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9.02.010 TITLE.

This title shall be known as the Benton County Subdivision Regulations.

[Ord. 612 (2018) § 2]

9.02.020 PURPOSE AND INTENT.

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

subdivision of land within the unincorporated areas of Benton County:

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

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

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

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

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

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

9.02.030 APPLICABILITY.

This title applies to all division of land into two or more lots, and to subdivisions, short subdivisions, tax parcel separations, boundary line modifications, amendments, alterations, and vacations of short subdivisions and subdivisions hereafter established in unincorporated Benton County.

[Ord. 612 (2018) § 4]

9.02.040 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(29) "Planning Department" means the Benton County Planning Department.

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

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

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

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

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

(34) "Registered Engineer" means an individual, licensed by the State of Washington to practice civil engineering.

(35) "Short Plat" means the map or representation of a short subdivision.

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

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

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

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

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

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

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

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

[Ord. 612 (2018) § 5]

9.02.050 ADMINISTRATION.

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

[Ord. 612 (2018) § 6]

9.02.060 EXEMPTIONS.

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

- (a) Any cemetery or burial plot, while used for that purpose.
- (b) Any division made by testamentary provision or the laws of descent.
- (c) A division of land into lots or tracts each of which is one-thirty-second (1/32) of a section of land or larger, or twenty (20) acres or larger if the land is not capable of description as a fraction of a section of land; provided, that there is no dedication of land to a public body in connection with such division and for the purposes of computing the size of any lot under this section that borders on a street or road, the lot size

shall be expanded to include that area which would be bounded by the centerline of the road or street and the side lot lines of the lot running perpendicular to such centerline.

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

(e) Any division made pursuant to court order.

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

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

[Ord. 612 (2018) § 7]

9.02.070 EXEMPTION APPROVAL.

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

- (a) A complete application shall include the following:
- (1) Completion of an application form supplied by the Planning Department.
 - (2) A non-refundable application fee as established by resolution of the Board of Benton County Commissioners.
 - (3) Copy of a record survey showing division(s) as prepared by a Washington State Licensed Surveyor, as applicable.
 - (4) Copy of legal descriptions as prepared by a Washington State Licensed Surveyor, as applicable.
- (b) The Planning Administrator shall determine whether:
- (1) The proposed division complies with BCC 9.02.060.
 - (2) The proposed division is served with a legal means of access including a recorded private access easement/road unless the newly created lot(s) has frontage on a public road/street.
 - (3) The proposed division is in conformance with adopted county regulations and ordinances including, but not limited to, the Benton County Comprehensive Plan.

[Ord. 612 (2018) § 8]

9.02.080 COMPLETE APPLICATION.

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

[Ord. 612 (2018) § 9]

9.02.090 RESIDENTIAL DENSITY- LOT SIZE.

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

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

[Ord. 612 (2018) § 10]

9.02.100 WATER SUPPLY.

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

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

[Ord. 612 (2018) § 11; Ord. 622 (2020) § 1]

9.02.110 BUILDING PERMIT ISSUED PRIOR TO FINALIZATION.

A single building permit may be issued on land which is located

within the boundaries of a preliminary subdivision or short subdivision provided:

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

(b) The building permit application illustrates the following:

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

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

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

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

(d) The lot corners are established;

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

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

[Ord. 612 (2018) § 12]

9.02.120 VACATION.

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

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

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

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

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

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

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

9.02.130 APPEAL OF ADMINISTRATIVE DECISION.

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

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

(c) A written appeal shall include:

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

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

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

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

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

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

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

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

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

(g) The Hearings Examiner shall enter findings of fact and conclusions of law based in support of his or her decision.

[Ord. 612 (2018) § 14]

9.02.140 FEES.

All applications shall be accompanied by the required fee. Fees for the administration of this title shall be established by resolution of the Board of County Commissioners.

[Ord. 612 (2018) § 15]

9.02.150 VIOLATIONS AND PENALTIES.

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

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

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

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

[Ord. 612 (2018) § 16]

9.02.160 SEVERABILITY. Shall any chapter, section, subsection, paragraph, sentence, clause or phrase of this title be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this title.

[Ord. 612 (2018) § 17]

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

[Ord. 612 (2018) § 85]