum density objectives, duplexes may only be located on parcels of at least two (2) acres; provided, that the Benton-Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions.

(b) Lot Width. Each parcel shall have an average lot width of not less than ninety (90) feet.

(c) Maximum Lot Coverage. Each parcel shall have a maximum lot coverage of forty (40) percent.

(d) Vegetative Cover. Each parcel shall have a minimum vegetative cover of at least forty-five (45) percent, unless doing so would preclude the proposed development. If forty-five (45) percent vegetative cover is not possible, the parcel shall have the maximum amount of vegetative cover that does not preclude the proposed development.

(e) Impervious Surface. No more than ten (10) percent of any parcel may be covered by impervious surfaces that does not infiltrate all storm-water on that parcel.
[Ord. 611 (2018) § 37; Ord. 615 (2018) § 3; Ord. 617 (2019) § 3]

11.09.090 PROPERTY DEVELOPMENT STANDARDS--SETBACK REQUIREMENTS. All lands, structures, and uses in the Rural Lands One Acre District (RL-1) shall meet the following setback requirements, and if applicable, the setback requirements set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Setback Requirements. The following minimum setbacks shall apply:

(1) Each dwelling unit, detached accessory dwelling unit, accessory building, and accessory use on a parcel shall have a front setback of fifty-five (55) feet from the centerline

of any public road right-of-way or twenty-

five (25) feet from the property line bordering any public road right-of-way, whichever is greater; and a setback of twenty-five (25) feet from the closest edge of any legally-established boundary line of a private access easement.

(2) Each dwelling unit shall have a setback of twenty-five (25) feet from the rear parcel lines.

(3) Each detached accessory dwelling unit, accessory building and accessory use shall have a setback of ten (10) feet from all alleys and the rear parcel lines.

(4) Each dwelling unit, detached accessory dwelling unit, accessory building, and accessory use on a parcel shall have a setback of ten (10) feet from the side parcel lines.

(5) All shelters, coops, or other structures used for the habitation of livestock shall have a setback of at least thirty (30) feet from every property line of the parcel on which it is located, unless a greater setback is otherwise required under the Benton County Code.

(6) All dwelling units and swimming pools shall have a setback of one hundred fifty feet (150) from any parcel located partially or wholly within the Growth Management Act Agricultural District (GMAAD) and from any adjacent orchard, hop yard, or vineyard (or combination thereof) of ten (10) acres or more on one parcel or on contiguous parcels under common ownership.

(7) Cornices, eaves, belt courses, sills, fireplace chimneys, and open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project from a building three (3) feet into any required setback area; provided, none of these architectural features may be located within any easements.

(8) Ground floor uncovered, unenclosed porches, platforms, or landings may extend or project from a building six (6) feet into the setback area but no closer than five (5) feet from any parcel line; provided, none of these architectural features may be located within any easements.

(9) No building or structure shall be located within an easement or any public road right-of-way.

Formatted: Indent: Left: 0", Hanging: 0.5"

(b) Any additional setback requirements pursuant to Chapter 3.18 BCC.
[Ord. 611 (2018) § 38]

11.09.100 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.09.110 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.11

RURAL LANDS FIVE ACRE DISTRICT (RL-5)

SECTIONS:

11.11.010	Purpose
11.11.020	Applicability
11.11.030	Allowable Uses
11.11.040	Accessory Uses
11.11.050	Uses Subject to Planning Administrator Review and Approval
11.11.060	Uses Requiring a Conditional Use Permit
11.11.070	Uses Prohibited
11.11.080	Property Development Standards--General Standards
11.11.090	Property Development Standards--Setback Requirements
11.11.100	Severability
11.11.110	Effective Date

11.11.010 PURPOSE. The Rural Lands Five Acre District (RL-5) is designed to enhance and preserve Benton County's rural character, which includes: rural open space, low densities, wildlife habitat, public open space for outdoor recreational activities, and rural homesites on which a limited range of agricultural activities may be conducted.
[Ord. 611 (2018) § 39]

11.11.020 APPLICABILITY. The provisions of this chapter shall apply to the areas designated as a Rural Lands Five Acre District (RL-5) on the official zoning maps of Benton County and located in unincorporated Benton County.
[Ord. 611 (2018) § 40]

11.11.030 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed within the Rural Lands Five Acre District (RL-5) on a single parcel of record:

(a) Single Family Dwelling (SFD).

(b) Manufactured home if constructed after June 15, 1976.

(c) Manufactured home placed in a manufactured home/FAS park.

(d) Duplex, subject to the provisions of BCC 11.11.080(a)(1).

(e) Agricultural uses, except for commercial dairies, commercial hog ranches, commercial poultry/rabbit operations, and animal feedlots; provided on any tract of land having an area of less than five (5) acres, agricultural uses may not include the keeping of more than one animal unit equivalent per one-half acre of ground, exclusive of suckling animals.

(f) Agricultural stand.

(g) Adult family home.

(h) Crisis residential center.

(i) Nursery/greenhouse.

(j) Utility substation facility.

(k) Fire department facility, law enforcement facility, and/or ~~medical facility~~ public utility office.

(l) Wineries/Breweries/Distilleries; provided structures used as part of the operation of the winery/brewery collectively do not exceed three thousand (3,000) square feet in size.

(m) Hiking and non-motorized biking trail.

(n) Equestrian trails.

(o) Church, provided structures used as part of the operation of the church collectively shall not exceed three thousand five hundred (3,500) square feet in size.

(p) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided:

(1) the wind turbine height must be less than sixty (60) feet;

(2) the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine; and

(3) the wind turbine tower base shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all aircraft runways which are identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO).

(q) Private stables.
[Ord. 611 (2018) § 41]

11.11.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the Rural Lands Five Acre District (RL-5) on a single parcel of record:

(a) One (1) or more accessory buildings and uses (commonly appurtenant to a single family dwelling).

(b) One (1) or more agricultural buildings.

(c) Yard Sales occurring for no more than three (3) consecutive days on two (2) different occasions during a calendar year.

(d) Kennel, Private.

(e) Solar Power Generator Facility, Minor

(f) Uses subject to Planning Administrator review and approval, specified in BCC 11.11.050(a)(c)(d) and (e).
[Ord. 611 (2018) § 42]

11.11.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the Rural Lands Five Acre District (RL-5) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Multiple detached dwelling units, subject to the provisions of BCC 11.42.080.

(b) Temporary dwelling, subject to the provisions of BCC 11.42.110.

(c) Home occupation, subject to the provisions of Chapter 11.49 BCC, involving business activities not otherwise expressly allowed or requiring a permit under 11.11.060.

(d) Child Day Care Facility, Type A, subject to the provisions of BCC 11.42.050.

(e) Accessory dwelling unit (within or attached to a single family home), subject to the provisions of BCC 11.42.020.

(f) Non-Commercial sand and gravel pits, and stone quarries and other mineral extraction, subject to the provisions BCC 11.42.090.

(g) Communication facilities, subject to Chapter 11.47 BCC.
[Ord. 611 (2018) § 43]

11.11.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands Five Acre District (RL-5) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) A school.

(b) A community clubhouse, grange hall, senior center and/or other non-profit organizational hall.

(c) A storage yard owned and operated by a utility.

(d) A sand or gravel pit, stone quarry and similar use for the development of natural resources extracted on-site.

(e) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

(f) Kennel, commercial.

(g) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under Chapter 11.49 BCC.

(h) On-site hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210, as currently in effect or as hereafter amended.

(i) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(j) Wineries/Breweries/Distilleries not otherwise allowed under BCC 11.11.030.

(k) Cemetery, columbarium, and/or mausoleum.

(l) Sewage treatment facility for industrial and/or domestic waste.

(m) Rodeo facilities.

(n) Reception facility with a capacity not to exceed two hundred (200) attendees.

(o) A Park.

(p) A golf course.

(q) Recreational Vehicle Park.

(r) A public transit center.

(s) Airport/Heliport.

(t) Church, if not otherwise allowed under BCC 11.11.030.

(u) Commercial stables and/or riding academies.

(v) Veterinary facility.

(w) Business activities, other than those set forth above, that are compatible with the principal uses and purpose of the underlying zone and the surrounding land uses may be conducted from within an approved accessory building detached from all dwelling units if the following criteria as well as any other conditions required by the Hearings Examiner are satisfied:

(1) The business activity must take place on a parcel of land that is 2.0 acres or greater in size.

(2) There must be a residence on site, and at least one (1) of the proprietors of the business must be the owner or lessee of the property where the business and the residence are located and must reside in said residence.

(3) No more than four (4) non-resident persons, whether they work on site or not, may be employed by or be partners in the business.

(4) The business activity, including all storage space, shall not occupy more than two thousand (2,000) square feet of total floor area within the detached accessory building.

(5) Only one (1) approved detached accessory building on a parcel may be used for business activities. If more than one (1) business will be conducted within an approved detached accessory building, then a separate application must be submitted for each business activity, provided that the total area used by all business activities shall not exceed that permitted by BCC 11.11.060(w)(4).

(6) No more than two (2) non-illuminating signs, with a maximum area of four (4) square feet each, shall be permitted in connection with the business activity. The posting of such signs is limited to the parcel on which the approved detached accessory building is located. On-street (inside the road right-of-way) sign posting and sign posting which interferes with the line-of-site for road intersections are prohibited.

(7) Not more than three (3) vehicles marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the business activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business.

(8) The property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state and federal regulations pertinent to the business activity

pursued. The requirements of or permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations.

(9) Adequate off-street parking, as determined by the Hearings Examiner, must be provided.

(10) Any waste created as a result of the business activity must be disposed of off-site in compliance with all local, state and/or federal regulations.

(11) The presence of customers/clients and non-resident employees at the location of the business activity shall be limited to the days and hours of operation as determined by the Hearings Examiner.

(12) The business activity does not require a marijuana processor or retailer license from the Washington State Liquor Control Board.

(x) Detached accessory dwelling unit, subject to the provisions of BCC 11.42.020.

[Ord. 611 (2018) § 44; Ord. 624 (2020) § 1]

11.11.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.11.030, BCC 11.11.040, BCC 11.11.050 or BCC 11.11.060 is prohibited within the Rural Lands Five Acre District (RL-5).
[Ord. 611 (2018) § 45]

11.11.080 PROPERTY DEVELOPMENT STANDARDS--GENERAL STANDARDS. All lands, structures, and uses in the Rural Lands Five Acre District (RL-5) shall conform to the following general standards, and if applicable, to the standards set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Minimum parcel size. Except as otherwise set forth herein,

the minimum parcel size that may be created in the RL-5 District is five (5) acres; provided, the Benton-Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions. In order to meet maximum

density objectives, the following uses require the specified minimum lot sizes:

(1) Duplexes may only be located on parcels of at least ten (10) acres; provided, the Benton-Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions.

(2) Multiple detached dwellings may only be located on parcels that contain at least five (5) acres for each dwelling unit; provided, that in all such cases the Benton-Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions.

(b) Lot Width. Each parcel shall have an average lot width of not less than ninety (90) feet.

(c) Maximum Lot Coverage. Each parcel shall have a maximum lot coverage of forty (40) percent.

(d) Vegetative Cover. Each parcel shall have a minimum vegetative cover of at least forty-five (45) percent, unless doing so would preclude the proposed development. If forty-five (45) percent vegetative cover is not possible, the parcel shall have the maximum amount of vegetative cover that does not preclude the proposed development.

(e) Impervious Surface. No more than ten (10) percent of any parcel may be covered by impervious surfaces that does not infiltrate all storm-water on that parcel.
[Ord. 611 (2018) § 46; Ord. 615 (2018) § 4; Ord. 617 (2019) § 4]

11.11.090 PROPERTY DEVELOPMENT STANDARDS--SETBACK REQUIREMENTS. All lands, structures, and uses in the Rural Lands Five Acre District (RL-5) shall meet the following setback requirements, and if applicable, the setback requirements set

forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Setback Requirements. The following minimum setbacks shall apply:

(1) Each dwelling unit, detached accessory dwelling unit, accessory building, and accessory use on a parcel shall have a front setback of fifty-five (55) feet from the centerline of any public road right-of-way or twenty-five (25) feet from the property line bordering any public road right-of-way, whichever is greater; and a setback of twenty-five (25) feet from the closest edge of any legally-established boundary line of a private access easement.

(2) Each dwelling unit shall have a setback of twenty-five (25) feet from the rear parcel lines.

(3) Each detached accessory dwelling unit, accessory building and accessory use shall have a setback of ten (10) feet from all alleys and the rear parcel lines.

(4) Each dwelling unit, detached accessory dwelling unit, accessory building, and accessory use on a parcel shall have a setback of ten (10) feet from the side parcel lines.

(5) All shelters, coops, or other structures used for the habitation of livestock shall have a setback of at least thirty (30) feet from every property line of the parcel on which it is located, unless a greater setback is otherwise required under Benton County Code.

(6) All dwelling units and swimming pools shall have a setback of one hundred fifty (150) feet from any parcel located partially or wholly within the Growth Management Agricultural Act District (GMAAD) and from any adjacent orchard, hop field or vineyard (or combination thereof) of ten (10) acres or more on one parcel or on contiguous parcels

Commented [DH1]: ADU setbacks; manage differently in UGAR and RL1 to accommodate smaller lot sizes.

Commented [DH2]: Note conversion of existing shop to include ADU that is already at 10-feet.

under common ownership.

(7) Cornices, eaves, belt courses, sills, fireplace chimneys, and open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project from a building three (3) feet into any required setback area; provided, none of these architectural features may be located within any easements.

(8) Ground floor uncovered, unenclosed porches, platforms, or landings may extend or project from a building six (6) feet into the setback area but no closer than five (5) feet to any parcel line; provided, none of these architectural features may be located within any easements.

(9) For new construction or the retrofit of existing buildings meeting passive house requirements:

(a) Any required setback must be measures to the outside face of the foundation and the portion of the exterior wall assemblies that include insulation may project up to eight inches into the required setbacks on all sides.

(b) Gross floor area for passive housing must be measured from the interior face of the exterior walls, which include drywall.

(c) For existing non-conforming buildings a;lready projecting into the required setbacks that are subject to passive housing retrofit, the portion of the walls that include insulation may project an additional eight inches into the setbacks, provided however, that the building is for residential housing.

(d) None of the provisions in BCC 11.11.090(9) shall prohibit Benton County from applying the requirements of the state building code or requires Benton County to allow a setback of less than 36 inches between residential dwelling units.

(~~9~~10) No building or structure shall be located within an easement or any public road right-

Commented [DH3]: Need to define

Formatted: Indent: Left: 0", Hanging: 0.5"

of-way.

(b) Any additional setbacks required pursuant to Chapter 3.18 BCC shall apply.
[Ord. 611 (2018) § 47]

11.11.100 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.11.110 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.15

RURAL LANDS TWENTY ACRE DISTRICT (RL-20)

SECTIONS:

11.15.010	Purpose
11.15.020	Applicability
11.15.030	Allowable Uses
11.15.040	Accessory Uses
11.15.050	Uses Subject to Planning Administrator Review and Approval
11.15.060	Uses Requiring a Conditional Use Permit
11.15.070	Uses Prohibited
11.15.080	Property Development Standards
11.15.090	Property Development Standards--Setback Requirements
11.15.100	Severability
11.15.110	Effective Date

11.15.010 PURPOSE. The Rural Lands Twenty Acre District (RL-20) is designed to enhance and preserve Benton County's rural character, which includes rural open space, ridges, slopes, bluffs, low densities, wildlife habitat, public open space for outdoor recreational activities, and rural homesites on which a range of agricultural activities may be conducted.
[Ord. 611 (2018) § 48]

11.15.020 APPLICABILITY. The provisions of this Chapter shall apply to the areas designated as Rural Lands Twenty Acre District (RL-20) on the official zoning map of Benton County and located in unincorporated Benton County.
[Ord. 611 (2018) § 49]

11.15.030 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed within the Rural Lands Twenty Acre District (RL-20) on a single parcel of record:

(a) Single Family Dwelling (SFD).

(b) Manufactured home if constructed after June 15, 1976.

(c) Agricultural uses except for commercial dairies, commercial hog ranches, commercial poultry/rabbit operations and animal feedlots.

(d) Agricultural stand.

(e) One or more agricultural buildings.

(f) Adult family home.

(g) Utility substation facility.

(h) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided:

(1) the wind turbine height must be less than sixty (60) feet;

(2) the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine; and

(3) the wind turbine tower base shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all aircraft

runways which are identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO).

(i) Hiking and non-motorized biking trails.

(j) Crisis residential center.

(k) Equestrian trails.

(l) Commercial and/or private stables, riding academies, including farrier and training.
[Ord. 611 (2018) § 50]

11.15.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the Rural Lands Twenty Acre District (RL-20) on a single parcel of record:

(a) One (1) or more accessory buildings and uses (commonly appurtenant to a single family dwelling).

(b) Yard Sales occurring for no more than three (3) consecutive days on two (2) different occasions during a calendar year.

(c) Kennel, Private.

(d) Solar Power Generator Facility, Minor

(e) Uses subject to Planning Administrator review and approval, specified in BCC 11.15.050(b)(c) and (e).
[Ord. 611 (2018) § 51]

11.15.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the Rural Lands Twenty Acre District (RL-20) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Temporary dwelling, subject to the provisions of BCC 11.42.110.

(b) Home occupation, subject to the provisions Chapter 11.49 BCC, involving business activities not otherwise expressly allowed or requiring a permit under BCC 11.15.060.

(c) Child Day Care Facility, Type A, subject to the provisions of BCC 11.42.050.

(d) Communication facilities, subject to Chapter 11.47 BCC.

(e) Accessory dwelling unit (within or attached to a single family home), subject to the provisions of BCC 11.42.020.

(f) Non-Commercial sand and gravel pits, and stone quarries and other mineral extraction, subject to the provisions of BCC 11.42.090.
[Ord. 611 (2018) § 52]

11.15.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands Twenty Acre District (RL-20) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) A sand or gravel pit, stone quarry and similar use for the development of natural resources extracted on-site.

(b) Kennel, commercial.

(c) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(d) A Park.

(e) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

(f) Agricultural Market.

(g) Business activities, other than those set forth above, that are compatible with the principal uses and purpose of the underlying zone and the surrounding land uses may be conducted from within an approved accessory building detached from all dwelling units if the following criteria as well as any other conditions required by the Hearings Examiner are satisfied:

(1) The business activity must take place on a parcel of land that is 2.0 acres or greater in size.

(2) There must be a residence on site, and at least one (1) of the proprietors of the business must be the owner or lessee of the property where the business and the residence are located and must reside in said residence.

(3) No more than four (4) non-resident persons, whether they work on site or not, may be employed by or be partners in the business.

(4) The business activity, including all storage space, shall not occupy more than two thousand (2,000) square feet of total floor area within the detached accessory building.

(5) Only one (1) approved detached accessory building on a parcel may be used for business activities. If more than one (1) business will be conducted within an approved detached accessory building, then a separate application must be submitted for each business activity, provided that the total area used by all business activities shall not exceed that permitted by BCC 11.15.060(g)(4).

(6) No more than two (2) non-illuminating signs, with a maximum area of four (4) square feet each, shall be permitted in connection with the business activity. The posting of such signs is limited to the parcel on which the approved detached accessory building is located. On-street (inside

the road right-of-way) sign posting and sign posting which interferes with the line-of-site for road intersections are prohibited.

(7) Not more than three (3) vehicles marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the business activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business.

(8) The property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state and federal regulations pertinent to the business activity pursued. The requirements of or permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations.

(9) Adequate off-street parking, as determined by the Hearings Examiner, must be provided.

(10) Any waste created as a result of the business activity must be disposed of off-site in compliance with all local, state and/or federal regulations.

(11) The presence of customers/clients and non-resident employees at the location of the business activity shall be limited to the days and hours of operation as determined by the Hearings Examiner.

(12) The business activity does not require a marijuana retail outlet license from the Washington State Liquor and Cannabis Board.

(h) Shooting range facility

(i) Agri-tourism accommodations.

(j) Detached accessory dwelling unit, subject to the provisions of BCC 11.42.020.

[Ord. 611 (2018) § 53; Ord. 617 (2019) § 5; Ord. 634 (2021) § 1; Ord. 640 (2021) § 1]

11.15.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.15.030, BCC 11.15.040, BCC 11.15.050 or BCC 11.15.060 is prohibited within the RL-20 District.
[Ord. 611 (2018) § 54]

11.15.080 PROPERTY DEVELOPMENT STANDARDS. All lands, structures and uses in the RL-20 District shall conform to the following general standards, and if applicable, to the standards set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Minimum parcel size. The minimum parcel size that may be created in the RL-20 District is twenty (20) acres; provided, the Benton-Franklin Health District may require a larger parcel size as necessary to meet on-site sanitary well and sewer provisions.

(b) Lot Width. Each parcel shall have an average lot width of not less than one-hundred sixty (160) feet.

(c) Maximum Lot Coverage. Each parcel shall have a maximum lot coverage of forty (40) percent.

(d) Vegetative Cover. Each parcel shall have a minimum vegetative cover of at least forty-five (45) percent, unless doing so would preclude the proposed development. If forty-five (45) percent vegetative cover is not possible, the parcel shall have the maximum amount of vegetative cover that does not preclude the proposed development.

(e) Impervious Surface. No more than ten (10) percent of any parcel may be covered by impervious surfaces that does not infiltrate all storm-water on that parcel.
[Ord. 611 (2018) § 55; Ord. 615 (2018) § 5; Ord. 617 (2019)

§ 6]

11.15.090 PROPERTY DEVELOPMENT STANDARDS--SETBACK REQUIREMENTS. All lands, structures, and uses in the Rural Lands Twenty Acre District (RL-20) shall meet the following setback requirements, and if applicable, the setback requirements set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Setback Requirements. The following minimum setbacks shall apply:

(1) Each dwelling unit, detached accessory dwelling unit, accessory building, and accessory use on a parcel shall have a front setback of fifty-five (55) feet from the centerline of any public road right-of-way or twenty-five (25) feet from the property line bordering any public road right-of-way, whichever is greater; and a setback of twenty-five (25) feet from the closest edge of any legally-established boundary line of a private access easement.

(2) Each dwelling unit shall have a setback of twenty-five (25) feet from the rear parcel lines.

(3) Each detached accessory dwelling unit, accessory building and accessory use shall have a setback of ten (10) feet from all alleys and the rear parcel lines.

(4) Each dwelling unit, detached accessory dwelling unit, accessory building, and accessory use on a parcel shall have a setback of ten (10) feet from the side parcel lines.

(5) All shelters, coops, or other structures used for the habitation of livestock shall have a setback of at least thirty (30) feet from every property line of the parcel on which it is located, unless a greater setback is otherwise required under Benton County Code.

(6) All dwelling units and swimming pools shall have a setback of one hundred fifty (150) feet from any parcel

located partially or wholly within the Growth Management Act

Agricultural District and from any adjacent orchard, hop field or vineyard (or combination thereof) of ten (10) acres or more on one parcel or on contiguous parcels under common ownership.

(7) Cornices, eaves, belt courses, sills, fireplace chimneys, and open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project from a building three (3) feet into any required setback area. Provided, none of these architectural features may be located within any easements.

(8) Ground floor uncovered, unenclosed porches, platforms, or landings may extend or project from a building six (6) feet into the setback area but no closer than five (5) feet to any parcel line. A railing may be installed or constructed on any such porch, platform, or landing; provided, that it does not exceed four (4) feet in height. Provided, none of these architectural features may be located within any easements.

(9) No building or structure shall be located within an easement or any public road right-of-way.

Formatted: Indent: Left: 0", Hanging: 0.5"

(b) Any additional setbacks required pursuant to Chapter 3.18 BCC shall apply.
[Ord. 611 (2018) § 56]

11.15.100 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.15.110 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.17

GROWTH MANAGEMENT ACT AGRICULTURAL DISTRICT (GMAAD)

SECTIONS:

11.17.010	Purpose
11.17.020	Applicability
11.17.030	GMA Agricultural District
11.17.040	Allowable Uses
11.17.050	Accessory Uses
11.17.060	Uses Subject to Planning Administrator Review and Approval
11.17.070	Uses Requiring a Conditional Use Permit
11.17.080	Uses Prohibited
11.17.090	Lot Requirements
11.17.100	Lot Requirements--Exceptions
11.17.110	Building Requirements
11.17.120	Setback Requirements
11.17.130	Setback Requirements—Exceptions
11.17.140	Severability
11.17.150	Effective Date

11.17.010 PURPOSE. The purpose of this chapter is to meet the minimum requirements of the State Growth Management Act (Chapter 36.70A RCW) that mandates the designation and protection of agricultural lands of long term commercial significance. The chapter protects the GMA Agricultural District (GMAAD) and the activities therein by limiting non-agricultural uses in the district to those compatible with agriculture and by establishing minimum lot sizes in areas where soils, water, and climate are suitable for agricultural purposes. This chapter is intended to work in conjunction with Chapter 14.05 BCC entitled "Right to Farm" which protects normal agricultural activities from nuisance complaints.

The authorization of new fully contained communities as provided for under RCW 36.70A.350 is not prevented by this chapter. [Ord. 611 (2018) § 57]

11.17.020 APPLICABILITY. This chapter shall apply to lands and activities located in unincorporated Benton County and designated in the Zoning Map of Benton County in the GMA Agricultural District, unless otherwise specifically provided. [Ord. 611 (2018) § 58]

11.17.030 GMA AGRICULTURAL DISTRICT. The GMA Agricultural District shall include those areas identified in the official Zoning Map of Benton County and in the Benton County Comprehensive Plan as having Critical Agricultural Resources (soils, climate, and water). The minimum parcel size shall be twenty (20) acres, with exceptions as provided by this chapter. Commercial agricultural activities are most appropriately conducted on large parcels of land with significant separation between uses that conflict with agricultural practices. All nonagricultural and accessory uses are encouraged to be located on lands with poor soils or situated in such a manner as to support the continued operation of agricultural uses. [Ord. 611 (2018) § 59]

Commented [DH1]: Required by RCW 36.70A.177(3)(a) and (b)

11.17.040 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed within the GMA Agricultural District on a single parcel of record:

(a) Agriculture, floriculture, horticulture, nursery and general farming; except commercial dairying, poultry raising, commercial hog ranches, animal feedlots and stockyards.

(b) Agriculture buildings: as defined under BCC 11.03.010~~(6)~~.

(c) Agricultural related industries as defined under BCC 11.03.010~~(9)~~ including but not limited to wineries/breweries/distilleries.

(d) Agricultural stands as defined under BCC 11.03.010~~(10)~~.

(e) Bakeries, on parcels with eighty (80) percent of its acreage planted with a producing commercial grain crop or on a parcel in common ownership with an adjacent parcel that has eighty (80) percent of its acreage planted with a producing commercial grain crop.

(f) Single family dwelling.

(g) Manufactured home if constructed after June 15, 1976.

(h) Commercial specialty/exotic domesticated animal raising, including but not limited to miniature horses, cattle, goats, llamas, alpacas, ostrich, and emu.

(i) Aquaculture.

(j) Adult Family Homes.

(k) Community club houses, grange halls and other agricultural nonprofit organization halls.

(l) Commercial establishments that primarily provide custom agricultural land grading, plowing, planting, cultivating, harvesting and soil preparation services.

(m) Airstrips (personal).

(n) Public or quasi-public buildings and yards and utility buildings, such as: pumping stations, fire stations, substations and telephone exchange and distribution facilities.

(o) Schools and churches.

(p) Kennels, both commercial and private.

(q) Communication facilities described in BCC 11.47.030(b), BCC 11.47.030(c), BCC 11.47.030(d), or BCC 11.47.030(e).

(r) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

(s) Meteorological towers used to gather data to assess wind and solar energy potential; provided, that the towers:

(1) Shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO); and

(2) Must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal.

(t) Commercial stables, private stables, and/or riding academies. [Ord. 611 (2018) § 60; Ord. 634 (2021) § 2]

11.17.050 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the GMA Agricultural District:

(a) One (1) or more accessory buildings and uses commonly appurtenant to a single family dwelling.

(b) One (1) or more accessory buildings and uses commonly appurtenant to an agricultural use or operation.

(c) Agricultural signs commonly associated with or accessory to agricultural activities.

(d) Hazardous waste treatment and storage facilities (on site) as an accessory use to an allowable or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in accordance with RCW 70.105.210, as currently in effect or as hereafter amended.

(e) Any accessory equipment structure ancillary to a legal communication facility.

(f) Yard Sales occurring for no more than three (3) consecutive days on two (2) different occasions during a calendar year.

(g) Onsite food service that is clearly accessory to a Winery/Brewery/Distillery in the form of:

(1) Service of commercially-prepared or packaged, ready-to-eat appetizer-sized portions with limited preparation for palatability but no cooking of raw meats; and,

(2) Catered food service for an event.

Restaurants or buildings with interior seating dedicated primarily to meal service and cooked to order meal service are not considered on-site food service ancillary to a Winery/Brewery/Distillery and therefore not allowed under this section.

(h) Retail sales establishment as an accessory use to a Winery/Brewery/Distillery including, trademark items, items which promote the region or the win/beer/spirits industries, other regional value-added agricultural products, art, prepackaged foods and cheese, or related.

(i) Wineries, brewery, distillery club events, winemaker or brewer dinners and regional promotional events.

(j) On any tract of land having an area of five (5) acres or less, the following uses are allowable as accessories to a single family dwelling: the keeping of one head of grazing stock per one-half acre of ground, exclusive of suckling animals; provided, that all barns, barnyards, or corrals shall be located not less than seventy-five (75) feet from any public road, street, or highway and not less than thirty (30) feet from any property held under different ownership.

(k) Hunting Preserves; provided, the hunting activities are an accessory use to the agricultural use of the parcel or parcels.

(l) Solar power generator facility, minor.

(m) Uses subject to Planning Administrator review and approval, specified in 11.17.060(b)(c)(f) and (h).
[Ord. 611 (2018) § 61]

11.17.060 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the GMA Agricultural District upon the review and approval of the Planning Administrator.

(a) Temporary dwellings subject to the provisions of BCC 11.42.110.

(b) Multiple detached dwelling units, subject to the provisions of BCC 11.42.080.

(c) Child Day Care Facility-Type A, subject to the provisions of BCC 11.42.050.

(d) Non-Commercial sand and gravel pits, and stone quarries and other mineral extraction, subject to the provisions BCC 11.42.090.

(e) Temporary outdoor retail sales, subject to the provisions of BCC 11.42.120.

(f) Home occupations, subject to the provisions of Chapter 11.49 BCC.

(g) Communication facilities, subject to the provisions of Chapter 11.47 BCC.

(h) Accessory dwelling unit (within or attached to a single family home), subject to the provisions of BCC 11.42.020.
[Ord. 611 (2018) § 62]

11.17.070 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted within the GMA Agricultural District if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040:

(a) Slaughterhouses, commercial meat-packing plants, animal feedlots; provided, that they are not located in the floodway and floodplain as shown on the FEMA maps, or within two hundred (200) feet of a naturally occurring body of water, or a well-used for domestic or municipal purposes and shall be designed to prevent infiltration or other movement of livestock wastes into the aquifer, or directly into surface waters.

(b) Commercial dairy, hog, poultry, and rabbit operations, propagation of fur bearing species for commercial purposes, or livestock auction yard; provided, that at least the following setbacks are met as well as all other conditions imposed in connection with the issuance of the conditional use permit: one hundred (100) foot setbacks from any lot line to any animal enclosure, except for fenced pasture; and a five hundred (500) foot setback from any existing residential structure on adjacent property not under applicant's ownership.

(c) Commercial establishments for the transportation of agricultural products other than those produced on the premises,

or agricultural supplies or equipment, together with the maintenance, storage, repair and servicing of the necessary trucks and equipment.

(d) The following agriculturally based recreational and sales facilities: covered arenas, rodeo events, livestock sales rings, and working animal events. The following accessory uses may be permitted during one or more of the above events: veterinary service, food concessions, RV parking area, and event related novelty/accessory sales.

(e) Airstrips (commercial crop dusting).

(f) Facilities for treatment of industrial solid wastes with associated spray fields related to the on-site processing of agricultural products.

(g) Solid waste disposal site; except on lands designated as having less than 160 acre minimum parcel size.

(h) Off-site hazardous waste treatment and storage facilities may be allowed by conditional use permit issued by the Benton County Hearings Examiner after notice and public hearing as provided in BCC 11.50.040 provided, that such facilities must comply with the state siting criteria adopted in accordance with RCW 70.105.210, as currently in effect or as hereafter amended.

(i) ~~Asphalt manufacture in conjunction with rock, sand and gravel mining.~~ Concrete batching and asphalt processing and manufacture, batch plant

Commented [DH2]: Change "processing and manufacture" to "production"?

(j) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(k) Off-premise directional signs.

(l) The production of bio-diesel and alcohol fuels from agricultural products.

(m) The commercial maintenance, repair, servicing, and storage of agricultural machinery, implements, and equipment for use off the premises.

(n) Commercial establishments for the storage, sale and off-site application of agricultural chemicals, including but not limited to herbicides, fertilizers, insecticides, and pesticides.

(o) Underground natural gas storage facilities.

(p) Non-agricultural accessory uses that promote or sustain the continuation of the agricultural uses of a parcel if the accessory uses meet the following criteria as well as any other conditions required by the Hearings Examiner:

(1) The non-agricultural accessory use shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The non-agricultural accessory use must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The parcel on which the non-agricultural accessory use is located meets one of the following:

(i) the parcel is no less than twenty (20) acres in size with eighty (80) percent of the acreage primarily committed to agricultural use and has produced gross income equivalent to two hundred (200) dollars or more per acre each year for three (3) of the five (5) calendar years preceding the date of application;

(ii) the parcel is currently enrolled in the County's Agricultural Open Space program pursuant to Chapter 84.34 RCW, as currently in effect or as hereafter amended;

(iii) the parcel is not less than one hundred (100) contiguous acres that has been in agricultural use for three (3) of the last five (5) years.

(4) The non-agricultural accessory use, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the nearest existing buildings or residential structures and shall not otherwise convert more than one (1) acre of agricultural land to non-agricultural uses;

(5) The non-agricultural accessory uses, including any storage space associated therewith, shall not collectively occupy more than fifteen thousand (15,000) square feet of building space;

(6) No more than three (3) vehicles marked to identify the non-agricultural accessory use(s) may be on the parcel at any time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the non-agricultural accessory use;

(7) No person may possess more than one valid permit at a time under this section and all non-agricultural accessory use permits issued under this section for any given parcel must be authorized in one permit;

(8) No more than two (2) signs of a size determined by the Hearings Examiner shall be permitted in connection with the non-agricultural accessory use. Illumination of a sign shall be only by hooded directional lighting so that only the sign

surface is illuminated. The posting of such sign is limited to the parcel on which the non-agricultural accessory use is located. On-street (inside the road right-of-way) sign posting is prohibited, and no sign outside of a road right-of-way may interfere with the line of sight for road intersection;

(9) The parcel and non-agricultural accessory use owner shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the non-agricultural accessory use being pursued. The requirements of or the permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations;

(10) Adequate off road parking, as determined by the Hearings Examiner, must be provided;

(11) Any waste created as a result of the non-agricultural accessory use must be disposed of off-site in compliance with all local, state, and/or federal regulations;

(12) The days and hours of operation shall be determined by the Hearings Examiner with the granting of a Conditional Use Permit; and

(13) The non-agricultural accessory use shall not require a marijuana retail outlet license from the Washington State Liquor and Cannabis Board.

(q) Overnight lodging within a structure primarily used for processing of beer, wine, or spirits that meets the following criteria:

(1) The number of guest rooms may not exceed two (2); and,

(2) The area used for the guest rooms and associated with

overnight lodging shall not exceed eight hundred square feet (800); and,

(3) The overnight lodging guest rooms shall meet Benton-Franklin Health District requirements for septic systems and domestic water usage shall be demonstrated; and,

(4) The overnight lodging guest rooms shall comply with all the applicable building code requirements.

(r) Events Facility on the same or adjoining parcel as a Winery/Brewery/Distillery, but not related to the operational and marketing of the business, such as weddings, receptions, and meetings/retreats shall be limited to not more than two hundred (200) guest or less, meet the following criteria as well as any other conditions required by the Hearings Examiner:

(1) The events facility shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The events facility must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The events facility, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the existing Winery/Brewery/Distillery structures and shall not otherwise convert more than one (1) acre of agricultural land to the use;

(4) The parcel and events facility shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the events facility being pursued. The requirements of or the permission granted by the Hearings

Examiner shall not be construed as an exemption from such regulations;

(5) Adequate off road parking, as determined by the Hearings Examiner, must be provided; and

(6) Any waste created as a result of the event facility must be disposed of off-site in compliance with all local, state, and/or federal regulations.

(s) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

(t) Recreation and entertainment activities centered on an agricultural theme. This may include activities such as field mazes, hayrides, sleigh rides, animal rides, petting zoos and other similar uses.

(u) Commercial sand and gravel pits, stone quarries, other mineral extraction~~, asphalt and/or concrete batching plants.~~

(v) Veterinarian Clinics.

(w) Shooting Range Facility.

(x) Agri-tourism accommodations.

(y) Agricultural research facility which conducts basic, applied, and/or developmental research of regional, national, or international concerns in the field of agriculture.

(z) Commercial agricultural establishments that primarily provide storage, repair, or sale of irrigation, mechanical, and excavation service activities for use off premise.

(aa) Winery/Brewery/Distillery facility, including sampling,

tasting, and sales of the product, may occur on an adjacent parcel from the site where the fruit or other products are processed, if both parcels are under the same ownership.
[Ord. 611 (2018) § 63; Ord. 617 (2019) § 7; Ord. 634 (2021) § 3; Ord. 636 (2021) § 2; Ord. 640 (2021) § 2]

(bb) Detached accessory dwelling unit, subject to the provisions of BCC 11.42.020.

11.17.080 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.17.040, BCC 11.17.050, BCC 11.17.060 or BCC 11.17.070 is prohibited within the GMA Agricultural District.
[Ord. 611 (2018) § 64]

11.17.090 LOT REQUIREMENTS. All lands, structures and uses in the GMA Agricultural District shall conform to the following lot requirements unless otherwise excepted as provided in BCC 11.17.100:

(a) The size of a lot in the GMA Agricultural District shall be a minimum of twenty (20) acres (1/32 of a section).

(b) Each lot in the GMA Agricultural District shall have:

(1) An average lot width of not less than one hundred sixty-five (165) feet;

(2) a minimum depth of one hundred sixty-five (165) feet;

(3) a minimum frontage of ninety (90) feet on a road or access easement to a public road right-of-way.
[Ord. 611 (2018) § 65]

11.17.100 LOT REQUIREMENTS--EXCEPTIONS. The following exceptions shall apply to all lands, structures and uses in the GMA Agricultural District, unless otherwise specified:

(a) The creation of a lot~~s~~ that is no less than two (2) acres in

size provided the parent parcel remains a minimum of twenty (20) acres gross may be approved by the Planning Administrator on land to which one of the following applies; subject to appeal to the Hearings Examiner:

(1) The lot to be created is to be conveyed exclusively to a child or parent ~~or such child or parent and his or her spouse~~ of any of the present owners; ~~the lot of record located in the GMA Agricultural District before division contains a minimum of twenty (20) gross acres~~; only one (1) lot may be created per related person; and only one (1) new lot is created per each twenty (20) acres in the GMA Agricultural District owned by the person conveying property hereunder. If at any time an owner of real property conveys any lot to any person other than a child or parent, no additional lot may be created under this provision for the family member who reconveyed the property.

~~(2) The present owner owned the property prior to the effective date of this ordinance and wishes to retain a parcel of land on such property with his or her private residence located thereon, and conveys the remaining portion of said property.~~

(~~3~~2) The owner of record wishes to retain one (1) portion of the lot with his or her private residence located thereon, and conveys the remaining portion of said lot to the owner of record of abutting property.

(~~4~~3) The transfer, sale, or lease of a parcel that is at least a two (2) acre portion of a lot that is at least twenty (20) acres and the lot created has a habitable single family dwelling that has existed at least five (5) years or for agricultural purposes including~~has~~ a site built commercial agricultural structure.

(b) The creation of a lot of any size may be approved by the Planning Administrator, subject to appeal to the Hearings Examiners on a parcel of record which is divided by a physical barrier such as a railroad, canal, or other permanent barrier which interferes with the unified agricultural operation of the land; provided, the boundary of the lots created are divided solely as a result of and pursuant to the physical barrier.

Commented [DH3]: 2026_01_21 Requires review

(c) In the GMA Agricultural District, parcels of less than the minimum size may be permitted where the Planning Administrator finds that the land division is for agricultural purposes including agricultural related industry. Parcels created under this provision shall not result in a residential density greater than would have otherwise been permitted on the undivided acreage.

(d) Any lot created utilizing the lot size exception in 11.17.100 must contain sufficient area to comply with the Benton-Fraklin Health District's area and separation requirements for on-site septic disposal and on-site potable water.
[Ord. 611 (2018) § 66]

11.17.110 BUILDING REQUIREMENTS. All lands, structures and uses in the GMA Agricultural District shall conform to the following building requirements:

(a) No residential building shall have a height greater than thirty-five (35) feet.

(b) Development on land shall be in compliance with Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.
[Ord. 611 (2018) § 67]

11.17.120 SETBACK REQUIREMENTS. All lands, structures, and uses in the GMA Agricultural District shall conform to the following minimum setback requirements; unless otherwise excepted as provided in BCC 11.17.130:

(a) Each structure on a lot shall have a front yard setback of fifty-five (55) feet from the centerline of any city, county, or state road right of way of sixty (60) feet or less in width, twenty-five (25) feet from the property line bordering any road wider than sixty (60) feet, and twenty-five (25) feet from the legally-established boundary line of any access and/or combined access and utility easement adjacent to or within the property.

(b) Each structure on a lot shall have a setback of twenty (20) feet from its rear and side lot line(s).

(c) Those enclosures used in commercial dairy, hog, poultry, and rabbit operations, the propagation of fur bearing species for

commercial purposes, or livestock auction yard shall have setbacks of one hundred (100) feet from all property lines; and a five hundred (500) foot setback from any existing residential structure on adjacent property not under common ownership with the operator of the facility.
[Ord. 611 (2018) § 68]

(d) No building or structure shall be located within an easement or any public road right-of-way.

11.17.130 SETBACK REQUIREMENTS-EXCEPTIONS. All lands, structures, and uses in the GMA Agricultural District shall have the following exceptions to setback requirements:

(a) The following architectural features shall not be subject to required setbacks:

(1) Cornices, eaves, belt courses, sills, fireplace chimneys, and open, unenclosed stairways or balconies not covered by a roof or canopy, may extend or project from a building three (3) feet into the setback area;

(2) Uncovered, unenclosed porches, platforms or landings, which do not extend above the level of the first floor, may extend or project from a building six (6) feet into the setback area.

(b) Animal feedlots and livestock may be excepted from setback requirements in the following instances:

(1) When it is found that prevailing wind patterns and natural land formation such as banks, ridges, slopes, etc., would reduce the impacts to adjacent residents to insignificant levels, or where the adjacent residents are accessory to the same type of agricultural use, a minimum of three hundred (300) feet can be allowed as the setback requirement;

(2) In the case of livestock animals exhibited by youth groups

such as FFA and 4-H who cultivate livestock projects for their educational value.

[Ord. 611 (2018) § 69]

11.17.140 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.17.150 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.19

RED MOUNTAIN AGRICULTURAL DISTRICT (RMAD)

SECTIONS:

11.19.010 Purpose
11.19.020 Applicability
11.19.030 Red Mountain Agricultural District
11.19.040 Allowable Uses
11.19.050 Accessory Uses
11.19.060 Uses Subject to Planning Administrator Review and Approval
11.19.070 Uses Requiring Permits--Conditional Use Permit Required
11.19.080 Uses Prohibited
11.19.~~080~~090 Lot Requirements
11.19.~~090~~100 Lot Requirements--Exceptions
11.19.~~100~~110 Setback Requirements
11.19.~~110~~120 Setback Requirements—Exceptions
11.19.~~120~~130 Severability
11.19.~~130~~140 Effective Date

Formatted: Tab stops: Not at 2.13"

11.19.010 PURPOSE. The purpose of this chapter is to meet the minimum requirements of the State Growth Management Act (Chapter 36.70A RCW, as amended) that mandates the designation and protection of agricultural lands of long term commercial significance. The chapter protects the Red Mountain Agricultural District (RMAD) and the activities therein by limiting non-agricultural uses in the district to those compatible with agriculture and by establishing minimum lot sizes in areas where soils, water, and climate are suitable for agricultural purposes. Specifically, one purpose of this chapter is to support and carryout the directives of the Red Mountain AVA Master Site Plan (RMMSP) and to prevent future development within the (RMAD) that

would preempt or impede the continued development of those lands

~~i~~into an agricultural area where visitors can experience premiere, world renowned vineyards, wines, and wineries.
[Ord. 611 (2018) § 70]

11.19.020 APPLICABILITY. This chapter shall apply to lands and activities located in unincorporated Benton County and designated in the Zoning Map of Benton County as the Red Mountain Agricultural District (RMAD), unless otherwise specifically provided.
[Ord. 611 (2018) § 71]

11.19.030 RED MOUNTAIN AGRICULTURAL DISTRICT. The Red Mountain Agricultural District is an area identified in the Benton County Comprehensive Plan that has Critical Agricultural Resources (soils, climate, and water). The minimum parcel size shall be twenty (20) acres, with exceptions as provided by this chapter. Commercial agricultural activities are most appropriately conducted on large parcels of land with significant separation between uses that conflict with agricultural practices.
[Ord. 611 (2018) § 72]

11.19.040 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed as a permitted use within the Red Mountain Agricultural District.

(a) Agriculture uses, except for commercial dairying, poultry raising, commercial hog ranches, animal feedlots, and stockyards.

(b) Agriculture buildings as defined under BCC 11.03.010~~(6)~~.

(c) Agricultural related industries as defined under BCC 11.03.010~~(9)~~, including but not limited to Wineries/Breweries/Distilleries.

(d) Agricultural stands, as defined under BCC 11.03.010~~(10)~~, on parcel of at least twenty (20) acre or more.

(e) Single Family Dwelling.

Commented [DH1]: Were manufactured homes intentionally left off the allowable uses list?

Commented [DH2R1]: Considered, but not added. Intention of Red Mountain Ag District was to support boutique winery locations and compatible development. Single family dwellings are allowed which include modular and designated (new) manufactured homes.

(f) Signs are allowed only if they do not exceed six (6) feet in height and twenty-four (24) square feet in total area and are not internally illuminated.

(g) Adult Family Homes.

(h) Hiking and non-motorized biking trails.

(i) Public or quasi-public buildings and yards and utility buildings, such as: pumping stations, fire stations, substations and telephone exchange and distribution facilities.

(j) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.
[Ord. 611 (2018) § 73]

11.19.050 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the Red Mountain Agricultural District:

(a) One (1) or more accessory buildings and uses commonly appurtenant to a single family dwelling.

(b) One (1) or more accessory buildings and uses commonly appurtenant to an agricultural use or operation.

(c) Hazardous waste treatment and storage facilities (on site) as an accessory use to an allowable or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in accordance with RCW 70.105.210, as amended.

(d) On any tract of land having an area of five (5) acres or less, the following uses are allowable as accessories to a single family

dwelling: the keeping of one head of grazing stock per one-half acre of ground, exclusive of suckling animals; provided, that all barns, barnyards, or corrals shall be located not less than seventy-five (75) feet from any public road, street, or highway and not less than thirty (30) feet from any property held under different ownership.

(e) Kennels, Private.

(f) Onsite food service that is clearly accessory to a Winery/Brewery/Distillery in the form of:

(1) Service of commercially-prepared or packaged, ready-to-eat appetizer-sized portions with limited preparation for palatability but no cooking of raw meats; and,

(2) Catered food service for an event.

Restaurants or buildings with interior seating dedicated primarily to meal service and cooked to order meal service are not considered on-site food service ancillary to a Winery/Brewery/Distillery and therefore not allowed under this section.

(g) Retail sales establishment as an accessory use to a Winery/Brewery/Distilleries including, trademark items, items which promote the region or the win/beer/spirits industries, other regional value-added agricultural products, art, prepackaged foods and cheese, or related.

(h) Wineries, brewery, distillery club events, winemaker or brewer dinners and regional promotional events.

(i) Solar Power Generator Facility, Minor

(j) Uses subject to Planning Administrator review and approval, specified in BCC 11.19.060(b) through (d).

(k) Signs are allowed only if they do not exceed six (6) feet in height and twenty-four (24) square feet in total area and are not internally illuminated.

(l) Bed and Breakfast Facility pursuant to BCC 11.42.030.
[Ord. 611 (2018) § 74]

11.19.060 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed in the Red Mountain Agricultural District upon the review and approval of the Planning Administrator:

(a) Temporary dwellings subject to the provisions of BCC 11.42.110.

(b) Multiple detached dwelling units, subject to the provisions of BCC 11.42.080.

(c) Accessory dwelling unit (within or attached to a single family home), subject to the provisions of BCC 11.42.020.

(d) Child Day Care Facility-Type A, subject to the provisions of BCC 11.42.050.

(e) Non-Commercial sand and gravel pits, and stone quarries and other mineral extraction, subject to the provisions of BCC 11.42.090.

(f) Communication facilities, subject to Chapter 11.47 BCC.
[Ord. 611 (2018) § 75]

11.19.070 USES REQUIRING PERMITS--CONDITIONAL USE PERMIT REQUIRED. The following uses may be permitted upon a single parcel of record in the Red Mountain Agricultural District if a conditional use permit is issued by the Hearing Examiner after notice and public hearing as provided by BCC 11.50.040:

(a) Facilities for treatment of industrial solid wastes with associated spray fields related to the on-site processing of agricultural products.

(b) Overnight lodging within a structure primarily used for processing of beer, wine, or spirits that meets the following criteria:

(1) The number of guest rooms may not exceed two (2); and,

(2) The area used for the guest rooms and associated with overnight lodging shall not exceed eight hundred square feet (800); and,

(3) The overnight lodging guest rooms shall meet Benton-Franklin Health District requirements for septic systems and domestic water usage shall be demonstrated; and,

(4) The overnight lodging guest rooms shall comply with all the applicable building code requirements.

(c) Events Facility on the same or adjoining parcel as a Winery/Brewery/Distillery, but not related to the operational and marketing of the business, such as weddings, receptions, and meetings/retreats shall be limited to not more than two hundred (200) guest or less, meet the following criteria as well as any other conditions required by the Hearings Examiner:

(1) The events facility shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The events facility must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The events facility, including any new buildings, parking or supportive uses associated therewith, shall be

located within one thousand (1000) feet of the existing Winery/Brewery/Distillery structures and shall not otherwise convert more than one (1) acre of agricultural land to the use;

(4) The parcel and events facility shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the events facility being pursued. The requirements of or the permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations;

(5) Adequate off road parking, as determined by the Hearings Examiner, must be provided;

(6) Any waste created as a result of the event facility must be disposed of off-site in compliance with all local, state, and/or federal regulations.

(d) Non-agricultural accessory uses that promote or sustain the continuation of the agricultural uses of a parcel if the accessory uses meet the following criteria as well as any other conditions required by the Hearings Examiner:

(1) The non-agricultural accessory use shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The non-agricultural accessory use must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The parcel on which the non-agricultural accessory use is located meets one of the following:

(i) The parcel is no less than twenty (20) acres in size with eighty (80) percent of the acreage primarily committed to agricultural use and has produced gross income equivalent to two hundred (200) dollars or more per acre each year for three (3) of the five (5) calendar years preceding the date of application;

(ii) The parcel is currently enrolled in the County's Agricultural Open Space program pursuant to Chapter 84.34 RCW, as amended; or

(iii) The parcel is not less than one hundred (100) contiguous acres that has been in agricultural use for three (3) of the last five (5) years.

(4) The non-agricultural accessory use, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the nearest existing buildings or residential structures and shall not otherwise convert more than one (1) acre of agricultural land to non-agricultural uses;

(5) The non-agricultural accessory uses, including any storage space associated therewith, shall not collectively occupy more than fifteen thousand (15,000) square feet of building space;

(6) No more than three (3) vehicles marked to identify the non-agricultural accessory use(s) may be on the parcel at any time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the non-agricultural accessory use;

(7) No person may possess more than one valid permit at a time under this section and all non-agricultural accessory use permits issued under this section for any given parcel must be authorized in one permit;

(8) The parcel and non-agricultural accessory use owner shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the non-agricultural accessory use being pursued. The requirements of or the permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations;

(9) Adequate off road parking, as determined by the Hearings Examiner, must be provided;

(10) Any waste created as a result of the non-agricultural accessory use must be disposed of off-site in compliance with all local, state, and/or federal regulations.

(e) Commercial sand and gravel pits, and stone quarries and other mineral extraction.

(f) Agricultural research facility which conducts basic, applied, and/or developmental research of regional, national, or international concerns in the field of agriculture.

(g) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

(h) Agri-tourism accommodations.

(i) Winery/Brewery/Distillery facility, including sampling, tasting, and sales of the product, may occur on an adjacent parcel from the site where the fruit or other products are processed, if both parcels are under the same ownership.

(j) Agricultural stands, as defined under BCC 11.03.010~~(10)~~, on a parcel at least two (2) acres in size but less than twenty (20) acres.

(k) Detached accessory dwelling unit, subject to the provisions

of BCC 11.42.020.

[Ord. 611 (2018) § 76; Ord. 642 (2022) § 1]

11.19.080 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.19.040, BCC 11.19.050, BCC 11.19.060 or BCC 11.19.070 is prohibited with the Red Mountain Agricultural District.

11.19.~~080~~090 LOT REQUIREMENTS. All lands, structures and uses in the Red Mountain Agricultural District shall conform to the following lot requirements unless otherwise excepted as provided in BCC 11.19.090:

(a) The size of a lot in the Red Mountain Agricultural District shall be a minimum of twenty (20) acres (1/32 of a section).

(b) Each lot in the Red Mountain Agricultural District shall have:

(1) An average lot width of not less than one hundred sixty-five (165) feet;

(2) A minimum depth of one hundred sixty-five (165) feet;

(3) A minimum frontage of forty (40) feet on a road or access easement to a public road right-of-way.

[Ord. 611 (2018) § 77]

11.19.~~090~~100 LOT REQUIREMENTS--EXCEPTIONS. The following exceptions shall apply to all lands, structures and uses in the Red Mountain Agricultural District, unless otherwise specified:

(a) The creation of lots less than twenty (20) acres may be approved by the Planning Administrator, on land to which one of the following applies; subject to appeal to the Hearing Examiner:

(1) The lot to be created is to be conveyed exclusively to a child or parent or such child or parent and his or her spouse of any of the present owners; the lot of record located in the Red Mountain Agricultural District before division contains a minimum of twenty (20) gross acres; only one (1) lot may be created per related person; and only one (1) new lot is created per each twenty (20) acres in the Red Mountain Agricultural District owned by the person conveying property

hereunder. If at any time an owner of real property conveys any lot to any person other than a child or parent, no additional lot may be created under this provision for the family member who re-conveyed the property;

Formatted: Indent: Left: 0", Hanging: 0.5"

(2) The transfer, sale, or lease of a parcel that is at least a two (2) acre portion of a lot that is at least twenty (20) acres and the lot created has a habitable single family dwelling that has existed at least five (5) years or has a site built commercial agricultural structure.

(b) The creation of a lot of any size may be approved by the Planning Administrator, subject to appeal to the Hearing Examiner on a parcel of record which is divided by a physical barrier such as a railroad, canal, or public roads which interferes with the unified agricultural operation of the provided, the boundary of the lots created are divided solely as a result of and pursuant to the physical barrier.

(c) In the Red Mountain Agricultural District, parcels of less than the minimum size may be permitted where the Planning Administrator finds that the land division is for agricultural purposes only. Parcels created under this provision shall not result in a residential density greater than would have otherwise been permitted on the undivided acreage.
[Ord. 611 (2018) § 78]

11.19.~~100~~110 SETBACK REQUIREMENTS. All lands, structures, and uses in the Red Mountain Agricultural District, shall conform to the following minimum setback requirements; unless otherwise excepted as provided in BCC 11.19.110:

(a) Each structure on a lot shall have a front yard setback of fifty-five (55) feet from the centerline of any city, county, or state road right of way of sixty (60) feet or less in width, twenty-five (25) feet from the property line bordering any road wider than sixty (60) feet, and twenty-five (25) feet from the legally-established boundary line of any access and/or combined access and utility easement adjacent to or within the property.

(b) Each structure on a lot shall have a setback of twenty (20) feet from its rear and side lot line(s).
[Ord. 611 (2018) § 79]

(c) No building or structure shall be located within an easement or any public road right-of-way.

11.19.~~110~~120 SETBACK REQUIREMENTS--EXCEPTIONS. All lands, structures, and uses in the Red Mountain Agricultural District, shall have the following exceptions to setback requirements:

(a) The following architectural features shall not be subject to required setbacks:

(1) Cornices, eaves, belt courses, sills, fireplace chimneys, and open, unenclosed stairways or balconies not covered by a roof or canopy, may extend or project from a building three (3) feet into the setback area;

(2) Uncovered, unenclosed porches, platforms or landings, which do not extend above the level of the first floor, may extend or project from a building six (6) feet into the setback area.

[Ord. 611 (2018) § 80]

11.19.~~120~~130 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.19.~~130~~140 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.21

PLANNED DEVELOPMENT (PD)

Commented [DH1]: Strike in entirety

SECTIONS:

11.21.010 Purpose
11.21.020 Where Permitted
11.21.030 Uses Permitted
11.21.040 Design Standards and Criteria
11.21.050 Application--Requirements
11.21.060 Open Record Hearing
11.21.070 Open Record Hearing--Notice Required
11.21.080 Planned Development--Planning Commission--Consideration, Findings, and Recommendation
11.21.090 Planning Commission Recommendation to Board of County Commissioners
11.21.100 Board of County Commissioners--Decision
11.21.110 Final Plat(s)--Submittal--Final Review
11.21.120 Final Plat--Review by Agencies
11.21.130 Final Plat--Review by Planning Administrator
11.21.140 Final Plat--Board of County Commissioners--Approval or Denial
11.21.150 Final Plat--Filing and Recording
11.21.160 Requirements for Specific Performance
11.21.170 Major and Minor Adjustments
11.21.180 Waiver of Requirements
11.21.190 Severability
11.21.200 Effective Date

11.21.010 PURPOSE. The purpose of the planned development chapter is to provide a degree of flexibility and innovative land use design and development not possible under a strict interpretation of zoning and subdivision ordinances. It is the intention of the planned development chapter to accomplish the

~~following specific goals through the use of improved techniques and design technology:~~

~~(a) Encourage creativity in the design of large parcels of property for residential use.~~

~~(b) Encourage the development of a variety of housing types to better serve the public.~~

~~(c) Provide for maximum efficiency in the design and construction of streets, utilities and other public improvements.~~

~~(d) Provide the necessary standards and controls to be used by developers in their design and by county officials in their review and approval procedures.~~

~~(e) Allow specific acreage within a planned development to be reserved and used for commercial horticultural purposes; provided, that such use is not inconsistent with the other permitted uses within a planned development and the undertaking of such activities are consistent with the conditions set forth in the approved site plan for the planned development.~~

~~(f) Enhance the local and regional agricultural economy and protect the rural character of unincorporated Benton County by allowing commercial horticulture on specified acreages within planned developments located in areas having unique and valuable physical characteristics suitable for horticultural activities such as micro-climate, slope, exposure, water availability and soils capability.~~
~~[Ord. 611 (2018) § 81]~~

~~**11.21.020 WHERE PERMITTED.** Planned developments shall be permitted in any zone except Heavy Industrial (H-I) and Light Industrial (L-I).~~
~~[Ord. 611 (2018) § 82]~~

~~**11.21.030 USES PERMITTED.** In a planned development district, no building or premises shall be used nor shall any building or structure hereafter be erected or altered unless otherwise provided in this chapter, except for one or more of the following uses:~~

~~(a) One and two family dwellings.~~

~~(b) Multiple family dwellings such as flats or apartments.~~

~~(c) The usual accessory buildings and/or land uses commonly appurtenant to the above uses, including but not limited to private kennels.~~

~~(d) Home occupations that comply with the criteria set forth in Chapter 11.49 BCC.~~

~~(e) Recreational facilities of a non-commercial nature including but not limited to tennis courts, swimming pools, playgrounds, etc.~~

~~(f) Designated Manufactured homes and modular homes; provided, that:~~

~~(1) All dwelling construction in a planned development shall be placed on a permanent foundation, shall have all wheels and running gear removed and shall be placed on the assessor's tax rolls as real property.~~

~~(2) Size, type and locations for all designated manufactured homes and modular homes shall be shown on the filed plans.~~

~~(3) Manufactured (mobile) home parks and recreational vehicle parks shall not be considered planned developments.~~

~~(g) Accessory uses such as, but not specifically limited to, schools, churches, libraries, community halls, etc., may be allowed where such facilities are found by the Board of County~~

~~Commissioners to be consistent with the comprehensive plan and in the best interest of the community.~~

~~(h) Incidental commercial and retail uses, designed as part of the planned development and intended to serve primarily the residents of the development may be permitted for planned developments greater than twenty (20) acres in size. No commercial or retail uses area allowed that require a marijuana processor or retailer license from the Washington State Liquor and Cannabis Board.~~

~~(i) Horticultural uses as approved by the Board of County Commissioners at the time of the preliminary plat approval, subject to the terms and conditions as deemed appropriate and in the best interests of the planned development; provided, that commercial horticultural uses shall be subject to the following:~~

~~(1) The underlying zoning designation and the comprehensive plan allow commercial horticultural uses in the proposed planned development area;~~

~~(2) The types of horticultural uses proposed within the planned development shall be recorded with the deeds for the parcels on which commercial horticultural uses are conducted and on the face of the final plat for the planned development; and,~~

~~(3) The proposed commercial horticultural uses must be compatible with the residential nature of the planned development as demonstrated through the use of site planning techniques and mitigation measures. Such measures may include, but are not limited to: the use of open space buffers, visual screening and noise attenuation devices, site plan orientations relative to prevailing wind patterns as well as resident versus farming access and transportation routes, irrigation run-off control, operational measures and best management practices, and limitation on crop types.~~

~~(j) Hotel/conference centers may be allowed by conditional use permit provided, that such facilities are found to be consistent with the comprehensive plan and in the best interests of the planned development community. Such uses are also subject to any conditions and terms set forth by the conditional use permit.~~
~~[Ord. 611 (2018) § 83]~~

~~**11.21.040 DESIGN STANDARDS AND CRITERIA.**~~

~~(a) Minimum Site Development Area – A planned development for strictly residential use shall consist of a minimum of five (5) acres. A planned development with designated uses in addition to residential uses shall consist of a minimum of twenty (20) acres.~~

~~(b) Allowable Development Density – The maximum allowable density for a planned development shall be the allowable density for that area set forth in Title 16 of the Benton County Code.~~

~~(c) Common Open Space – Each planned development shall identify any areas for common use of all the residents. Any anticipated improvements to the common areas shall be included in the information submitted to the planning commission for preliminary approval.~~

~~(d) Public Access – Any parcel of property considered for planned development must front on and have direct access to a public road at a minimum of one location. The county engineer may require more than one direct access to a public road where it is determined to be in the best community interest.~~

~~(e) Roads and Parking Areas – The interior road system for a planned development may be private if desired by the developer; provided, that roads which are located such that they could or should be an integral part of the overall county circulation pattern may be required to be constructed as public roads. The county engineer may also require either construction of additional public roads or reservation of right-of-way for future roads where necessary in his/her opinion to permit adequate circulation.~~

~~Roads construction standards shall be as follows:~~

~~(1) Private roads shall be constructed to a standard agreed on between the developer, County Engineer and the County Fire Marshal, based on degree of service necessary for minimum safe circulation for residents and emergency vehicles.~~

~~If agreement cannot be reached between the developer, County Engineer, and County Fire Marshal, minimum plat street standards as set forth in BCC 9.09.040, as currently in effect or as hereafter amended, shall apply.~~

~~(2) All public roads in a planned development shall be constructed in accordance with minimum standards for plat street construction as set forth in BCC 9.09.040, as amended.~~

~~Planned developments shall provide a minimum of two off-street parking spaces for every living unit. Additional off street parking shall be required if non-residential uses are proposed.~~

~~(f) Structure Setbacks - Required minimum setbacks for structures in a planned development shall be as follows:~~

~~(1) Fifty-five (55) feet from the centerline of any public road or twenty-five (25) feet from the property line, whichever is greater.~~

~~(2) Twenty-five (25) feet from the exterior boundary line of the development.~~

~~(3) Setbacks from private roads shall be adequate to assure safe sight distance and safe access on and off the road.~~

~~(4) Fences may be constructed on the property line except that any fence built within the setback area along a public or private road shall be no more than forty-two (42) inches in height.~~

~~There shall be no minimum required side or rear yard setbacks or minimum distances between buildings within the interior of a planned development.~~

~~(g) Sanitary and Water Facilities - Details of proposed sanitary and water facilities shall be as required by the Benton-Franklin Health District. Written approval by the health district and any municipality providing services of the proposed type of sanitary and water facilities shall be submitted to the planning and building department with the application for the planned development.~~
~~[Ord. 611 (2018) § 84]~~

~~**11.21.050 APPLICATION--REQUIREMENTS.** Any owner or group of owners who wish to apply for a planned development shall submit the following information for preliminary review:~~

~~(a) A Planned Development application form with all requested information and signatures.~~

~~(b) One copy of a vicinity map showing the location site and its relationship to the surrounding area. Vicinity map should show the surrounding existing development for a distance of five-hundred (500) feet from the perimeter of the development.~~

~~(c) Ten (10) copies of the preliminary plat for the planned development not less than twenty-four inches by thirty-six inches (24" x 36") in size, showing the following information and drawn to scale of not less than one (1) inch equal to one-hundred (100) feet and one eleven-inch by seventeen-inch (11" x 17") reproducible copy:~~

~~(1) Names and dimensions of streets bounding or touching the site.~~

~~(2) Location and dimensions of all interior roads and pedestrian walkways.~~

~~(3) Existing topography with contours of five (5) feet intervals.~~

~~(4) Proposed plans for grading and proposed methods for handling drainage, including irrigation water.~~

~~(5) Proposed buildings for development, including location, size, type and number of dwelling units in each.~~

~~(6) Proposed off-street parking facilities.~~

~~(7) Areas of common open space and improvements proposed for each area.~~

~~(8) Proposed locations of water lines, electric and telephone lines, sewer lines, and any other utilities to be located in the development.~~

~~(9) Any other major features such as streams, canals, railroads, major easements or natural features which may affect or be affected by the development.~~

~~(10) Location and types of horticultural uses, the number of horticultural related dwelling units to be located on the horticultural lands, and the site planning and operational measures proposed to assure compatibility between the horticultural uses and the residential uses within the planned development.~~

~~(11) Locations and types of hotel or convention centers, including the number of units.~~

~~(d) In addition to the required drawings the developer shall submit two (2) copies of a written statement providing the following information:~~

~~(1) Program for development including staging and timing of development.~~

~~(2) Proposed ownership agreements for completed development.~~

~~(3) Basic content of restrictive covenants, home owners association by-laws and other documents, including specific provisions guaranteeing construction and/or maintenance of all commonly owned areas and facilities.~~

~~(e) A Zone Change Application form with all required information and signatures requesting a change in zoning to a Planned Development zone.~~

~~(f) An Environmental Checklist form with all required information and signed by the applicant.~~

~~(g) A title certificate from a title company not more than two (2) months old. The title certificate shall include a map showing the tax parcel ID number, names, and addresses of the surface owners of the property to be developed and names of all surface property owners within three hundred (300) feet of the exterior boundaries of the property involved.~~

~~(h) Written verification from the Benton-Franklin Health District that the applicant(s) has provided all necessary information so that the Health District can review and make a recommendation on the proposed planned development.~~

~~(i) A preliminary hydrology report as required by the Benton County Road Department.~~

~~(j) The application fees as specified in the current fee schedule adopted by resolution of the Board of County Commissioners.~~

~~(k) The applicant shall request a waiver or modification of any of the requirements of this chapter where topography or other special conditions make conformance impractical. Such request for waiver or modification shall be made at the time of application~~

~~for the planned development and zone change. The waiver or modification shall be granted in accordance with BCC 11.21.180.~~
~~[Ord. 611 (2018) § 85]~~

~~**11.21.060 OPEN RECORD HEARING.** An open record hearing is required for all Planned Developments. The Benton County Planning Commission shall conduct the hearing on a preliminary application and zone change at the same hearing.~~
~~[Ord. 611 (2018) § 86]~~

~~**11.21.070 OPEN RECORD HEARING--NOTICE REQUIRED.**~~

~~(a) Notice of the open record hearing shall state: the time, place and purpose for which the hearing is to be held. The notice of open record hearing shall be published not less than ten (10) days prior to the hearing in the official newspaper of the county.~~

~~(b) The Benton County Planning Department shall mail the notice of the hearing at least ten (10) days prior to the date of the hearing to:~~

~~(1) The owners of all properties located within three hundred (300) feet of the exterior boundaries of the proposed plat, as such owners appear on the records of the County Assessor.~~

~~(2) If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property adjacent to the real property, notice of hearing shall be mailed to the owner if all parcels are located within three hundred (300) feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided.~~

~~(3) The notice shall also be given to cities or towns located within one (1) mile of the proposed Planned Development.~~

~~(4) If a proposed Planned Development is located adjacent to the right-of-way of a state highway or within two (2) miles of the boundary of a state or municipal airport, notice shall be given to the state secretary of transportation.~~

~~(5) Notice shall also be given to anyone that has submitted a written request to the Benton County Planning Department of any proposed land use applications for one (1) or more of the parcels within the proposed planned development.~~

~~(c) All hearing notices shall include a description of the location of the proposed Planned Development. The description may be in the form of either a vicinity location sketch or a written description but need not include a legal description.~~
~~[Ord. 611 (2018) § 87]~~

~~**11.21.080 PLANNED DEVELOPMENT--PLANNING COMMISSION--CONSIDERATION, FINDINGS, AND RECOMMENDATION.** After conducting an open record hearing and considering all information presented, the Planning Commission shall take action to recommend to the Board of County Commissioners that the preliminary planned development and rezone application be approved, approved with conditions that will be incorporated into the final plat to be recorded, or denied as proposed. The Planning Commission shall recommend approval or recommend approval with conditions if it makes each of the following findings:~~

~~(a) The proposed Planned Development conforms with the Benton County Comprehensive Plan and any applicable zoning requirements or other applicable land use controls;~~

~~(b) The proposed Planned Development provides adequate means of access as evidenced by the written approval of the county engineer;~~

~~(c) The proposed Planned Development meets the requirements of this title;~~

~~(d) The public use and interest will be served by permitting the proposed planned development;~~

~~(e) The appropriate provisions are made for public health, safety, and general welfare and for needed drainage ways, streets, or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;~~

~~(f) The Benton Franklin Health District has reviewed and approves of the terms of the proposed Planned Development to ensure compliance with Health District rules and regulations;~~

~~(g) The Benton County Road Department has reviewed and approved the proposed Planned Development to ensure conformance with the road and drainage provisions of Benton County;~~

~~(h) If the proposed Planned Development is located within an irrigation district, that the district has reviewed and approved the proposed Planned Development to ensure compliance with RCW 58.17.310, as currently in effect or as hereafter amended.~~

~~(i) If the proposed Planned Development is located within an urban growth area as designated in the Benton County Comprehensive Plan, that the proposed Planned Development is in conformity with the joint development standards for that area, if any, adopted by the County.~~
~~[Ord. 611 (2018) § 88]~~

~~**11.21.090 PLANNING COMMISSION RECOMMENDATION TO BOARD OF COUNTY COMMISSIONERS.** The recommendation and findings and conclusion of the Planning Commission will be sent to the Board of County Commissioners within fourteen (14) days following the issuance of the written recommendation.~~
~~[Ord. 611 (2018) § 89]~~

11.21.100 BOARD OF COUNTY COMMISSIONERS--DECISION. The Planning Administrator shall set a date for a closed record hearing upon issuance of the written recommendation, findings and conclusion of the Planning Commission. The Board of County Commissioners will consider the planned development application and may adopt, modify, or reject the recommendation of the Planning Commission. The decision of the Board shall be based on the record prepared by the Planning Commission. The Board shall give preliminary approval of a planned development with any conditions necessary, if it makes an affirmative finding on each issue set forth in BCC 11.21.080(a) through BCC 11.21.080(j) and denial if it makes a negative finding on any of these issues.
[Ord. 611 (2018) § 90]

11.21.110 FINAL PLAT(S)--SUBMITTAL--FINAL REVIEW. Final plat(s) may be submitted for all or any part of a planned development which has received preliminary approval. All final plat(s) for all phases of the planned development review shall be submitted to the Planning Administrator within five (5) years after preliminary approval has been granted. Any part of a planned development for which final approval is requested shall meet all criteria required of the complete development. The information required to be submitted for final review and approval to record a final plat shall consist of the following:

(a) One (1) Mylar and eight (8) copies of the final plat and supplementary materials as specified in Chapter 9.07 BCC and one eleven-inch by seventeen-inch (11" x 17") reproducible copy prepared in accordance with Chapter 9.07 BCC for final plats. The final map shall also contain:

(1) Location and dimensions of all private and public roads and all areas reserved for parking. Roads and parking areas which are public shall be so identified.

(2) Identification, location and dimensions of all common open space.

~~(3) Identification and location of all commonly owned facilities.~~

~~(4) Location and dimensions of all structures and identification as to size, type and number of dwelling units.~~

~~(5) Identification of any open space or facilities which are to be common to or owned by only part of the residents of the development.~~

~~(6) Location and dimensions of all utility right-of-way lines.~~

~~(7) Any other major features such as streams, canals, railroads, major easements or natural features which may affect or be affected by the development.~~

~~(8) Location and types of horticultural uses, the number of horticultural related dwelling units to be located on the horticultural lands, and the site planning and operational measures proposed to assure compatibility between the horticultural uses and the residential uses within the planned development.~~

~~(9) Locations and types of hotel or convention centers, including the number of units.~~

~~(b) Two copies of a written statement including:~~

~~(1) Final copies of all ownership agreements.~~

~~(2) Final copies of restrictive covenants.~~

~~(3) Final copies of homeowner's association by-laws and other documents, including those specific provisions guaranteeing construction and/or maintenance of all commonly owned areas and facilities.~~

~~[Ord. 611 (2018) § 91]~~

~~**11.21.120 FINAL PLAT--REVIEW BY AGENCIES.** The Planning Administrator shall forward copies of the final plat map to other state and local agencies, municipalities if located in an urban growth area, and utility companies or public agencies that the Planning Administrator determines have an interest in the Planned Development. All reviewing agencies shall have seven (7) days from the date of mailing of such final plat map to forward their comments to the Planning Administrator.~~
~~[Ord. 611 (2018) § 92]~~

~~**11.21.130 FINAL PLAT--REVIEW BY PLANNING ADMINISTRATOR.**~~

~~(a) The Planning Administrator shall review the final plat map to determine if:~~

~~(1) The final plat complies with the requirements of this title,~~

~~(2) The final plat is consistent with the approved preliminary plat and decision thereon; and,~~

~~(3) All changes and conditions imposed on the approved preliminary plat by the Board have been made and complied with.~~

~~(b) The Planning Administrator shall forward the Mylar to the Benton County Engineer, Benton County Planning Commission Chairman, Benton County Assessor, Benton Franklin Health District, and Benton County Treasurer for signature upon determining that the above requirements have been met. The Planning Administrator shall establish a date and time for public meeting with the Board of County Commissioners for review of the final plat.~~
~~[Ord. 611 (2018) § 93]~~

~~**11.21.140 FINAL PLAT--BOARD OF COUNTY COMMISSIONERS--APPROVAL OR DENIAL.**~~

~~(a) The Board of County Commissioners shall consider the final~~

~~plat at a public meeting. The Board shall review the Planning Administrator's recommendation and approve the final plat for recording if the following standards have been met:~~

~~(1) The final plat is consistent with the approved preliminary plat and the decision thereon;~~

~~(2) The final plat includes all of the information required by BCC 9.07.060;~~

~~(3) All changes and conditions imposed on the approved preliminary plat by the Board have been made and complied with; and,~~

~~(4) All applicable requirements of the state platting law and this title have been satisfied.~~

~~(b) If the Board determines that these standards have been met, the Chairman of the Board shall sign the final plat and by resolution approve the zone change for that portion of the property included in the final plat. If the Board finds that these standards have not been satisfactorily met, the Board shall deny the final plat and return it unsigned to the applicant for correction.~~
~~[Ord. 611 (2018) § 94]~~

~~**11.21.150 FINAL PLAT--FILING AND RECORDING.** The Planning Administrator shall forward the final plat to the Benton County Auditor's Office for recording upon its approval by the Board of County Commissioners and after submission by the applicant of the applicable fee for recording.~~
~~[Ord. 611 (2018) § 95]~~

~~**11.21.160 REQUIREMENTS FOR SPECIFIC PERFORMANCE.** The developer shall be expected to show performance toward the completion of the planned development in accordance with the time schedule shown below unless a specific waiver or time extension is granted by the planning department.~~

~~(a) All final plans for planned development shall be submitted for approval within five (5) years of receipt of preliminary approval.~~

~~(b) The roads within a planned development, both private and public, shall be constructed or bonded by the developer, according to approved plans prior to the submittal of the final plat(s).~~

~~Any request for extension of time from the requirements shown in items (a) and (b) above shall be made in writing to the Planning Administrator stating the reasons justifying a consideration for extension. After consideration, the developer shall be notified in writing whether the request has been approved or denied, and the reasons for the decisions. The Planning Administrator may grant a one-time extension for up to one year.~~
~~[Ord. 611 (2018) § 96]~~

~~**11.21.170 MAJOR AND MINOR ADJUSTMENTS.**~~

~~(a) Minor Changes or Adjustments – Minor changes to a planned development that has received preliminary approval under BCC 11.21.100 may be made with the approval of the Planning Administrator. Minor changes shall mean only those changes which only affect the precise dimensions or location of buildings or facilities, but do not change or affect the basic character or arrangement of buildings, the density of the development or the open space requirement. The Planning Administrator may elect to submit minor changes to the Planning Commission and Board of County Commissioners under the process for major changes set forth in BCC 11.21.170(b).~~

~~(b) Major Changes – Those changes which in the opinion of the planning director substantially affect the general design or density of the planned development shall require review by the planning commission and Board of Commissioners. In the event of a major change the planning commission shall hold a public hearing before submitting its recommendation to the Board of County Commissioners. The Board of County Commissioners shall consider~~

~~the Planning Commission recommendation at a public meeting and shall approve major changes only if it can continue to make the affirmative findings required by BCC 11.21.080(a) through BCC 11.21.080(j).~~

~~(c) Final Plats – Requested changes to the final plat(s) for a Planned Development or portion thereof shall be processed as an alteration to a subdivision pursuant to BCC 9.07.100 or a vacation pursuant to BCC 9.02.120. Any alteration must conform to the requirements of all applicable code provisions.~~

~~(d) Building Permits – Building permits shall be issued only for those structures or facilities which are in conformance with the plan as filed or as amended.~~
~~[Ord. 611 (2018) § 97]~~

~~**11.21.180 WAIVER OF REQUIREMENTS.** The Planning Commission may recommend to the Board of County Commissioners to waive or modify any requirement of this chapter where topography or other special condition make conformance impractical. In granting such a waiver or modification, the Planning Commission must first determine that the development will remain in substantial conformance with the intent of this chapter. In the event of any waiver or modification of requirements, the Planning Commission minutes shall show the specific requirements for which waiver is granted, and the special conditions and justification upon which the waiver or modification is based. The applicant shall request such waiver at the time of applying for the planned development and zone change.~~
~~[Ord. 611 (2018) § 98]~~

~~**11.21.190 SEVERABILITY.** If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.~~
~~[Ord. 611 (2018) § 249]~~

~~**11.21.200 EFFECTIVE DATE.** This chapter shall take effect and be in full force upon its passage and adoption.~~
~~[Ord. 611 (2018) § 250]~~

CHAPTER 11.23

GENERAL COMMERCIAL DISTRICT (GC)

SECTIONS:

11.23.010	Purpose
11.23.020	Applicability
11.23.030	Allowable Uses
11.23.040	Accessory Uses
11.23.050	Uses Subject to Planning Administrator Review and Approval
11.23.060	Uses Requiring a Conditional Use Permit
11.23.070	Uses Prohibited
11.23.080	Property Development Standards--General Standards
11.23.090	Severability
11.23.100	Effective Date

11.23.010 PURPOSE. The General Commercial District (GC) is designed to provide areas for the location of a broad array of wholesale, retail, and service orientated commercial uses serving regional, local, and community trade areas.
[Ord. 611 (2018) § 99]

11.23.020 APPLICABILITY. The provisions of this Chapter shall apply to the areas designated as a General Commercial District (GC) on the official zoning maps of Benton County and located in unincorporated Benton County.
[Ord. 611 (2018) § 100]

11.23.030 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed in the General Commercial District (GC) on a single parcel of record:

(a) Indoor auction house for the sale of personal property other than livestock.

(b) Automobile fueling station, electric vehicle charging station, truck stop, car wash, public garage, towing service, and/or mini-mart.

(c) Retail sales establishment, subject to the prohibition on marijuana retail outlets set forth in BCC 11.42.130.

(d) Repair and service of machinery, equipment, automobiles, and/or trucks.

(e) Locksmith service, building material store with associated lumber yard, and/or irrigation supply store.

(f) Food service establishment such as: restaurant, cafe, and/or espresso stand.

(g) Veterinary facility with accommodations for animals within an enclosed building.

(h) Professional office.

(i) Fire department facility, law enforcement facility, public utility office, and/or medical facility.

(j) Equipment rental service.

(k) Nursery and/or landscaping business.

(l) Utility substation facility.

(m) Kennel, commercial.

(n) Wineries/Breweries/Distilleries.

(o) Hiking and non-motorized biking trails.

(p) Barber and beauty shop.

(q) Pet grooming

(r) Single Family Dwelling, Duplex, Multifamily:
(1) Residential uses in the General Commercial Zoning District are allowable only in an Urban Growth Area. For all general commercial zones outside of an urban growth area, BCC 11.23.060(b) applies.
[Ord. 611 (2018) § 101]

Commented [DH1]: Required only if 6026 passes

11.23.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the General Commercial District (GC) on a single parcel of record:

(a) Accessory/ancillary uses or buildings.

(b) Solar Power Generator Facility, Minor
[Ord. 611 (2018) § 102]

11.23.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the General Commercial District (GC) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Communication facilities, subject to Chapter 11.47 BCC.

(b) Adult use (entertainment) business, subject to the provisions of Chapter 4.02 BCC.
[Ord. 611 (2018) § 103]

11.23.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the General Commercial District (GC) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Recreational vehicle park.

(b) Dwelling unit within a structure also used for commercial purposes, outside of an urban growth area, that meets the following criteria is eligible to apply for a conditional use permit:

Commented [DH2]: Required only if 6026 passes

(1) The dwelling unit may ~~not~~ be located on the ground level or below when located in a UGA. When the dwelling unit is located outside the UGA, the dwelling unit may not be located on the ground floor or below;

(2) The number of dwelling units may not exceed one (1) dwelling unit outside of a UGA. Inside the UGA, the maximum number of dwelling units allowable cannot exceed the requirements of 11.07.080(a).

(3) The dwelling unit(s) must meet either: Benton-Franklin Health District requirements for septic systems and domestic water usage, or the applicable city requirements for connection to sanitary sewer and potable water if in the UGA and services are available.

(4) The dwelling unit shall comply with all of the applicable building code requirements.

(c) Rental storage facility.

(d) Solid waste transfer station.

(e) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210 and only treat waste generated on the same parcel or a contiguous parcel.

(f) Indoor shooting range.

(g) Sewage treatment facility for industrial and/or domestic waste.
[Ord. 611 (2018) § 104]

11.23.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.23.030, BCC 11.23.040, BCC 11.23.050 or BCC 11.23.060 is prohibited within the General Commercial District

(GC).
[Ord. 611 (2018) § 105]

11.23.080 PROPERTY DEVELOPMENT STANDARDS--GENERAL STANDARDS. All lands, structures and uses in the General Commercial District (GC) shall conform to the following standards, and if applicable, to the standards set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Lot Width. Each parcel shall have an average lot width of not less than ninety (90) feet.

(b) Each building on a parcel that is contiguous to a Community Center Residential (CCR), Rural Lands One Acre (RL-1), Rural Lands Five Acre (RL-5), Rural Lands Twenty Acre (RL-20), or Urban Growth Area Residential (UGAR) zoning district shall have a minimum setback of thirty (30) feet from said district border.

(c) Each building must be at least twenty-five (25) feet from the property line bordering any public road right-of-way and at least twenty-five (25) feet from the closest edge of any legally established boundary line of a private access easement.

(d) No building or structure shall be located within an easement or any public road right-of-way.

(e) Dwellings inside an urban growth area must comply with the development and density standards in BCC 11.07.080.

Commented [DH3]: Required only if E2SSB 6026 passes

[Ord. 611 (2018) § 106]

11.23.090 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.23.100 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.

[Ord. 611 (2018) § 250]

CHAPTER 11.29

COMMUNITY COMMERCIAL DISTRICT (CC)

SECTIONS:

11.29.010	Purpose
11.29.020	Applicability
11.29.030	Allowable Uses
11.29.040	Accessory Uses
11.29.050	Uses Subject to Planning Administrator Review and Approval
11.29.060	Uses Requiring a Conditional Use Permit
11.29.070	Uses Prohibited
11.29.080	Property Development Standards--General Standards
11.29.090	Property Development Standards--Setback Requirements
11.29.100	Severability
11.29.110	Effective Date

11.29.010 PURPOSE. The Community Commercial District (CC) is designed to provide areas for retail commercial activities within rural communities. Development within this district shall be located in areas designed to allow adequate accessibility and parking facilities.
[Ord. 611 (2018) § 107]

11.29.020 APPLICABILITY. The provisions of this chapter shall apply to the areas designated as a Community Commercial District (CC) on the official zoning maps of Benton County and located in unincorporated Benton County.
[Ord. 611 (2018) § 108]

11.29.030 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed in the Community Commercial District (CC) on a single parcel of record:

(a) Automobile fueling station, electric vehicle charging station, and/or car wash.

(b) Barber/beauty shop.

(c) Retail sales establishment, provided no structure used for such purpose may exceed five thousand (5,000) square feet, subject to the prohibition on marijuana retail outlets set forth in BCC 11.42.130.

(d) Tasting room, bar, and/or tavern.

(e) Laundry mat, dry cleaning, and/or alteration service establishment.

(f) Post office and/or public library.

(g) Fire department facility, law enforcement facility, public utility office, and/or medical facility.

(h) Reception facility, provided all structures used for such purpose collectively may not exceed three thousand (3,000) square feet.

(i) Professional office.

(j) Food service establishment such as: restaurant, cafe, and/or espresso stand.

(k) Veterinary facility with accommodations for animals within an enclosed building.

(l) Bank.

(m) Pet Grooming.

(n) Hiking and non-motorized biking trails.

(o) Church.
[Ord. 611 (2018) § 109]

11.29.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the Community Commercial District (CC) on a single parcel of record:

(a) Accessory/ancillary uses or buildings.

(b) Solar Power Generator Facility, Minor.
[Ord. 611 (2018) § 110]

11.29.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the Community Commercial District (CC) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Communication facilities, subject to the provisions of Chapter 11.47 BCC.

(b) Child Day Care Facility, Type A, subject to the provisions of BCC 11.42.050.
[Ord. 611 (2018) § 111]

11.29.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Community Commercial District (CC) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(b) Kennel, commercial.

(c) Public transit center.

(d) Dwelling unit within a structure also used for commercial purposes that meets the following criteria is eligible to apply for a conditional use permit:

(1) The dwelling unit may not be located on the ground level or below.

(2) The number of dwelling units may not exceed one (1) dwelling unit.

(3) The dwelling unit must meet Benton-Franklin Health District requirements for septic systems and domestic water usage.

(4) The dwelling unit shall comply with all of the applicable building code requirements.

(e) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210 and only treat waste generated on the same parcel or a contiguous parcel.

(f) School.

(g) Sewage treatment facility for industrial and/or domestic waste.

(h) Utility substation facility.

(i) Community clubhouse, grange hall and/or senior center.
[Ord. 611 (2018) § 112]

11.29.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.29.030, BCC 11.29.040, BCC 11.29.050 or BCC 11.29.060 is prohibited within the Community Commercial District (CC).
[Ord. 611 (2018) § 113]

11.29.080 PROPERTY DEVELOPMENT STANDARDS--GENERAL STANDARDS. All lands, structures and uses in the Community Commercial District (CC) shall conform to the following general standards, and if applicable, to the standards set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Lot Width. Each parcel shall have an average lot width of not less than ninety (90) feet.

(b) Maximum Building Size. Each structure is limited to eighteen thousand (18,000) square feet.
[Ord. 611 (2018) § 114]

11.29.090 PROPERTY DEVELOPMENT STANDARDS--SETBACK REQUIREMENTS. All lands, structures, and uses in the Community Commercial District (CC) shall meet the following setback requirements, and if applicable, the setback requirements set forth in Chapter 15.02 BCC, Chapter 15.04 BCC, Chapter 15.06 BCC, Chapter 15.08 BCC, Chapter 15.12 BCC, and Chapter 15.14 BCC.

(a) Each building on a parcel that is contiguous to a Community Center Residential (CCR), Rural Lands One Acre (RL-1), Rural Lands Five Acre (RL-5), Rural Lands Twenty Acre (RL-20), or Urban Growth Area Residential (UGAR) zoning district shall have a minimum setback of thirty (30) feet from said district border.

(b) Each building must be at least twenty-five (25) feet from the property line bordering any public road right-of-way and at least twenty-five (25) feet from the closest edge of any legally established boundary line of a private access easement.

(c) No building or structure shall be located within an easement or any public road right-of-way.
[Ord. 611 (2018) § 115]

11.29.100 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.29.110 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.31

INTERCHANGE COMMERCIAL DISTRICT (IC)

SECTIONS:

11.31.010	Purpose
11.31.020	Applicability
11.31.030	Allowable Uses
11.31.040	Accessory Uses
11.31.050	Uses Subject to Planning Administrator Review and Approval
11.31.060	Uses Requiring a Conditional Use Permit
11.31.070	Uses Prohibited
11.31.080	Property Development Standards - General Standards
11.31.090	Severability
11.31.100	Effective Date

11.31.010 PURPOSE. The Interchange Commercial District (IC) is designed to provide for the development of commercial services that are easily accessible from limited access highways and that primarily rely on the automobile as the principal source of customer access.
[Ord. 611 (2018) § 116]

11.31.020 APPLICABILITY. The provisions of this Chapter shall apply to the areas designated as an Interchange Commercial District (IC) on the official zoning maps of Benton County and located in unincorporated Benton County.
[Ord. 611 (2018) § 117]

11.31.030 ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed in the Interchange Commercial District (IC) on a single parcel of record:

(a) Automobile fueling station, electric vehicle charging station, car wash and/or truck stop with ancillary personal services (i.e. barber, laundry.
(b) Retail sales establishment, subject to the prohibition on marijuana retail outlets set forth in BCC 11.42.130.

(c) Food service establishment such as: restaurant, cafe, and/or espresso stand.

(d) Hotel/Motel.

(e) Rest area or visitor information center.

(f) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210, as currently in effect or as hereafter amended, and only treat waste generated on the same parcel or a contiguous parcel.

(g) Tasting room, bar, and/or tavern.

(h) Wineries/Breweries/Distilleries.

(i) Hiking and non-motorized biking trails.

(j) Rapid Charging Station.
[Ord. 611 (2018) § 118]

11.31.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the Interchange Commercial District (IC) on a single parcel of record:

(a) Accessory/ancillary uses or buildings.

(b) Solar Power Generator Facility, Minor.
[Ord. 611 (2018) § 119]

11.31.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the Interchange Commercial District (IC) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Communication facilities, subject to the provisions of Chapter 11.47 BCC.
[Ord. 611 (2018) § 120]

11.31.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Interchange Commercial District (IC) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Recreational vehicle park.

(b) Public transit center.

(c) Sewage treatment for industrial and/or domestic waste.

(d) Fire department facility, law enforcement facility, public utility office, and/or medical facility.

(e) Utility substation facility.

(f) Reception facility.

(g) Dwelling unit within a structure also used for commercial purposes that meets the following criteria:

(1) The number of dwelling units may not exceed one (1) dwelling unit.

(2) The dwelling unit must meet Benton-Franklin Health District requirements for septic systems and domestic water usage.

(3) The dwelling unit shall comply with all of the applicable building code requirements.

(h) Commercial Recreational Facility.
[Ord. 611 (2018) § 121; Ord. 617 (2019) § 8]

11.31.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.31.030, BCC 11.31.040, BCC 11.31.050 or 11.31.060 is prohibited within the Interchange Commercial District (IC).
[Ord. 611 (2018) § 122]

11.31.080 PROPERTY DEVELOPMENT STANDARDS - GENERAL STANDARDS. All lands, structures and uses in the Interchange Commercial District (IC) shall conform to the following standards:

(a) Lot Width. Each parcel shall have an average lot width of not less than ninety (90) feet.

(b) Setback Requirements. The following minimum setbacks shall apply:

(1) Each building on a parcel that is contiguous to a Community Center Residential (CCR), Rural Lands One Acre (RL-1), Rural Lands Five Acre (RL-5), Rural Lands Twenty Acre (RL-20), or Urban Growth Area Residential (UGAR) zoning district shall have a minimum setback of thirty (30) feet from said district border.

(2) Each building must be at least twenty-five (25) feet from the property line bordering any public road right-of-way and at least twenty-five (25) feet from the closest edge of any legally established boundary line of a private access easement.

(3) No building or structure shall be located within an easement or any public road right-of-way.
[Ord. 611 (2018) § 123]

11.31.090 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.31.100 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.33

LIGHT INDUSTRIAL DISTRICT (LI)

SECTIONS:

11.33.010	Purpose
11.33.020	Applicability
11.33.030	Allowable Uses
11.33.040	Accessory Uses
11.33.050	Uses Subject to Planning Administrator Review and Approval
11.33.060	Uses Requiring a Conditional Use Permit
11.33.070	Uses Prohibited
11.33.080	Property Development Standards
11.33.090	Severability
11.33.100	Effective Date

11.33.010 PURPOSE. The Light Industrial District (LI) is designed to provide an area for the establishment of manufacturing facilities that generally do not involve significant pollution issues, such as: research and development, computer component manufacturing businesses, and other businesses of a similar nature. Such light industrial activities should be sited and designed so as to avoid or significantly mitigate material adverse effects to the natural environment, adjacent non-industrial areas, and communities whenever feasible.
[Ord. 611 (2018) § 124]

11.33.020 APPLICABILITY. Provided all applicable code provisions are satisfied, the provisions of this Chapter shall apply to the areas designated as a Light Industrial District (LI) on the official zoning maps of Benton County and located in unincorporated Benton County.
[Ord. 611 (2018) § 125]

11.33.030 ALLOWABLE USES. The following uses are allowed within the Light Industrial District (LI) on a single parcel of record:

(a) Fire department facility, law enforcement facility, and/or medical facility.

(b) Research and development facility, computer component manufacturing, laboratory, and/or electronic data processing facility.

(c) Agricultural uses.

(d) Lumber yard and/or custom milling of logs into dimensional lumber.

(e) Nursery and/or landscaping business.

(f) Warehouse.

(g) Utility substation facility.

(h) Rental storage facility.

(i) Food processing and/or cannery.

(j) Metal fabrication and/or welding.

(k) Sales of on-site manufactured goods.

(l) Sales, service and repair of machinery equipment, automobiles, and/or trucks.

(m) Wineries/Breweries/Distilleries.

(n) Hiking and non-motorized biking trails.

(o) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the

state siting criteria adopted in RCW 70.105.210, as it now exists or is hereafter amended, and only treat waste generated on the same parcel or a contiguous parcel.

(p) Rapid Charging Station.

(q) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.
[Ord. 611 (2018) § 126; Ord. 640 (2021) § 3]

11.33.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the Light Industrial District on a single parcel of record:

(a) Accessory/ancillary uses or buildings.

(b) Accessory equipment structure if ancillary to a communication facility.

(c) Solar Power Generator Facility, Minor.
[Ord. 611 (2018) § 127]

11.33.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the Light Industrial District (LI) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Communication facilities, subject the provisions of Chapter 11.47 BCC.
[Ord. 611 (2018) § 128]

11.33.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Light Industrial District (LI) if a conditional use permit is

issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Race track facility for automotive, motocross, or horse racing.

(b) Agricultural recreational facility.

(c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.

(d) Solid waste transfer station.

(e) Airport/Heliport.

(f) ~~Asphalt plant~~ Concrete batching and asphalt processing and manufacture, batch plant.

~~(g) Concrete plant.~~

(h) Sewage treatment plant for industrial and/or domestic waste.

(i) Wrecking yard.

(j) Indoor shooting range.

(k) Solar Power Generator Facility, Major.

(l) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous

properties are leased for an identical duration for

development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Light Industrial Zoning District, except for Light Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of

Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

[Ord. 611 (2018) § 129; Ord. 640 (2021) § 4]

11.33.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.33.030, BCC 11.33.040, BCC 11.33.050 or BCC 11.33.060 is prohibited in the Light Industrial District (LI). [Ord. 611 (2018) § 130]

11.33.080 PROPERTY DEVELOPMENT STANDARDS. All lands, structures and uses in the Light Industrial District (LI) shall conform to the following standards:

(a) Lot Width. Each lot shall have an average lot width of not less than ninety (90) feet.

(b) Setback Requirements. The following minimum setbacks shall apply:

(1) Each building on a parcel that is contiguous to a Community Center Residential (CCR), Rural Lands One Acre (RL-1), Rural Lands Five Acre (RL-5), Rural Lands Twenty Acre (RL-20), or Urban Growth Area Residential (UGAR) zoning district shall have a minimum setback of thirty (30) feet from said district border.

(2) Each building must be at least twenty-five (25) feet from the property line bordering any public road right-of-way and at least twenty-five (25) feet from the closest edge of any legally established boundary line of a private access easement.

(3) No building or structure shall be located within an easement or any public road right-of-way.

[Ord. 611 (2018) § 131]

11.33.090 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.33.100 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.35

HEAVY INDUSTRIAL DISTRICT (HI)

SECTIONS:

11.35.010	Purpose
11.35.020	Applicability
11.35.030	Allowable Uses
11.35.040	Accessory Uses
11.35.050	Uses Subject to Planning Administrator Review and Approval
11.35.060	Uses Requiring a Conditional Use Permit
11.35.070	Uses Prohibited
11.35.080	Property Development Standards
11.35.090	Severability
11.35.100	Effective Date

11.35.010 PURPOSE. The purpose of the Heavy Industrial District (HI) is to provide an area for the location of industrial uses involving the manufacture, processing, or treatment of materials or products that may be inherently involved with potentially offensive characteristics such as odors, dust, smoke, noxious gases, noise, vibration, glare, heat, or other impacts. [Ord. 611 (2018) § 132]

11.35.020 APPLICABILITY. Provided all applicable code provisions are satisfied, the provisions of this Chapter shall apply to the areas designated as a Heavy Industrial District (HI) on the official zoning maps of Benton County and located in unincorporated Benton County.
[Ord. 611 (2018) § 133]

11.35.030 ALLOWABLE USES. The following uses are allowed within the Heavy Industrial District (HI) on a single parcel of record:

(a) The processing, assembly and/or manufacturing of raw materials, semi-finished materials, and/or finished materials, except for the manufacturing reprocessing and/or storage of radioactive waste.

(b) Ironwork, drop forge industry, and/or metal fabrication.

(c) Repair of machinery equipment, automobiles and/or trucks.

(d) Food processing facility, cannery and/or cold storage facility.

(e) Agricultural uses.

(f) Retail sales of goods manufactured on the premises; provided, that the floor space devoted to such use does not exceed ten (10) percent of the gross floor area of all buildings on the parcel.

(g) Wholesale sales of products.

(h) Transportation facilities for handling cargo and/or passengers, including mooring facilities, grain elevator, or barge terminal.

(i) Warehouse.

(j) Utility substation facility.

(k) Production of alcohol fuels, biodiesel, or ethanol.

(l) Hiking and non-motorized biking trails.

(m) Sewage treatment plant for industrial and/or domestic waste.

(n) Solid waste~~—~~transfer station, ~~and/or~~ recycling center, and organmic material management.

(o) Wrecking yard.

(p) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210, as currently in

effect or as hereafter amended, and only treat waste generated on the same parcel or a contiguous parcel.

(q) Rapid Charging Station.

(r) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.
[Ord. 611 (2018) § 134; Ord. 640 (2021) § 5]

11.35.040 ACCESSORY USES. Provided all applicable code provisions are satisfied, the following uses are allowed as an accessory/ancillary use within the Heavy Industrial District (HI) on a single parcel of record:

(a) Accessory/ancillary uses or buildings.

(b) Solar Power Generator Facility, Minor.
[Ord. 611 (2018) § 135]

11.35.050 USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the Heavy Industrial District (HI) on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Communication facilities, subject to the provisions of Chapter 11.47 BCC.
[Ord. 611 (2018) § 136]

11.35.060 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Heavy Industrial District (HI) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Facilities for generating power for sale to the public, including solar power generators; provided, that such power cannot be nuclear fueled.

(b) Hazardous waste treatment and/or hazardous waste storage facility treating waste not generated on the same or a contiguous parcel; provided, that such facility must comply with Washington State siting criteria set forth in RCW 70.105.210, as currently in effect or as hereafter amended.

(c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.

(d) ~~Asphalt plant~~ Concrete batching and asphalt processing and manufacture, batch plant.

~~(e) Concrete plant.~~

(f) Airport/Heliport.

(g) Railroad switch yards, maintenance and/or repair facilities.

(h) State and/or local correctional facility, and/or Secure Community Transition Facility as described by RCW 36.70A.200, as currently in effect or as hereafter amended.

(i) Solar Power Generator Facility, Major.

(j) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for

development of a wind farm, the tower bases set back from the

property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Heavy Industrial Zoning District, except for Heavy Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect

now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

[Ord. 611 (2018) § 137; Ord. 640 (2021) § 6]

11.35.070 USES PROHIBITED. Any use not authorized or approved pursuant to BCC 11.35.030, BCC 11.35.040, BCC 11.35.050 or 11.35.060 is prohibited in the Heavy Industrial District (HI). [Ord. 611 (2018) § 138]

11.35.080 PROPERTY DEVELOPMENT STANDARDS. All lands, structures and uses in the Heavy Industrial (HI) District shall conform to the following standards:

(a) Lot Width. Each lot shall have an average lot width of not less than ninety (90) feet.

(b) Setback Requirements. The following minimum setbacks shall apply:

(1) Each building on a parcel that is contiguous to a Community Center Residential (CCR), Rural Lands One Acre (RL-1), Rural Lands Five Acre (RL-5), Rural Lands Twenty Acre (RL-20), or Urban Growth Area Residential (UGAR) zoning district shall have a minimum setback of thirty (30) feet from said district border.

(2) Each building must be at least twenty-five (25) feet from the property line bordering any public road right-of-way and at least twenty-five (25) feet from the closest edge of any legally established boundary line of a private access easement.

(3) No building or structure shall be located within an easement or any public road right-of-way.

[Ord. 611 (2018) § 139]

11.35.090 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.35.100 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]

CHAPTER 11.42

GENERAL USE REGULATIONS

SECTIONS:

11.42.010 Access to Public Roads
11.42.020 Accessory Dwelling Units (ADU)
11.42.030 Bed and Breakfast Facility
11.42.040 Building Permits
11.42.050 Child Day Care Facility, Type A
11.42.060 Child Day Care Facility, Type B—Conditional Use Permit Required
11.42.070 Fencing Standards
11.42.080 Multiple Detached Dwelling Units (MDD)
11.42.090 Non-Commercial Sand and Gravel Pits, Quarries, and Mineral Resources-Administrative Review
11.42.100 Solar Power Generator Facility-Major and Minor
11.42.110 Temporary Dwelling
11.42.120 Temporary Outdoor Retail Sales
11.42.130 Prohibition and Regulation of Marijuana Related Activities
~~11.42.035 Signs~~11.42.140 Resource Lands Notification

11.42.~~140~~145 Severability
11.42.150 Effective Date

11.42.010 ACCESS TO PUBLIC ROADS.

(a) Every single-family dwelling, manufactured home, or multi-family dwelling constructed on or placed upon any property after May 10, 1976, shall be constructed on or placed upon a property which fronts upon and has direct access to a county road, state highway or city street, except the following:

~~(1) Dwelling placed in a planned development in accordance with the provisions of Chapter 11.21 BCC.~~

Commented [DH1]: Strike - relates to PD

(2) Manufactured homes placed in an approved manufactured home park, pursuant to BCC 3.22 (Manufactured Home Park Ordinance).

(3) Dwellings to be located on property for which there is a non-exclusive and perpetual easement or right-of-way for ingress and egress recorded in the Benton County Auditor's office. Said easement or right-of-way shall be continuous from the boundary of the property on which the dwelling is to be located to a county road, state highway, or city street and shall serve only one dwelling unit per individual piece of property. All applicants for building permits issued under the authority of this subsection shall sign an affidavit stating that the responsibility for construction and maintenance of this easement shall be vested with the property owner and not Benton County.

(4) A manufactured home located on property that proposes to provide access across state or federally owned property and for which there is a non-perpetual easement, lease, or right-of-way for ingress and egress across the state or the federally owned property, recorded in the Benton County Auditor's office. That portion of the access easement crossing property not owned by the state or federal government shall comply with BCC 11.42.010(a)(3) above. Said easements or ~~right-of-ways~~rights-of-way shall be continuous from the boundary of the property on which the manufactured home is to be located to a county road, state highway, or city street and shall serve only one dwelling unit per individual piece of property. The placement permit for the manufactured home shall be valid for no longer than the duration of the non-perpetual easement, lease, or right-of-way obtained over the state or federally owned property, and the manufactured home must be removed thereafter. All applicants for placement permits issued under the authority of this subsection shall sign and record an affidavit stating that the responsibility for construction and maintenance of the easement shall be vested with the property owner and not Benton County. Prior to recording of any transfer of ownership of property being

served by an access easement per BCC 11.42.010(a)(4), a new easement must

be granted to the new owner by the appropriate state or federal agency and recorded per BCC 11.42.010(a)(4).

(5) Dwellings placed on a lot in approved short plat; or

(6) Dwellings placed on a property for which a conditional permit or variance from these requirements has been granted.

(b) Any person submitting an application for a building permit to construct a dwelling on property which is exempt from the access requirement by BCC 11.42.010(a)(3) or an application for a placement permit to locate a manufactured home on property exempt from the access requirement by BCC 11.42.010(a)(4) shall also submit a copy of the recorded easement or right-of-way agreement to the Benton County Building Official.

(c) A county road shall mean a road which is on the county road system as shown by the county engineer's maps and is maintained by Benton County. Roads included in an accepted plat, filed with the county auditor, for which construction provisions have been made shall also constitute county roads.

(d) ~~Except in planned developments established in accordance with Chapter 11.21 BCC,~~ Sshort plat lots which obtain access via access easements, manufactured home parks established in accordance with BCC 3.22, recreational vehicle parks or when multiple detached dwellings are approved in accordance with BCC 11.42.080, no other dwelling shall be located between a single family dwelling, manufactured home or multiple family dwelling and the street, road, or highway upon which it fronts.
[Ord. 611 (2018) § 162]

11.42.020 ACCESSORY DWELLING UNITS (ADU). An accessory dwelling unit shall be allowed on any real property located within unincorporated Benton County that is zoned for single family residences, except for those properties with an Industrial or Commercial zoning designation, thereby meeting the requirements of the Washington State Housing Policy Act of 1993 to incorporate provisions for accessory apartments in the County's zoning ordinance (Title 11 BCC).

Commented [DH2]: Strike - relates to PD

Commented [DH3]: Rural Versus Urban standards

(a) All accessory dwelling units authorized herein shall meet the following minimum criteria:

(1) The maximum number of accessory dwelling units allowed shall be as follows: One (1) accessory dwelling unit is allowed per parcel/lot outside of an urban growth area. Two (2) accessory dwelling units are allowed on parcels inside an urban growth area subject to the underlying zone development regulations.

(2) A single-family dwelling must be located on the parcel/lot where the accessory dwelling unit is to be located.

(3) The accessory dwelling unit outside of an urban growth area shall not exceed ~~40% of the total square footage of the single-family home or 800 square feet in size, whichever is smallest~~1000 square feet in size. Where the primary residence on a parcel outside an urban growth area is less than 1000 square feet in size, the maximum allowable size the the accessory dwelling unit must be less than the square footage of the primary residence. Accessory dwelling units inside an urban growth area shall not exceed 1,000 square feet, regardless of the size of the primary residence.

(4) The accessory dwelling unit shall consist of no more than one (1) bedroom.

(5) The accessory dwelling unit shall provide two (2) off-street parking spots.

(6) An accessory dwelling unit shall be constructed on the site and permanently affixed to the ground by footings and foundation. A recreational vehicle (RV), mobile home, manufactured home, or factory assembled structure is not to be permitted as an accessory dwelling unit.

(7) The accessory dwelling unit is not allowed on a lot/parcel that has a duplex (except where allowed as a unit lot subdivision), multi-family dwelling (except where allowed as a unit lot subdivision), a temporary dwelling permit (see

BCC 11.42.110), a multiple detached dwelling permit (see BCC 11.42.080) or two (2) or more single-family dwellings.

(8) The accessory dwelling unit is not allowed to be used in the operation of a home occupation, commercial or business uses.

Commented [DH4]: No commercial, industrial, or business uses allowed in ADU.

(9) The accessory dwelling unit shall both meet and comply with Benton Franklin Health District standards.

(10) The accessory dwelling unit shall meet and comply with Benton County Fire Marshal requirements for access.

(11) The accessory dwelling unit may be permitted as either a ground floor or 2nd floor unit.

~~(12) Either the accessory dwelling unit or the single-family dwelling shall be occupied by a landowner(s) as his/her primary residence. The landowner shall maintain residency at least six (6) months out of the year and at no time receive rent for, or otherwise allow to occupy the landowner(s) unit when absent the rest of the year.~~

(~~13~~12) If the accessory dwelling unit is connected to the single-family dwelling through a breezeway or similar means, the accessory dwelling unit shall be considered detached and compliance with subsection (c) below is required.

(~~14~~13) The accessory dwelling unit shall comply with the applicable building, fire, critical area, shoreline, and zoning requirements of Title 3, 11, and 15 of Benton County Code.

~~(15) The accessory unit shall not be considered as a dwelling unit when calculating density.~~

(~~16~~14) The accessory dwelling unit shall comply with requirements in subsection (b) and (c) below respectively.

(b) An accessory dwelling unit located within or attached to a single-family dwelling shall comply with the following:

(1) The accessory dwelling unit must be located within or attached to the single-family dwelling unit with a common wall.

(2) The primary single-family dwelling may be a manufactured home or a ~~site built~~site-built home. Manufactured homes shall obtain Washington State Labor and Industries approval on any modifications or additions to the home prior to receiving building permit approval by Benton County.

(3) The appearance and character of the single-family residence shall be maintained when viewed from the surrounding neighborhood. Whenever possible, any new entrance shall be placed at the side or rear of the building.

~~(4) The occupant of the accessory dwelling unit must be related to the occupant or be providing or receiving continuous care and assistance necessitated by advanced age, illness, or other infirmity. If the occupant of the accessory dwelling unit does not comply with this standard, the applicant may apply for a conditional use permit (see Chapter 11.50 BCC).~~

Commented [DH5]: Suggest striking...complicated issues relating to owner-occupancy requirements...

(~~5~~4) An accessory dwelling unit may be used as part of a Bed and Breakfast Facility if the single-family dwelling is approved to operate as a Bed and Breakfast Facility (see BCC 11.42.030) and said approval includes the use of the accessory dwelling unit.

(c) An accessory dwelling unit detached from the single-family dwelling shall comply with the following:

(1) All detached accessory dwelling units require approval of a conditional use permit (see Chapter 11.50 BCC).

(2) A detached accessory dwelling unit shall comply with the following minimum design standards.

(i) The detached accessory dwelling unit may be constructed within an existing outbuilding or be a stand alone~~g~~ structure, where the dwelling unit does not share a common wall with the primary ~~single family~~single-family dwelling. If the accessory dwelling unit is connected to the single-family dwelling through a breezeway or similar means, the accessory dwelling unit shall be considered detached.

~~(ii) An outside entrance to the accessory dwelling unit is required and be placed at the side or rear of the building, when possible, to maintain appearance and character of an accessory use.~~

(d) The applicant shall record the permit issued for the accessory dwelling unit with the Benton County Auditor's Office. The recording fee shall be paid by the applicant for the accessory dwelling unit. If the approved accessory dwelling unit is located outside an urban growth area, ~~T~~the permit shall include a statement that the accessory dwelling may not be sold as a separate residence until such time as the accessory dwelling is located as the sole residence on a legally subdivided parcel.
[Ord. 611 (2018) § 163]

11.42.030 BED AND BREAKFAST FACILITY.

(a) A bed and breakfast facility must be accessory to a household living use on a site. This means that an individual or family who operates the facility must occupy the house as their primary residence.

(b) Banquets, parties, weddings, or meetings for guests or other non-family members are prohibited unless these type of activities are specifically stated in an approved conditional use permit.

(c) Bed and breakfast facility shall comply with all applicable health (including Department of Health and Social Service review), fire safety and building codes.

(d) One sign not to exceed thirty-two (32) square feet in area shall be allowed. Lighted signs may be permitted with external direct lighting.

(e) Driveways accessing a facility shall be approved by the appropriate fire marshal and shall have a minimum easement width of thirty (30) feet with a twenty (20) foot fire apparatus road and be constructed at a grade in compliance with county standards.

(f) One off-street parking space shall be provided for each room available for patrons in addition to the off-street parking requirements for the underlying zoning district.

(g) Outdoor activity shall be limited to the hours of seven a.m. to ten p.m.

(h) For the purposes of this section, a bed and breakfast facility is not a hotel, inn, motel, lodging or rooming house, or restaurant.
[Ord. 611 (2018) § 164]

11.42.040 BUILDING PERMITS.

(a) No person, company, or corporation shall erect a building or structure of any kind or make any addition to an existing building or structure or alter any building or structure already erected within the unincorporated area of the County of Benton without complying with Title 3 of the Benton County Code.

(b) For building permit applications that will necessitate potable water, evidence of an adequate water supply shall be submitted in accordance with RCW 19.27.097 and, if applicable, compliance with Chapter 15.18 BCC.
[Ord. 611 (2018) § 165; Ord. 621 (2020) § 1]

11.42.050 CHILD DAY CARE FACILITY, TYPE A. No Child Day Care Facility, Type A, shall be permitted until a Child Day Care Facility Registration has been approved by the Planning Administrator upon compliance with this section. The following procedures shall apply:

(a) Application. The property owner shall submit a completed application form supplied by the Benton County Planning Department. The application shall be accompanied by a site plan, drawn to a scale of one inch equals 100 feet showing the proposed use, all existing and proposed structures and means of access.

The applicant's name, address, and telephone number, the signatures of all persons holding an ownership interest in the real property, the size and type of day care facility, including maximum number and ages of children cared for, and a non-refundable application fee as established by resolution of the Board of County Commissioners shall be included at the time an application for registration is submitted.

(b) Review by Planning Administrator. The Planning Administrator shall refer the matter to appropriate agencies for their comments, and shall determine the following:

(1) The proposed use has received all necessary approvals from Washington State regarding child care facilities.

(2) The proposed use conforms with all applicable ordinances and regulations of Benton County which also apply to other permitted uses in the applicable zoning district.

(3) The proposed use complies with all applicable requirements of the Benton-Franklin District Health Department, Department of Social and Health Services, and any municipality or agency providing water or sewer.

(4) Signage is limited to no more than one non-illuminating sign, with a maximum area of four (4) square feet, and a maximum sign height of six (6) feet above grade. The posting of such signs is limited to the parcel on which the approved child day care facility is located. On-street (inside the road right-of-way) sign posting and any sign posting which interferes with the line-of-sight for road intersections are prohibited.

(5) The outdoor play area is fenced to a height of not less than four (4) feet.

(6) Off-street parking areas shall be provided so as to allow one space for every employee.

(7) An off-street parking area shall be designated for the loading and unloading of children.

(8) The site for the proposed use shall be landscaped in such a manner to be compatible with surrounding uses.

(9) The residential character of an existing residential structure used for a child day care facility must continue, and maintain, the essence of the residential character of the surrounding neighborhood. Any structural or decorative alteration which alters the residential character is not permitted.

(10) The facility shall conform to International Fire Code (IFC), state, and local fire standards for fire prevention as now adopted or hereafter amended.

(11) The facility must comply with International Building Code (IBC) requirements as now adopted or hereafter amended.

(c) Decision. The Planning Administrator will, after conferring with appropriate agencies, determine whether the facility will conform and be consistent with the standards set for the above in Section 11.04.050(b)(1-11) and approve or deny the permit.

(1) If denied, the applicant shall be informed in writing of the reasons for denial.

(2) If conditional approval is given, the applicant shall have six (6) months to satisfy the conditions.

(d) Notification.

(3) Notice of the Planning Administrator's decision to approve or deny the permit shall be sent by first class mail to all persons signing the application.

(4) Notice of the Planning Administrator's decision will also be sent to the owners of all real property, as shown in the records of the Benton County Assessor, located

Formatted: Indent: Left: 0.5", First line: 0"

Formatted: Font: (Default) Courier New, 12 pt

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1"

Formatted: Font: (Default) Courier New, 12 pt

Formatted: Font: (Default) Courier New, 12 pt

Formatted: Indent: Left: 1", No bullets or numbering

within three hundred (300) feet of any boundary of the property for which the proposed communication facility will be located; provided, if the owner of the property for which the proposed facility will be located owns another parcel or parcels adjacent to such property, notification also shall be mailed to owners of real property located within three hundred (300) feet of any boundaries of such adjacent parcels.

(5) The notification shall contain a statement as to whether the proposed use is allowed or is not allowed.

(6) The notification shall state that any person aggrieved by the approval or denial of the shall have fourteen (14) calendar days from the date of the decision to file a written appeal of the Planning Administrator's decision.

(7) The Planning Administrator's decision shall be deemed final upon the date of mailing of the written decision, unless an appeal is filed pursuant to BCC 11.53.080.

~~(c) Notification. If the Planning Administrator determines all the above are satisfied, written notification of the proposed use shall be sent by first class U. S. Mail to owners of real property, as shown in the records of the Benton County Assessor, located within three-hundred (300) feet of any portion of the boundary of the proposed use; provided, if the owner of the property for which the proposed use is requested owns another parcel or parcels adjacent to the property, notification shall be mailed to owners of real property located within three-hundred (300) feet of any portion of the boundaries of such adjacent parcels. The notification shall contain a statement that the proposed use shall be approved without holding an open record hearing if no appeal is submitted to the Planning Administrator within fourteen (14) calendar days following date of mailing of notification.~~

~~Failure to send notice to a person specified in this section or failure to receive notice shall not invalidate any proceedings or~~

Formatted: Left, Indent: Left: 0.5", Space After: 8 pt, Line spacing: Multiple 1.08 li, No bullets or numbering

Formatted: Font: (Default) Courier New, 12 pt

Formatted: Left, Indent: Left: 0.5", Space After: 8 pt, Line spacing: Multiple 1.08 li, No bullets or numbering

Formatted: Font: (Default) Courier New, 12 pt

Formatted: Font: (Default) Courier New, 12 pt

Formatted: Left, Indent: Left: 0.5", Space After: 8 pt, Line spacing: Multiple 1.08 li, No bullets or numbering

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1"

Formatted: Font: (Default) Courier New, 12 pt, Font color: Red

Formatted: Font: (Default) Courier New, 12 pt, Font color: Red

~~decision in connection with the proposed use. The appeal must be accompanied by a non-refundable fee as established by resolution of the Board of County Commissioners.~~

~~(d) Approval by Planning Administrator. If no appeal is received by the Planning Administrator within fourteen (14) days following mailing of the notification, the proposed use shall be approved or conditionally approved. If conditional approval is given, the applicant shall have six (6) months to satisfy the conditions.~~

~~(e) Denial. If, after reviewing the application, the Planning Administrator determines that the proposal does not meet the requirements of BCC 11.42.050(b), he/she shall deny the request and inform the applicant in writing the reasons for the denial.~~

~~(f)~~(e) Revocation of Child Day Care Facility Registration. If the Planning Administrator determines that an activity is not being conducted in accordance with the terms of the Child Day Care Facility Registration and in compliance with the requirements of BCC 11.42.050, the registration may be revoked after notice to the holder of the registration. If the registration holder has not demonstrated to the Planning Administrator within seven (7) days of the mailing of such notice that grounds for revocation do not exist, then the registration will be revoked.

Upon revocation of a child day care facility registration, all day care activities shall cease within twenty (20) days unless an appeal is in process. If the child day care activities do not timely cease, the matter may be referred to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC, inclusive.
[Ord. 611 (2018) § 166]

11.42.060 CHILD DAY CARE FACILITY, TYPE B--CONDITIONAL USE PERMIT REQUIRED. No Child Day Care Facility, Type B, shall be permitted unless a conditional use permit has been approved by the Benton County Hearings Examiner that meets the following criteria and any other conditions required by the Hearings Examiner:

(a) The proposed use has received all necessary approvals from Washington State regarding child care facilities.

(b) The proposed use conforms with all applicable ordinances and regulations of Benton County that also apply to other permitted uses in the applicable zoning district.

(c) The proposed use complies with all applicable requirements of the Benton-Franklin District Health Department, Department of Social and Health Services, and any municipality or agency providing water or sewer.

(d) Signage is limited to no more than one non-illuminating sign with a maximum area of four (4) square feet and a maximum sign height of six (6) feet above grade. The posting of such sign is limited to the parcel on which the approved Type B Child Day Care Facility is located. On-street (inside the road right-of-way) sign posting and any sign posting that interferes with the line of sight for a road intersection are prohibited.

(e) Off-street parking areas shall be provided so as to allow one (1) space for every employee and one (1) space for every five (5) children that will be attending the facility.

(f) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

(g) The facility shall conform to International Fire Code (IFC), State, and local fire standards for fire prevention as now adopted or hereafter amended.

(h) The facility must comply with International Building Code (IBC) requirements as now adopted or hereafter amended.
[Ord. 611 (2018) § 167]

11.42.070 FENCING STANDARDS

(a) Fences that are 7 feet or less in height are exempt from a building permit. Fences that are greater than 7 feet in height shall not be erected without first obtaining a building permit from the Benton County Building Department.

(b) Fences, regardless of height, to be located in a Flood Hazard Area, will require a Flood Development Permit and compliance with BCC 3.26, as existing and hereafter amended.

(c) Fences, regardless of height, shall comply with the following construction standards: Fences shall not be constructed out of tires, pallets, tarps and/or sheet plastic, bed springs, multi-colored materials, except colored materials manufactured specifically for fencing (i.e., slats of chain link fences), corrugated sheet metal, wheel rims and similar or like materials not traditionally manufactured or used for fencing purposes. [Ord. 611 (2018) § 168]

11.42.080 MULTIPLE DETACHED DWELLING UNITS (MDD). Where stated in this title that two (2), three (3), or four (4) detached single-family dwellings on an individual lot or two (2), three (3), or four (4) manufactured (mobile) homes on an individual lot may be permitted upon compliance with this section, the following procedure shall apply:

(a) Application. The property owner shall submit a completed application form supplied by the Benton County Planning Department. The application shall accompany a plot plan, drawn to a scale of one inch equals fifty (1" = 50') feet showing the proposed use, all existing and proposed structures and means of access. The applicant's name, address, and telephone number, the signatures of all persons holding an ownership interest in the real property, and a non-refundable application fee as established by resolution of the Board of Benton County Commissioners shall be required. Each dwelling unit must have frontage on a county, city or state road or easement in a short plat.

(b) Review by Planning Administrator. The Planning Administrator shall refer the matter to appropriate agencies for their comments, and shall determine the following:

(1) The proposed use does not have an adverse effect on other uses permitted in the applicable zoning district.

(2) The proposed use conforms with all applicable ordinances and regulations of Benton County which also apply to other permitted uses in the applicable zoning district.

(3) The proposed use complies with the density requirements of the Benton County Comprehensive Plan.

(4) The lot size equals or exceeds the total square footage and setbacks required by this chapter for the total proposed dwellings as if the dwellings were located on separate parcels.

(5) The proposed use complies with all applicable requirements of the Benton Franklin District Health District, Department of Social and Health Services, Department of Ecology or any municipality providing water or sewer.

(c) Decision. The Planning Administrator will, after conferring with appropriate agencies, determine whether the proposed use will conform and be consistent with the standards set for the above in Section 11.42.0850(b)(1-5) and approve or deny the permit.

(1) If denied, the applicant shall be informed in writing of the reasons for denial.

(2) If conditional approval is given, the applicant shall have six (6) months to satisfy the conditions.

(d) Notification.

(1) Notice of the Planning Administrator's decision to approve or deny the permit shall be sent by first class mail to all persons signing the application.

(2) Notice of the Planning Administrator's decision will also be sent to the owners of all real property, as shown in the records of the Benton County Assessor, located within three hundred (300) feet of any boundary of the property for which the proposed communication facility will be located; provided, if the owner of the property

Formatted: Font: (Default) Courier New, 12 pt

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1", Tab stops: 1", Left

Formatted: Indent: Left: 0.5", Hanging: 0.5", Tab stops: 1", Left

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1", Tab stops: 1", Left

Formatted: Font: (Default) Courier New, 12 pt

Formatted: Indent: Left: 1", No bullets or numbering

Formatted: Font: (Default) Courier New, 12 pt

Formatted: Normal, Indent: Left: 0.5", Hanging: 0.5", No bullets or numbering, Tab stops: 0.5", Left

for which the proposed facility will be located owns another parcel or parcels adjacent to such property, notification also shall be mailed to owners of real property located within three hundred (300) feet of any boundaries of such adjacent parcels.

(3) The notification shall contain a statement as to whether the proposed use is allowed or is not allowed.

(4) The notification shall state that any person aggrieved by the approval or denial of the shall have fourteen (14) calendar days from the date of the decision to file a written appeal of the Planning Administrator's decision.

(5) The Planning Administrator's decision shall be deemed final upon the date of mailing of the written decision, unless an appeal is filed pursuant to BCC 11.53.080.

~~(c) Notification. If the Planning Administrator determines all the above are satisfied, written notification of the proposed use shall be sent by first class U.S. Mail to owners of real property, as shown in the records of the Benton County Assessor, located within three-hundred (300) feet of any portion of the boundary of the proposed use; provided, if the owner of the property for which the proposed use is requested owns another parcel or parcels adjacent the property, notification shall be mailed to owners of real property located within three-hundred (300) feet of any portion of the boundaries of such adjacent parcels. The notification shall contain a statement that the proposed use shall be approved without holding an open record hearing if no objection is submitted to the Planning Administrator within seven (7) calendar days following date of mailing of notification.~~

~~Failure to send notice to a person specified in this section or failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed use.~~

~~(d) Approval by Planning Administrator. If no objection is received by the Planning Administrator within seven (7) days~~

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1"

~~following mailing of notification, the proposed use shall be approved or conditionally approved. If conditional approval is~~

~~given, the applicant shall have six (6) months to satisfy the conditions. The Planning Administrator shall endeavor to issue his decision on the proposed use within fifteen (15) working days from the date of submittal of a complete application.~~

~~(e) Referral to the Hearings Examiner. If, after notification by the Planning Administrator, any objection to the proposed use is received within seven (7) days following the mailing thereof, the Planning Administrator shall refer the request to the Hearings Examiner and the Hearings Examiner shall act upon the request as if it were a request for conditional use permit, pursuant to BCC 11.50.040.~~

~~(f) Denial. If, after reviewing the application, the Planning Administrator determines that the proposal does not meet the requirements of BCC 11.42.080(b), he/she shall deny the request and inform the applicant in writing the reasons for the denial.~~

~~(g) Appeal. Anyone aggrieved by the administrator's decision shall have fourteen (14) days from the date of decision to appeal to the Hearings Examiner. The Hearings Examiner shall hear the appeal pursuant to BCC 11.53.080.~~
[Ord. 611 (2018) § 169]

11.42.090 NON-COMMERCIAL SAND AND GRAVEL PITS, QUARRIES, AND MINERAL RESOURCES- ADMINISTRATIVE REVIEW. **Allows for the extraction of sand and gravel on a property for personal use, not for commercial sale**

(a) Review by Planning Administrator. The Planning Administrator shall refer the matter to appropriate agencies for their comments, and shall determine the following:

(1) The proposed use will not be marketed, promoted, or sold, and is for the sole use of the owner of the property.

(2) The proposed use does not have an adverse effect on other uses permitted in the applicable zoning district.

(3) The proposed use conforms with all applicable ordinances and regulations of Benton County which also apply to other permitted uses in the applicable zoning district.

(4) The proposed use complies with all applicable requirements of the Benton Franklin District Health Department, Washington State Department of Ecology, the Washington State Department of Natural Resources and other agencies as applicable.

(5) The proposed use is consistent with the intent of BCC 15.16 Mineral Resource Lands as currently existing and hereafter amended.

(6) The proposed use complies with BCC 6.35 Environmental Policy and BCC 15 Critical Areas.

(c) Decision. The Planning Administrator will, after conferring with appropriate agencies, determine whether the proposed use will conform and be consistent with the standards set for the above in Section 11.42.050(b)(1-11) and approve or deny the permit.

(7) If denied, the applicant shall be informed in writing of the reasons for denial.

(8) If conditional approval is given, the applicant shall have six (6) months to satisfy the conditions.

(d) Notification.

(9) Notice of the Planning Administrator's decision to approve or deny the permit shall be sent by first class mail to all persons signing the application.

(10) Notice of the Planning Administrator's decision will also be sent to the owners of all real property, as shown in the records of the Benton County Assessor, located within three hundred (300) feet of any boundary of the property for which the proposed communication facility will be located; provided, if the owner of the property for which the proposed facility will be located owns another parcel or parcels adjacent to such property, notification also shall be mailed to owners of real

Formatted: List Paragraph, Indent: Left: 0.5", First line: 0", Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 1", Tab stops: Not at 3.8"

Formatted: Font: (Default) Courier New, 12 pt

property located within three hundred (300) feet of any boundaries of such adjacent parcels.

(11) The notification shall contain a statement as to whether the proposed use is allowed or is not allowed.

(12) The notification shall state that any person aggrieved by the approval or denial of the shall have fourteen (14) calendar days from the date of the decision to file a written appeal of the Planning Administrator's decision.

(13) The Planning Administrator's decision shall be deemed final upon the date of mailing of the written decision, unless an appeal is filed pursuant to BCC 11.53.080.

(b) Notification. If the Planning Administrator determines all the above are satisfied, written notification of the proposed use shall be sent by first class U.S. Mail to owners of real property, as shown in the records of the Benton County Assessor, located within three-hundred (300) feet of any portion of the boundary of the proposed use; provided, if the owner of the property for which the proposed use is requested owns another parcel or parcels adjacent the property, notification shall be mailed to owners of real property located within three-hundred (300) feet of any portion of the boundaries of such adjacent parcels. The notification shall contain a statement that the proposed use shall be approved without holding a public hearing if no objection is submitted to the Planning Administrator within seven (7) calendar days following date of mailing of notification.

Failure to send notice to a person specified in this section or failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed use.

(c) Approval by Planning Administrator. If no objection is received by the Planning Administrator within seven (7) days following mailing of notification, the proposed use shall be approved or conditionally approved. If conditional approval is

given, the applicant shall have six (6) months to satisfy the conditions. The Planning Administrator shall endeavor to issue his decision on the proposed use within fifteen (15) working days from the date of submittal of a complete application.

(d) Referral to the Hearings Examiner. If, after notification by the Planning Administrator, any objection to the proposed use is

received within seven (7) days following the mailing thereof, the Planning Administrator shall refer the request to the Hearings Examiner and the Hearings Examiner shall act upon the request as if it were a request for conditional permit, pursuant to BCC 11.50.040.

(e) Denial. If, after reviewing the application, the Planning Administrator determines that the proposal does not meet the requirements of BCC 11.42.090(a), he shall deny the request and inform the applicant in writing the reasons for the denial.

(f) Appeal. Anyone aggrieved by the administrator's decision shall have fourteen (14) days from the date of decision to appeal to the Hearings Examiner. The Hearings Examiner shall hear the appeal pursuant to BCC 11.53.080.
[Ord. 611 (2018) § 170]

11.42.100 SOLAR POWER GENERATOR FACILITY- MAJOR AND MINOR

(a) Minor Facilities. To promote the safe, effective and efficient use of solar energy facilities installed to reduce the on-site consumption of utility supplied energy.

(1) Height.

(i) Roof mounted systems shall not exceed the maximum building height of the zoning district in which located and shall not extend more than 5 feet above the highest point of the existing roof.

(ii) Ground mounted systems shall not exceed 8’ in height.

(2) Setbacks. Roof and ground-mounted systems shall observe all front, side and rear setback standards in accordance with the zoning district in which located. In no instance shall any part of a roof-mounted solar energy system extend beyond the edge of the roof.

(3) Lot Coverage. The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage for the zoning district in which located.

(4) General Standards.

(i) Building permits shall be obtained for all roof-mounted solar systems.

(ii) A roof-mounted system may be mounted on a principal building or accessory building.

(iii) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.

(iv) All minor facilities that are connected to the utility grid shall comply with the requirements of Chapter 80.60 RCW, Net Metering of Electricity, as it now exists or is hereafter amended.

(b) Major Facilities. Systems that solely serve offsite uses are utility-scale solar facilities sited on a parcel as the principal use.

(1) Setbacks: Shall meet the minimum zoning setbacks for the zoning district in which located.

(2) Height: Twenty (20) feet maximum.

(3) Lot Coverage: The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage for the zoning district in which located.

(4) Visibility:

(i) Solar facilities with panels located at least one hundred fifty (150) feet from an adjacent public street

right-of-way, residentially zoned property, or residential use shall not require screening.

(ii) Solar facilities with panels located less than one hundred fifty (150) feet from an adjacent public street right-of-way, residentially zoned property, or residential use shall require screening. Screening is to include a perimeter landscape buffer as determined by the Planning Administrator through the required conditional use permit process.

(5) Solar facilities are to be equipped with a non-reflective finish/coating.

[Ord. 611 (2018) § 171; Ord. 617 (2019) § 9]

11.42.110 TEMPORARY DWELLING.

(a) Purpose. The purpose of this section is to provide for the approval of temporary dwellings to satisfy certain personal hardships, and to satisfy certain needs of the agricultural community. Because such hardships or needs are personal and generally transitory, the approval of temporary dwellings should not constitute a long-term land use commitment which may conflict with the comprehensive plan and implementing ordinances.

(b) Temporary Dwellings Authorized. Subject to the conditions and upon issuance of the permit provided for herein, one (1) temporary dwelling may be established and maintained on a parcel for use by one or more of the following:

(1) A person who is to receive or administer continuous care and assistance necessitated by advanced age, illness or infirmity. Such care must be received or administered by a resident of an existing dwelling located on the same lot;

(2) A caretaker, hired hand or other employee working on the parcel in connection with an agricultural use of the premises; or

(3) An owner in the process of building a permanent dwelling on the parcel. Owner shall have an approved and active building permit with the County Building Department; or

(4) A caretaker living on the parcel for the purpose of caring for the existing dwelling and for making other improvements on the property while the owner is on vacation or is working out of the area. Only a self-contained recreational vehicle shall be used as a temporary dwelling under this subsection.

(c) Temporary dwellings authorized herein shall meet the following minimum criteria:

(1) The parcel upon which the temporary dwelling is to be placed shall be of such configuration, and the temporary dwelling shall be located in such a manner to comply with the comprehensive plan and all applicable county, state and federal regulations, except density, lot size and the provisions in BCC 11.42.010.

(2) The temporary dwelling shall be designed, constructed and maintained in a manner which will facilitate its removal on termination of the permit. Temporary dwellings shall include recreation vehicles and manufactured homes.

(3) A current vehicular license, if applicable, shall be maintained under this section.

(4) No more than (1) temporary dwelling per parcel shall be authorized under this section.

(5) No rent or other remuneration is paid for the occupancy of the temporary dwelling.

(6) The public health, safety and general welfare will not be adversely affected.

(7) Setback requirements applicable to other dwellings in the same zone must be met.

(8) The temporary dwelling must be located no closer to the front property line than the primary dwelling.

(d) Application. Applications for temporary dwelling permits shall be submitted to the Benton County Planning Department on forms provided by the department and shall include:

(1) A scaled drawing showing the size and boundaries of the parcel; the size and location of access, including driveways and access easements from the parcel to the county, state or city road; and the proposed location and size of the temporary dwelling;

(2) A description of the proposed temporary dwelling;

(3) Documentation of approval of proposed method of water supply and sewage disposal by the appropriate governmental agency;

(4) A statement signed by the applicant setting forth the circumstances which necessitate the temporary dwelling; and,

(5) A non-refundable application fee as established by resolution of the Board of Benton County Commissioners.

(e) Issuance. A permit for a temporary dwelling may be issued by the Planning Director after receipt of a completed application upon finding that the proposed temporary dwelling meets the requirements of this section. If the temporary dwelling is a manufactured home, all requirements of the Manufactured Home Placement Ordinance (BCC 3.20) must be met.

(f) Termination. A temporary dwelling permit issued pursuant to BCC 11.42.110(b)(1) through BCC 11.42.110(b)(3) shall be valid for one (1) year or until the termination of the conditions authorizing the temporary dwelling, whichever occurs first. A temporary dwelling permit authorized under 11.42.110(b)(4) shall be valid for no more than six (6) months.

(g) Renewal. A temporary dwelling permit authorized under BCC 11.42.110(b)(2) through BCC 11.42.110(b)(4) may be renewed as follows.

(1) A request for renewal of a temporary dwelling permit authorized under BCC 11.42.110(b)(2) or BCC 11.42.110(b)(3) shall be submitted at least thirty (30) days prior to the expiration of the permit by filing a statement showing that the conditions authorizing the temporary dwelling continue to exist and listing any changes in the information provided on the application for the original permit.

(2) In no case shall a temporary dwelling permit authorized under BCC 11.42.110(b)(2) or BCC 11.42.110(b)(3) be renewed more than once or for a period greater than one (1) year. Reapplication after expiration will be processed as if it were an original application; provided, that the combined duration of two (2) temporary dwelling permits for the same use, circumstances, and location shall not exceed two (2) years.

(3) No request to renew a temporary dwelling permit application under BCC 11.42.110(b)(4) may be made within six (6) months of the expiration of such permit for the same parcel. A request for a temporary dwelling permit authorized under BCC 11.42.110(b)(4) must be made each time such temporary dwelling is to be placed on the site.

(h) Continuation. A request for continuation of a temporary dwelling permit, authorized under BCC 11.42.110(b)(1) shall be submitted at least thirty (30) days prior to the expiration of the permit by filing a statement showing that the conditions authorizing the temporary dwelling continue to exist and are justified, for example, a letter from a physician substantiating a need for a person to receive or administer continuous care and assistance necessitated by advanced age, illness or infirmity, and a statement listing any changes in the information provided on the application for the original permit.

(1) A temporary dwelling permit, authorized under BCC 11.42.110(b)(1) may be continued on a year-to-year basis as specified above.

(2) Sixty (60) days prior to the expiration of the permit, the Planning Director or his representative shall send, postage prepaid, a notice to the applicant at the last known address the date that the temporary dwelling permit shall expire and the procedure to request a further one year continuation.

(3) If a request for continuation of a temporary dwelling permit, as specified above, is not received thirty (30) days prior to the expiration of the permit, the permit shall become null and void.

(4) Reapplication after expiration will be processed as if it were an original application, subject to existing ordinances at the time of reapplication.

(i) Revocation. A temporary dwelling permit or permit renewal issued pursuant to this section may be revoked by the planning director at any time when the director finds that:

(1) any of the requirements of this section have not been satisfied;

(2) any of the conditions attached to the permit have not been met; or,

(3) the circumstances requiring the permit have materially changed.

(j) Upon termination or revocation of a temporary dwelling permit, occupancy of the dwelling shall cease within ten (10) days after receipt of notification of termination or revocation by certified mail; all utilities shall be disconnected within thirty (30) days after the date of termination or revocation; and, if the

temporary dwelling is a manufactured home, it shall be totally removed within thirty (30) days after the date of termination or revocation.

(k) Appeal. Any person aggrieved by the issuance, denial or revocation of a temporary dwelling permit may appeal the decision to the Benton County Hearings Examiner within fourteen (14) days from the date of the decision or the date the temporary dwelling is moved onto and/or hooked up on site, whichever is later, and the appeal shall be conducted in accordance with BCC 11.53.080. [Ord. 611 (2018) § 172]

11.42.120 TEMPORARY OUTDOOR RETAIL SALES.

(a) Temporary outdoor retail sales of Christmas trees or fireworks may be approved by the Planning Administrator after receipt of an application, supplied by the Planning Department, signed by all record owners of the real property upon which the sales are to be conducted, a non-refundable fee as established by resolution of the Board of Benton County Commissioners and upon the Planning Administrator's determination that:

(1) The Engineer from Benton County, the State Department of Transportation (D.O.T.) or municipality with roads within three hundred (300) feet has approved the proposed access location and has determined the traffic generated will have no adverse effect on vehicular circulation;

(2) Proposed parking areas are adequate for the volume and character of the business;

(3) The applicant has complied with all applicable federal, state and local licensing requirements and other ordinances and regulations, including approval from the state and county Fire Marshal.

(4) The proposed use, in the duration proposed, will not foreseeably adversely affect adjacent properties and is compatible with allowed uses in that zoning designation; and,

(5) The sales activity is conducted wholly outdoors; or partially within a structure or structures which will be totally removed at the end of the approved period. Temporary outdoor retail sales shall not exceed thirty (30) days in duration. The approved duration period shall apply to the use and location rather than to the applicant.

(b) Anyone aggrieved by the Administrator's decision shall have fourteen (14) days from the date of decision to appeal to the Hearings Examiner. The ~~board~~ Hearing Examiner shall hear the appeal pursuant to BCC 11.53.080.
[Ord. 611 (2018) § 173]

11.42.130 PROHIBITION AND REGULATION OF MARIJUANA RELATED ACTIVITIES.

(a) Growing Marijuana by Individual Qualifying Patients and Designated Providers – Allowed. Growing marijuana by qualifying patients and designated providers for medical marijuana use and not as part of a cooperative or as marijuana production or marijuana processing is allowable as an accessory/ancillary use in all zoning districts if all activities associated with such growing occur within a single-family dwelling.

(b) Marijuana Production, Growing Marijuana for Medical Purposes and Marijuana Processing – Not Allowed. Except as set forth above in subsection (a), marijuana production, growing of marijuana for medical purposes and marijuana processing are not allowed in any zoning district. Pursuant to this prohibition, marijuana growing cooperatives referenced in RCW 69.51A.250, as currently in effect or hereafter amended, are not allowed in any zoning district.

(c) The retail sale of "marijuana" or "marijuana-infused products" at a "retail outlet", as those terms are defined in RCW Chapter 69.50 or any implementing regulations in the Washington Administrative Code, as currently in effect or hereafter amended, is prohibited in all zoning districts.
[Ord. 611 (2018) § 174]

~~11.42.135 Signs~~

~~(a) The following signs are an allowable use in any zoning district, if placed or constructed with adopted Benton County ordinance.:~~

Formatted: Normal, Justified, Indent: Left: 0", Hanging: 0.5", Pattern: Clear

~~1. Official notices, directional, warning, or other informational signs authorized by a court, public body, government, or public safety official.~~

~~2. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.~~

~~3.The flag of a government or noncommercial institution, including, but not limited to, a school or nonprofit organization.~~

~~4.Religious symbols and seasonal decorations.~~

~~5.Works of fine art (a painting or sculpture) displayed in conjunction with a commercial business where the business does not receive direct commercial gain.~~

~~6.Signs located on the inside of a window of a structure.~~

~~7.Barber poles.~~

~~8.Historical site plaques.~~

~~9.Signs normally used for traffic control devices in parking facilities.~~

~~10.Signs that are painted on, or magnetically attached to, any vehicle operating in the normal course of business.~~

~~11.Political signs.~~

~~12.Construction or real estate signs, providing signage meets the standards as set forth in Section 15.16.080(2)(a) of this chapter.~~

~~13.Flags of the United States of America, States of the United States, counties, municipalities, flags of foreign nations, flags of recognized organizations and institutions.~~

~~14."No Trespassing" signs that are no larger than eight square feet in size.~~

15.Yard/garage/estate sale signs, providing signage meets the standards as set forth in Section 15.16.080(2)(c) of this chapter.

16.One on-premise home (place of residence) identification sign, per parcel, provided it is no greater in size than sixteen square feet or extending more than six feet in height above grade and comply with all applicable standards of this chapter. A home identification sign shall not be utilized for the purposes of a permitted home occupation.

17.Two on-premise farm (parcel of land devoted to agricultural purposes) identification signs, per parcel, provided they are no greater in size than thirty-two square feet or extending more than eight feet in height above grade and comply with all applicable standards of this chapter. This applies to tax parcels that consist of twenty acres or more.

(b) General sign standards.

Traffic Obstruction and Visibility. No sign shall be erected so as to obstruct the vision of vehicular traffic, or at any location where it may interfere with, or be confused with, any traffic signal or device. No sign or sign structure shall be erected that exceeds twenty-four inches in width between the height of three feet and six feet above the ground on a corner lot within a triangle, the two equal legs of which are formed by lines measured twenty feet along the property line from the intersection of two streets or fifteen feet from the intersection of a street and alley.

All signs shall be in compliance with Chapter 9.68 RCW, obscenity and pornography, as amended, at all times.6.

Abandoned Signs. Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold or service rendered shall be removed or the advertising copy shall be painted or coated out. If the property owner or tenant fails to do so within thirty days after written notice from the planning and building director or his/her appointee, the enforcement proceeding described in Section 15.16.100 of this chapter will initiate.

Clearance from Power Lines. No sign shall be constructed or maintained which would have less horizontal or vertical clearance from communication lines or electric power lines than the clearance prescribed by the Electrical Construction Code of the Washington State Department of Labor and Industries as amended.

10.

Formatted: Left, Space Before: 0 pt, After: 9.75 pt

~~Aerial Power Source. No aerial or overhead power source shall be allowed for any type of sign. The use of an overhead power line or cord is prohibited as a means to provide power to a sign. In no way does this standard discourage the use of solar energy for the lighting of signs.~~

~~No sign shall be placed in a manner that will prevent a clear view of railroad crossings by operating personnel aboard trains from a distance of not less than five hundred feet.~~

~~Signs shall comply with the building height regulations of the zoning district in which they are located and any more restrictive sign height requirement listed in this chapter.~~

~~The illumination from or upon any sign shall be shaded, shielded, or directed so the light intensity or brightness shall not adversely affect surrounding properties or public/private rights-of-way or create a hazard or nuisance to the traveling public or to surrounding properties.~~

~~Signs that are electrically activated (animated and changeable) are permitted in the commercial and industrial zoning districts only. The placement in other zoning districts requires the approval of a conditional use permit.~~

Formatted: Left, Space Before: 0 pt, After: 9.75 pt

Formatted: Font: (Default) +Body (Calibri), Font color: Text 2

Formatted: Left, Space After: 8 pt, Line spacing: Multiple 1.08 li, Widow/Orphan control, Tab stops: Not at 0.5" + 1" + 1.5" + 2"

11.42.140 Resource Lands Notification. Where any permit or building permit is issued on lands within a resource land zoning district or within five hundred (500) feet of a resource land zoning district the short subdivision, subdivision, development permit or building permits must contain a note or condition as appropriate stating the following:

(1) "The subject property is within or near designated agricultural lands, forestlands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. In addition, where mineral lands are nearby, an application might be made for mining related activities including mining, extraction, washing, crushing, stockpiling, blasting, asphalt and concrete production, transporting and recycling minerals."

11.42.~~140~~ 145 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.42.150 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]