BACKGROUND INFORMATION
The Yakima Basin has been involved in a water rights adjudication process for more than 40 years. The Adjudication and other state and federal Court decisions have determined that water supply in the Yakima River Basin is over appropriated.

Washington State Department of Ecology (Ecology) settled with the US Bureau of Reclamation (Reclamation) and the Yakama Nation in the late 1990’s over proposed groundwater permits in the Blackrock area and Rattlesnake Ridge. In September 2011, the United State Geological Survey released the final report of a 12-year, multi-million-dollar study confirming that groundwater and surface water are directly connected, which means groundwater withdrawals can impair senior surface water rights.

Ecology, in cooperation with Reclamation and the Yakama Nation has determined that groundwater management will need to protect senior water rights, flows for fish and economic development. Ecology has stated they will seek solutions that address uncertainty and exposure faced by existing post 1905 groundwater users (which includes most everyone). In seeking water management solutions, Ecology shall build upon the broad-based support for the Yakima Basin Integrated Water Management Plan.

Ecology sent Benton County a letter in early 2017 giving the County notice that rural water supply is at risk of impairment to senior water right holders and encouraging the County to take steps to develop a rural water supply program similar to the ones developed by Kittitas County and Yakima County.

In the Fall of 2017 Benton County entered into a professional services contract with White Bluffs Consulting for assistance in developing a rural water supply program to facilitate compliance with and pursuant to the Growth Management Act.

SUMMARY
On April 19, 2018, Futurewise challenged the compliance of the Benton County Comprehensive Plan (Ordinance 600/Resolution 2018-0137) and associated development regulations with the Growth Management Act. Futurewise filed a Petitioned for Review by Futurewise to the Eastern Washington Region Growth Management Hearings Board (Case Number 18-1-0004).

On April 2, 2019, Futurewise and Benton County, after negotiation, developed a settlement to which Futurewise agreed to dismiss the above referenced Petition for Review if the Board of County Commissioners considers and ultimately adopts certain amendments to the Benton County Comprehensive Plan and additional development
regulations. This agreement was adopted by Benton County in County Resolution 2019-276.

For the protection of the quantity and quality of ground and surface water, a Rural Water Supply Program is proposed that requires new housing units (associated plats and building permits), relying on permit exempt wells, located in a certain portion of WIRA 37, to fully mitigate the impacts such wells on the main stem of the Yakima River.

Benton County has acquired certain water rights that will be placed into trust with the State of Washington. If requirements are satisfied, an applicant may acquire a required mitigation certificate for each parcel from the Benton County Water Bank. Three (3) different mitigation packages are begin offered, depending on whether an applicant is located within the boundaries of an irrigation district. The applicant will be required to install metering equipment which will be required to be installed and approved before certificate of occupancy of the dwelling unit.

**ORDINANCE DESCRIPTION**
To comply with Benton County Resolution 2019-276, the Futurewise Settlement Agreement and the Department of Ecology, the Benton County Planning Department is proposing an amendment to Benton County Code, Title 15. The proposed amendment adds the new Benton County Rural Water Supply Program (Title 15 BCC).

**FISCAL IMPACT** - None.

**RECOMMENDATION**
It is the recommendation of the Benton County Planning Staff that the Board of County Commissioners approves and adopts ordinance amendment OA 2019-004 adding a new Chapter to Title 15 regarding the Rural Water Supply Program to comply with Benton County Resolution 2019-276 the Futurewise Settlement Agreement and the Department of Ecology.

**MOTION**
The Board hereby approves the resolution and adopts the ordinance amendment (OA 2019-004) adding a new Chapter to BCC Title 15 regarding the Rural Water Supply Program to comply with Benton County Resolution 2019-276, the Futurewise Settlement Agreement and the Department of Ecology.
RESOLUTION 2019 276

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF RESOLVING THE APPEAL OF BENTON COUNTY’S 2017 COMPREHENSIVE PLAN PERIODIC UPDATE

WHEREAS, on February 13, 2018, the Board of Benton County Commissioners adopted Resolution 2018-137 and Ordinance 600 to enact the 2017 Comprehensive Plan Periodic Update; and

WHEREAS, on April 18, 2018, Futurewise, a Washington non-profit corporation, executed and subsequently filed with the Growth Management Hearings Board a Petition for Review with the Growth Management Hearings Board to challenge the compliance of Benton County Resolution 2018-137 and Ordinance 600 with the Growth Management Act; and

WHEREAS, after negotiation, Futurewise and the Board of County Commissioners have developed an agreement pursuant to which Futurewise agrees to dismiss the above referenced Petition for Review if the Board of County Commissioners considers and ultimately adopts certain amendments to its comprehensive plan and additional development regulations to implement certain measures to protect the rural water supply; and

BE IT RESOLVED, that the Chairman is authorized to sign and have delivered to Futurewise the attached Settlement Agreement between Futurewise and Benton County to establish a framework to potentially resolve the matter of Futurewise v. Benton County. Growth Management Hearings Board Eastern Washington Region Case No. 18-1-0004.

Dated this 2nd day of April, 2019.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners of Benton County, Washington

Attest... Clerk of the Board
Settlement Agreement between Futurewise and Benton County

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into this 2 day of April, 2019, by and between the Appellant, Futurewise, a Washington non-profit corporation, and Respondent, Benton County, a Washington state municipal government ("County"), for the purpose of resolving and settling all claims associated with Futurewise's appeal of Benton County Resolution 2018-137 and Benton County Ordinance 600, adopting the 2017 Comprehensive Plan Periodic Update, and Benton County Resolution 2018-167 and Benton County Ordinance 601, adopting Map A-3 as the official zoning map for Benton County.

NOW THEREFORE, FOR GOOD AND FAIR CONSIDERATION, FUTUREWISE AND BENTON COUNTY AGREE AS FOLLOWS:

Section 1. Requirement to Dismiss.

A. Within 15 days of the completion of the tasks and adoption of the development regulations referenced in Sections 2 and 3.B, and the amendments to the comprehensive plan referenced in Sections 3 and 4 of this Settlement Agreement, Futurewise shall cause to be dismissed with prejudice the appeal with the caption Futurewise v. Benton County, Growth Management Hearings Board Eastern Washington Region Case No. 18-1-0004. Growth Management Hearings Board Eastern Washington Region Case No. 18-1-0004 is Futurewise's appeal of Benton County Resolution 2018-137 and Benton County Ordinance 600, adopting the 2017 Comprehensive Plan Periodic Update, and Benton County Resolution 2018-167 and Benton County Ordinance 601, adopting Map A-3 as the official zoning map for Benton County.

B. This dismissal will be accomplished through a joint stipulation executed by Futurewise and Benton County or any other means authorized by Growth Management Hearings Board rules of practice and procedure.

Section 2. Provisions to Protect Surface and Ground Water.

Benton County will consider adopting and implementing the following measures for the protection of the quality and quantity of ground and surface water.

A. Permanent regulations will be considered that will require new development relying on permit-exempt wells proposed to be located within a certain portion of Water Resource Inventory Area (WRIA) 37 to fully mitigate the impacts of such wells on the main stem of the Yakima River resulting from the consumptive use of water by such wells for housing unit needs by meeting the criteria set forth below:

(i) The geographic area subject to these regulations will only be that portion of WRIA 37 located in Benton County that drains to the Yakima River and not the Columbia River. That geographic area
is depicted on the attached Exhibit A. The area is hereafter referred to as the “mitigated area.”

(ii) Benton County has acquired and may continue to acquire surface water rights with a priority date pre-May 10, 1905, in the Yakima River Basin. Mitigation of the consumptive water use of permit-exempt wells in the mitigated area to be considered will be accomplished by placing such water rights in trust with the State of Washington for instream flows within or upstream of WRIA 37.

(iii) For every building permit issued after February 13, 2018, and prior to the adoption of the regulations set forth below in subsection (iv), that requires potable water from a permit-exempt well located in the mitigated area, Benton County will reserve 200 gallons per day per parcel (annual daily average) if the permit is or was for development on a parcel within an irrigation district and 300 gallons per day per parcel (annual daily average) if the permit is or was for development on a parcel not within an irrigation district from a water right placed in trust by the County.

(iv) The permanent regulations to be considered will require new applicants for subdivisions and residential building permits that seek to use permit-exempt wells located in the mitigated area for potable water supply to provide evidence of mitigation in the following form as a condition to final plat approval and building permit approval: (1) acquisition of a mitigation certificate from the County for up to a certain number of gallons per day per parcel (annual daily average) for indoor only water usage for each residence; or (2) acquisition of a mitigation certificate from the County for up to a certain larger number of gallons per day per parcel (annual daily average) for indoor and outdoor water usage for each residence if the parcel on which the development is proposed is not located within an irrigation district.

(v) The County will consider regulations that will only allow the issuance of a mitigation certificate if the aggregate of water usage allotted by all mitigation certificates issued by the County, in addition to the water reserved under subsection (iii) above, will not exceed the amount of water placed into trust by the County.

B. The County further agrees that prior to the adoption of the permanent regulations set forth in section A above, it will approve long plat applications submitted after the effective date of this Agreement that seek to rely on permit-exempt wells within the mitigated area only if a condition is required that a statement be placed on the face of the plat indicating that no building permits will be issued for any of the lots within the plat without first obtaining mitigation certificates for the lot for which a building permit is sought.

*Note: Code provisions to address the deleted §2.B already have been adopted in Benton County Ordinance 611, section 165(c), and Ordinance 612, section 11(b). Those
sections will be considered for further amendment at the same time as the regulations in 2.A above to make BCC 9.02.100 and BCC 11.42.040 only applicable to unincorporated areas not covered by the regulations referred to above in section 2.

**Section 3. Measures to Protect Rural Character.**

A. Benton County will consider amendments to the Rural Element/Land Use Element of its Comprehensive Plan to add policies governing rural development. The policies shall be equivalent in substance and effect to the provisions listed below, but Futurewise and Benton County (the parties) recognize that changes in location, order, formatting, numbering, and wording that do not change the substance may occur as part of the comprehensive plan amendment process.

- New Policy: Development in rural areas is typified by large lots and less dense development. Favoring development that is less dense and has larger lots helps maintain the rural character of designated rural areas and supports the protection of ground and surface water.

- New Policy: Designated rural areas will be utilized to reduce the inappropriate conversion of agricultural lands, prevent sprawling low-density development and assure that rural development is compatible with surrounding rural and agricultural areas.

- New Policy: Rural development shall provide adequate water for domestic use. When feasible, rural developments will be encouraged to utilize existing community systems with adequate availability for domestic water and sewage disposal.

- New Policy: New groundwater uses must provide evidence that the proposed water source is physically and legally available. Groundwater uses and withdrawals, including the issuance of building permits and the approval of land divisions, must be consistent with RCW 90.44.050, and with applicable rules adopted pursuant to RCW 90.22 and 90.54.

- New Policy: Provide public services consistent with rural character. Rural developments will not impact existing public facilities/services to the extent that the level of service for that facility is reduced below the adopted threshold and/or acceptable operation capacity. Rural developments should occur where adequate access to transportation systems, and rural levels of utilities and facilities, such as domestic water, power, and fire and police protection are available.

- New Policy: Rural development shall minimize potential adverse impacts to water quality, slope stability, vegetation, wildlife and aquatic life as implemented through the County's critical area regulations, shoreline master program, and hydrology manual.

- New Policy: Support the availability of sufficient water to maintain the agricultural industry and agricultural processing and value-added manufacturing.
- New Policy: Encourage long-term conservation, adequate water supply, and the wise stewardship of natural resources within Benton County for the benefit of current and future residents.

- New Policy: Encourage the continued communication with irrigation districts, legislature, and other responsible entities to ensure that adequate irrigation water is available for agricultural uses.


- New Policy: Support on-site infiltration in rural areas for new lots, subdivisions and developments by promoting storm water best management practices. Promote the retention of existing native vegetative cover in landscaping plans for areas zoned Rural Lands One Acre (RL-1), Rural Lands Five Acre (RL-5), Rural Lands Twenty Acre (RL-20), and Planned Development (PD) zones applied to any of these zones. Where the proposed development will not be precluded, limit impervious surfaces that are not infiltrated on-site for all new development in the zoning districts listed above to no more than ten percent and require the retention of 45 percent vegetative cover, which may include native or non-native species, provided soil infiltration/filtration properties are maintained.

- New Policy: Support and encourage the use of and application of Firewise principles and other fire risk reduction measures consistent with the Benton County Hazard Mitigation Plan and Community Wildfire Protection Plan to reduce fire risk for urban development, urban subdivisions, rural subdivisions and large rural developments susceptible to wildfires. Encourage the implementation of the Firewise principles, or similar best management measures, applicable to individual lots on all lots at risk from wildfires.

- Adopt by reference as an appendix to the Comprehensive Plan, the Benton County Hazard Mitigation Plan and Community Wildfire Protection Plan, as amended.

B. Benton County will consider adopting the Eastern Washington Storm Water Manual by reference as a development regulation.

C. If the regulations set forth in Section 2 and the Comprehensive Plan amendments and the regulation listed above in Section 3 are adopted and implemented, Benton County will commit to the following practices regarding low impact development and Firewise principles for at least ten (10) years from the effective date of the dismissal of the appeal as set forth in Section 1:
- Include informational materials related to the Eastern Washington Low Impact Development Guidance Manual and the NFPA Firewise educational and outreach materials as an attachment/supplemental to the County’s land use, road approach and building permit application materials to be utilized as a resource for landowners.

- Include on the County’s website (Planning, Public Works and Building) links to the Eastern Washington Low Impact Development Guidance Manual and the NFPA Firewise educational and outreach materials to be utilized as a resource for landowners.


A. Benton County will consider amending the applicable parts of Chapter 2 – Goals and Policies, Chapter 9 Capital Facilities Element, and Appendix J – Capital Improvement Plan, 2017 – 2022, and include an inventory or reference to an inventory of existing public facilities owned by public entities, a forecast of future needs, the proposed location and capacities of expanded or new public facilities, and a six-year financing plan for capital facilities that is within the projected funding capacities for publicly owned water systems, fire districts, municipal emergency services providers, and school systems, as applicable.

B. Benton County will consider including in its Capital Facilities Plan Element/Capital Improvement Plan and Transportation Element the Ben-Franklin Transit capital facilities, level of service standards, service areas, and recommendations for additional service.

C. In addition, Benton County will agree to conduct an analysis of the adequacy of the firefighting capabilities and consider amendments to the Capital Facilities Plan Element if it determines such amendments are needed to maintain adequate firefighting capabilities on the borders of the UGAs and the rural areas within the county.

D. Benton County will consider amending Appendix H to more clearly describe the land use assumptions used in the analysis. In addition, Benton County will coordinate with the Washington State Department of Transportation (WSDOT) and Benton-Franklin Council of Governments (BFCOG) in conducting a more detailed evaluation of the estimated traffic impacts of projected growth on state-owned facilities and the facility and service needs stemming from future population demands on state owned facilities, and amend Appendix H, as needed.

Section 5. Attorneys’ Fees and Costs.

Each party hereto shall bear its own attorneys’ fees and costs.
Section 6. Entire Agreement and Successors in Interest.

This Settlement Agreement contains the entire agreement between Futurewise and Benton County, shall supercede any and all prior written and/or oral agreements, and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each. No other understandings, oral or otherwise, shall be deemed to bind any of the parties hereto.

Section 7. Remedy for Breach.

For any breach of this Settlement Agreement all remedies in law and equity shall be available including the remedy of specific performance.

Section 8. Amendment.

This Settlement Agreement may not be modified or amended except by the written agreement of the parties.

Section 9. Governing Law.

This Settlement Agreement shall be construed and interpreted according to the laws of the State of Washington.

Section 10. Authorization.

Each person signing this Settlement Agreement represents and warrants that he or she has authority to sign this Settlement Agreement on behalf of and to bind the party represented, and that any necessary conditions precedent to the execution of this Settlement Agreement on behalf of the party represented have been satisfied.

Section 11. Counterparts.

A. This Settlement Agreement may be executed in counterparts and each executed counterpart shall have the same force and effect as the original instrument and as if all of the parties to the counterparts had signed the same instrument.

B. Electronic facsimile signatures and/or electronically scanned signatures shall be sufficient to demonstrate a party’s assent to this Settlement Agreement.

Section 12. Effective and Expiration Dates.

A. This Settlement Agreement shall be effective on the later of the dates it is signed by the parties.

B. This Settlement Agreement shall expire on the day after the day the Growth Management Hearings Board dismisses Futurewise v. Benton County, Growth
Management Hearings Board Eastern Washington Region Case No. 18-1-0004. No cause of action shall accrue under this Settlement Agreement with respect to actions by Benton County regarding any comprehensive plan amendments or amendment or repeal of development regulations adopted after this Settlement Agreement expires. This provision does not limit in any way the rights of Futurewise to challenge such actions under the provisions of the Growth Management Act.

BENTON COUNTY

By: Shari Small

Its: Chairman

Signed this 2 day of April, 2019.

FUTUREWISE

By: Chris Wierzbicki

Its: Executive Director

Signed this 29th day of March 2019.

Approved as to form:

By: Ryan K. Brown

Its: DPA
EXHIBIT A

(2 pages)
RESOLUTION
BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RELATING TO THE RURAL WATER SUPPLY PROGRAM;
ADDING A NEW CHAPTER TO TITLE 15 OF THE BENTON COUNTY CODE TO COMPLY WITH THE
FUTUREWISE SETTLEMENT AGREEMENT AND COUNTY RESOLUTION 2019-276

WHEREAS, the Yakima Basin has been involved in a water rights adjudication process for more
than 40 years. The Adjudication and other state and federal Court decisions have determined that
water supply in the Yakima River Basin is over appropriated; and,

WHEREAS, Washington State Department of Ecology (Ecology) settled with the US Bureau of
Reclamation (Reclamation) and the Yakama Nation in the late 1990’s over proposed groundwater
permits in the Blackrock area and Rattlesnake Ridge. In September 2011, the United State
Geological Survey released the final report of a 12-year, multi-million-dollar study confirming that
groundwater and surface water are directly connected, which means groundwater withdrawals
can impair senior surface water rights; and,

WHEREAS, Ecology, in cooperation with Reclamation and the Yakama Nation has determined that
groundwater management will need to protect senior water rights, flows for fish and economic
development. Ecology has stated they will seek solutions that address uncertainty and exposure
faced by existing post 1905 groundwater users (which includes most everyone). In seeking water
management solutions, Ecology shall build upon the broad-based support for the Yakima Basin
Integrated Water Management Plan; and,

WHEREAS, Ecology sent Benton County a letter in early 2017 giving the County notice that rural
water supply is at risk of impairment to senior water right holders and encouraging the County
to take steps to develop a rural water supply program similar to the ones developed by Kittitas
County and Yakima County; and,

WHEREAS, on April 19, 2018, Futurewise challenged the compliance of the Benton County
Comprehensive Plan (Ordinance 600/Resolution 2018-0137) and associated development
regulations with the Growth Management Act. Futurewise filed a Petitioned for Review by
Futurewise to the Eastern Washington Region Growth Management Hearings Board (Case
Number 18-1-0004) ; and,

WHEREAS, on April 2, 2019, Futurewise and Benton County, after negotiation, developed a
settlement to which Futurewise agreed to dismiss the above referenced Petition for Review if the
Board of County Commissioners considers and ultimately adopts certain amendments to the
Benton County Comprehensive Plan and additional development regulations. This agreement was
adopted by Benton County in County Resolution 2019-276; and,

WHEREAS, for the protection of the quantity and quality of ground and surface water, an
ordinance amendment regarding a Rural Water Supply Program is proposed that requires new
housing units (associated plats and building permits), relying on permit exempt wells, located in
a certain portion of WIRA 37, to fully mitigate the impacts such wells on the main stem of the
Yakima River; and,

WHEREAS, Benton County has acquired certain water rights that will be placed into trust with the
State of Washington. If requirements are satisfied, an applicant may acquire a required mitigation certificate for each parcel from the Benton County Water Bank. Three (3) different mitigation packages are offered, depending on whether an applicant is located within the boundaries of an irrigation district. The applicant will be required to install metering equipment which will be required to be installed and approved before certificate of occupancy of the dwelling unit; and,

WHEREAS, the Board of County Commissioners did conduct an open record hearing on January 14, 2020, in the Commissioner’s Meeting Room, Third Floor, Courthouse, Prosser WA 99350, to take testimony on the ordinance amendment adding a new Title to Chapter 15 of the Benton County Code regarding the Benton County Rural Water Supply Program. The legal notification was published on January 1, 2020; and,

WHEREAS, the Board did review the testimony and the proposed ordinance; and,

WHEREAS, the Board of County Commissioners are satisfied that it appears to be in the best interest of the public to adopt said ordinance amendment; and,

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners adopts the ordinance amendment (OA 2019-004) adding a new Title to Chapter 15 of the Benton County Code regarding the Rural Water Supply Program to comply with Benton County Resolution 2019-276, the Futurewise Settlement Agreement and the Department of Ecology; and,

BE IT FURTHER RESOLVED by the Board of Commissioners of Benton County, Washington that Ordinance No. ________ shall take effect and be in full force on February 1, 2020.

Dated this 14th day of January 2020.

--------------------------------------------
Chairman of the Board

--------------------------------------------
Chair Pro Tem

--------------------------------------------
Member
Constituting the Board of County Commissioners of Benton County
Washington.

Attest....................................................
Clerk of the Board

GW/djh
Benton County does not warrant, guarantee, or accept liability for accuracy, precision or completeness of any information shown hereon or for any inferences made therefrom. Any use made of the information is solely at the risk of the user. Benton County makes no warranty, expressed or implied, and any oral or written statement by any employee of Benton County or agents thereof to the contrary is void and ultra vires. The information shown herein is a product of the Benton County Geographic Information Systems, and is prepared for presentation purposes only.
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ORDINANCE NO.______

AN ORDINANCE relating to the Rural Water Supply Program; adding a new chapter to Title 15 of the Benton County Code.

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

SECTION 1. TITLE. There is hereby added a new chapter to the Benton County Code, entitled “Rural Water Supply Program” and which shall include the sections that follow.

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

SECTION 3. APPLICABILITY. This chapter shall only apply to development of parcels for residential uses which are located wholly or partially within that portion of unincorporated Benton County that drain to the Yakima River basin as set forth in the two Mitigation Area maps attached hereto as Exhibit A, which in general terms is that portion of water resource inventory area 37 delineated by the Benton County line to the west, the northern and southern boundaries of water resource inventory area 37, and on the east as set forth in the Mitigation Area maps.

SECTION 4. DEFINITIONS. The following words and phrases used in this chapter shall be given the meaning attributed to them by this section. Except where specifically defined below, all words used in this chapter shall carry their customary meaning as set forth in a commonly accepted dictionary.

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

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

(c) “Water Resource Inventory Area 37” shall mean that area so designated by chapter 173-500 WAC, as now in existence or hereafter amended.

SECTION 5. CREATION AND USE OF COUNTY WATER BANK. Benton County has acquired certain water rights that will be placed into the State of Washington trust water rights program pursuant to chapters 90.38 and 90.42, RCW, and future acquired water rights may also be placed into the trust water rights program by Benton County. Mitigation certificates may be issued under Section 8 of this Ordinance only to the extent the aggregate amount of water considered to be consumptively used pursuant Section 9 of this Ordinance does not exceed the amount of water placed into the trust water rights program by Benton County for this purpose.
SECTION 6. BUILDING PERMITS FOR DWELLING UNITS. An applicant for a building permit under Title 3 of the Benton County Code to construct a new building that will contain one or more dwelling units may rely on a private well for which no water right has been obtained for the necessary domestic water supply for such building only if the provisions of RCW 90.44.050 are satisfied and the applicant acquires a mitigation certificate from the Benton County Water Bank under the terms of this chapter or from a private water bank in a quantity of water equal to or greater than that required if the mitigation certificate were obtained from the Benton County Water Bank.

SECTION 7. APPLICATIONS FOR SHORT SUBDIVISIONS OR SUBDIVISIONS. An applicant for a short subdivision or subdivision under Title 9 of the Benton County Code may rely on one or more private wells for which no water right has been obtained for the necessary domestic water supply for the lots to be created only if the provisions of RCW 90.44.050 are satisfied and the applicant acquires the required mitigation certificates for each proposed parcel from the Benton County Water Bank under the terms of this chapter or from a private water bank in quantities of water equal to or greater than that required if the mitigation certificates were obtained from the Benton County Water Bank.

SECTION 8. MITIGATION CERTIFICATES FROM THE COUNTY.
(a) An applicant for a building permit on a parcel within the boundaries of an irrigation district at the time of application approval and that must to acquire a mitigation certificate pursuant to Section 6 of this Ordinance, may purchase one Package A Mitigation Certificate per dwelling unit from the County. A Package A Mitigation Certificate shall authorize an annual average of two hundred (200) gallons per day of private well water for indoor use only on the parcel, provided, so long as the daily annual average is not exceeded in any twelve (12) month period, the maximum withdrawal on any given day for parcels with a Package A Mitigation Certificate shall be six hundred seventy five (675) gallons. The price of a Package A Mitigation Certificate shall be set by resolution of the Board of County Commissioners.

(b) An applicant for a building permit that must acquire a mitigation certificate pursuant to Section 6 of this Ordinance with respect to a parcel that will not be within the boundaries of an irrigation district or that will be within the boundaries of an irrigation district but provides written confirmation from the district that the parcel will not be subject to assessments by the irrigation district at the time of application approval, may purchase either one Package B Mitigation Certificate or one Package C Mitigation Certificate per dwelling unit from the County.

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

(ii) Package C Mitigation Certificates shall authorize the use of an annual average of four hundred (400) gallons per day, in the aggregate, of private well water for indoor use and outdoor irrigation of an area up to 3000 square feet. So
long as the annual daily average is not exceeded in any twelve (12) month period, the maximum daily withdrawal on any given day for parcels with a Package C Mitigation Certificate shall be one thousand three hundred (1300) gallons.

(c) An applicant for a short subdivision or subdivision that needs to acquire one or more mitigation certificates pursuant to Section 7 of this Ordinance may purchase after preliminary approval of the short subdivision or subdivision one mitigation certificate per dwelling unit to be built on each buildable parcel proposed to be created.

(i) Package A Mitigation Certificates as described in Section 8(a) above may be purchased for proposed parcels that will at the time of final plat approval be within the boundaries of an irrigation district.

(ii) Package B or Package C Mitigation Certificates as described in Section 8(b)(i) and (ii) above may be purchased for proposed parcels that will at the time of final plat approval be outside the boundaries of an irrigation district or within the boundaries of an irrigation district if a written statement is provided by the irrigation district stating that the proposed parcels will not be subject to assessment by the district.

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

(e) A mitigation certificate issued under this chapter satisfies the adequate water supply requirement for one dwelling unit. A building permit applicant for a parcel with multiple dwelling units and short subdivision and subdivision applicants proposing to have multiple dwelling units on proposed parcels must obtain mitigation certificates for each dwelling unit if they are relying on mitigation certificates to satisfy the requirement for an adequate water supply.

(f) Each mitigation certificate must be recorded with the Benton County Auditor and indicate: (1) the parcel on which the water will be used; (2) the amount of use authorized; (3) the maximum number of square feet, if any, that may be irrigated thereunder; (4) the parcel on which the well is located; and (5) the maximum amount of water authorized for use daily and in any consecutive twelve (12) month period.

SECTION 9. CONSUMPTIVE USE OF WATER. (a) For each Package A Mitigation Certificate issued under this chapter, the annual consumptive use of water under that mitigation certificate shall be deemed to be .045 acre-feet per year.

(b) For each Package B Mitigation Certificate issued under this chapter, the annual consumptive use of water under that mitigation certificate shall be deemed to be .146 acre-feet per year.
(c) For each Package C Mitigation Certificate issued under this chapter, the annual consumptive use of water under that mitigation certificate shall be deemed to be .314 acre-feet per year.

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

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

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

SECTION 10. METERING REQUIREMENTS. (a) All dwelling units relying on private wells pursuant to a mitigation certificate issued by Benton County or by a private water bank shall meter their water usage through a meter approved by the County and pay an annual fee, in the amounts set forth by resolution adopted by the Board of County Commissioners, for the administration of a metering and monitoring program.

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

(i) The meter must be installed on the mainline prior to any residential lateral connections, spigots, or pressure tanks in a well house.

(ii) Meters must be accessible.

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

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

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

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

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

SECTION 11. ADMINISTRATION. Both the Benton County Planning Administrator and the Benton County Building Official and their authorized representatives shall have the responsibility for the administration and enforcement of this chapter.

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

SECTION 13. INJUNCTIVE RELIEF. Notwithstanding the existence or use of any other remedy or means of enforcement of the provisions hereof, Benton County may seek legal or equitable relief to enjoin any acts or practices which constitute a violation of any of the provisions hereof and compel compliance with all provisions of this chapter. The costs of such action shall be taxed against the person violating the provisions of this chapter. The Planning Administrator may accept written assurance of discontinuance of any act in violation of this chapter from any person who has engaged in such act. Failure to comply with the assurance of discontinuance shall be a further violation of this chapter.

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

SECTION 15. FAILURE TO PROVIDE INFORMATION IDENTIFYING PERSON. Willful refusal to provide information identifying a person as required by Section 14 is a misdemeanor.

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

SECTION 17. FORM--CONTENTS. The notice of infraction shall include the following:

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

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

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

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

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

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

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

SECTION 18. FILING - HEARING IN DISTRICT COURT. A violation designated as an infraction under this chapter can be heard and determined by either a district or superior court.

SECTION 19. DETERMINATION INFRACTION COMMITTED. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction.

SECTION 20. RESPONSE - REQUESTING A HEARING - FAILURE TO RESPOND OR APPEAR - ORDER SET ASIDE.

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

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

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

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

(e) An order entered by the court under subsection (d)(2) of this section may, for good cause shown and upon such terms as the court deems just, be set aside for the same grounds a default judgment may be set aside in civil actions.

SECTION 21. REPRESENTATION BY ATTORNEY. A person subject to proceedings under this chapter may appear or be represented by counsel. Each party to an infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in an infraction case.

SECTION 22. INFRACTION - HEARING - PROCEDURE - BURDEN OF PROOF - ORDER - APPEAL.

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

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

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

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

SECTION 23. EXPLANATION OF MITIGATING CIRCUMSTANCES.

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

(b) After the court has heard the explanation of the circumstances surrounding the commission of the infraction an appropriate order shall be entered in the court's records.
The person may not appeal the court's determination or order.

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

SECTION 25. VIOLATION--PENALTIES.

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

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

SECTION 26. 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 27. EFFECTIVE DATE. This Ordinance shall take effect and be in full force on February 1, 2020.

ADOPTED AND PASSED this _____ day of ____________________

Chairman of the Board

Chairman Pro-Tem

Member

Approved as to Form:  
Constituting the Board of County Commissioners of Benton County, Washington

Attest:  
Deputy Prosecuting Attorney  Clerk of the Board
Benton County does not warrant, guarantee, or accept liability for accuracy, precision or completeness of any information shown herein or for any inferences made therefrom. Any use made of the information is solely at the risk of the user. Benton County makes no warranty, expressed or implied, and any oral or written statement by any employee of Benton County or agents thereof to the contrary is void and ultra vires. The information shown herein is a product of the Benton County Geographic Information Systems, and is prepared for presentation purposes only.
NOTICE OF PUBLIC HEARING

NOTICE OF HEARINGS before the Board of County Commissioners in the matter of the 2017 Periodic update of the County Comprehensive Plan: proposed amendments to the land use maps and text of the Benton County Comprehensive Plan, BCC Title 9- Subdivision Regulations and BCC Title 11-Zoning in a manner that would resolve a Petition for Review filed by Futurewise. After negotiations, the County and Futurewise developed a settlement on the above-mentioned Petition for Review that was approved by the Board of County Commissioners in Resolution 2019-276. A

The Board will consider amendments to the 2017 Comprehensive Plan amending Ordinance 600 as noted below and to BCC Title 9 Subdivision Regulations (File No. OA 2019-002) amending Ordinance 612, Section 11 and BC 9.02.100 and to BCC Title 11-Zoning (File No. OA 2019-003) relating to building permits; amending Ordinance 611, Section 165 and BCC 11.42.040 at a public hearing Tuesday, January 14, 2020 at 9:00 a.m., in the Board Meeting Room, Third Floor, Courthouse, Prosser WA. The Board will consider all comments received and make their recommendation to the Board of County Commissioners (BOCC). The BOCC will then conduct a hearing to consider and act upon the Planning Commission’s recommendation.

The Board will also consider an Ordinance relating to the Rural Water Supply Program; adding a new chapter to Title 15 of the Benton County Code. See the summary of the proposed ordinance below. The proposed Rural Water Supply Program requires new housing units relying on permit exempt wells located in a certain portion of WIRA 27 to fully mitigate the impacts such wells will have on the main stem of the Yakima River.

NOTICE IS FURTHER GIVEN that draft land use maps and related documents for the 2017 Comprehensive Plan Amendment-Ordinance 600 may be viewed on the County’s website at http://tinyurl.com/2017compplan, a summary of those changes follows this notice. The documents for Ordinances OA 2019-002 and 2019-003 can be found on our public notices pages at http://tinyurl.com/BCpublicnotice along with the Ordinance for the Rural Water Supply Program.

Copies may be requested by calling or writing the planning office using the information below. Any comments regarding the proposed hearings may be made at the above hearings or submitted in writing. All written comments submitted by mail should be sent to: Benton County Planning Department, P.O. Box 910, Prosser, WA 99350-0910, and received by the Planning Department no later than January 13, 2020. Comments may also be submitted by email to planning.department@co.benton.wa.us by 3:00 p.m. January 13, 2020.

Any information submitted to Benton County is subject to the public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.

It is Benton County’s policy that no qualified individual with a disability shall by reason of such
disability be excluded from participation in public meetings. If you wish to use auxiliary aids or require assistance to comment at this public meeting, please contact the Benton County Planning Department at the above stated phone numbers and/or address no later than 48 hours prior to the date of the meeting. The Request for Reasonable Accommodation form is available online at www.co.benton.wa.us or from the Planning Department.

Dated this 20th day of December 2019.

JAMES BEAVER, Chairman
Board of County Commissioners

GREG WENDT,
Planning Manager

Publish date: January 1, 2020

**Proposed Changes 2017 Comprehensive Plan - Ordinance 600**
Draft land use maps and related documents may be viewed on the County’s website at http://tinyurl.com/2017compplan

1. New policies the Rural Lands-Section 2.2.3 pages 14-16; (PCM 1.5)
2. Amendments to Rural Domestic Water Policies-Section 2.4.3 page 19; (PCM 1.6)
3. Amendments to the Capital Facilities & Public Services (2.10 pg. 30); (PCM 1.7)
4. Housekeeping edits to pages 36 and 52 to correct an acreage amount (PCM 1.8)
5. Housekeeping edits to page 95 to correct estimated number of new homes needed (PCM 1.9)
6. Amendments to the Transportation Element-Section 7.1 page 98, 7.2.6 pages 102-103, Section 7.2.7 pages 103, Section 7.2.7 page 103, Section 7.2.8 pages 103-104, Section 7.3.1 and 7.3.11 pages 104-105, Section 7.5.1 page 109-110; (PCM 1.10)
7. Amendments to the Capital Facilities Relationship between Land Use and Capital Facilities Section 9.11 page 122; (PCM 1.11)
8. Amendments to Capital Facilities Improvement to Public Facilities identified in Other Plans-Section 9.24 pages 125-138; Section 9.6 Siting of Essential Public Facilities pages 141 and 143(PCM 1.12)
9. Addition to the References section-page 154; (PCM 1.13)
10. Title Change to Appendix H-4 (Inventory within Benton County and 2028 Forecast and Level of Service Analysis; (PCM 1.14)
11. Addition Appendix M (Benton County Community Wildfire Protection Plan, previously adopted by the Board of County Commissioners); and (PCM 1.15)
12. Addition Appendix N (Benton County Natural Hazard Mitigation Plan 2019, previously adopted by the Board of County Commissioners (PCM 1.16)
13. Letter Change from Appendix M to Appendix O (Comment Response Matrix) (PCM 1.17)
OA 2019-002 Proposed Changes to BCC Title 9 Subdivision Regulations relating to water supply; amending Ordinance 612, Section 11 and BC 9.02.100.

Ordinance 612, Section 11 and BCC 9.02.100(b) are hereby amended to read as follows: (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 Ordinance ____ if applicable.

OA 2019-003 Proposed Changes to BCC Title 11-Zoning relating to building permits; amending Ordinance 611, Section 165 and BCC 11.42.040

Ordinance 611, Section 165 and BCC 11.42.040 are hereby amended to read as follows: BUILDING PERMITS - (a) 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.) complying with Title 3 of the Benton County Code. (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, if applicable.

Ordinance relating to the Rural Water Supply Program; adding a new chapter to Title 15 of the Benton County Code.

SECTION 1 TITLE. Adding a new chapter to the Benton County Codes entitled Rural Water Supply Program.

SECTION 2 PURPOSE. To protect the public health, safety and welfare of the citizens of Benton County, and to comply with the requirement of Growth Management Act.

SECTION 3 APPLICABILITY. This chapter shall only apply to development of parcels for residential uses which are located with that portion of unincorporated Benton County that drain to the Yakima River within WIRA 37.

SECTION 4 DEFINITIONS. Definitions for Dwelling Unit, Irrigation District and Water Resource Inventory Area 37 are being added.

SECTION 5 CREATION AND USE OF COUNTY WATER BANK. This section refers to water rights acquired by Benton County and put into trust with the State.

SECTION 6 BUILDINGS PERMITS FOR DWELLING UNITS. Will require that mitigation certifications be obtained by developers from the Benton County Water Bank or a private water bank.
SECTION 7 APPLICATION OF SHORT SUBDIVISIONS. Will require that mitigation certifications be obtained by developers from the Benton County Water Bank or a private water bank.

SECTION 8 MITIGATION CERTIFICATES FROM THE COUNTY. This section outlines the process for obtaining mitigation certificates.

SECTION 9 CONSUMPTIVE USE OF WATER. Sets forth the amount of consumptive use of water under each type of Mitigation Certificate issued.

SECTION 10 METERING REQUIREMENTS. This Section lists the requirements for metering on wells.

SECTION 11 ADMINISTRATION This section lists the Benton County Planning Dept. and the Benton County Building Dept. and authorized representatives who shall have responsibility to administer and enforce this chapter.

SECTION 12 VIOLATIONS-INFRINGEMENTS-MISDEMEANOR. This section outlines the violations criteria for this chapter.

SECTION 13 INJUNCTIVE RELIEF. This allows Benton County to seek injunctive relief on violations of this chapter.

SECTION 14 VIOLATIONS-INVESTIGATIONS-EVIDENCE. Allows inspection of parcels that are in violation of this chapter.

SECTION 15 FAILURE TO PROVIDE INFORMATION IDENTIFYING PERSON. Willful refusal to provide information required in Section 14 is a misdemeanor.

SECTION 16 NOTICE OF INFRACTION - SERVICE. This section allows a Notice of Infraction for the first violation to be served personally upon the person named in the notice or filed with the court for service.

SECTION 17 FORM-CONTENTS This section list the needed information on a notice of infraction.

SECTION 18 FILING-HEARING IN DISTRICT COURT. Allows an infraction for be determined by either district or superior court.

SECTION 19 DETERMINATION INFRACTION COMMITTED Unless contested, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction.

SECTION 20 RESPONSE-REQUESTING A HEARING-Failure to respond or appear-ORDER SET ASIDE. List information for responding to an infraction.

SECTION 21 PERSON'S REFUSAL TO SIGN-MISDEMEANOR. It is a misdemeanor for a person served to refuse to sign a written promise to respond to the notice of infraction.
SECTION 22 PERSON'S FAILURE TO RESPOND-MISDEMEANOR. It is a misdemeanor for a person served to fail to respond a written promise to respond to the notice of infraction.

SECTION 23 REPRESENTATION BY ATTORNEY. A person subject to proceedings under this chapter may appear or be represented by counsel.

SECTION 24 INFRACTION-HEARING-PROCEDURE-BURDEN OF PROOF-ORDER-APPEAL Sets forth criteria on hearings for infractions.

SECTION 25 EXPLANATION OF MITIGATING CIRCUMSTANCES. A hearing may be held to allow a person to explain mitigating circumstances on an infraction.

SECTION 26 CIVIL PENALTY-INFRACTION. A civil penalty imposed by the court under this chapter is immediately payable.

SECTION 27 VIOLATION PENALTIES. Sets dollar amounts for penalties.

SECTION 28 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 29 EFFECTIVE DATE The effective date of this ordinance shall be February 1, 2020.