

## DETERMINATION OF NONSIGNIFICANCE

Proponent Benton County Planning Department  
P.O. Box 910  
Prosser WA 99350

File No. **EA 11-21**

Location of proposal, including street address, if any: Unincorporated Benton County

Description of proposal: Administrative amendments to repeal sections of the Benton County Code being replaced by the adoption of new ordinances during the 2011 Zoning Update Program, in response to RCW 36.70A.130. Amendments include changes to the existing Benton County Code to correct outdated code references, and additions to the zoning definitions updated during the zoning process.

AMENDING BCC TITLE 11.18.060 & .070 relating to the Growth Management Act Agricultural District (GMAAD), an ordinance amending the titles and Code Provisions for Child Day Care Facilities and Home Occupations under Uses Requiring Permits-Director Review and Approval and also under Uses Requiring Permits - Conditional Use Permit Required.

AMENDING BCC TITLE 11.20.040 relating to the Planned Development (PD) District, an ordinance amending the Code Provisions for Home Occupations under Uses Permitted.

AMENDING BCC TITLE 11.65.030 & .040 relating to Communication Facility criteria, an ordinance amending the exemption section by updating the names of the zoning districts.

AMENDING BCC TITLE 17.10.050 & .150 relating to the permit review process, an ordinance amending the project permit application types by deleting and/or updating the names on the types of permits; adding communication facilities applications to the final decision criteria and that short plat final decisions shall be made within 30 days and that attached communication facilities (co-locates) shall have a final decision within 90 days.

AMENDING BCC TITLE 16.10 relating to interim growth management regulations, an ordinance repealing the entire chapter.

AMENDING BCC TITLE 11.52 relating to zoning, appealing BCC 11.52.070, 11.52.100 and adding a new section to Chapter 11.52 setting forth criteria for non conforming uses, and amending the amendment procedure to change by ordinance the district boundary lines after holding open record hearings.

AMENDING BCC TITLE 4.02 relating to Adult Use Entertainment Businesses, an ordinance amending the title of the various zoning districts.

AMENDING BCC TITLE 11 relating to the Zoning Ordinance of Benton County, an ordinance repealing the Residential, Suburban, Agricultural, Commercial, Interchange Commercial, Industrial District (I-1) and Industrial District (I-2), and the Parks and Recreation Areas.

AMENDING BCC TITLE 11.04 relating to zoning, an ordinance removing certain zoning districts, replacing certain zoning district and adding certain zoning districts, and amending the definitions sections.

ADDING A NEW SECTION TO BCC TITLE 11 relating to zoning, adopting the official zoning map of Benton County and all maps of individual zone boundaries and all notations, references, data and other information shown thereon as a part of Title 11 and setting requirements for the revision, replacement and retention of such maps.

AMENDING ORDINANCES 486, 487, 488, 489, 490 AND 491 to correct Child Day Care Facility, Type B code provision references.

AMENDING ORDINANCE 493 to include Rapid Charging Stations as an allowable use within the Interchange Commercial District (IC)

Lead agency **BENTON COUNTY**

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by July 7, 2011.

Responsible Official

**Michael Shuttleworth, Planning Manager**

**Benton County Planning Dept.**

**Post Office Box 910**

**PHONE: (509) 786-5612**

**Prosser, WA 99350-0910**

**(509) 736-3086**

Date **June 23, 2011**

Signature



Michael Shuttleworth

**THERE IS NO AGENCY APPEAL.**

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Roza Irrigation District	
Department of Transportation	
Port of Benton	
Port of Kennewick	

## ENVIRONMENTAL CHECKLIST

EA 11-21

### A. BACKGROUND

1. Name of proposed project, if applicable:  
Ordinances to amend BCC Title 11.18.060 & .070, Title 11.20.040 Title 11.65.030 & .040, Title 17.10.050 & .150, Title 16.10, Title 4.02, Title 11.52, Title 11, and Title 11.04
2. Name of applicant:  
Benton County
3. Address and phone number of applicant and contact person:  
Susan Walker, Senior Planner Long Range  
Benton County Planning Department  
P.O. Box 910  
Prosser, WA 99350 (509) 786-5612 or (509) 736-3086
4. Date checklist prepared:  
June 20, 2011
5. Agency requesting checklist:  
Benton County
6. Proposed timing or schedule (including phasing, if applicable):  
Planning Commission Hearing - July 12, 2011, Board of County Commissioners Hearing August 2011,
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal?  
No
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.  
None
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.  
None
10. List any government approvals or permits that will be needed for your proposal, if known.  
Board of County Commissioners approval of the proposed ordinance amendments.
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

Administrative amendments to repeal sections of the Benton County Code that have

been replaced by the adoption of ordinances during the 2011 Zoning Update Program in response to RCW 36.70A.130. Amendments also include changes to the existing Benton County Code to correct outdated code references, and additions to the zoning definitions updated during the zoning process.

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AMENDING ORDINANCE 493 to include Rapid Charging Stations as an allowable use within the Interchange Commercial District (IC)

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans

required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The proposed administrative amendments to the Benton County Code will apply to all lands in unincorporated Benton County

**B. ENVIRONMENTAL ELEMENTS**

**1. Earth**

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other:  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- b. What is the steepest slope on the site (approximate percent slope)?  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.

2. **Air**

- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial, wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if know.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- c. Proposed measures to reduce or control emissions or other impacts to air, if any:  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.

3. **Water**

a. Surface:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water, or wetlands, and indicate the area of the site that would be affected. Indicate the source of fill material.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if know.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- 6) Does the proposal involve any discharge of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.

b. Ground:

- 1) Will ground water be withdrawn, or will water be discharge to ground water? Give general description, purpose, and approximate quantities if know.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- 2) Describe waster material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage, industrial, containing the following chemicals . . . agricultural, etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.

c. Water Runoff (including storm water):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- 2) Could waste materials enter ground or surface waters? If so, generally describe.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.

- d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.

4. **Plants**

- a. Circle types of vegetation found on the site: deciduous tree: alder, maple, aspen, other; evergreen tree: fir, cedar, pine, other; shrubs; grass; pasture' crop or grain; wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other; water plants: water lily, eelgrass, milfoil, other; other types of vegetation.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- b. What kind and amount of vegetation will be removed or altered?  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- c. List threatened or endangered species known to be on or near the site.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.
- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a site-specific project is proposed.

5. **Animals**

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site: Birds: hawk, heron, eagle, songbirds, other:  
Mammals: deer, bear, elk, beaver, other:  
Fish: bass, salmon, trout, herring, shellfish, other:  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- b. List any threatened or endangered species known to be on or near the site.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- c. Is the site part of a migration route? If so, explain.

If any threatened or endangered species are found for site specific projects, compliance with Benton County Code Title 15 (Protection of Critical Areas and Resources) will be required.

- d. Proposed measures to preserve or enhance wildlife, if any:  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

6. **Energy and Natural Resources**

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

7. **Environmental Health**

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- 1) Describe special emergency services that might be required.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- 2) Proposed measures to reduce or control environmental health hazards, if any:

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

b. **Noise**

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- 2) What types and levels of noise would be created by or associate with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- 3) Proposed measures to reduce or control noise impacts, if any:  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

8. **Land and Shoreline Use**

- a. What is the current use of the site and adjacent properties?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- b. Has the site been used for agriculture? If so, describe.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- c. Describe any structures on the site.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- d. Will any structures be demolished? If so, what?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- e. What is the current zoning classification of the site?  
Varies throughout the County.
- f. What is the current comprehensive plan designation for the site?  
Varies throughout the County.
- g. If applicable, what is the current shoreline master program designation of the site?

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- i. Approximately how many people would reside or work in the completed project?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- j. Approximately how many people would the completed project displace?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- k. Proposed measures to avoid or reduce displacement impacts, if any:  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:  
Follow guidelines from the Benton County Comprehensive Plan.

9. **Housing**

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.  
None
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.  
None
- c. Proposed measures to reduce or control housing impacts, if any:  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

10. **Aesthetics**

- a. What is the tallest height of any proposed structures(s) not including antennas; what is the principal exterior building material(s) proposed?  
Not applicable, this is not a site specific project. However, environmental evaluations for

future site specific projects will need to be conducted at the time a site specific project is proposed.

- b. What views in the immediate vicinity would be altered or obstructed?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- c. Proposed measures to reduce or control aesthetic impacts, if any:  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

## 11. **Lights and Glare**

- a. What type of light or glare will be the proposal produce? What time of day would it mainly occur?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- b. Could light or glare from the finished project be a safety hazard or interfere with views?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- c. What existing off-site sources of light or glare may affect your proposal?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- d. Proposed measures to reduce or control light and glare impacts, if any:  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

## 12. **Recreation**

- a. What designated and informal recreational opportunities are in the immediate vicinity?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- b. Would the proposed project displace any existing recreational uses? If so, describe.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- c. Proposed measures to reduce or control impacts or recreation, including recreation

opportunities to be provided by the project or applicant, if any:

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

**13. Historic and Cultural Preservation**

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- b. Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- c. Proposed measures to reduce or control impacts, if any:

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

**14. Transportation**

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plan, if any.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- b. Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- c. How many parking spaces would the completed project have? How many would the project eliminate?

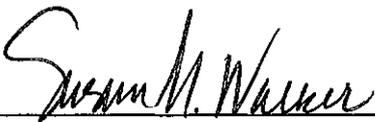
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

**C. SIGNATURE**

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Print Name: Susan Walker, Senior Planner Long Range  
Benton County Planning Department

Date Submitted: June 21, 2011

proposed.

- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- f. How many vehicular trips per day would be generated by the completed project? If know, indicate when peak volumes would occur.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- g. Proposed measures to reduce or control transportation impacts, if any:  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

15. **Public Services**

- a. Would the project result in an increased need for public services (for example, fire protection, police protection, health care, schools, etc.)? If so, generally describe.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- b. Proposed measures to reduce or control direct impacts on public services, if any.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

16. **Utilities**

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

D. SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS  
(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

Proposed measures to avoid or reduce such increases are:

None.

2. How would the proposal be likely to affect plants, animals, fish or marine life?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

Proposed measures to protect or conserve plants, animals, fish or marine life are:

Not applicable, this is not a site specific project. However, if any threatened or endangered species are found during the review of a site specific project, compliance with Benton County Code Title 15 (Protection of Critical Areas and Resources) is required.

3. How would the proposal be likely to deplete energy or natural resources?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

Proposed measures to protect or conserve energy and natural resources are:

Not applicable, this is not a site specific project. However, mitigation measures may be required as condition of approval for a site specific project through the SEPA review process if determined necessary.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands?  
Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is

proposed.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Not applicable, this is not a site specific project. However, mitigation measures may be required as condition of approval for a site specific project through the SEPA review process if determined necessary.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

Proposed measures to avoid or reduce shoreline and land use impacts are:

Not applicable, this is not a site specific project. However, mitigation measures may be required as condition of approval for a site specific project through the SEPA review process if determined necessary.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

Proposed measures to reduce or respond to such demands(s) are:

Not applicable, this is not a site specific project. However, mitigation measures may be required as condition of approval for a site specific project through the SEPA review process if determined necessary.

7. Identify, if possible, whether the proposal may conflict with local, state or federal laws or requirements for the protection of the environment.

Not applicable, this is not a site specific project. However, if any threatened or endangered species are found during the review of a site specific project, compliance with Benton County Code Title 15 (Protection of Critical Areas and Resources) is required. Also, the site specific project will need to comply with all local, state, and federal laws.

## ESA LISTED SALMONIDS CHECKLIST

The Listed Salmonids Checklist is provided in order that the county may initially identify a project's potential impacts (if any) on salmonids that have been listed as "threatened" or "endangered" under the Federal Endangered Species Act (ESA). A salmonid is any fish species that spends part of its life cycle in the ocean and returns to fresh water. Potential project impacts that may result in a "taking" of listed salmonids must be avoided, or mitigated to insignificant levels. Generally, under ESA, a "taking" is broadly defined as any action that causes the death of, or harm to, the listed species. Such actions include those that affect the environment in ways that interfere with or reduce the level of reproduction of the species.

**If ESA listed species are present or ever were present in the watershed where your project will be located, your project has the potential for affecting them, and you need to comply with the ESA. The questions in this section will help determine if the ESA listing will impact your project. The Fish Program Manager at the appropriate Department of Fish and Wildlife (DFW) regional office can provide information for the following two questions. Please contact the Dept. of Fish and Wildlife at 1701 S. 24th, Yakima WA 98902-5720, Phone No. 509-575-2740.**

1. Are ESA listed salmonids currently present in the watershed in which your project will be? YES \_\_\_ NO \_\_\_

Please Describe.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

2. Has there ever been an ESA listed salmonid stock present in this watershed? YES \_\_\_ NO \_\_\_

Please Describe.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

If you answered "yes" to either of the above questions, you should complete the remainder of this checklist.

Not applicable, this is not a site specific project. However, environmental evaluations for future site specific projects will need to be conducted at the time a site specific project is proposed.

**PROJECT SPECIFIC:** The questions in this section are specific to the project and vicinity.

A1. Name of watershed \_\_\_\_\_

A2. Name of nearest waterbody \_\_\_\_\_

A3. What is the distance from this project to the nearest body of water? \_\_\_\_\_

Often a buffer between the project and a stream can reduce the chance of a negative impact to fish.

A4. What is the current land use between the project and the potentially affected water body (parking lots, farmland, etc.)

A5. Is the project above a:  
Natural permanent barrier (waterfall) YES \_\_\_\_\_ NO \_\_\_\_\_  
Natural temporary barrier (beaver pond) YES \_\_\_\_\_ NO \_\_\_\_\_  
Man-made barrier (culvert, dam) YES \_\_\_\_\_ NO \_\_\_\_\_  
Other (explain)

A6. If yes, are there any resident salmonid populations above the blockage? YES \_\_\_\_\_  
NO \_\_\_\_\_ Don't Know \_\_\_\_\_

A7. What percentage of the project will be impervious surface (including pavement & roof area)?

**FISH MIGRATION:** The following questions will help determine if this project could interfere with migration of adult and juvenile fish. Both increases and decreases in water flows can affect fish migration.

B1. Does the project require the withdrawal of  
a. Surface water? Yes \_\_\_\_\_ No \_\_\_\_\_  
Amount \_\_\_\_\_  
Name of surface water body \_\_\_\_\_  
b. Ground water? Yes \_\_\_\_\_ No \_\_\_\_\_  
Amount \_\_\_\_\_  
From Where \_\_\_\_\_  
Depth of well \_\_\_\_\_

B2. Will any water be rerouted? YES \_\_\_\_\_ NO \_\_\_\_\_  
If yes, will this require a channel change?

B3. Will there be retention ponds? YES \_\_\_\_\_ NO \_\_\_\_\_  
If yes, will this be an infiltration pond or a surface discharge to either a municipal storm water system or a surface water body?

If to a surface water discharge, please give the name of the waterbody.

B4. Will this project require the building of new roads? Increased road mileage may affect the timing of water reaching a stream and may, thus, impact fish habitat.

B5. Are culverts proposed as part of this project?  
Yes\_\_\_\_\_ No\_\_\_\_\_

B6. Will topography changes affect the duration/direction of runoff flows?  
Yes\_\_\_\_\_ No\_\_\_\_\_

If yes describe the changes.

B7. Will the project involve any reduction of the floodway or floodplain by filling or other partial blockage of flows? Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, how will the loss of flood storage be mitigated by your project?

**WATER QUALITY:** The following questions will help determine if this project could adversely impact water quality. Such impacts can cause problems for listed species. Water quality can be made worse by runoff from impervious surfaces, altering water temperature, discharging contaminants, etc.

C1. Do you know of any problems with water quality in any of the streams within this watershed? YES\_\_\_\_\_ NO\_\_\_\_\_

If yes please describe.

C2. Will your project either reduce or increase shade along or over a waterbody?  
YES\_\_\_\_\_ NO\_\_\_\_\_ Removal of shading vegetation or the building of structures such as docks or floats often result in a change in shade.

C3. Will the project increase nutrient loading or have the potential to increase nutrient loading or contaminants (fertilizers, other waste discharges, or runoff) to the waterbody?  
YES\_\_\_\_\_ NO\_\_\_\_\_

C4. Will turbidity be increased because of construction of the project or during operation of the project? In-water or near water work will often increase turbidity.  
YES\_\_\_\_\_ NO\_\_\_\_\_

- C5. Will your project require long term maintenance, i.e., bridge cleaning, highway salting, chemical sprays for vegetation management, clearing of parking lots?  
YES \_\_\_\_\_ NO \_\_\_\_\_  
Please Describe.

**Vegetation:** The following questions are designed to determine if the project will affect riparian vegetation, thereby, adversely impacting salmon.

- D1. Will the project involve the removal of any vegetation from the stream banks?  
YES \_\_\_\_\_ NO \_\_\_\_\_

If yes, please describe the existing conditions and the amount and type of vegetation to be removed.

- D2. If any vegetation is removed, do you plan to re-plant? YES \_\_\_\_\_ NO \_\_\_\_\_  
If yes, what types of plants will you use?

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to communication facility criteria; amending Ordinance 370, Section 4, Ordinance 468, Section 1 and BCC 11.65.030; amending Ordinance 370, Section 5, Ordinance 374, Section 2, Ordinance 425, Section 1 and BCC 11.65.040.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 370, Section 4, Ordinance 468, Section 1 and BCC 11.65.030 are hereby amended to read as follows:

EXEMPTIONS. The following facilities and activities are exempt from the provisions of this chapter:

(a) satellite earth stations using antenna(s) not more than twelve (12) feet in diameter if located in the: (~~Commercial District (C)~~) General Commercial District (GC), Interchange Commercial District (IC), Light Industrial District (LI), or the (~~Industrial District (I-2)~~) Heavy Industrial District (HI);

(b) direct-to-home satellite services in any zoning district;

(c) antennas for citizen band radios and Amateur (or ham) Radio Facilities; provided, such antennas and facilities are no more than sixty-five (65) feet above ground level;

(d) military, federal, state, and local government communication facilities in any zoning district that are only used for emergency preparedness and public safety purposes; provided, such facilities are no more than two hundred (200) feet above ground level;

(e) maintenance, repair, and replacement of existing communication facilities and related equipment that do not increase the size, footprint, or bulk of such facilities and that complies with local, state, and federal laws and regulations.

SECTION 2. Ordinance 370, Section 5, Ordinance 374, Section 2, Ordinance 425, Section 1 and BCC 11.65.040 are hereby amended to read as follows:

DEVELOPMENT STANDARDS. The development standards which follow shall apply to all non-exempt communication facilities and alterations thereto.

(a) Height.

(1) An attached communication facility shall not add any height to a communication tower to which it is attached and shall not add more than twenty (20) feet in height to an existing building or other structure to which it is attached.

(2) Communication towers shall have the following maximum height as measured from the ground to the highest point on the communication facility, including the associated antenna array:

6/2/11

(i) Sixty-five (65) feet in the ~~((Agricultural District (A), and in the Industrial District (I-1))~~ Rural Lands 5 District (RL-5), Rural Lands 20 District (RL-20), Community Commercial District (CC), General Commercial District (GC), Interchange Commercial District (IC), Light Industrial District (LI), and Parks District (P).

~~((ii) One hundred and twenty (120) feet in the Commercial District (C) and in the Interchange Commercial District (IC).))~~

~~((iii))~~ (ii) One hundred and fifty (150) feet in the ~~((Industrial District (I-2))~~ Heavy Industrial District (HI) and Unclassified District (U).

~~((iv))~~ (iii) One hundred and fifty (150) feet anywhere in the Growth Management Act Agricultural District (GMAAD) or up to four hundred and fifty (450) feet in the GMAAD if:

a. the ground elevation of the location of the communication tower is at least two thousand and fifty (2,050) feet above mean sea level as determined by a licensed Washington State Professional Land Surveyor; and

b. the communication tower is located within one half (1/2) mile from five (5) or more communication towers existing as of October 8, 2001.

~~((v) Sixty five (65) feet anywhere in the Unclassified District (U) or up to one hundred and fifty (150) feet in the Unclassified District (U) if:))~~

~~((a. the communication tower is located within the area designated as the "Hanford Reservation" on Land Use map 4.0 on Page 4-40 of the Benton County Comprehensive Plan; and))~~

~~((b. the communication tower is not located within one thousand (1,000) feet of any of the following zoning districts: Residential District (R), Suburban District (S), Agricultural District (A), Commercial District (C), Parks and Recreation Areas District (P.R.), Planned Development District (PD), Interchange Commercial District (IC), and Rural Estates District (RE).))~~

(3) Accessory equipment structures shall have a maximum height of forty (40) feet as measured from the ground to the highest point on the structure.

(b) Setbacks.

(1) Attached communication facilities may extend up to five (5) feet horizontally beyond the edge of a properly set back building or structure to which it is attached, so long as the attached communication facility does not encroach upon any easements nor upon an adjoining parcel.

(2) All communication towers shall be set back from all property lines the greater of the following distances: fifty (50) feet or one (1) foot for every foot in height of the communication tower.

(3) All communication towers in excess of one hundred and fifty (150) feet in height also must be set back at least one thousand (1,000) feet from all dwelling units.

(4) Accessory equipment structures shall meet the setback requirements for accessory buildings in the underlying zoning district in which they are located.

(c) Lighting and Fencing.

(1) Lighting, if any, of an attached communication facility shall be as required by the Federal Aviation Administration (FAA) and shall, to the extent feasible, be installed in a manner to minimize impacts on adjacent residences.

(2) Communication towers shall not be artificially lighted, except for:

(i) security and safety lighting of accessory equipment structures if such lighting is appropriately down-shielded to keep light within the boundaries of the site; and,

(ii) such lighting of the communication tower as may be required by the Federal Aviation Administration (FAA) and shall, to the extent feasible, be installed in a manner to minimize impacts on adjacent residences.

(3) Communication facilities that include a communication tower shall be enclosed by a security fence not less than six (6) feet in height; provided, that guy wires are not required to be within the enclosed security fence.

(d) Painting.

(1) All painting of communication facilities shall be consistent with any such requirements of the FAA.

(2) Absent painting requirements by the FAA, communication facilities sixty-five (65) feet in height or less shall be painted one of the following neutral, non-reflective colors that blend with the surrounding landscaping: shades of gray, beige, sand, taupe, or light brown.

(3) Absent painting requirements by the FAA, communication facilities exceeding sixty-five (65) feet in height shall be painted in alternate bands of aviation orange and white. The alternate bands shall be:

- (i) a width of one-seventh (1/7) the height of the communication tower; provided, each band may not be less than one (1) foot six (6) inches (1.5 feet);
  - (ii) equal in width;
  - (iii) perpendicular to the vertical axis of the communication tower, with the bands at the top and bottom ends colored aviation orange; and,
  - (iv) odd in number.
- (e) Aviation Requirements.

(1) All communication facilities must comply with Federal Aviation Regulation Part 77, *Objects Affecting Navigable Airspace*, 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 proposed communication facility.

**NOTE:** This Ordinance is continued on the following page.

(2) All communication towers 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 for private use and identified on the most current edition of the *Sectional Aeronautical Charts* produced by the National Aeronautical Charting Office (NACO).

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force on September 1, 2011.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to zoning and the Growth Management Act Agricultural District (GMAAD); amending Ordinance 265, Section 6, Ordinance 341, Section 2, Ordinance 371, Section 5, Ordinance 445, Section 6 and BCC 11.18.060; amending Ordinance 265, Section 7, Ordinance 445, Section 7, Ordinance 469, Section 2 and BCC 11.18.070.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 265, Section 6, Ordinance 341, Section 2, Ordinance 371, Section 5, Ordinance 445, Section 6 and BCC 11.18.060 are hereby amended to read as follows:

USES REQUIRING PERMITS-DIRECTOR REVIEW AND APPROVAL REQUIRED-SUBJECT TO APPEAL TO THE BENTON COUNTY BOARD OF ADJUSTMENT. (a) The following uses shall be allowed in the GMA Agricultural District only when carried on as an operation which is clearly ancillary, and not in direct conflict with, the primary agricultural operation identified in BCC 11.18.050. The following uses are subject to the review and approval of the Planning Director pursuant to Benton County Code provisions as now in effect or hereinafter amended:

- (1) Temporary dwellings((-)), subject to the provisions of BCC 11.52.091((, ~~BCC 11.52.092, BCC 11.52.093, and~~) through BCC 11.52.0941.
- (2) Two (2), three (3), and four (4) detached single-family dwellings per lot, including manufactured homes or factory assembled structures((-), subject to the provisions of ((~~BCC 11.52.065(a) through BCC 11.52.065(g)~~)) BCC 11.52.065.
- (3) ((~~Mini day care home/centers. BCC 11.52.067(a) through BCC 11.52.067(g)~~)) Child Day Care Facility-Type A, subject to the provisions of BCC 11.52.067.
- ((~~4~~)) ~~Family day care homes. BCC 11.52.067(a) through BCC 11.52.067(g)~~
- ((~~5~~)) (4) Commercial sand and gravel pits, and stone quarries and other mineral extraction((-), subject to the provisions of BCC 11.52.065(b)(1), (b)(2), and (b)(5)((-)), BCC 11.52.065(c) through ((~~BCC 11.52.065(f), and~~)) BCC 11.52.065(g). ((~~Title 15 BCC. Ordinance 260 9/94, Ordinance 261 1/95, Ordinance 257 8/94.~~))
- ((~~6~~)) (5) Seasonal outdoor retail sales((-), subject to the provisions of ((~~BCC 11.52.096(a) through BCC 11.52.096(e)~~)) BCC 11.52.095.
- ((~~7~~)) (6) Home occupations meeting the criteria set forth in ((~~BCC 11.08.010(e)~~)) Ordinance 486, Sections 10 through 13.
- ((~~8~~)) (7) Communication facilities, subject to Chapter 11.65 BCC.

SECTION 2. Ordinance 265, Section 7, Ordinance 445, Section 7, Ordinance 469, Section 2 and BCC 11.18.070 are hereby amended to read as follows:

USES REQUIRING PERMITS--CONDITIONAL USE PERMIT REQUIRED. Upon issuance of a conditional use permit by the Board of Adjustment, the following uses shall be permitted within the GMA Agricultural District; provided that they are located in a manner that minimizes adverse impacts to agricultural productivity on adjacent lands:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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, R.V. parking area, and event related novelty/accessory sales.
- (5) Airstrips (commercial crop dusting).
- (6) Facilities for treatment of industrial solid wastes with associated spray fields related to the on-site processing of agricultural products.
- (7) Solid waste disposal site; except on lands designated as having less than 160 acre minimum parcel size.
- (8) Off-site hazardous waste treatment and storage facilities may be allowed by special permit issued by the Benton County Board of Adjustment after notice and public hearing as provided in BCC 11.52.090; provided, that such facilities must comply with the state siting criteria adopted in accordance with RCW 70.105.210.
- (9) Asphalt manufacture in conjunction with rock, sand and gravel mining.

- (10) Facilities for power generation, other than nuclear fueled, wind fueled or solar fueled.
- (11) (~~Day care homes/centers~~) Child Day Care Facility, Type B, subject to the provisions of Ordinance 485, Section 2.
- (12) Farm labor housing, to the extent that the farm laborers are needed for the agricultural operation on premise.
- (13) Manufactured (mobile) home and factory assembled structure parks occupied by farm laborers and their families and pursuant to Chapter 3.22 BCC (Manufactured Home Park Ordinance).
- (14) Recreational vehicle parks occupied by farm laborers and their families.
- (15) Off-premise directional signs.
- (16) The production of bio-diesel and alcohol fuels from agricultural products.
- (17) The commercial maintenance, repair, servicing, and storage of agricultural machinery, implements, and equipment for use off the premises.
- (18) Commercial establishments for the storage, sale and off-site application of agricultural chemicals, including but not limited to herbicides, fertilizers, insecticides, and pesticides.
- (19) Underground natural gas storage facilities.
- (20) One (1) wind turbine or a wind turbine farm with turbine heights of more than three hundred and fifty (350) feet and related support structures and other improvements meeting the conditions set forth in BCC 11.18.050(27) (i) and BCC 11.18.050(27) (iii) through BCC 11.18.050(27) (x) and all other conditions that may be imposed by the Board of Adjustment.
- (21) 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 Board of Adjustment:
  - (a) 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;
  - (b) 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;
  - (c) 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; 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.
- (d) 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;
  - (e) 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;
  - (f) 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;
  - (g) 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;
  - (h) No more than two (2) signs of a size determined by the Board of Adjustment 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;
  - (i) 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 Board of Adjustment shall not be construed as an exemption from such regulations;

- (j) Adequate off road parking, as determined by the Board of Adjustment, must be provided;
- (k) 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; and,
- (l) The days and hours of operation shall be determined by the Board of Adjustment with the granting of a Conditional Use Permit.

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force on September 1, 2011.

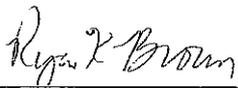
ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to zoning and the Planned Development (PD) District; amending Ordinance 339, Section 1, Ordinance 387, Section 4, Ordinance 436, Section 1 and BCC 11.20.040.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 339, Section 1, Ordinance 387, Section 4, Ordinance 436, Section 1 and BCC 11.20.040 are hereby amended to read as follows:

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 (~~BCC 11.08.010(e)~~) Ordinance 486, Sections 10 through 13.
- (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.
- (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:

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(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 special permit granted by the Board of Adjustment; 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 Board of Adjustment.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force on September 1, 2011.

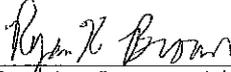
ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to the permit review process; amending Ordinance 281, Section 6, Ordinance 388, Section 1 and BCC 17.10.050; amending Ordinance 368, Section 1, Ordinance 372, Section 1, Ordinance 378, Section 1 and BCC 17.10.150.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 281, Section 6, Ordinance 388, Section 1 and BCC 17.10.050 are hereby amended to read as follows:

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.

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**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((#)) ((CERTIFICATION OF EXEMPTIONS))	FLOODWAY DEVELOPMENT PERMIT APPEAL	CONDITIONAL USE PERMIT	FLOODWAY DEVELOPMENT VARIANCE	PLANNED ((UN#)) DEVELOPMENT PERMIT
		((ADULT))CHILD DAY CARE FACILITY, TYPE A - PERMIT	SHORT PLAT	SPECIAL USE PERMIT	SHORT PLAT VACATION	PRELIMINARY PLAT
		HOME OCCUPATION PERMIT	SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT	SHORELINE CONDITIONAL USE PERMIT	SUBDIVISION ALTERATION	SITE SPECIFIC ZONE CHANGE
		CRITICAL AREAS AND RESOURCES REVIEW AND DETERMINATION OF CONSISTENCY		SHORELINE VARIANCE PERMIT	SUBDIVISION VACATION	
		TEMPORARY DWELLING PERMIT		((MOBILE HOME PARK PERMIT/ VARIANCE))		
		MINERAL RESOURCE PROTECTION DESIGNATION		((MOBILE HOME PARK VARIANCE))		
		MULTIPLE DETACHED DWELLING PERMIT		((SETBACK)) ZONING CODE VARIANCE		
		COMMUNICATIONS FACILITIES		SWIMMING POOL VARIANCE		
		TEMPORARY OUTDOOR RETAIL SALES PERMIT				
		MINERAL EXTRACTION PERMIT				
		MINOR VARIATIONS				

SECTION 2. Ordinance 368, Section 1, Ordinance 372, Section 1, Ordinance 378, Section 1 and BCC 17.10.150 are hereby amended to read as follows:

FINAL DECISION. (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, ~~((and final decisions on applications for planned unit developments and site specific rezones))~~ 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.

(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 ~~((thirty (30) days and))~~ ninety (90) days ~~((, respectively,))~~ after the date the County sends the applicant notice by mail or personally serves notice on the applicant that the application is complete.

(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.

(e) 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) 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.

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force on September 1, 2011.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Constituting the Board of  
County Commissioners of  
Benton County, Washington

\_\_\_\_\_  
Deputy Prosecuting Attorney

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to interim growth management regulations, repealing Ordinance 256, Section 2, Ordinance 256, Section 3, Ordinance 256, Section 4, Ordinance 256, Section 5, Ordinance 256, Section 6, Ordinance 256, Section 7, Ordinance 278, Ordinance 308, Ordinance 345, Section 2, Ordinance 345, Section 3, Ordinance 345, Section 5, Ordinance 345, Section 6, Ordinance 345, Section 7, Ordinance 348, Ordinance 363, Ordinance 377, Ordinance 383, Ordinance 390, Ordinance 410, Ordinance 427, Ordinance 443, Ordinance 458, Ordinance 466, Ordinance 472, Ordinance 482, and Chapter 16.10 BCC are each hereby repealed in their entirety.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. CHAPTER REPEAL. Ordinance 256, Section 2, Ordinance 256, Section 3, Ordinance 256, Section 4, Ordinance 256, Section 5, Ordinance 256, Section 6, Ordinance 256, Section 7, Ordinance 278, Ordinance 308, Ordinance 345, Section 2, Ordinance 345, Section 3, Ordinance 345, Section 5, Ordinance 345, Section 6, Ordinance 345, Section 7, Ordinance 348, Ordinance 363, Ordinance 377, Ordinance 383, Ordinance 390, Ordinance 410, Ordinance 427, Ordinance 443, Ordinance 458, Ordinance 466, Ordinance 472, Ordinance 482, and Chapter 16.10 BCC are each hereby repealed in their entirety.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force on September 1, 2011.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to zoning; amending Ordinance 62, Section 1, Subsection XX, Ordinance 389, Section 1 and BCC 11.52.110; amending Ordinance 62, Section 1, Subsection XXI, Ordinance 389, Section 2 and BCC 11.52.120; adding one new section to Chapter 11.52 of the Benton County Code; and repealing Ordinance 62, Section 1 (Section XVI), Ordinance 75, Section 3 and BCC 11.52.070.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. REPEAL. Ordinance 62, Section 1 (Section XVI), Ordinance 75, Section 3 and BCC 11.52.070 are hereby repealed.

NEW SECTION. SECTION 2. There is hereby added a new section to Chapter 11.52 BCC which shall read as follows:

NONCONFORMING USES. (a) Purpose. The purpose of this section is to provide reasonable alternatives to property owners for the continuance of nonconformities and in certain circumstances limited expansion.

(b) Continuance. Lots, structures, and uses that were legally established prior to the adoption of Title 11 BCC or that were in compliance with Title 11 BCC at the time of initial establishment but, due to revision or amendment of Title 11 BCC, have become noncompliant are nonconforming uses that may continue, without regard to ownership changes, so long as in compliance with this section. A use of property that is unlawful under other local, state, or federal laws shall not be deemed a nonconforming use.

(c) Discontinuance. If a nonconforming use is replaced by a conforming use for any length of time, no structure or land use shall revert to the nonconforming use. The mere presence of a structure shall not constitute the continuance of a nonconforming use. When a nonconforming use is discontinued for a period of one (1) year or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of this title.

(d) Normal Upkeep, Repairs, and Maintenance. Normal upkeep, repairs, maintenance, strengthening, or restoration to a safe condition of any nonconforming structures or part thereof are not prohibited solely as a result of the structure's nonconforming use status.

(e) Expansion, Restoration or Replacement of Nonconforming Uses. Alteration, expansion, or replacement of nonconforming structures and uses are not allowed except as set forth in this subsection:

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(1) Dwelling Units. Nonconforming dwelling units may be altered, expanded or replaced on conforming or nonconforming lots if:

- (i) all other requirements of the Benton County Code and the Benton-Franklin Health District are satisfied, including but not limited to setback requirements;
- (ii) a complete application for a building permit shall be submitted within one (1) year of any act causing damage or destruction to the dwelling unit; and
- (iii) the alteration, expansion or replacement must be completed within one (1) year from issuance of the building permit. This subsection shall apply to each dwelling unit when two or more single-family dwellings exist on a parcel pursuant to a valid multiple detached dwelling permit.

(2) Legally Required Alterations or Expansions. Alteration or expansion of a nonconforming use or structure is allowed if necessary to accommodate handicapped accessibility requirements, fire code, or other life safety related requirements mandated by local, state, or federal law.

(3) Other structures. Except as set forth above, nonconforming structures may not be altered or expanded. Such structures may be restored if less than fifty (50) percent of the gross floor area has been unintentionally destroyed or damaged if:

- (i) all other requirements of the Benton County Code and the Benton-Franklin Health District are satisfied, including but not limited to setback requirements;
- (ii) the nonconforming use resumes within such structure within one (1) year from the destroying or damaging event; and
- (iii) the restoration of the nonconforming structure does not increase the gross floor area that existed immediately prior to the destruction or damaging event. Structures intentionally destroyed or damaged and those with fifty (50) percent or more of their gross floor area unintentionally destroyed or damaged, may not be restored or reconstructed.

SECTION 3. Ordinance 62, Section 1, Subsection XX, Ordinance 389, Section 1 and BCC 11.52.110 are hereby amended to read as follows:

AMENDMENTS. The board of commissioners may, upon recommendation of the county planning commission, change by (~~resolution~~) ordinance the district boundary lines or zone

classification as shown on the use district maps, and, or amend, supplement or change by (~~resolution~~) ordinance the regulations herein contained. After holding at least one open record hearing, the county planning commission shall transmit to the board of county commissioners its recommendations for the classification of all property in the proposed district. The board of county commissioners, upon receipt from the planning commission of the said recommendations for change, may adopt, alter or reject by (~~resolution~~) ordinance the recommended change in district boundary lines, zone classifications, or regulations after holding its own open record hearing. The board of county commissioners may conduct public hearings involving recommendations of the planning commission on amendments to the text of this title or area wide zone changes, but with respect to site specific zone change requests, the board of county commissioners must consider the issue in a closed record appeal hearing, as outlined in BCC 11.52.130.

SECTION 4. Ordinance 62, Section 1, Subsection XXI, Ordinance 389, Section 2 and BCC 11.52.120 are hereby amended to read as follows:

PETITIONS FOR CHANGE OF CLASSIFICATION. (a) A petition for a change in classification shall be signed by all persons with an ownership interest in the property to be reclassified, as shown in the records of the Benton County Assessor, and all persons, if any, with separate ownership of the mineral rights in such property. Notwithstanding BCC 17.10.090(b)(2), a petition for a change in classification shall not be deemed complete without a representation that the petition has been signed by all such persons.

(b) The signatures of all person or persons having a contract right, as purchaser to receive title to any lot or parcel of property upon completion of the purchase price thereof, shall, for the purpose of this title, be deemed the signature of all persons with an ownership interest in the property; provided that the said person or persons state in writing over their signature that they are purchasing the property in question under contract. Nothing in this subsection eliminates the requirement that all persons, if any, with separate ownership of the mineral rights in such property must also sign said petition.

(c) All petitions requesting classification or change in classification of property must state the address of each signer and the legal description of the property owned by him.

(d) The county planning commission shall hold not less than one public hearing on all valid petitions for change of classification, and shall transmit, thereafter, the petition with their findings and recommendations to the board of county commissioners, who may adopt or reject by (~~resolution~~) ordinance such proposed zone change.

NOTE: This Ordinance is continued on the following page.

(e) A non-refundable fee as established by resolution of the Board of Benton County Commissioners shall be submitted with the petition.

SECTION 5. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect and be in full force on September 1, 2011.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Constituting the Board of  
County Commissioners of  
Benton County, Washington

\_\_\_\_\_  
Deputy Prosecuting Attorney

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to Adult Use (Entertainment) Businesses; amending Ordinance 402, Section 1 and BCC 4.02.020; amending Ordinance 297, Section 3 and BCC 4.02.030; amending Ordinance 297, Section 4 and BCC 4.02.040; amending Ordinance 297, Section 7, Ordinance 356, Section 1, Ordinance 402, Section 2 and BCC 4.02.070; amending Ordinance 297, Section 12, Ordinance 356, Section 2, Ordinance 402, Section 3 and BCC 4.02.120; and amending Ordinance 297, Section 13, Ordinance 356, Section 3 and BCC 4.02.130.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 402, Section 1 and BCC 4.02.020 are hereby amended to read as follows:

DEFINITIONS. For the purposes of this chapter, the following definitions shall apply:

(a) "Adult Arcade" means a retail establishment in which coin-operated, slug-operated, or still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," as defined herein, for observation by patrons within.

(b) "Adult bookstore," "adult novelty store," "adult retail store," or "adult video store" means:

(1) A commercial establishment that, as one of its principal purposes offers for sale or rental for any form of consideration one or more of the following:

(i) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representations that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(ii) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as "adult bookstore," "adult novelty store," or "adult video store." The other business purposes do not serve to exempt the commercial establishment from being categorized as an "adult bookstore," "adult novelty store," or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that are characterized by the depiction or description of specified sexual activities or specified anatomical areas or as long as this business purpose constitutes the primary or a major attraction to the premises.

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(c) "Adult Mini Theater" means an enclosed building with a capacity of less than fifty (50) persons, a portion of an enclosed building with a capacity of less than fifty (50) persons, or an outdoor theater with a capacity of less than fifty (50) persons where films, motion pictures, cable television, video cassettes, slides, or similar photographic reproductions are regularly shown that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," as defined herein, for observation by patrons therein.

(d) "Adult Motion Picture Theater" means an enclosed building with a capacity of fifty (50) or more persons, a portion of an enclosed building with a capacity of fifty (50) or more persons, or an outdoor theater with a capacity of fifty (50) or more persons, where films, motion pictures, cable television, video cassettes, slides, or similar photographic reproductions are regularly shown that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," as defined herein, for observation by patrons therein.

(e) "Adult Panoram Establishment" means any building or portion of a building containing devices which for payment of a fee, membership fee, or other charge, is used to exhibit or display a picture, view, or other graphic display distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," as defined herein.

(f) "Adult Use" means any "Adult Arcade, Adult Bookstore, Adult Mini Theater, Adult Motion Picture Theater, Adult Panoram Establishment, Adult Retail Store or Live Adult Entertainment Establishment," as defined herein.

(g) "Adult Use Business" means any "Adult Arcade, Adult Bookstore, Adult Mini Theater, Adult Motion Picture Theater, Adult Panoram Establishment, Adult Retail Store or Live Adult Entertainment Establishment," as defined herein, or any establishment which provides one or more of the activities listed herein.

(h) "Employee" means any and all persons, including managers, entertainers, and independent contractors who work in or at or render any services directly related to the operation of an Adult Use Business.

(i) "Entertainer" means any person who provides Live Adult Entertainment within an Adult Use Business as herein defined whether or not a fee is charged or accepted for entertainment.

(j) "Entertainment" means any exhibition or dance of any type, pantomime, modeling, or any other performance.

(k) "Live Adult Entertainment Establishment" means any building or portion of a building which contains any exhibition or dance which is for the benefit of a member or members of the adult public, or advertised for the use or benefit of a member of the adult public, held, conducted, operated, or maintained for profit, direct or indirect.

(l) "Manager" means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity involving Adult Entertainment occurring at any adult entertainment premises. This term includes persons acting as assistant managers.

(m) "Nude model studio" means a place where a person appears seminude, nude, or who displays "specified anatomical areas" described herein, and the person is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. "Nude model studio" does not include:

(1) "State universities," "regional universities," "state colleges," and "institutions of higher education," as defined by RCW 28B.10.016;

(2) a "degree-granting institution" as defined by RCW 28B.85.010(3); and

(3) A studio located in a building:

(i) that has no sign visible from the exterior of the building and no other advertising that indicates a nude or seminude person is available for viewing; and

(ii) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

(n) "Own or operate" means a person owns, operates, and/or has a significant operational interest in a sexually oriented business.

(o) "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

(p) "Planning Director/Administrator" means the Director of the Benton County (~~Planning/Building~~) Planning Department or appointed designee.

(q) "Public Place" means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles, whether moving or not.

(r) "Sensitive Land Uses" means those land uses which are particularly sensitive to the secondary effects of adult use businesses. Sensitive land uses include the following:

(1) churches, or other religious facilities or institutions;

(2) multiple family and single family residential zones;

(3) playgrounds and public parks;

(4) public and private schools, technical schools and training facilities which have twenty-five (25) percent or more of their students under the age of eighteen (18);

(5) manufactured home parks;

- (6) day care facilities as defined in BCC 11.04.020; and
- (7) residential care facilities as defined in BCC 11.04.020.

(s) "Sexual Activity" means any conduct described in RCW 9A.44.010(1) and RCW 9A.44.010(2), and any act of masturbation.

(t) "Specified Anatomical Areas" means:

(1) less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; and

(2) human male genitals in a discernibly turgid state, even if completely or opaquely covered.

(u) "Specified Sexual Activities" means:

(1) human genitals in a state of sexual stimulation or arousal, and/or

(2) acts of human masturbation, sexual intercourse or sodomy, whether between persons of the same or opposite sex, and/or

(3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

(v) "Stock in Trade" for the purposes of this chapter, means all books, equipment, magazines, periodicals, pictures, posters, printed material, products (including prerecorded video tapes, discs, or similar material), or other items readily available for purchase, rental, viewing, or use by patrons of the establishment excluding material located in any storeroom or other portion of the premises not open to patrons.

SECTION 2. Ordinance 297, Section 3 and BCC 4.02.030 are hereby amended to read as follows:

PERMITTED LOCATION AND PERMITTED USES. (a) An Adult Use Business, as defined in this chapter, shall be permitted to locate in the (~~Commercial District (C)~~) General Commercial District (GC) only; **provided**, it meets all of the location requirements set forth in BCC 4.02.040.

(b) Nothing within the location requirements set forth herein and in BCC 4.02.040 shall preclude an adult use business from conducting more than one adult use activity within a single structure; **provided**, the adult use business complies with the provisions of this chapter and all other County ordinances.

(c) In the event an adult use business is legally established in accordance with the requirements of this chapter, does not constitute a nonconforming use as defined in BCC 4.02.050 nor a sensitive land use described in BCC 4.02.020, and locates within the separation distance required by BCC 4.02.040, the zoning conformity of the legally established adult use shall not be affected.

SECTION 3. Ordinance 297, Section 4 and BCC 4.02.040 are hereby amended to read as follows:

WHERE PROHIBITED. (a) Adult Use Businesses shall be prohibited within one thousand (1,000) feet of any city or unincorporated area of Benton County zoned for residential purposes. Residential zones shall include:

- (1) ~~((the Residential District (R)))~~ Community Center Residential District (CCR),
  - (2) ~~((Suburban District (S)))~~ Urban Growth Area Residential District (UGAR),
  - (3) Planned Development District (PD),
  - (4) ~~((Rural Estates District (RE)))~~ Rural Lands One Acre District (RL-1),
  - (5) Rural Lands Twenty Acre District (RL-20)
- ~~((5))~~ (6) any residential zone hereafter adopted by the County or adjacent city.

(b) Adult Use Businesses shall be prohibited within one thousand (1,000) feet of any areas defined as Sensitive Land Uses.

(c) Adult Use Businesses shall be prohibited within five hundred (500) feet of any other Adult Use Business, as defined in this chapter.

(d) The distances provided herein shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult use business is located or is to be located, to the nearest point of the parcel of property or the zoning district boundary line from which the proposed adult use business is separated or is to be separated.

SECTION 4. Ordinance 297, Section 7, Ordinance 356, Section 1, Ordinance 402, Section 2 and BCC 4.02.070 are hereby amended to read as follows:

ADULT USE BUSINESS PERMIT REQUIRED. No Adult Use Business shall be permitted until an Adult Use Business permit has been approved by the Planning and Building Director upon compliance with this section; the following procedures shall apply:

(a) Application. No Adult Use Business shall be permitted until an Adult Use Business permit has been approved by the Planning Director upon compliance with this section. Any person seeking a permit for an Adult Use Business shall submit to the Planning Department the following:

- (1) A completed application supplied by the Benton County Planning Department, which includes a site plan accurately drawn at a scale of one (1) inch = one hundred (100) feet or larger, showing the following:
  - (i) The boundaries and dimensions of the site;
  - (ii) Existing streets, roads, and highways bordering or crossing the site;
  - (iii) Interior private roads;
  - (iv) Location and uses of existing and proposed structures;

- (v) Location of parking facilities, including access points;
- (vi) Scale and North arrow;
- (vii) Vicinity Map showing adjacent properties;
- (viii) Location of drainage facilities;
- (ix) Location of utility easements; and
- (x) The size and location of all existing and proposed signs;

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

(3) Additional information as required by the Planning Director.

If an application is determined to be incomplete, the applicant shall be notified in writing of the additional information that is required within ten (10) business days of receipt of the application. If the applicant either refuses in writing to submit additional information or does not submit the required additional information within thirty (30) days, the application shall lapse.

(b) Review by Planning and Building Director. The Planning and Building Director shall issue the permit if the applicant meets the following conditions:

(1) 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.

(2) The proposed use complies with the density requirements of the Benton County Comprehensive Plan.

(3) The building size meets the total square footage and setback requirements of Chapter 11.52 BCC for the proposed use and all accessory structures.

(4) The proposed use complies with all applicable requirements of the Benton-Franklin District Health Department, Department of Social and Health Services, and any municipality providing water or sewer.

(5) Exterior advertising shall be limited to one, two-square foot, non-illuminated double-faced sign or its equivalent.

(6) Off-street parking areas shall be provided as to allow one space for every employee.

(7) The exterior of any building housing an adult use business shall not permit any public display of performances by nude or semi-nude entertainers of the adult use business.

(8) The permit is conditioned upon the site for the proposed use being landscaped in such a manner to be compatible with surrounding uses.

(9) The applicant must comply with the requirements of Chapter 3.16 BCC and Chapter 3.18 BCC for the proposed use.

(10) The applicant must comply with the requirements of Chapter 3.04 BCC, Chapter 3.08 BCC, and Chapter 3.12 BCC for the proposed use.

(11) No grounds for revocation of a permit under BCC 4.02.130(b) exist.

(12) The proposed use is permitted on the proposed site pursuant to BCC 4.02.030 and BCC 4.02.040.

(c) Decision. If the Planning ~~((and Building))~~ Director determines all the above are satisfied, he or she shall issue the permit. If one or more of the above are not satisfied, he or she shall deny the permit in writing and state the basis for such denial. Such decision shall be made within fifteen (15) business days of receipt of a complete application.

(d) Conditional Approval. If the proposed use is conditionally approved to satisfy the requirements of BCC 4.02.070(b), the applicant shall have six (6) months to satisfy the conditions.

(e) Appeal.

(1) Anyone aggrieved by the Planning ~~((and Building))~~ Director's decision shall have fourteen (14) days from the date of decision to submit an appeal to the Board of County Commissioners. All appeals shall be in writing accompanied by a non-refundable fee as established by resolution of the Board of County Commissioners (Board) and shall be filed with the Benton County Planning Department. Said appeal is considered filed upon receipt.

(2) The Board shall conduct a public hearing to consider the appeal.

(3) Any appeal of the Board of Commissioners' decision must be made in accordance with applicable state and local laws.

(f) Temporary Permit Upon Denial. Whenever an application for an adult use business permit is denied, upon request a temporary permit shall be issued if the business will be located in the Commercial District (C) as required by BCC 4.02.030(a). Such temporary permit shall terminate fourteen (14) days from the date of the Planning ~~((and Building))~~ Director's decision to deny the application. Provided, if a timely appeal is filed in accordance with BCC 4.02.070(e), a temporary permit shall be issued that shall be valid until the administrative appeal and any timely judicial appeal is concluded.

(g) Continuation of Business Pending Appeal of Permit Suspension or Revocation. Whenever a request for appeal of a permit suspension or revocation is timely filed pursuant to BCC 4.02.070(e), a permittee may continue to operate the adult use business for which the permit was issued, pending the decision of

the Benton County Planning and Building Department, or, if appealed, the Board of County Commissioners or a court of competent jurisdiction.

(h) Annual Fee. An annual fee for the Adult Use Business permit shall be established by resolution of the Board of Benton County Commissioners. The annual license will expire on December 31 of each year. The license must be renewed by January 1.

SECTION 5. Ordinance 297, Section 12, Ordinance 356, Section 2, Ordinance 402, Section 3 and BCC 4.02.120 are hereby amended to read as follows:

LIVE ADULT ENTERTAINMENT--MANAGER OR ENTERTAINER--LICENSE REQUIRED. No person shall work as a manager or entertainer at any Adult Use Business without having first obtained a license from the Benton County Planning and Building Department. No person shall be employed as a manager and an entertainer in an Adult Use Business.

(a) Application. An application for a license may be obtained from the Benton County Planning and Building Department. The application for a license shall require the following information:

- (1) The applicant's name, home address, home telephone number, date and place of birth, and any other name, including "stage" names or aliases, used by the applicant.
- (2) The name and address of each business at which the applicant intends to work as a manager or entertainer.

(b) Documentation of Age. The applicant shall present documentation that applicant has attained the age of eighteen (18) years. Any of the following shall be accepted as documentation of age:

- (1) a motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
- (2) a state-issued identification card bearing the applicant's photograph and date of birth;
- (3) an official passport issued by the United States of America;
- (4) an immigration card issued by the United States of America; or
- (5) any other picture identification issued by a governmental entity.

(c) Photograph Required. The applicant shall provide two "two-inch by two-inch" black and white photographs of the applicant, taken within six (6) months of the date of the application, showing only the full face of the applicant. The photographs shall be provided at the applicant's expense. When issued, the license shall have affixed to it such photograph of the applicant.

(d) Certification. The application shall be completed, signed by the applicant, and notarized or certified as true under penalty of perjury.

(e) Annual Fee. An annual fee for the license shall be established by resolution of the Board of Benton County Commissioners. The annual license will expire on December 31 of each year. The license must be renewed by January 1.

(f) License Nontransferable. A manager or entertainer licensed by the Benton County Planning (~~and Building~~) Department shall not transfer the license to another, nor shall a license holder alter the license in any way.

(g) Incomplete Application. If an application is determined to be incomplete, the applicant shall be notified in writing within ten (10) business days of receipt of the application of the additional information that is required for a complete submittal. If the applicant either refuses in writing to submit additional information or does not submit the required additional information within thirty (30) days, the application shall lapse.

(h) Temporary License. Upon receipt of a complete application and fee, the applicant shall be issued a temporary license that will expire upon the earlier of (1) fifteen (15) business days from receipt of a complete application; or (2) the decision on the license by the Benton County Planning (~~and Building~~) Director.

(i) Investigation. The Benton County Planning (~~and Building~~) Department, upon presentation of an application and before acting upon the same, shall refer such application to the Benton County Sheriff's Office. The Sheriff's office shall make a full investigation as to the truth of the statements contained therein and provide a written report to the Benton County Planning (~~and Building~~) Department.

(j) Change of Identity. If the legal name of the manager or entertainer licensed by the Benton County Planning (~~and Building~~) Department changes, or if they intend to perform under any "stage" name or alias not disclosed in their application, notice shall be provided in writing to the department within fourteen (14) days of said change of name.

(k) License Inspection. A manager or entertainer licensed by the Benton County Planning (~~and Building~~) Department shall make the license available for inspection upon the request of law enforcement officers or the Benton County Code Enforcement Officer for the purposes of ensuring compliance with the law.

(l) Decision on License. It shall be grounds for denial of a license if any of the grounds for revocation exist under BCC 4.02.130(b). If no such grounds exist, a license shall be issued within fifteen (15) business days of receipt of a complete application. The license shall expire on December 31 of that year and must be renewed by January 1.

(m) Appeal. Decisions regarding licensing under this chapter are subject to appeal as follows:

(1) Anyone aggrieved by the Planning (~~and Building~~) Director's decision shall have fourteen (14) days from the date of decision to submit an appeal to the Board of County Commissioners (Board). All appeals shall be in writing accompanied by a non-refundable fee as established by resolution of the Board and shall be filed with the Benton County Planning Department. Said appeal is considered filed upon receipt.

(2) The Board shall conduct a public hearing to consider the appeal.

(3) Any appeal of the Board's decision must be made in accordance with applicable state and local laws.

(n) Continuation of Employment Pending Appeal. Whenever a request for appeal of a denial to issue or renew a license, a license suspension, or a license revocation is timely filed pursuant to BCC 4.02.120(m), an applicant shall be issued a temporary license for the activity for which the license is required pending the appeal.

SECTION 6. Ordinance 297, Section 13, Ordinance 356, Section 3 and BCC 4.02.130 are hereby amended to read as follows:

PERMITS AND LICENSES--SUSPENSION OR REVOCATION. The Benton County Planning (~~and Building~~) Department has the authority to suspend or revoke an Adult Use Business permit or an employee's license.

(a) The Benton County Planning and Building Department shall suspend a business permit, a manager's license, or an entertainer's license for a period of thirty (30) days if it determines that an owner of or an employee of an Adult Use Business:

(1) refused to allow an inspection of the Adult Use Business premises as authorized by this chapter;

(2) has a currently suspended Adult Use Business permit or license in any jurisdiction within the State of Washington; or

(3) has been found to be in violation of permit or license requirements contained herein in a manner that would be grounds for denial of a permit or license.

(b) The Benton County Planning (~~and Building~~) Department shall revoke a business permit, a manager's license, or an entertainer's license if it determines that an Adult Use Business or an employee of an Adult Use Business:

(1) gave false or misleading information in the application or during the application process;

(2) knowingly operated an adult use business during a time when the permit was suspended;

(3) knowingly managed an adult use business or entertained in an adult use business during a time when the individual's license was suspended;

(4) has had more than one permit or license suspension within the preceding twelve (12) months;

(5) knowingly allowed any act defined herein as "specified sexual activity" to occur in or on the adult use business premises; or

(6) is operating under any circumstances that would be sufficient to warrant denial of the business permit under BCC 4.02.070(b).

SECTION 7. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 8. EFFECTIVE DATE. This ordinance shall take effect and be in full force on September 1, 2011.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:  
County Commissioners of  
Benton County, Washington

Constituting the Board of

\_\_\_\_\_  
Deputy Prosecuting Attorney

Attest: \_\_\_\_\_  
Clerk of the Board

06/20/11

RYAN BROWN, I AM  
WAITING FOR THE  
DOCUMENT DATED  
05/11/48. ONCE I  
RECEIVE THAT I WILL BE  
ABLE TO MAKE THE  
CHANGES THROUGHOUT  
THIS ORDINANCE. / RO

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to the Zoning Ordinance of Benton County (Title 11 BCC) and the following zoning districts: Residential District (R) - Chapter 11.08 BCC; Suburban District (S) - Chapter 11.12 BCC; Agricultural District (A) - Chapter 11.16 BCC; Commercial District (C) - Chapter 11.24 BCC; Interchange Commercial District (IC) - Chapter 11.26 BCC; Industrial District (I-1) - Chapter 11.28 BCC; Industrial District (I-2) - Chapter 11.32 BCC; Parks and Recreation Areas (P-R) - Chapter 11.44 BCC; and the Rural Estates District (RE) - Chapter 11.60 BCC; repealing Section 4 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendments dated May 11, 1948 and December 9, 1954; Ordinance 62, Subsection IV of Section 1; Ordinance 83, Ordinance 116, Section 2, Ordinance 117, Ordinance 146, Section 1, Ordinance 152, Section 2, Ordinance 153, Section 1, Ordinance 167, Section 2, Ordinance 235, Section 2, Ordinance 288, Section 1, Ordinance 337, Ordinance 432 and Chapter 11.08 BCC entitled "Residential District (R)"; repealing Section 8 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendments dated May 11, 1948 and December 9, 1954; Ordinance 62, Subsection V of Section 1; Ordinance 66, Section 1, Ordinance 112, Section 2, Ordinance 116, Section 3, Ordinance 123, Section 2, Ordinance 133, Section 3, Ordinance 133, Section 4, Ordinance 133, Section 5, Ordinance 146, Section 2, Ordinance 152, Section 3, Ordinance 153, Section 2, Ordinance 167, Section 3, Ordinance 235, Section 3, Ordinance 340, Ordinance 433 and Chapter 11.12 BCC entitled "Suburban District (S)"; repealing Section 6 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendments dated May 11, 1948 and December 9, 1954; Ordinance 62, Subsection VI of Section 1; Ordinance 112, Section 3, Ordinance 116, Section 4, Ordinance 123, Section 3, Ordinance 133, Section 6, Ordinance 133, Section 7, Ordinance 146, Section 3, Ordinance 152, Section 4, Ordinance 155, Ordinance 164, Ordinance 167, Section 4, Ordinance 167, Section 5, Ordinance 222, Section 2, Ordinance 235, Section 4, Ordinance 306, Section 2, Ordinance 342, Ordinance 367, Ordinance 371, Section 3, Ordinance 373, Section 2, Ordinance 380, Section 2, Ordinance 434 and Chapter 11.16 BCC entitled "Agricultural District (A)"; repealing Section 7 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendment dated May 11, 1948; Ordinance 62, Subsection VII of Section 1; Ordinance 78, Ordinance 123, Section 4, Ordinance 167, Section 7, Ordinance 167, Section 8, Ordinance 222, Section 3, Ordinance 235, Section 5, Ordinance 371, Section 7, Ordinance 437 and Chapter 11.24 BCC entitled "Commercial District (C)"; repealing Ordinance 232, Section 1, Ordinance 232, Section 2, Ordinance 232, Section 3, Ordinance 232, Section 4, Ordinance 233, Section 1, Ordinance 233, Section 2, Ordinance 233, Section 3, Ordinance 233, Section 4, Ordinance 371, Section 8 and Chapter 11.26 BCC entitled "Interchange Commercial District (IC)"; repealing Section 8 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendment dated May 11, 1948; Ordinance 62, Subsection VIII of Section 1; Ordinance 123, Section 5, Ordinance 133, Section 9, Ordinance 133, Section 10, Ordinance 133, Section 11, Ordinance 167, Section 9, Ordinance 167, Section 10, Ordinance 222, Section 4, Ordinance 235, Section 6, Ordinance 371, Section 9 and Chapter 11.28 BCC entitled "Industrial District (I-1)"; repealing Section 9 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendment dated May 11, 1948; Ordinance 62, Subsection IX of Section 1; Ordinance 159,

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Ordinance 222, Section 5, Ordinance 235, Section 7, Ordinance 371, Section 10 and Chapter 11.32 BCC entitled "Industrial District (I-2)"; repealing Ordinance 62, Subsection XI of Section 1; Ordinance 136, Ordinance 146, Section 4 and Chapter 11.44 BCC entitled "Parks and Recreation Areas (P-R)"; and repealing Ordinance 121, Ordinance 133, Section 12, Ordinance 133, Section 13, Ordinance 133, Section 14, Ordinance 133, Section 15, Ordinance 133, Section 16, Ordinance 146, Section 6, Ordinance 152, Section 5, Ordinance 153, Section 3, Ordinance 169, Section 1, Ordinance 222, Section 8, Ordinance 235, Section 10, Ordinance 338, Ordinance 373, Section 5, Ordinance 438 and Chapter 11.60 BCC entitled "Rural Estates District (RE)".

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. CHAPTER REPEAL. Section 4 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendments dated May 11, 1948 and December 9, 1954; Ordinance 62, Subsection IV of Section 1; Ordinance 83, Ordinance 116, Section 2, Ordinance 117, Ordinance 146, Section 1, Ordinance 152, Section 2, Ordinance 153, Section 1, Ordinance 167, Section 2, Ordinance 235, Section 2, Ordinance 288, Section 1, Ordinance 337, Ordinance 432 and Chapter 11.08 BCC entitled "Residential District (R)" are each hereby repealed in their entirety.

SECTION 2. CHAPTER REPEAL. Section 8 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendments dated May 11, 1948 and December 9, 1954; Ordinance 62, Subsection V of Section 1; Ordinance 66, Section 1, Ordinance 112, Section 2, Ordinance 116, Section 3, Ordinance 123, Section 2, Ordinance 133, Section 3, Ordinance 133, Section 4, Ordinance 133, Section 5, Ordinance 146, Section 2, Ordinance 152, Section 3, Ordinance 153, Section 2, Ordinance 167, Section 3, Ordinance 235, Section 3, Ordinance 340, Ordinance 433 and Chapter 11.12 BCC entitled "Suburban District (S)" are each hereby repealed in their entirety.

SECTION 3. CHAPTER REPEAL. Section 6 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendments dated May 11, 1948 and December 9, 1954; Ordinance 62, Subsection VI of Section 1; Ordinance 112, Section 3, Ordinance 116, Section 4, Ordinance 123, Section 3, Ordinance 133, Section 6, Ordinance 133, Section 7, Ordinance 146, Section 3, Ordinance 152, Section 4, Ordinance 155, Ordinance 164, Ordinance 167, Section 4, Ordinance 167, Section 5, Ordinance 222, Section 2, Ordinance 235, Section 4, Ordinance 306, Section 2, Ordinance 342, Ordinance 367, Ordinance 371, Section 3, Ordinance 373, Section 2, Ordinance 380, Section 2, Ordinance 434 and Chapter 11.16 BCC entitled "Agricultural District (A)" are each hereby repealed in their entirety.

SECTION 4. CHAPTER REPEAL. Section 7 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendment dated May 11, 1948; Ordinance 62, Subsection VII of Section 1; Ordinance 78, Ordinance 123, Section 4, Ordinance 167, Section 7, Ordinance 167, Section 8, Ordinance 222, Section 3, Ordinance 235, Section 5, Ordinance 371, Section 7, Ordinance 437 and Chapter 11.24 BCC entitled "Commercial District (C)" are each hereby repealed in their entirety.

SECTION 5. CHAPTER REPEAL. Ordinance 232, Section 1, Ordinance 232, Section 2, Ordinance 232, Section 3, Ordinance 232, Section 4, Ordinance 233, Section 1, Ordinance 233, Section 2, Ordinance 233, Section 3, Ordinance 233, Section 4, Ordinance 371, Section 8 and Chapter 11.26 BCC entitled "Interchange Commercial District (IC)" are each hereby repealed in their entirety.

SECTION 6. CHAPTER REPEAL. Section 8 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendment dated May 11, 1948; Ordinance 62, Subsection VIII of Section 1; Ordinance 123, Section 5, Ordinance 133, Section 9, Ordinance 133, Section 10, Ordinance 133, Section 11, Ordinance 167, Section 9, Ordinance 167, Section 10, Ordinance 222, Section 4, Ordinance 235, Section 6, Ordinance 371, Section 9 and Chapter 11.28 BCC entitled "Industrial District (I-1)" are each hereby repealed in their entirety.

SECTION 7. CHAPTER REPEAL. Section 9 of the Zoning Resolution of Benton County adopted on December 9, 1946 and amendment dated May 11, 1948; Ordinance 62, Subsection IX of Section 1; Ordinance 159, Ordinance 222, Section 5, Ordinance 235, Section 7, Ordinance 371, Section 10 and Chapter 11.32 BCC entitled "Industrial District (I-2)" are each hereby repealed in their entirety.

SECTION 8. CHAPTER REPEAL. Ordinance 62, Subsection XI of Section 1; Ordinance 136, Ordinance 146, Section 4 and Chapter 11.44 BCC entitled "Parks and Recreation Areas (P-R)" are each hereby repealed in their entirety.

SECTION 9. CHAPTER REPEAL. Ordinance 121, Ordinance 133, Section 12, Ordinance 133, Section 13, Ordinance 133, Section 14, Ordinance 133, Section 15, Ordinance 133, Section 16, Ordinance 146, Section 6, Ordinance 152, Section 5, Ordinance 153, Section 3,

NOTE: This Ordinance is continued on the following page.

Ordinance 169, Section 1, Ordinance 222, Section 8, Ordinance 235, Section 10, Ordinance 338, Ordinance 373, Section 5, Ordinance 438 and Chapter 11.60 BCC entitled "Rural Estates District (RE)" are each hereby repealed in their entirety.

SECTION 10. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 11. EFFECTIVE DATE. This ordinance shall take effect and be in full force on September 1, 2011.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Constituting the Board of  
County Commissioners of  
Benton County, Washington

\_\_\_\_\_  
Deputy Prosecuting Attorney

Attest: \_\_\_\_\_  
Clerk of the Board

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE relating to zoning; removing certain zoning districts, replacing certain zoning districts, and adding certain zoning districts; and amending the definitions section; amending Ordinance 62, Section II of Section 1, Ordinance 68, Section II of Section 1, Ordinance 264, Section 1 and BCC 11.04.010; amending Ordinance 62, Section III of Section 1, Ordinance 75, Section 2, Ordinance 222, Section 1, Ordinance 235, Section 1, Ordinance 264, Section 2, Ordinance 343, Section 1, Ordinance 359, Section 1, Ordinance 371, Section 2, Ordinance 373, Section 1, Ordinance 446, Section 1 and BCC 11.04.020.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 62, Section II of Section 1, Ordinance 68, Section II of Section 1, Ordinance 264, Section 1 and BCC 11.04.010 are hereby amended to read as follows:

USE DISTRICTS. (a) For the purpose of promoting public health, safety, morals and general welfare, and in accordance with the provisions of Chapter 36.70 RCW and Chapter 36.70A RCW, all land within the unincorporated portion of Benton County shall be classified according to the following use districts:

<u>ZONING DISTRICT</u>	<u>MAP SYMBOL</u>
<del>((1 Residential District,</del>	<del>R))</del>
<del>((2 Suburban District,</del>	<del>S))</del>
<del>((3 Agricultural District,</del>	<del>A))</del>
<u>1 General Commercial District</u>	<u>GC</u>
<del>((4 Commercial District,</del>	<del>C))</del>
<u>2 Community Commercial District</u>	<u>CC</u>
<del>((5 Industrial District,</del>	<del>I-1))</del>
<u>3 Light Industrial District</u>	<u>LI</u>
<del>((6 Industrial District,</del>	<del>I-2))</del>
<u>4 Heavy Industrial District</u>	<u>HI</u>
<del>((7) <u>5</u> Landing Field District((<u>7</u>))</del>	<del>L. F.</del>
<del>((8) <u>6</u> Highway Scenic District((<u>7</u>))</del>	<del>H.S.</del>
<del>((9) <u>7</u> Parks and Recreation Areas((<u>7</u>))</del>	<del>P.R.</del>
<del>((10) <u>8</u> Hanford Unclassified((<u>7</u>))</del>	<del>((U) HU</del>
<del>((11) <u>9</u> Planned Development District</del>	<del>((PD)) PD</del>
<del>((12 Interchange Commercial District</del>	<del>(IC))</del>
<u>10 Interchange Commercial District</u>	<u>IC</u>
<del>((13 Rural Estates District</del>	<del>(RE))</del>
<del>((14) <u>11</u> GMA Agricultural District ((<del>GMAAD</del>))</del>	<del>GMAAD</del>
<u>12 Community Center Residential District</u>	<u>CCR</u>
<u>13 Rural Lands One Acre District</u>	<u>RL-1</u>
<u>14 Rural Lands Five Acre District</u>	<u>RL-5</u>
<u>15 Rural Lands Twenty Acre District</u>	<u>RL-20</u>
<u>16 Urban Growth Area Residential District</u>	<u>UGAR</u>
<u>17 Public Reserve District</u>	<u>PR</u>

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(b) The boundaries of such use districts shall be as shown on the ~~(("Use District Maps" or on the))~~ ~~((official "Interim))~~ "Official Zoning Map" of Benton County ~~((as the case may be,))~~ which ~~((have))~~ has been and hereafter may be adopted by resolution of the Board of County Commissioners as hereinafter in this title provided.

(c) There shall be maintained in the office of the county auditor at all times, and, likewise, in the office of the planning commission or of the Planning Department as the case may be, a map of the county ~~(("Use District Maps" or "Interim))~~ ("Official Zoning Map") showing the classification of all properties for use, according to this title which same shall be available for inspection by the public and which shall constitute the use of maps of the county, and as changes of areas are made to any other use the same shall immediately be shown on such maps.

(d) The owners of property within the county are afforded the opportunity and means through the medium of this title to change the classification and use of their property as now set forth on the map referred to in paragraph (c) supra, which means shall be accomplished only by the medium as hereinafter described in BCC 11.52.110 and BCC 11.52.120.

SECTION 2. Ordinance 62, Section III of Section 1, Ordinance 75, Section 2, Ordinance 222, Section 1, Ordinance 235, Section 1, Ordinance 264, Section 2, Ordinance 343, Section 1, Ordinance 359, Section 1, Ordinance 371, Section 2, Ordinance 373, Section 1, Ordinance 446, Section 1 and BCC 11.04.020 are hereby amended to read as follows:

DEFINITIONS. For the purpose of this title certain words and terms are defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular.

(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.

~~((56))~~ (4) ~~((Director))~~ Administrator Review means the administrative review process in which the County Planning ~~((Director))~~ Administrator 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.

~~((44))~~ (5) "Adult" means a person eighteen years of age and older.

~~((45))~~ (6) "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 ~~((four (4)))~~ six (6) adults who are not related by blood or marriage to the person or persons providing the services ~~((; except that a maximum of six (6) adults may be permitted if the Washington State Department of Social and Health Services determines that the home and provider are capable of meeting the standards and qualifications provided by law (RCW 70.128.010)))~~.

~~((48))~~ (7) "~~((Agriculture))~~ 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.

~~((410))~~ (8) "~~((Agriculture))~~ 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.

(9) "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.

~~((411))~~ (10) "~~((Agriculture))~~ 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.

~~((412))~~ (11) "~~((Agriculture))~~ 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.

~~((47))~~ (12) ("~~Agriculture~~") "Agricultural Use" means ~~((the tilling of soil,))~~ raising ~~((of))~~ crops~~((,))~~ and livestock, ~~((and horticulture))~~ horticultural activities, viticulture, animal husbandry, beekeeping, ~~((for commercial purposes and all))~~ the storage of equipment for the above and related activities normally and routinely a part of ~~((the chain of production))~~ such uses.

~~((46))~~ (13) "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.

~~((49))~~ (14) "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.

~~((13))~~ (15) "Agronomic Rates" or fertilizer guide means the rates of application of sludges, manures, 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.

~~((14))~~ (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.

~~((15))~~ (18) "Airstrip commercial crop-dusting" means a private runway with service and maintenance facilities which serves the commercial crop-duster.

~~((16))~~ (19) "Allowable Use" means any use listed in BCC 11.18.050, which are allowed outright, i.e., the land use itself does not require obtaining planning director review and approval, or a conditional use permit.

~~((17))~~ (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).

~~((18))~~ (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.

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

((20)) (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 100 chickens to produce the same volume of waste as a horse.

For purposes of Benton County, the following equivalents apply:

<u>ANIMAL</u>	<u>ANIMAL UNIT EQUIVALENT</u>	<u>% OF ANIMAL UNIT</u>
Horse	1	100
Slaughter Steer or Heifer	1	100
Mature Dairy Cow	1.4	71
Swine over 55 pounds	2.2	45
Swine under 55 pounds	10	10
Sheep	10	10
Turkey	5	20
Chicken	100	1
Duck	200	.5
Other Animals	As may be determined by the Administrative Official.	

((21)) (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.

((22)) (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.

((23)) (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.

((24)) (27) "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.

((25)) (28) "Auto Wrecking (~~or Junk Yards~~) Yard (~~Rubbish Dumps~~)" means a lot, parcel of land or structure, or part thereof, larger than 200 square feet, (~~used for storage, keeping or abandonment of junk, including waste paper, rags, scrap metal, scrap lumber, or discarded material, or~~) used for the collecting, dismantling, storage, salvaging, (~~or~~) and sale of parts of machinery or vehicles not in operable condition; 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.

~~((26))~~ (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.

~~((27))~~ (30) "Bed and Breakfast" means an owner occupied single family dwelling in which not more than two bedrooms are rented for money or other valuable consideration to the traveling public. For the purposes of this title this use is not considered a public enterprise, rather it will be considered as an extended family use which is comparable in intensity of use to that of a blood related family with two or more children who are licensed drivers. And, further, only one meal, breakfast, will be served to guests.

~~((28))~~ (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.

~~((29))~~ (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.

(33) "Board of Adjustment" means a board appointed by the Board of County Commissioners, authorized to hear and make decisions on variances, conditional use permits, and certain appeals.

~~((30))~~ (34) "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.

~~((31))~~ (35) "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 ~~((BCC 11.12.010(j)(15), BCC 11.16.010(e)(17), and BCC 11.60.010(k)(20))~~) Ordinance No. [RL-5], Section 6(x), and Ordinance No. [RL-20], Section 6(g).

~~((32))~~ (36) "Charge Controller" means an electronic device which regulates the voltage applied to the battery system from solar panels.

~~((33))~~ (37) "Child" means a person seventeen years of age and under.

~~((34))~~ (38) "Child Day Care Facility - Type A" means ~~((any facility for short term child))~~ a dwelling unit where a childcare provider ~~((care))~~ cares for twelve (12) or fewer children for periods of less than 24 hours a day ~~((including the following facilities as defined in BCC 11.04.020: "Child Day Care," and "Day Care Facility"))~~.

~~((35))~~ (39) "Child Day Care Facility - Type B" means ~~((the provision of supplemental parental))~~ a dwelling unit where a childcare provider ~~((care))~~ cares for thirteen (13) or more children ~~((and supervision;))~~

~~((a) for a non-related child or children;))~~

~~((b) on a regular basis;))~~

~~((c))~~ 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 ~~((unless such period of time is otherwise extended by authority of the Washington State Department of Social and Health Services), and))~~

~~((d) under license by the Washington State Department of Social and Health Services;))~~

~~((e) as used in this title, the term is not intended to include babysitting services of a casual, non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocative child care by a group of parents in their respective homes. (See "Day Care Facility"))~~.

(40) "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.

~~((36))~~ (41) "Church" means a structure, or group of structures, which by design and construction are primarily used for religious services and instruction.

~~((437))~~ (42) "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.

~~((438))~~ (43) "Cluster Development" means a development in which a number of dwelling units are grouped, leaving land undivided for a common or specific use. It may mean grouping the same number of units allowed in a given Comprehensive Plan designation or zoned area on a smaller than usual or minimum lot size, with the remainder of land available as a common area for a specific use - the density remains the same, but larger pieces of land with natural features or agricultural suitability are preserved for the customary or common use.

~~((439))~~ (44) "Commercial Dairy" means any premises where three or more animal units are kept, milked, or maintained for licensed commercial sale of product.

~~((440))~~ (45) "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.

~~((441))~~ (46) "Commercial Poultry/ Rabbit Operation" means premises where more than one hundred (100) birds or fifty (50) rabbits are kept.

~~((442))~~ (47) "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.

~~((443))~~ (48) "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.

~~((444))~~ (49) "Communication Facility Height" means the distance measured from ground level to the highest point on the communication facility, including the antenna array.

~~((445))~~ (50) "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.

~~((446))~~ (51) "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.

~~((447))~~ (52) "Compatibility" means the congruent arrangement of land uses and/or project elements to avoid, mitigate, or minimize (to the greatest extent reasonable) conflicts.

~~((449))~~ (53) "Comprehensive Plan" means the Benton County Comprehensive Plan and any amendments, addenda, or supplemental plans that are duly adopted under Chapter 36.70 RCW (as amended) and Chapter 36.70A RCW, for Benton County or any portion thereof.

~~((449))~~ (54) "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.

~~((450))~~ (55) "Condition(s) of Approval" means restrictions or requirements imposed by a reviewing official pursuant to authority granted by this title.

~~((451))~~ (56) "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 Zoning Ordinance 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.

~~((452))~~ (57) "County" means Benton County.

(58) "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.

~~((453) "Day Care Facility" means a building or structure in which an agency, person, or persons regularly provide care for a group of children for periods less than 24 hours a day (unless such period of time is otherwise extended by authority of the Washington State Department of Social and Health Services), including:))~~

~~((a) Day Care Center: A building or portion of a building, not a private family dwelling, and related yard or premises, used in the regular care of children, apart from their parents or guardians.))~~

~~((b) Day Care Home: A private family dwelling or a portion thereof, and related yard or premises, used in the regular care of thirteen (13) or more children, apart from their parents or guardians used exclusively for the children during the hours the center is in operation and which is separate from the usual living quarters.))~~

~~((c) Mini-Day Care Home/Center: A private family dwelling or a portion thereof or a separate ancillary structure on the same lot, and related yard or premises, used in the regular care of eight (8) through (12) children, apart from their parents or guardians.))~~

~~((d) Family Day Care Home: A private family dwelling or portion thereof or a separate ancillary structure on the same lot, and related yard or premises, used in the regular care of seven (7) or fewer children, apart from their parents or guardians.))~~

~~((54))~~ (59) "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.

~~((55))~~ (60) "Development" means "use" as defined by this title.

~~((57))~~ (61) "Domestic Farm Animal" means animals domesticated by man to live in a tame condition. This definition includes but is not limited to: dairy cows, beef cattle, horses, ponies, mules, llamas, goats, sheep, rabbits, poultry, and swine.

~~((58))~~ (62) "Duplex" A single structure containing two (2) dwelling units, neither of which is defined as an accessory dwelling unit.

~~((59))~~ (63) "Dwelling Unit" A room or rooms located within a structure, 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.

~~((60))~~ (64) "Dwelling, Single-Family" or "Single Family Dwelling" or "One Family Dwelling" means ~~((a))~~ one of the following types of ~~((building))~~ buildings or ~~((structure))~~ structures designed to contain a single dwelling unit ~~((Single Family dwellings are further classified by the nature of their construction as follows))~~:

(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".

~~((61))~~ (65) "Dwelling, Single-Family Detached" means one dwelling located on one lot and not attached to any other dwelling unit.

(66) "Electric Vehicle Charging Station" means a public or private parking space that is served by 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.

(67) "Equipment Rental Facility" means a facility that stores equipment that can be rented for a specified period of time in return for payment.

~~((62))~~ (68) "Factory Assembled Commercial Structure" means a factory assembled structure (FAS) designed or used for human habitation or human occupancy for industrial, educational, assembly, professional, or commercial purposes.

~~((63) "Factory Assembled Structure (FAS)" means structures which are of closed construction, which are made or assembled in manufacturing facilities off the building site. These are equipped with the necessary service connections for the hook up of required utilities, which include plumbing, heating, air conditioning and electrical installations contained therein, which may or may not require a permanent foundation as per manufacturer's instruction (i.e. mobile homes, manufactured homes, designated manufactured homes, modular structures). This excludes recreational vehicles and park trailers.)~~

~~((FAS which do not meet the HUD Manufactured Housing Standards will be required to meet HUD Alteration, Fire & Safety Standards and be certified as such by the State of Washington.))~~

~~((Factory assembled structures that meet the Uniform Building Code or International Residential Code and that are permanently affixed to a footing or foundation and designated manufactured homes, shall be considered the same as a site built single family residential dwelling and are permitted outright wherever single family residences may be located.))~~

~~((64))~~ (69) "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.

~~((65))~~ (70) "Farm labor housing" means living quarters such as apartments, cabins, manufactured homes, bunkhouses, tents, or recreational vehicles maintained or temporarily located in connection with farm work, providing for the annual or seasonal housing of farm employees.

(71) "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.

~~((66))~~ (72) "Floodplain" means the total area subject to inundation by the base flood.

~~((67))~~ (73) "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.

~~((68))~~ (74) "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 road, street, highway, or lane. If there be more than one property line adjoining or abutting a public 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 county planning commission 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.

~~((69))~~ (75) "Front Yard" means the required open space between the front property line and the nearest part of any building on the lot, save as elsewhere in this title excepted.

~~((70))~~ (76) "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.

~~((71))~~ (77) "Growth Management Act (GMA) Agricultural District Ordinance" is that ordinance which, as mandated by the Growth Management Act, Chapter 36.70A RCW, requires the designation and conservation "by regulation" of agricultural lands of long term commercial significance.

~~((72))~~ (78) "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.

~~((73))~~ (79) "Hazardous Waste and/or Material" means all dangerous and extremely hazardous waste as defined in RCW 70.105.010 except for moderate-risk waste.

~~((74))~~ (80) "Hazardous Waste Storage" means the holding of hazardous waste for a temporary period as regulated by State Dangerous Waste Regulations, Chapter 173-303 WAC.

~~((75))~~ (81) "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.

~~((476))~~ (82) "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.

~~((477))~~ (83) "Hazardous Waste Treatment and Storage Facility(~~(On-site)~~)" means treatment and storage facilities that treat and store wastes (~~(generated on the same geographically contiguous, or bordering property)~~).

~~((478))~~ (84) "~~((1))~~Hobby~~((1))~~ farms" means generally small acreages less than twenty (20) acres where the combination of parcel size, soil capability and other factors including market conditions renders this income supplementary to a primary income.

~~((479))~~ (85) "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.

~~((480))~~ (86) "Home Occupation" means any business use that is clearly incidental and secondary to the use of the property for residential purposes and that complies with the criteria set forth in BCC 11.08.010(e).

~~((481))~~ (87) "Hotel" means a ~~((house))~~ facility providing lodging and usually meals for the public, especially transients.

~~((482))~~ (88) "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.

~~((483))~~ (89) "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.

~~((484))~~ (90) "Hunting Preserve" means a parcel or contiguous parcels encompassing at least three hundred and twenty (320) acres used for hunting.

~~((485))~~ (91) "Impervious Surface" means any material which reduces or prevents absorption of storm water into previously undeveloped land.

~~((486))~~ (92) "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.

~~((487))~~ (93) "Infiltration" refers to the penetration of water into soil or other material.

~~((488))~~ (94) "Kennel, Commercial" means any premises on which more than three (3) dogs, each more than six (6) months old are housed, groomed, bred, boarded, trained, or sold.

~~((489))~~ (95) "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.

~~((490))~~ (96) "Land" means any lot, parcel or tract of real property (ground, soil, or earth).

~~((491))~~ (97) "Land Use" means the method or manner in which land and structures are occupied or utilized.

~~((492))~~ (98) "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.

~~((493))~~ (99) "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.

(100) "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.

~~((494))~~ (101) "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.

~~((495))~~ (102) "Lot Area" means the total horizontal area within the boundary lines of a lot.

~~((496))~~ (103) "Lot Coverage" means that portion of the lot that is covered by structures and other impervious surfaces.

~~((97))~~ (104) "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.

~~((98))~~ (105) "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 building official, 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.

(106) "Lumber Yard" means facilities used for the storage and sale of dimensional lumber.

~~((99))~~ (107) "Manufactured Home" ~~((includes mobile home and))~~ 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 ((. If the home was manufactured after June 15, 1976, the structure must bear)) bears the insignia of the U. S. Department of Housing and Urban Development. ~~((The definition is further refined as follows:))~~

~~((a) Multi-wide -- minimum width of not less than seventeen (17) feet as measured at all points perpendicular to the length of the manufactured/mobile home.))~~

~~((b) Single-wide -- minimum width less than seventeen (17) feet as measured at any point perpendicular to the length of the manufactured/mobile home.))~~

~~((100))~~ (108) "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.

~~((101))~~ (109) "Manure" means animal waste.

~~((102))~~ (110) "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.

~~((103))~~ (111) "Master Plan 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.

(112) "Medical Facility" means an office from which emergency or routine health care services are provided and that does not involve overnight inpatient care.

~~((104))~~ (113) "Monopole Tower" means a structure that consists of a single pole to support antennas and connecting appurtenances.

~~((105))~~ (114) "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.

~~((106))~~ (115) "New Manufactured Home" means any manufactured home required to be titled under Title 46 RCW, 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).

~~((107))~~ (116) "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.

~~((108))~~ (117) "Nursery" means an establishment where trees, shrubs and other plant materials are grown on site for the purpose of sale.

~~((109))~~ (118) "Parcel" means land having fixed boundaries created in accordance with Benton County Code and/or state law. The term includes lots or tracts.

~~((110))~~ (119) "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.

~~((111))~~ (120) "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.

~~((112))~~ (121) "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.

~~((113))~~ (122) "Permit" means written government approval issued by an authorized official empowering the holder thereof to take some action permitted.

~~((114))~~ (123) "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.

~~((115))~~ (124) "Planning Commission" means the duly constituted and appointed Planning Commission of Benton County.

~~((116))~~ (125) "Planning Department" means the Benton County Planning Department.

~~((117))~~ (126) "Premises" means a lot, parcel, or plot of land together with the buildings and structures thereon.

(127) "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.

~~((118))~~ (128) "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.

~~((119))~~ (129) "Public Hearing" means a meeting open to the public that is announced and advertised in advance as required by law at which the public is given the opportunity to participate.

(130) "Public Transit Center" means a facility where public transportation passengers interchange from one route or vehicle to another.

~~((120))~~ (131) "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.

~~((121))~~ (132) "Rear Yard" means the required open space on a lot extending along the rear property line through the whole width of the lot.

(133) "Reception Facility" means a private building with restroom facilities and/or kitchen, and associated grounds used for social, educational, or cultural activities.

~~((122))~~ (134) "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 dunebuggies.

~~((123))~~ (135) "Recreational Vehicle (R.V.) Park" means any site, lot or parcel of ground occupied 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.

(136) "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.

(137) "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.

~~((124))~~ (138) "Resource Lands" refer to agricultural and mineral lands.

(139) "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.

~~((125))~~ (140) "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.

~~((126))~~ (141) "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.

(142) "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.

~~((127))~~ (143) "Setback, Front" is the minimum horizontal distance measure 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. When there is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline.

~~((128))~~ (144) "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.

~~((129))~~ (145) "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.

~~((130))~~ (146) "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.

~~((131))~~ (147) "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.

~~((132))~~ (148) "Slaughterhouse" means a commercial establishment where animals are butchered.

~~((133))~~ (149) "Solar Power Generator" 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.

~~((134))~~ (150) "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 woodwaste, dangerous waste, 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.

(151) "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.

(152) "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.

~~((135))~~ (153) "Stockyards" see "Animal Feedlots."

(154) "Structure" means that which is built or constructed.

~~((136))~~ (155) "Subsurface Water" refers to any water below the surface of the ground, including but not limited to water in the saturated and unsaturated zones.

~~((137))~~ (156) "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.

(157) "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.

~~((138))~~ (158) "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.

~~((139))~~ (159) "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."

~~((140))~~ (160) "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.

~~((141)) "Utility Services" means facilities operated by utilities but not including local transmission and collection lines, pipes, and conductors. Such facilities include, but are not limited to, electrical power substations, water reservoirs, and sewage treatment plants.~~)

(161) "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.

~~((142))~~ (162) "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.

~~((143))~~ (163) "Warehouse" means a structure used for the storage of goods and materials. Also see "Agricultural Building."

~~((144))~~ (164) "Wastes" see "Agricultural Wastes," "Industrial Solid Wastes," or "Solid Wastes."

~~((145))~~ (165) "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.

~~((146))~~ (166) "Wind Turbine Farms" means two or more wind turbines on one parcel.

~~((147))~~ (167) "Wind Turbine Height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades.

(168) "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.

~~((148))~~ (169) "Wineries/Breweries" means facilities where fruit or other products are processed into wine or spirits and related storage, bottling, shipping, sampling, tasting and sale of such.

(170) "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".

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force upon its passage and adoption.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Constituting the Board of  
County Commissioners of  
Benton County, Washington

\_\_\_\_\_  
Deputy Prosecuting Attorney

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to zoning; adopting the official zoning map of Benton County and all maps of individual zone boundaries and all notations, references, data, and other information shown thereon as a part of Title 11 of the Benton County Code; setting requirements for the revision, replacement, and retention of such maps.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

NEW SECTION. SECTION 1. The following new section is hereby made a part of Title 11 of the Benton County Code but will not be codified.

OFFICIAL ZONING MAPS. The designations, locations, and boundaries of the zones set forth in Title 11 shall be shown on the official zoning map of Benton County, Washington attached hereto. The attached map consists of the compilation of the maps for each zoning district as approved by the Board of County Commissioners pursuant to the following resolutions:

- 11-256 Community Center Residential (CCR) District
- 11-257 Rural Lands One Acre (RL-1) District
- 11-258 Rural Lands Five Acre (RL-5) District
- 11-259 Rural Lands Twenty Acre (RL-20) District
- 11-325 Urban Growth Area Residential (UGAR) District
- 11-326 Community Commercial (CC) District
- 11-327 General Commercial (GC) District
- 11-328 Interchange Commercial (IC) District
- 11-
- 11-
- 11-
- 11-

Said map and all maps of individual zone boundaries and all notations, references, data, and other information shown thereon, shall be and are hereby adopted. The signed copies of the official zoning maps depicting the zones designated at the time of the adoption shall be maintained without change in the office of the County Auditor and the Planning Department.

NEW SECTION. SECTION 2. The following new section is hereby made a part of Title 11 of the Benton County Code but will not be codified.

REVISIONS OR AMENDMENTS TO THE MAPS. The Board of County Commissioners may instruct the Planning Manager to replace the official zoning map or portions thereof, with a map or maps, or

NOTE: This Ordinance is continued on the following page.

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portions thereof, which include all lawful changes of zoning designations, locations, or boundaries. Such maps shall bear dated, original signatures of the Board of County Commissioners and the Clerk of the Board. Any maps thereby replaced, shall be retained in a separate file. Any revisions or replacement of said maps, when duly entered, signed, and filed with the County Auditor as authorized by this section, will reflect the designations applicable to Title 11 BCC.

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force on September 1, 2011.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Constituting the Board of  
County Commissioners of  
Benton County, Washington

\_\_\_\_\_  
Deputy Prosecuting Attorney

Attest: \_\_\_\_\_  
Clerk of the Board

(1) Church.

SECTION 5. 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 11.52.091 through BCC 11.52.0941.

(b) Home occupation, subject to the provisions of Sections 10 through 13 of this Ordinance, involving business activities not otherwise expressly allowed or requiring a permit under Section 6 of this Ordinance.

(c) Child Day Care Facility, Type A, subject to the provisions of BCC 11.52.067.

SECTION 6. 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 Board of Adjustment after notice and public hearing as provided in BCC 11.52.090.

(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 11.52.067.~~ *Ordinance 485, Section 2.*

(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 Section 10 through Section 13 of this Ordinance.

SECTION 7. USES PROHIBITED. Any use not authorized or approved pursuant to Section 4, Section 5, or Section 6 of this Ordinance is prohibited within the Community Center Residential District (CCR).

SECTION 8. 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 Title 15 BCC (Protection of Critical Areas and Resources).

(m) 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.

SECTION 5. 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 11.52.091 through BCC 11.52.0941.

(b) Home occupation, subject to the provisions of Sections 10 through 13 of this Ordinance, involving business activities not otherwise expressly allowed or requiring a permit under Section 6 of this ordinance.

(c) Child Day Care Facility, Type A, subject to the provisions of BCC 11.52.067.

SECTION 6. 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 Board of Adjustment after notice and public hearing as provided by BCC 11.52.090.

(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 11.52.067.~~ → *Ordinance 485, Section 2*

(e) A Bed and Breakfast Establishment.

(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 Sections 10 through 13 of this Ordinance.

(h) Sewage treatment facility for industrial and/or domestic waste.

(i) A Park.

(j) Church, if not otherwise allowed under Section 4 above.

SECTION 7. USES PROHIBITED. Any use not authorized or approved pursuant to Section 4, Section 5, or Section 6 is prohibited within the Rural Lands One Acre District (RL-1).

SECTION 8. 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 Title 15 BCC (Protection of Critical Areas and Resources).

(a) Minimum parcel size. Except as otherwise set forth herein, the minimum parcel size that may be created in the RL-1 District is

(d) Child Day Care Facility, Type A, subject to the provisions of BCC 11.52.067.

(e) Communication facilities, subject to Chapter 11.65 BCC.

SECTION 6. 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 Board of Adjustment after notice and public hearing as provided by BCC 11.52.090.

(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) A Bed and Breakfast Establishment.

(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 Section 10 through Section 13 of this Ordinance.

(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.

(i) Child Day Care Facility, Type B, subject to the provisions of ~~BCC 11.52.067.~~ → **Ordinance 485, Section 2.**

(j) Wineries/Breweries not otherwise allowed under Section 4 above.

(k) Cemetary, columbarium, and/or mausoleum.

(l) Sewage treatment facility for industrial and/or domestic waste.

(m) Rodeo facilities.

(n) Agricultural Related Industry for the processing of agricultural products.

(o) Reception facility with a capacity not to exceed two hundred (200) attendees.

(p) A Park.

(q) A golf course.

(r) Recreational Vehicle Park.

(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).

- (k) Kennel, private.
- (l) Hiking and non-motorized biking trails.
- (m) Crisis residential center.
- (n) Equestrian trails.

SECTION 5. USES SUBJECT TO PLANNING ADMINISTRATOR REVIEW AND APPROVAL. The following uses may be allowed within the RL-20 District on a single parcel of record upon the review and approval of the Planning Administrator:

(a) Temporary dwelling, subject to the provisions of BCC 11.52.091 through BCC 11.52.0941.

(b) Home occupation, subject to the provisions of Sections 10 through 13 of this Ordinance, involving business activities not otherwise expressly allowed or requiring a permit under Section 6 of this Ordinance.

(c) Child Day Care Facility, Type A, subject to the provisions of ~~BCC 11.52.067~~ *Ordinance 485, Section 2.*

(d) Communication facilities, subject to Chapter 11.65 BCC.

SECTION 6. 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 Board of Adjustment after notice and public hearing as provided by BCC 11.52.090.

(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 11.52.067.

(d) A Park.

(e) A Bed and Breakfast Establishment.

(f) Agricultural Market.

- (a) Temporary Dwelling, subject to BCC 11.52.091 and 11.52.0941.
- (b) Home Occupation, subject to the provisions of Section 10 through Section 13 of this Ordinance, involving business activities not otherwise expressly allowed or requiring a permit under Section 6 of this Ordinance.
- (c) Child Day Care Facility, Type A, subject to the provisions of BCC 11.52.067.

SECTION 6. 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 Board of Adjustment after notice and public hearing as provided in BCC 11.52.090:

- (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.
- (c) Child Day Care Facility, Type B, subject to the provisions of ~~BCC 11.52.067~~ *Ordinance 485, Section 2*
- (d) Public transit center.
- (e) Bed and Breakfast Establishment.
- (f) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under Section 10 through Section 13 of this Ordinance.
- (g) Nursery.
- (h) Park.
- (i) Hiking and non-motorized biking trails.
- (j) Utility substation facility.

SECTION 7. USES PROHIBITED. Any use not authorized or approved pursuant to Section 4, Section 5, or Section 6 is prohibited within the Urban Growth Area Residential District (UGAR).

SECTION 8. 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 Title 15 BCC (Protection of Critical Areas and Resources).

- (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 fourteen

(k) Veterinary facility with accommodations for animals within an enclosed building.

(l) Bank.

(m) Accessory/ancillary use or building.

(n) Hiking and non-motorized biking trails.

(o) Church.

SECTION 5. 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 Chapter 11.65 BCC.

(b) Child Day Care Facility, Type A, subject to the provisions of BCC 11.52.067.

SECTION 6. 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 Board of Adjustment after notice and public hearing as provided by BCC 11.52.090.

(a) Child Day Care Facility, Type B, subject to the provisions of ~~BCC 11.52.067.~~ *Ordinance 485, Section 2.*

(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.

ORDINANCE NO. 493

AN ORDINANCE relating to an Interchange Commercial District (IC); adding a new zoning district in Benton County; and adding a new chapter to Title 11 of the Benton County Code.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. There is hereby added a new chapter to Title 11 of the Benton County Code to be entitled, "Interchange Commercial District (IC)," and which shall include the sections set forth below.

SECTION 2. 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.

SECTION 3. APPLICABILITY. The provisions of this Ordinance 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.

SECTION 4. 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.
- (c) Food service establishment such as: restaurant, cafe, and/or espresso stand.
- (d) Hotel.
- (e) Rest area or visitor information center.
- (f) Accessory/ancillary use or building.
- (g) 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.
- (h) Tasting room, bar, and/or tavern.
- (i) Wineries/Breweries.
- (j) Hiking and non-motorized biking trails.
- (k) Rapid charging Station
- (l) Dwelling unit within a structure also used for commercial purposes that meets the following criteria is eligible to apply for a conditional use permit: