

CHAPTER 11.42
GENERAL USE REGULATIONS

SECTIONS:

11.42.010	Access to Public Roads
11.42.020	Accessory Dwelling Units (ADU)
11.42.030	Bed and Breakfast Facility
11.42.040	Building Permits
11.42.050	Child Day Care Facility, Type A
11.42.060	Child Day Care Facility, Type B-Conditional Use Permit Required
11.42.070	Fencing Standards
11.42.080	Multiple Detached Dwelling Units (MDD)
11.42.090	Non-Commercial Sand and Gravel Pits, Quarries, and Mineral Resources-Administrative Review
11.42.100	Solar Power Generator Facility-Major and Minor
11.42.110	Temporary Dwelling
11.42.120	Temporary Outdoor Retail Sales
11.42.130	Prohibition and Regulation of Marijuana Related Activities
11.42.140	Severability
11.42.150	Effective Date

11.42.010 ACCESS TO PUBLIC ROADS.

(a) Every single-family dwelling, manufactured home, or multi-family dwelling constructed on or placed upon any property after May 10, 1976, shall be constructed on or placed upon a property which fronts upon and has direct access to a county road, state highway or city street, except the following:

(1) Dwelling placed in a planned development in accordance with the provisions of Chapter 11.21 BCC.

(2) Manufactured homes placed in an approved manufactured home park, pursuant to BCC 3.22 (Manufactured Home Park Ordinance).

(3) Dwellings to be located on property for which there is a non-exclusive and perpetual easement or right-of-way for ingress and egress recorded in the Benton County Auditor's office. Said easement or right-of-way shall be continuous from the boundary of the property on which the dwelling is to be located to a county road, state highway, or city street and shall serve only one dwelling unit per individual piece of property. All applicants for building permits issued under the authority of this subsection shall sign an affidavit stating that the responsibility for construction and maintenance of this easement shall be vested with the property owner and not Benton County.

(4) A manufactured home located on property that proposes to provide access across state or federally owned property and for which there is a non-perpetual easement, lease, or right-of-way for ingress and egress across the state or the federally owned property, recorded in the Benton County Auditor's office. That portion of the access easement crossing property not owned by the state or federal government shall comply with BCC 11.42.010(a)(3) above. Said easements or right-of-ways shall be continuous from the boundary of the property on which the manufactured home is to be located to a county road, state highway, or city street and shall serve only one dwelling unit per individual piece of property. The placement permit for the manufactured home shall be valid for no longer than the duration of the non-perpetual easement, lease, or right-of-way obtained over the state or federally owned property, and the manufactured home must be removed thereafter. All applicants for placement permits issued under the authority of this subsection shall sign and record an affidavit stating that the responsibility for construction and maintenance of the easement shall be vested with the property owner and not Benton County. Prior to recording of any transfer of ownership of property being served by an access easement per BCC 11.42.010(a)(4), a new easement must

be granted to the new owner by the appropriate state or federal agency and recorded per BCC 11.42.010(a)(4).

(5) Dwellings placed on a lot in approved short plat; or

(6) Dwellings placed on a property for which a conditional permit or variance from these requirements has been granted.

(b) Any person submitting an application for a building permit to construct a dwelling on property which is exempt from the access requirement by BCC 11.42.010(a)(3) or an application for a placement permit to locate a manufactured home on property exempt from the access requirement by BCC 11.42.010(a)(4) shall also submit a copy of the recorded easement or right-of-way agreement to the Benton County Building Official.

(c) A county road shall mean a road which is on the county road system as shown by the county engineer's maps and is maintained by Benton County. Roads included in an accepted plat, filed with the county auditor, for which construction provisions have been made shall also constitute county roads.

(d) Except in planned developments established in accordance with Chapter 11.21 BCC, short plat lots which obtain access via access easements, manufactured home parks established in accordance with BCC 3.22, recreational vehicle parks or when multiple detached dwellings are approved in accordance with BCC 11.42.080, no other dwelling shall be located between a single family dwelling, manufactured home or multiple family dwelling and the street, road, or highway upon which it fronts.

[Ord. 611 (2018) § 162]

11.42.020 ACCESSORY DWELLING UNITS (ADU). An accessory dwelling unit shall be allowed on any real property located within unincorporated Benton County that is zoned for single family residences, except for those properties with an Industrial or Commercial zoning designation, thereby meeting the requirements of the Washington State Housing Policy Act of 1993 to incorporate provisions for accessory apartments in the County's zoning ordinance (Title 11 BCC).

(a) All accessory dwelling units authorized herein shall meet the following minimum criteria:

(1) One (1) accessory dwelling unit is allowed per parcel/lot.

(2) A single-family dwelling must be located on the parcel/lot where the accessory dwelling unit is to be located.

(3) The accessory dwelling unit shall not exceed 40% of the total square footage of the single-family home or 800 square feet in size, whichever is smallest.

(4) The accessory dwelling unit shall consist of no more than one (1) bedroom.

(5) The accessory dwelling unit shall provide two (2) off-street parking spots.

(6) An accessory dwelling unit shall be constructed on the site and permanently affixed to the ground by footings and foundation. A recreational vehicle (RV), mobile home, manufactured home, or factory assembled structure is not to be permitted as an accessory dwelling unit.

(7) The accessory dwelling unit is not allowed on a lot/parcel that has a duplex, multi-family dwelling, a temporary dwelling permit (see BCC 11.42.110), a multiple detached dwelling permit (see BCC 11.42.080) or two (2) or more single-family dwellings.

(8) The accessory dwelling unit is not allowed to be used in the operation of a home occupation.

(9) The accessory dwelling unit shall both meet and comply with Benton Franklin Health District standards.

(10) The accessory dwelling unit shall meet and comply with Benton County Fire Marshal requirements for access.

(11) The accessory dwelling unit may be permitted as either a ground floor or 2nd floor unit.

(12) Either the accessory dwelling unit or the single-family dwelling shall be occupied by a landowner(s) as his/her primary residence. The landowner shall maintain residency at least six (6) months out of the year and at no time receive rent for, or otherwise allow to occupy the landowner(s) unit when absent the rest of the year.

(13) If the accessory dwelling unit is connected to the single-family dwelling through a breezeway or similar means, the accessory dwelling unit shall be considered detached and compliance with subsection (c) below is required.

(14) The accessory dwelling unit shall comply with the applicable building, fire, critical area, shoreline, and zoning requirements of Title 3, 11, and 15 of Benton County Code.

(15) The accessory unit shall not be considered as a dwelling unit when calculating density.

(16) The accessory dwelling unit shall comply with requirements in subsection (b) and (c) below respectively.

(b) An accessory dwelling unit located within or attached to a single-family dwelling shall comply with the following:

(1) The accessory dwelling unit must be located within or attached to the single-family dwelling unit with a common wall.

(2) The single-family dwelling may be a manufactured home or a site built home. Manufactured homes shall obtain Washington State Labor and Industries approval on any modifications or additions to the home prior to receiving building permit approval by Benton County.

(3) The appearance and character of the single-family residence shall be maintained when viewed from the surrounding neighborhood. Whenever possible, any new entrance shall be placed at the side or rear of the building.

(4) The occupant of the accessory dwelling unit must be related to the occupant or be providing or receiving continuous care and assistance necessitated by advanced age, illness, or other infirmity. If the occupant of the accessory dwelling unit does not comply with this standard, the applicant may apply for a conditional use permit (see Chapter 11.50 BCC).

(5) An accessory dwelling unit may be used as part of a Bed and Breakfast Facility if the single-family dwelling is approved to operate as a Bed and Breakfast Facility (see BCC 11.42.030) and said approval includes the use of the accessory dwelling unit.

(c) An accessory dwelling unit detached from the single-family dwelling shall comply with the following:

(1) All detached accessory dwelling units require approval of a conditional use permit (see Chapter 11.50 BCC).

(2) A detached accessory dwelling unit shall comply with the following minimum design standards.

(i) The detached accessory dwelling unit may be constructed within an existing outbuilding or be a stand along structure, where the dwelling unit does not share a common wall with the primary single family dwelling. If the accessory dwelling unit is connected to the single-family dwelling through a breezeway or similar means, the accessory dwelling unit shall be considered detached.

(ii) An outside entrance to the accessory dwelling unit is required and be placed at the side or rear of the building, when possible, to maintain appearance and character of an accessory use.

(d) The applicant shall record the permit issued for the accessory dwelling unit with the Benton County Auditor's Office. The recording fee shall be paid by the applicant for the accessory dwelling unit. The permit shall include a statement that the accessory dwelling may not be sold as a separate residence until such time as the accessory dwelling is located as the sole residence on a legally subdivided parcel.

[Ord. 611 (2018) § 163]

11.42.030 BED AND BREAKFAST FACILITY.

(a) A bed and breakfast facility must be accessory to a household living use on a site. This means that an individual or family who operates the facility must occupy the house as their primary residence.

(b) Banquets, parties, weddings, or meetings for guests or other non-family members are prohibited unless these type of activities are specifically stated in an approved conditional use permit.

(c) Bed and breakfast facility shall comply with all applicable health (including Department of Health and Social Service review), fire safety and building codes.

(d) One sign not to exceed thirty-two (32) square feet in area shall be allowed. Lighted signs may be permitted with external direct lighting.

(e) Driveways accessing a facility shall be approved by the appropriate fire marshal and shall have a minimum easement width of thirty (30) feet with a twenty (20) foot fire apparatus road and be constructed at a grade in compliance with county standards.

(f) One off-street parking space shall be provided for each room available for patrons in addition to the off-street parking requirements for the underlying zoning district.

(g) Outdoor activity shall be limited to the hours of seven a.m. to ten p.m.

(h) For the purposes of this section, a bed and breakfast facility is not a hotel, inn, motel, lodging or rooming house, or restaurant.

[Ord. 611 (2018) § 164]

11.42.040 BUILDING PERMITS.

(a) No person, company, or corporation shall erect a building or structure of any kind or make any addition to an existing building or structure or alter any building or structure already erected within the unincorporated area of the County of Benton without first obtaining a permit in writing from a county official duly authorized for this purpose.

(b) The application for such permit and regulations governing construction, shall be as prescribed by the Benton County Building Code.

(c) For buildings that need potable water, evidence of an adequate water supply shall be submitted in accordance with RCW 19.27.097. [Ord. 611 (2018) § 165]

11.42.050 CHILD DAY CARE FACILITY, TYPE A. No Child Day Care Facility, Type A, shall be permitted until a Child Day Care Facility Registration has been approved by the Planning Administrator upon compliance with this section. The following procedures shall apply:

(a) Application. The property owner shall submit a completed application form supplied by the Benton County Planning Department. The application shall be accompanied by a site plan, drawn to a scale of one inch equals 100 feet showing the proposed use, all existing and proposed structures and means of access.

The applicant's name, address, and telephone number, the signatures of all persons holding an ownership interest in the real property, the size and type of day care facility, including maximum number and ages of children cared for, and a non-refundable application fee as established by resolution of the Board of County Commissioners shall be included at the time an application for registration is submitted.

(b) Review by Planning Administrator. The Planning Administrator shall refer the matter to appropriate agencies for their comments, and shall determine the following:

(1) The proposed use has received all necessary approvals from Washington State regarding child care facilities.

(2) The proposed use conforms with all applicable ordinances and regulations of Benton County which also apply to other permitted uses in the applicable zoning district.

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

(4) Signage is limited to no more than one non-illuminating sign, with a maximum area of four (4) square feet, and a maximum sign height of six (6) feet above grade. The posting of such signs is limited to the parcel on which the approved child day care facility is located. On-street (inside the road right-of-way) sign posting and any sign posting which interferes with the line-of-sight for road intersections are prohibited.

(5) The outdoor play area is fenced to a height of not less than four (4) feet.

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

(7) An off-street parking area shall be designated for the loading and unloading of children.

(8) The site for the proposed use shall be landscaped in such a manner to be compatible with surrounding uses.

(9) The residential character of an existing residential structure used for a child day care facility must continue, and maintain, the essence of the residential character of the surrounding neighborhood. Any structural or decorative alteration which alters the residential character is not permitted.

(10) The facility shall conform to International Fire Code (IFC), state, and local fire standards for fire prevention as now adopted or hereafter amended.

(11) The facility must comply with International Building Code (IBC) requirements as now adopted or hereafter amended.

(c) Notification. If the Planning Administrator determines all the above are satisfied, written notification of the proposed use shall be sent by first class U. S. Mail to owners of real property, as shown in the records of the Benton County Assessor, located within three-hundred (300) feet of any portion of the boundary of the proposed use; provided, if the owner of the property for which the proposed use is requested owns another parcel or parcels adjacent to the property, notification shall be mailed to owners of real property located within three-hundred (300) feet of any portion of the boundaries of such adjacent parcels. The notification shall contain a statement that the proposed use shall be approved without holding an open record hearing if no appeal is submitted to the Planning Administrator within fourteen (14) calendar days following date of mailing of notification.

Failure to send notice to a person specified in this section or failure to receive notice shall not invalidate any proceedings or decision in connection with the proposed use. The appeal must be accompanied by a non-refundable fee as established by resolution of the Board of County Commissioners.

(d) Approval by Planning Administrator. If no appeal is received by the Planning Administrator within fourteen (14) days following mailing of the notification, the proposed use shall be approved or conditionally approved. If conditional approval is given, the applicant shall have six (6) months to satisfy the conditions.

(e) Denial. If, after reviewing the application, the Planning Administrator determines that the proposal does not meet the requirements of BCC 11.42.050(b), he/she shall deny the request and inform the applicant in writing the reasons for the denial.

(f) Revocation of Child Day Care Facility Registration. If the Planning Administrator determines that an activity is not being conducted in accordance with the terms of the Child Day Care Facility Registration and in compliance with the requirements of BCC 11.42.050, the registration may be revoked after notice to the holder of the registration. If the registration holder has not demonstrated to the Planning Administrator within seven (7) days of the mailing of such notice that grounds for revocation do not exist, then the registration will be revoked.

Upon revocation of a child day care facility registration, all day care activities shall cease within twenty (20) days unless an appeal is in process. If the child day care activities do not timely cease, the matter may be referred to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC, inclusive.

[Ord. 611 (2018) § 166]

11.42.060 CHILD DAY CARE FACILITY, TYPE B--CONDITIONAL USE PERMIT REQUIRED. No Child Day Care Facility, Type B, shall be permitted unless a conditional use permit has been approved by the Benton County Hearings Examiner that meets the following criteria and any other conditions required by the Hearings Examiner:

(a) The proposed use has received all necessary approvals from Washington State regarding child care facilities.

(b) The proposed use conforms with all applicable ordinances and regulations of Benton County that also apply to other permitted uses in the applicable zoning district.

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

(d) Signage is limited to no more than one non-illuminating sign with a maximum area of four (4) square feet and a maximum sign height of six (6) feet above grade. The posting of such sign is limited to the parcel on which the approved Type B Child Day Care Facility is located. On-street (inside the road right-of-way) sign posting and any sign posting that interferes with the line of sight for a road intersection are prohibited.

(e) Off-street parking areas shall be provided so as to allow one (1) space for every employee and one (1) space for every five (5) children that will be attending the facility.

(f) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

(g) The facility shall conform to International Fire Code (IFC), State, and local fire standards for fire prevention as now adopted or hereafter amended.

(h) The facility must comply with International Building Code (IBC) requirements as now adopted or hereafter amended.
[Ord. 611 (2018) § 167]

11.42.070 FENCING STANDARDS

(a) Fences that are 7 feet or less in height are exempt from a building permit. Fences that are greater than 7 feet in height shall not be erected without first obtaining a building permit from the Benton County Building Department.

(b) Fences, regardless of height, to be located in a Flood Hazard Area, will require a Flood Development Permit and compliance with BCC 3.26, as existing and hereafter amended.

(c) Fences, regardless of height, shall comply with the following construction standards: Fences shall not be constructed out of tires, pallets, tarps and/or sheet plastic, bed springs, multi-colored materials, except colored materials manufactured specifically for fencing (i.e., slats of chain link fences), corrugated sheet metal, wheel rims and similar or like materials not traditionally manufactured or used for fencing purposes.
[Ord. 611 (2018) § 168]

11.42.080 MULTIPLE DETACHED DWELLING UNITS (MDD). Where stated in this title that two (2), three (3), or four (4) detached single-family dwellings on an individual lot or two (2), three (3), or four (4) manufactured (mobile) homes on an individual lot may be permitted upon compliance with this section, the following procedure shall apply:

(a) Application. The property owner shall submit a completed application form supplied by the Benton County Planning Department. The application shall accompany a plot plan, drawn to a scale of one inch equals fifty (1" = 50') feet showing the proposed use, all existing and proposed structures and means of access. The applicant's name, address, and telephone number, the signatures of all persons holding an ownership interest in the real property, and a non-refundable application fee as established by resolution of the Board of Benton County Commissioners shall be required. Each dwelling unit must have frontage on a county, city or state road or easement in a short plat.

(b) Review by Planning Administrator. The Planning Administrator shall refer the matter to appropriate agencies for their comments, and shall determine the following:

- (1) The proposed use does not have an adverse effect on other uses permitted in the applicable zoning district.

(2) The proposed use conforms with all applicable ordinances and regulations of Benton County which also apply to other permitted uses in the applicable zoning district.

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

(4) The lot size equals or exceeds the total square footage and setbacks required by this chapter for the total proposed dwellings as if the dwellings were located on separate parcels.

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

(c) Notification. If the Planning Administrator determines all the above are satisfied, written notification of the proposed use shall be sent by first class U.S. Mail to owners of real property, as shown in the records of the Benton County Assessor, located within three-hundred (300) feet of any portion of the boundary of the proposed use; provided, if the owner of the property for which the proposed use is requested owns another parcel or parcels adjacent the property, notification shall be mailed to owners of real property located within three-hundred (300) feet of any portion of the boundaries of such adjacent parcels. The notification shall contain a statement that the proposed use shall be approved without holding an open record hearing if no objection is submitted to the Planning Administrator within seven (7) calendar days following date of mailing of notification.

Failure to send notice to a person specified in this section or failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed use.

(d) Approval by Planning Administrator. If no objection is received by the Planning Administrator within seven (7) days following mailing of notification, the proposed use shall be approved or conditionally approved. If conditional approval is

given, the applicant shall have six (6) months to satisfy the conditions. The Planning Administrator shall endeavor to issue his decision on the proposed use within fifteen (15) working days from the date of submittal of a complete application.

(e) Referral to the Hearings Examiner. If, after notification by the Planning Administrator, any objection to the proposed use is received within seven (7) days following the mailing thereof, the Planning Administrator shall refer the request to the Hearings Examiner and the Hearings Examiner shall act upon the request as if it were a request for conditional use permit, pursuant to BCC 11.50.040.

(f) Denial. If, after reviewing the application, the Planning Administrator determines that the proposal does not meet the requirements of BCC 11.42.080(b), he/she shall deny the request and inform the applicant in writing the reasons for the denial.

(g) Appeal. Anyone aggrieved by the administrator's decision shall have fourteen (14) days from the date of decision to appeal to the Hearings Examiner. The Hearings Examiner shall hear the appeal pursuant to BCC 11.53.080.

[Ord. 611 (2018) § 169]

11.42.090 NON-COMMERCIAL SAND AND GRAVEL PITS, QUARRIES, AND MINERAL RESOURCES- ADMINISTRATIVE REVIEW.

(a) Review by Planning Administrator.

(1) The proposed use will not be marketed, promoted, or sold, and is for the sole use of the owner of the property.

(2) The proposed use does not have an adverse effect on other uses permitted in the applicable zoning district.

(3) The proposed use conforms with all applicable ordinances and regulations of Benton County which also apply to other permitted uses in the applicable zoning district.

(4) The proposed use complies with all applicable requirements of the Benton Franklin District Health Department, Washington State Department of Ecology, the Washington State Department of Natural Resources and other agencies as applicable.

(5) The proposed use is consistent with the intent of BCC 15.16 Mineral Resource Lands as currently existing and hereafter amended.

(b) Notification. If the Planning Administrator determines all the above are satisfied, written notification of the proposed use shall be sent by first class U.S. Mail to owners of real property, as shown in the records of the Benton County Assessor, located within three-hundred (300) feet of any portion of the boundary of the proposed use; provided, if the owner of the property for which the proposed use is requested owns another parcel or parcels adjacent the property, notification shall be mailed to owners of real property located within three-hundred (300) feet of any portion of the boundaries of such adjacent parcels. The notification shall contain a statement that the proposed use shall be approved without holding a public hearing if no objection is submitted to the Planning Administrator within seven (7) calendar days following date of mailing of notification.

Failure to send notice to a person specified in this section or failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed use.

(c) Approval by Planning Administrator. If no objection is received by the Planning Administrator within seven (7) days following mailing of notification, the proposed use shall be approved or conditionally approved. If conditional approval is given, the applicant shall have six (6) months to satisfy the conditions. The Planning Administrator shall endeavor to issue his decision on the proposed use within fifteen (15) working days from the date of submittal of a complete application.

(d) Referral to the Hearings Examiner. If, after notification by the Planning Administrator, any objection to the proposed use is

received within seven (7) days following the mailing thereof, the Planning Administrator shall refer the request to the Hearings Examiner and the Hearings Examiner shall act upon the request as if it were a request for conditional permit, pursuant to BCC 11.50.040.

(e) Denial. If, after reviewing the application, the Planning Administrator determines that the proposal does not meet the requirements of BCC 11.42.090(a), he shall deny the request and inform the applicant in writing the reasons for the denial.

(f) Appeal. Anyone aggrieved by the administrator's decision shall have fourteen (14) days from the date of decision to appeal to the Hearings Examiner. The Hearings Examiner shall hear the appeal pursuant to BCC 11.53.080.

[Ord. 611 (2018) § 170]

11.42.100 SOLAR POWER GENERATOR FACILITY- MAJOR AND MINOR

(a) Minor Facilities. To promote the safe, effective and efficient use of solar energy facilities installed to reduce the on-site consumption of utility supplied energy.

(1) Height.

(i) Roof mounted systems shall not exceed the maximum building height of the zoning district in which located and shall not extend more than 5 feet above the highest point of the existing roof.

(ii) Ground mounted systems shall not exceed 8' in height.

(2) Setbacks. Roof and ground-mounted systems shall observe all front, side and rear setback standards in accordance with the zoning district in which located. In no instance shall any part of a roof-mounted solar energy system extend beyond the edge of the roof.

(3) Lot Coverage. The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage for the zoning district in which located.

(4) General Standards.

(i) Building permits shall be obtained for all roof-mounted solar systems.

(ii) A roof-mounted system may be mounted on a principal building or accessory building.

(iii) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.

(iv) All minor facilities that are connected to the utility grid shall comply with the requirements of Chapter 80.60 RCW, Net Metering of Electricity, as it now exists or is hereafter amended.

(b) Major Facilities. Systems that solely serve offsite uses are utility-scale solar facilities sited on a parcel as the principal use.

(1) Setbacks: Shall meet the minimum zoning setbacks for the zoning district in which located.

(2) Height: Twenty (20) feet maximum.

(3) Lot Coverage: The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage for the zoning district in which located.

(4) Visibility:

(i) Solar facilities with panels located at least one hundred fifty (150) feet from an adjacent public street

right-of-way, residentially zoned property, or residential use shall not require screening.

(ii) Solar facilities with panels located less than one hundred fifty (150) feet from an adjacent public street right-of-way, residentially zoned property, or residential use shall require screening. Screening is to include a perimeter landscape buffer as determined by the Planning Administrator through the required conditional use permit process.

(5) Solar facilities are to be equipped with a non-reflective finish/coating.

[Ord. 611 (2018) § 171; Ord. 617 (2019) § 9]

11.42.110 TEMPORARY DWELLING.

(a) Purpose. The purpose of this section is to provide for the approval of temporary dwellings to satisfy certain personal hardships, and to satisfy certain needs of the agricultural community. Because such hardships or needs are personal and generally transitory, the approval of temporary dwellings should not constitute a long-term land use commitment which may conflict with the comprehensive plan and implementing ordinances.

(b) Temporary Dwellings Authorized. Subject to the conditions and upon issuance of the permit provided for herein, one (1) temporary dwelling may be established and maintained on a parcel for use by one or more of the following:

(1) A person who is to receive or administer continuous care and assistance necessitated by advanced age, illness or infirmity. Such care must be received or administered by a resident of an existing dwelling located on the same lot;

(2) A caretaker, hired hand or other employee working on the parcel in connection with an agricultural use of the premises;
or

(3) An owner in the process of building a permanent dwelling on the parcel. Owner shall have an approved and active building permit with the County Building Department; or

(4) A caretaker living on the parcel for the purpose of caring for the existing dwelling and for making other improvements on the property while the owner is on vacation or is working out of the area. Only a self-contained recreational vehicle shall be used as a temporary dwelling under this subsection.

(c) Temporary dwellings authorized herein shall meet the following minimum criteria:

(1) The parcel upon which the temporary dwelling is to be placed shall be of such configuration, and the temporary dwelling shall be located in such a manner to comply with the comprehensive plan and all applicable county, state and federal regulations, except density, lot size and the provisions in BCC 11.42.010.

(2) The temporary dwelling shall be designed, constructed and maintained in a manner which will facilitate its removal on termination of the permit. Temporary dwellings shall include recreation vehicles and manufactured homes.

(3) A current vehicular license, if applicable, shall be maintained under this section.

(4) No more than (1) temporary dwelling per parcel shall be authorized under this section.

(5) No rent or other remuneration is paid for the occupancy of the temporary dwelling.

(6) The public health, safety and general welfare will not be adversely affected.

(7) Setback requirements applicable to other dwellings in the same zone must be met.

(8) The temporary dwelling must be located no closer to the front property line than the primary dwelling.

(d) Application. Applications for temporary dwelling permits shall be submitted to the Benton County Planning Department on forms provided by the department and shall include:

(1) A scaled drawing showing the size and boundaries of the parcel; the size and location of access, including driveways and access easements from the parcel to the county, state or city road; and the proposed location and size of the temporary dwelling;

(2) A description of the proposed temporary dwelling;

(3) Documentation of approval of proposed method of water supply and sewage disposal by the appropriate governmental agency;

(4) A statement signed by the applicant setting forth the circumstances which necessitate the temporary dwelling; and,

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

(e) Issuance. A permit for a temporary dwelling may be issued by the Planning Director after receipt of a completed application upon finding that the proposed temporary dwelling meets the requirements of this section. If the temporary dwelling is a manufactured home, all requirements of the Manufactured Home Placement Ordinance (BCC 3.20) must be met.

(f) Termination. A temporary dwelling permit issued pursuant to BCC 11.42.110(b) (1) through BCC 11.42.110(b) (3) shall be valid for one (1) year or until the termination of the conditions authorizing the temporary dwelling, whichever occurs first. A temporary dwelling permit authorized under 11.42.110(b) (4) shall be valid for no more than six (6) months.

(g) Renewal. A temporary dwelling permit authorized under BCC 11.42.110(b)(2) through BCC 11.42.110(b)(4) may be renewed as follows.

(1) A request for renewal of a temporary dwelling permit authorized under BCC 11.42.110(b)(2) or BCC 11.42.110(b)(3) shall be submitted at least thirty (30) days prior to the expiration of the permit by filing a statement showing that the conditions authorizing the temporary dwelling continue to exist and listing any changes in the information provided on the application for the original permit.

(2) In no case shall a temporary dwelling permit authorized under BCC 11.42.110(b)(2) or BCC 11.42.110(b)(3) be renewed more than once or for a period greater than one (1) year. Reapplication after expiration will be processed as if it were an original application; provided, that the combined duration of two (2) temporary dwelling permits for the same use, circumstances, and location shall not exceed two (2) years.

(3) No request to renew a temporary dwelling permit application under BCC 11.42.110(b)(4) may be made within six (6) months of the expiration of such permit for the same parcel. A request for a temporary dwelling permit authorized under BCC 11.42.110(b)(4) must be made each time such temporary dwelling is to be placed on the site.

(h) Continuation. A request for continuation of a temporary dwelling permit, authorized under BCC 11.42.110(b)(1) shall be submitted at least thirty (30) days prior to the expiration of the permit by filing a statement showing that the conditions authorizing the temporary dwelling continue to exist and are justified, for example, a letter from a physician substantiating a need for a person to receive or administer continuous care and assistance necessitated by advanced age, illness or infirmity, and a statement listing any changes in the information provided on the application for the original permit.

(1) A temporary dwelling permit, authorized under BCC 11.42.110(b)(1) may be continued on a year-to-year basis as specified above.

(2) Sixty (60) days prior to the expiration of the permit, the Planning Director or his representative shall send, postage prepaid, a notice to the applicant at the last known address the date that the temporary dwelling permit shall expire and the procedure to request a further one year continuation.

(3) If a request for continuation of a temporary dwelling permit, as specified above, is not received thirty (30) days prior to the expiration of the permit, the permit shall become null and void.

(4) Reapplication after expiration will be processed as if it were an original application, subject to existing ordinances at the time of reapplication.

(i) Revocation. A temporary dwelling permit or permit renewal issued pursuant to this section may be revoked by the planning director at any time when the director finds that:

(1) any of the requirements of this section have not been satisfied;

(2) any of the conditions attached to the permit have not been met; or,

(3) the circumstances requiring the permit have materially changed.

(j) Upon termination or revocation of a temporary dwelling permit, occupancy of the dwelling shall cease within ten (10) days after receipt of notification of termination or revocation by certified mail; all utilities shall be disconnected within thirty (30) days after the date of termination or revocation; and, if the

temporary dwelling is a manufactured home, it shall be totally removed within thirty (30) days after the date of termination or revocation.

(k) Appeal. Any person aggrieved by the issuance, denial or revocation of a temporary dwelling permit may appeal the decision to the Benton County Hearings Examiner within fourteen (14) days from the date of the decision or the date the temporary dwelling is moved onto and/or hooked up on site, whichever is later, and the appeal shall be conducted in accordance with BCC 11.53.080. [Ord. 611 (2018) § 172]

11.42.120 TEMPORARY OUTDOOR RETAIL SALES.

(a) Temporary outdoor retail sales of Christmas trees or fireworks may be approved by the Planning Administrator after receipt of an application, supplied by the Planning Department, signed by all record owners of the real property upon which the sales are to be conducted, a non-refundable fee as established by resolution of the Board of Benton County Commissioners and upon the Planning Administrator's determination that:

(1) The Engineer from Benton County, the State Department of Transportation (D.O.T.) or municipality with roads within three hundred (300) feet has approved the proposed access location and has determined the traffic generated will have no adverse effect on vehicular circulation;

(2) Proposed parking areas are adequate for the volume and character of the business;

(3) The applicant has complied with all applicable federal, state and local licensing requirements and other ordinances and regulations, including approval from the state and county Fire Marshal.

(4) The proposed use, in the duration proposed, will not foreseeably adversely affect adjacent properties and is compatible with allowed uses in that zoning designation; and,

(5) The sales activity is conducted wholly outdoors; or partially within a structure or structures which will be totally removed at the end of the approved period. Temporary outdoor retail sales shall not exceed thirty (30) days in duration. The approved duration period shall apply to the use and location rather than to the applicant.

(b) Anyone aggrieved by the Administrator's decision shall have fourteen (14) days from the date of decision to appeal to the Hearings Examiner. The board shall hear the appeal pursuant to BCC 11.53.080.

[Ord. 611 (2018) § 173]

11.42.130 PROHIBITION AND REGULATION OF MARIJUANA RELATED ACTIVITIES.

(a) Growing Marijuana by Individual Qualifying Patients and Designated Providers - Allowed. Growing marijuana by qualifying patients and designated providers for medical marijuana use and not as part of a cooperative or as marijuana production or marijuana processing is allowable as an accessory/ancillary use in all zoning districts if all activities associated with such growing occur within a single-family dwelling.

(b) Marijuana Production, Growing Marijuana for Medical Purposes and Marijuana Processing - Not Allowed. Except as set forth above in subsection (a), marijuana production, growing of marijuana for medical purposes and marijuana processing are not allowed in any zoning district. Pursuant to this prohibition, marijuana growing cooperatives referenced in RCW 69.51A.250, as currently in effect or hereafter amended, are not allowed in any zoning district.

(c) The retail sale of "marijuana" or "marijuana-infused products" at a "retail outlet", as those terms are defined in RCW Chapter 69.50 or any implementing regulations in the Washington Administrative Code, as currently in effect or hereafter amended, is prohibited in all zoning districts.

[Ord. 611 (2018) § 174]

11.42.140 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.42.150 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]