

RESOLUTION 2021 919

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON IN THE MATTER OF COUNTY PLANNING AN ORDINANCE RELATING TO ZONING, AMENDING THE SECTIONS RELATING TO USES REQUIRING A CONDITIONAL USE PERMIT; AMENDING THE SECTIONS RELATING TO ALLOWABLE USES; AMENDING ORDINANCE 611, SECTION 53, ORDINANCE 617, SECTION 5, ORDINANCE 634, SECTION 1 AND BCC 11.15.060; AMENDING ORDINANCE 611, SECTION 63, ORDINANCE 617, SECTION 7, ORDINANCE 634, SECTION 3, ORDINANCE 636, SECTION 2 AND BCC 11.17.070; AMENDING ORDINANCE 611, SECTION 126 AND BCC 11.33.030; AMENDING ORDINANCE 611, SECTION 129 AND BCC 11.33.060; AMENDING ORDINANCE 611, SECTION 134 AND BCC 11.35.030 AND AMENDING ORDINANCE 611, SECTION 137 AND BCC 11.35.060.

WHEREAS, the Benton County Planning Commission after conducting an open record hearing and review on November 30, 2021 has forwarded the proposed amendment(s) to the Board of County Commissioners with a positive recommendation; and,

WHEREAS, the Board did review the Planning Commission record, and staff recommendations, the testimony and the proposed ordinance; and,

WHEREAS, the Planning Commission recommendation of approval is set forth in the Planning Commission's Recommendation, Findings of Fact and Conclusions that are found in File # OA 2021-004 in the Planning Division; and,

WHEREAS, Notice of Open Record Hearing before the Board of County Commissioners was published in the Prosser Record Bulletin on December 8, 2021; and,

WHEREAS, the Board of County Commissioners did conduct an open record hearing on Tuesday, December 21, 2021, at 9.00 a.m. in the Commissioners Meeting Room, Benton County Courthouse, Prosser Washington to consider the above proposed ordinance amendment to Ordinance 611, Ordinance 617, and Ordinance 634 as noted in Planning casefile OA 2021-004; and,


WHEREAS, the Board of County Commissioners did adopt the Planning Commission's Findings of Fact and Conditions of Approval as their own (which are kept in File No. OA 2021-004 in the Planning Division records); and,

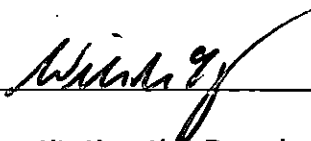
WHEREAS, after consideration of the above-mentioned request and review of the Planning Commission record, staff analysis and memos, and all written and oral comments submitted at the public hearing, the Board of County Commissioners are satisfied that it appears to be in the best interest of the public to adopt Planning Application OA 2020-004, amendment to Ordinance 611, Ordinance 617, and Ordinance 634 as noted in Planning casefile OA 2021-004; and,

NOW THEREFORE BE IT RESOLVED that Ordinance No. 640 an ordinance relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060 is hereby adopted and will take effect and be in full force immediately upon its passage and adoption.

Dated this 21st day of December 2021.


Chairman of the Board


Member


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

Attest Maribel Flores
Clerk of the Board

MLC

ORDINANCE NO. 640

AN ORDINANCE relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060.

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

SECTION 1. Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands Twenty Acre District (RL-20) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) A sand or gravel pit, stone quarry and similar use for the development of natural resources extracted on-site.

(b) Kennel, commercial.

(c) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(d) A Park.

(e) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

(f) Agricultural Market.

(g) Business activities, other than those set forth above, that are compatible with the principal uses and purpose of the underlying zone and the surrounding land uses may be conducted from within an approved accessory building detached from all dwelling units if the following criteria as well as any other conditions required by the Hearings Examiner are satisfied:

(1) The business activity must take place on a parcel of land that is 2.0 acres or greater in size.

(2) There must be a residence on site, and at least one (1) of the proprietors of the business must be the owner or lessee of the property where the business and the residence are located and must reside in said residence.

(3) No more than four (4) non-resident persons, whether they work on site or not, may be employed by or be partners in the business.

(4) The business activity, including all storage space, shall not occupy more than two thousand (2,000) square feet of total floor area within the detached accessory building.

(5) Only one (1) approved detached accessory building on a parcel may be used for business activities. If more than one (1) business will be conducted within an approved detached accessory building, then a separate application must be submitted for each business activity, provided that the total area used by all business activities shall not exceed that permitted by BCC 11.15.060 (g) (4).

(6) No more than two (2) non-illuminating signs, with a maximum area of four (4) square feet each, shall be permitted in connection with the business activity. The posting of such signs is limited to the parcel on which the approved detached accessory building is located. On-street (inside the road right-of-way) sign posting and sign posting which interferes with the line-of-site for road intersections are prohibited.

(7) Not more than three (3) vehicles marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the business activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business.

(8) The property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state and federal regulations pertinent to the business activity pursued. The requirements of or permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations.

(9) Adequate off-street parking, as determined by the Hearings Examiner, must be provided.

(10) Any waste created as a result of the business activity must be disposed of off-site in compliance with all local, state and/or federal regulations.

(11) The presence of customers/clients and non-resident employees at the location of the business activity shall be limited to the days and hours of operation as determined by the Hearings Examiner.

(12) The business activity does not require a marijuana retail outlet license from the Washington State Liquor and Cannabis Board.

(h) Shooting range facility.

~~((i) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:~~

~~(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;~~

~~(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;~~

~~(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;~~

~~(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right of way distance equal to the wind turbine height plus 50% of that height;~~

~~(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the CMA Agricultural District, except for CMA Agricultural District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;~~

~~(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;~~

~~(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;~~

~~(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;~~

~~(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);~~

~~(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43-BCC, and~~

~~(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.)~~

~~((+)) (i) Agri-tourism accommodations.~~

~~((k) Solar Power Generator Facility, Major.)~~

SECTION 2. Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted within the GMA Agricultural District if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040:

(a) Slaughterhouses, commercial meat-packing plants, animal feedlots; provided, that they are not located in the floodway and floodplain as shown on the FEMA maps, or within two hundred (200) feet of a naturally occurring body of water, or a well-used for domestic or municipal purposes and shall be designed to prevent infiltration or other movement of livestock wastes into the aquifer, or directly into surface waters.

(b) Commercial dairy, hog, poultry, and rabbit operations, propagation of fur bearing species for commercial purposes, or livestock auction yard; provided, that at least the following setbacks are met as well as all other conditions imposed in connection with the issuance of the conditional use permit: one hundred (100) foot setbacks from any lot line to any animal enclosure, except for fenced pasture; and a five hundred (500) foot setback from any existing residential structure on adjacent property not under applicant's ownership.

(c) Commercial establishments for the transportation of agricultural products other than those produced on the premises, or agricultural supplies or equipment, together with the maintenance, storage, repair and servicing of the necessary trucks and equipment.

(d) The following agriculturally based recreational and sales facilities: covered arenas, rodeo events, livestock sales rings, and working animal events. The following accessory uses may be permitted during one or more of the above events: veterinary service, food concessions, RV parking area, and event related novelty/accessory sales.

(e) Airstrips (commercial crop dusting).

(f) Facilities for treatment of industrial solid wastes with associated spray fields related to the on-site processing of agricultural products.

(g) Solid waste disposal site; except on lands designated as having less than 160 acre minimum parcel size.

(h) Off-site hazardous waste treatment and storage facilities may be allowed by conditional use permit issued by the Benton County Hearings Examiner after notice and public hearing as provided in BCC 11.50.040 provided, that such facilities must comply with the state siting criteria adopted in accordance with RCW 70.105.210, as currently in effect or as hereafter amended.

(i) Asphalt manufacture in conjunction with rock, sand and gravel mining.

~~((j)) Facilities for power generation, other than nuclear fueled, wind fueled or solar fueled.~~)

~~((k))~~ (j) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

~~((l))~~ (k) Off-premise directional signs.

~~((m))~~ (l) The production of bio-diesel and alcohol fuels from agricultural products.

~~((n))~~ (m) The commercial maintenance, repair, servicing, and storage of agricultural machinery, implements, and equipment for use off the premises.

~~((o))~~ (n) Commercial establishments for the storage, sale and off-site application of agricultural chemicals, including but not limited to herbicides, fertilizers, insecticides, and pesticides.

~~((p))~~ (o) Underground natural gas storage facilities.

~~((q)) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:~~

~~(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;~~

~~(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;~~

~~(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;~~

~~(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right of way distance equal to the wind turbine height plus 50% of that height;~~

~~(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the CMA~~

~~Agricultural District, except for GMA Agricultural District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;~~

~~(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;~~

~~(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;~~

~~(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;~~

~~(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);~~

~~(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and~~

~~(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.)~~

~~((+)) (p) Non-agricultural accessory uses that promote or sustain the continuation of the agricultural uses of a parcel if the accessory uses meet the following criteria as well as any other conditions required by the Hearings Examiner:~~

(1) The non-agricultural accessory use shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The non-agricultural accessory use must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The parcel on which the non-agricultural accessory use is located meets one of the following:

(i) the parcel is no less than twenty (20) acres in size with eighty (80) percent of the acreage primarily committed to agricultural use and has produced gross income equivalent to two hundred (200) dollars or more per acre each year for three (3) of the five (5) calendar years preceding the date of application;

(ii) the parcel is currently enrolled in the County's Agricultural Open Space program pursuant to Chapter 84.34 RCW, as currently in effect or as hereafter amended;

(iii) the parcel is not less than one hundred (100) contiguous acres that has been in agricultural use for three (3) of the last five (5) years.

(4) The non-agricultural accessory use, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the nearest existing buildings or residential structures and shall not otherwise convert more than one (1) acre of agricultural land to non-agricultural uses;

(5) The non-agricultural accessory uses, including any storage space associated therewith, shall not collectively occupy more than fifteen thousand (15,000) square feet of building space;

(6) No more than three (3) vehicles marked to identify the non-agricultural accessory use(s) may be on the parcel at any time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the non-agricultural accessory use;

(7) No person may possess more than one valid permit at a time under this section and all non-agricultural accessory use permits issued under this section for any given parcel must be authorized in one permit;

(8) No more than two (2) signs of a size determined by the Hearings Examiner shall be permitted in connection with the non-agricultural accessory use. Illumination of a sign shall be only by hooded directional lighting so that only the sign surface is illuminated. The posting of such sign is limited to the parcel on which the non-agricultural accessory use is located. On-street (inside the road right-of-way) sign posting is prohibited, and no sign outside of a road right-of-way may interfere with the line of sight for road intersection;

(9) The parcel and non-agricultural accessory use owner shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the non-agricultural accessory use being pursued. The requirements of or the permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations;

(10) Adequate off road parking, as determined by the Hearings Examiner, must be provided;

(11) Any waste created as a result of the non-agricultural accessory use must be disposed of off-site in compliance with all local, state, and/or federal regulations;

(12) The days and hours of operation shall be determined by the Hearings Examiner with the granting of a Conditional Use Permit; and

(13) The non-agricultural accessory use shall not require a marijuana retail outlet license from the Washington State Liquor and Cannabis Board.

~~((s))~~ (g) Overnight lodging within a structure primarily used for processing of beer, wine, or spirits that meets the following criteria:

(1) The number of guest rooms may not exceed two (2); and,

(2) The area used for the guest rooms and associated with overnight lodging shall not exceed eight hundred square feet (800); and,

(3) The overnight lodging guest rooms shall meet Benton-Franklin Health District requirements for septic systems and domestic water usage shall be demonstrated; and,

(4) The overnight lodging guest rooms shall comply with all the applicable building code requirements.

~~((t))~~ (r) Events Facility on the same or adjoining parcel as a Winery/Brewery/Distillery, but not related to the operational and marketing of the business, such as weddings, receptions, and meetings/retreats shall be limited to not more than two hundred (200) guest or less, meet the following criteria as well as any other conditions required by the Hearings Examiner:

(1) The events facility shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The events facility must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The events facility, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the existing Winery/Brewery/Distillery structures and shall not otherwise convert more than one (1) acre of agricultural land to the use;

4) The parcel and events facility shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the events facility being pursued. The requirements of or the permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations;

(5) Adequate off-road parking, as determined by the Hearings Examiner, must be provided; and

(6) Any waste created as a result of the event facility must be disposed of off-site in compliance with all local, state, and/or federal regulations.

~~((v))~~ (s) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

~~((w))~~ (t) Recreation and entertainment activities centered on an agricultural theme. This may include activities such as field mazes, hayrides, sleigh rides, animal rides, petting zoos and other similar uses.

~~((x))~~ (u) Commercial sand and gravel pits, stone quarries, other mineral extraction, asphalt and/or concrete batching plants.

~~((y))~~ (v) Veterinarian Clinics.

~~((z))~~ (w) Shooting Range Facility.

~~((aa))~~ ~~Solar power generator facility, major.~~

~~((ab))~~ (x) Agri-tourism accommodations.

~~((ac))~~ (y) Agricultural research facility which conducts basic, applied, and/or developmental research of regional, national, or international concerns in the field of agriculture.

~~((ad))~~ (z) Commercial agricultural establishments that primarily provide storage, repair, or sale of irrigation, mechanical, and excavation service activities for use off premise.

~~((ae))~~ (aa) Winery/Brewery/Distillery facility, including sampling, tasting, and sales of the product, may occur on an adjacent parcel from the site where the fruit or other products are processed, if both parcels are under the same ownership.

SECTION 3. Ordinance 611, Section 126 and BCC 11.33.030 are hereby amended to read as follows:

ALLOWABLE USES. The following uses are allowed within the Light Industrial District (LI) on a single parcel of record:

(a) Fire department facility, law enforcement facility, and/or medical facility.

(b) Research and development facility, computer component manufacturing, laboratory, and/or electronic data processing facility.

(c) Agricultural uses.

(d) Lumber yard and/or custom milling of logs into dimensional lumber.

(e) Nursery and/or landscaping business.

(f) Warehouse.

(g) Utility substation facility.

(h) Rental storage facility.

(i) Food processing and/or cannery.

(j) Metal fabrication and/or welding.

(k) Sales of on-site manufactured goods.

(l) Sales, service and repair of machinery equipment, automobiles, and/or trucks.

(m) Wineries/Breweries/Distilleries.

(n) Hiking and non-motorized biking trails.

(o) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210, as it now exists or is hereafter amended, and only treat waste generated on the same parcel or a contiguous parcel.

(p) Rapid Charging Station.

(g) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

SECTION 4. Ordinance 611, Section 129 and BCC 11.33.060 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Light Industrial District (LI) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Racetrack facility for automotive, motocross, or horse racing.

(b) Agricultural recreational facility.

(c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.

(d) Solid waste transfer station.

(e) Airport/Heliport.

(f) Asphalt plant.

- (g) Concrete plant.
- (h) Sewage treatment plant for industrial and/or domestic waste.
- (i) Wrecking yard.
- (j) Indoor shooting range.
- (k) Solar Power Generator Facility, Major.

(l) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Light Industrial Zoning District, except for Light Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be

made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

SECTION 5. Ordinance 611, Section 134 and BCC 11.35.030 are hereby amended to read as follows:

ALLOWABLE USES. The following uses are allowed within the Heavy Industrial District (HI) on a single parcel of record:

- (a) The processing, assembly and/or manufacturing of raw materials, semi-finished materials, and/or finished materials, except for the manufacturing reprocessing and/or storage of radioactive waste.
- (b) Ironwork, drop forge industry, and/or metal fabrication.
- (c) Repair of machinery equipment, automobiles and/or trucks.
- (d) Food processing facility, cannery and/or cold storage facility.
- (e) Agricultural uses.
- (f) Retail sales of goods manufactured on the premises; provided, that the floor space devoted to such use does not exceed ten (10) percent of the gross floor area of all buildings on the parcel.
- (g) Wholesale sales of products.
- (h) Transportation facilities for handling cargo and/or passengers, including mooring facilities, grain elevator, or barge terminal.

- (i) Warehouse.
- (j) Utility substation facility.
- (k) Production of alcohol fuels, biodiesel, or ethanol.
- (l) Hiking and non-motorized biking trails.
- (m) Sewage treatment plant for industrial and/or domestic waste.
- (n) Solid waste transfer station and/or recycling center.
- (o) Wrecking yard.
- (p) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210, as currently in effect or as hereafter amended, and only treat waste generated on the same parcel or a contiguous parcel.
- (q) Rapid Charging Station.
- (r) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

SECTION 6. Ordinance 611, Section 137 and BCC 11.35.060 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Heavy Industrial District (HI) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

- (a) Facilities for generating power for sale to the public, including solar power generators; provided, that such power cannot be nuclear fueled.
- (b) Hazardous waste treatment and/or hazardous waste storage facility treating waste not generated on the same or a contiguous parcel; provided, that such facility must comply with Washington State siting criteria set forth in RCW 70.105.210, as currently in effect or as hereafter amended.
- (c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.
- (d) Asphalt plant.
- (e) Concrete plant.
- (f) Airport/Heliport.
- (g) Railroad switch yards, maintenance and/or repair facilities.

(h) State and/or local correctional facility, and/or Secure Community Transition Facility as described by RCW 36.70A.200, as currently in effect or as hereafter amended.

(i) Solar Power Generator Facility, Major.

(j) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Heavy Industrial Zoning District, except for Heavy Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind

turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

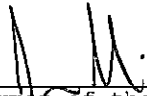
(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

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

SECTION 8. Effective Date. This Ordinance shall take effect and be in full force upon its passage and adoption.

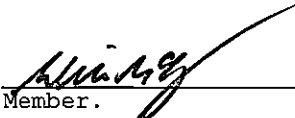
ADOPTED AND PASSED this 21st day of December 2021.



Chairman of the Board.



Chairman Pro-Tem.



Member.

Approved as to Form:

Ryan Brown
Deputy Prosecuting Attorney

Constituting the Board of
County Commissioners of
Benton County, Washington

Attest: Marile Flores
Clerk of the Board