

AN ORDINANCE RELATING TO THE LOCATION, SIZE, USE AND ARRANGEMENT OF LOTS AND BUILDINGS IN AND FOR THE UNINCORPORATED PORTIONS OF BENTON COUNTY, MINNESOTA; AND FOR THE PURPOSE OF PROMOTING THE HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF BENTON COUNTY; AND FOR THE AFORESAID PURPOSE TO DIVIDE THE COUNTY INTO ZONING DISTRICTS; AND PROVIDE FOR SEWAGE CONTROL, SHORELAND CONTROL, AND SUBDIVISION REGULATION.

WHEREAS, Chapter 394.21 to 394.37, Minnesota Statutes 1965, as amended in 1967 and 1974, empower counties to provide for the establishment of zoning districts and to regulate within such districts the location, height, bulk, size and specified use for which dwellings, buildings, and structures that may hereafter be erected or altered; and

WHEREAS, the Board of Commissioners of Benton County has declared its intention to avail itself of these powers in accordance with M.S. 394.21, Subdivision 2, by an ordinance establishing the Benton County Planning Commission for the purposes of preparing long-range plans for the County, together with land use controls; and

WHEREAS, the County Board is empowered to enact and revise a zoning ordinance in order to protect public health, safety and welfare; and

WHEREAS, previous zoning ordinances hereto have attempted to protect productive agriculture land; and

WHEREAS, the land and water of Benton County is a limited resource which must be protected and used in order to satisfy the needs of the existing and projected population, and that the land and water is required to provide food and fiber, construction material, water recharge, recreation, wildlife, and living space, and as such protection of Benton County's land and water resources will determine the quality of life afforded to existing and future citizens of the County; and

WHEREAS, agriculture production is a prime industry of Benton County and projected growth of urban development beyond the year 2000 is not sufficient to remove this prime use of the land, and farm operations shall be recognized as such and regulations adopted to protect commercial agriculture activities,

THE BENTON COUNTY, MINNESOTA BOARD OF COMMISSIONERS ORDAINS:

orig.

151908

Office of County Recorder  
Benton County, Minnesota

I hereby certify that the within  
instrument was filed in this office  
for record on the 28 day of March

A.D. 1972 at 9 O'clock A M

and was duly recorded in Book 1  
of Chancery on page 284.

J. S. Johnson  
County Recorder

By: J. S. Johnson  
Deputy

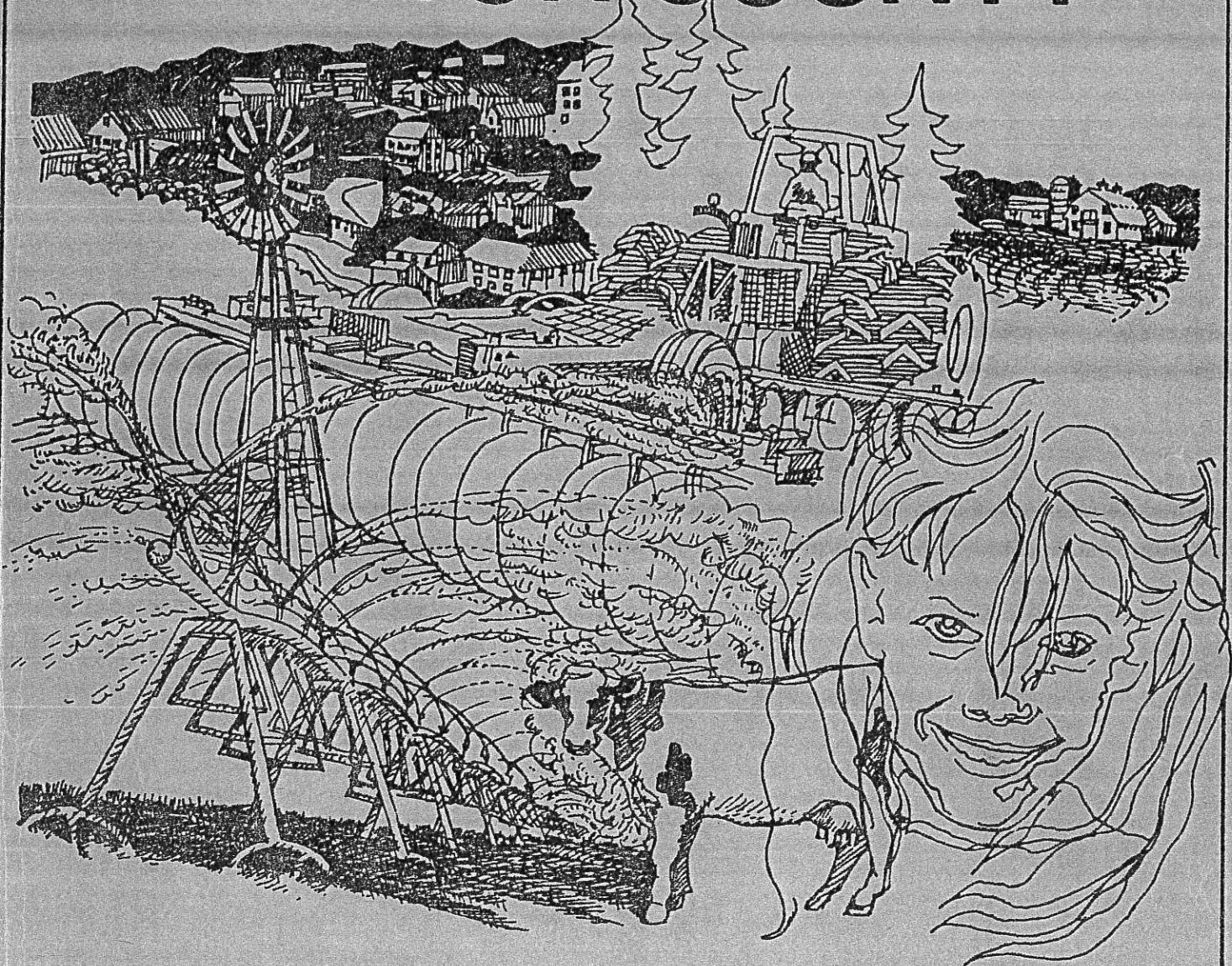
I, Ray Carriveau, Benton County Auditor, do hereby certify that  
this is a true copy of the Benton County Development Code,  
Ordinance No. 113, as filed in my office.

Ray Carriveau  
Ray Carriveau  
Benton County Auditor



Ordinance #113

# BENTON COUNTY



# 151908

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Benton County, Minnesota

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of 1979 by J. C. Johnson

J. C. Johnson  
County Recorder

J. C. Johnson  
Deputy

# DEVELOPMENT CODE

By: J. C. Johnson  
Deputy



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AN ORDINANCE RELATING TO THE LOCATION, SIZE, USE AND ARRANGEMENT OF LOTS AND BUILDINGS IN AND FOR THE UNINCORPORATED PORTIONS OF BENTON COUNTY, MINNESOTA; AND FOR THE PURPOSE OF PROMOTING THE HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF BENTON COUNTY; AND FOR THE AFORESAID PURPOSE TO DIVIDE THE COUNTY INTO ZONING DISTRICTS; AND PROVIDE FOR SEWAGE CONTROL, SHORELAND CONTROL, AND SUBDIVISION REGULATION.

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THE BENTON COUNTY, MINNESOTA BOARD OF COMMISSIONERS ORDAINS:

1.0 SHORT TITLE

This ordinance shall be known, cited and referred to as the Benton County Development Code, except as referred to herein, where it shall be known as "this Ordinance."

2.0 INTENT AND PURPOSE

2.1 This ordinance is adopted for the following purposes:

- 2.1.1 To promote and protect the public health, safety, comfort, convenience, and general welfare of the people;
- 2.1.2 To divide the unincorporated areas of the county into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of structures and land;
- 2.1.3 To promote the orderly development of residential, business, industrial, recreational and public areas;
- 2.1.4 To provide for adequate light, air and convenience of access to property by regulating the use of land, buildings and the bulk of structure;
- 2.1.5 To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts;
- 2.1.6 To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;
- 2.1.7 To limit congestion in the public right-of-ways by providing for the off-street parking and loading of motor vehicles;
- 2.1.8 To provide for the gradual elimination of those uses of land, buildings and structures, which do not conform to the standards of the district in which they are located;
- 2.1.9 To preserve a maximum amount of the prime agricultural land for the assurance of adequate, healthful and nutritious food for future residents of the state and nation;
- 2.1.10 To discourage the premature and unnecessary conversion of prime agricultural land to urban uses;
- 2.1.11 To discourage noncontiguous urban development patterns which unnecessarily increase the costs of community services.
- 2.1.12 To further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations.

### 3.0 DEFINITIONS

For the purpose of these regulations, the following terms, phrases, words, and their definitions shall have the meaning given in this section. When inconsistent with the context, words used in the present tense shall include the future tense; words in the singular number shall include the plural and words in the plural shall include the singular. The masculine gender includes the feminine and neuter genders.

- 3.1 Accessory Building: a subordinate building or portion of the main building, the use of which is incidental to that of the dominant use of the main building or land.
- 3.2 Accessory Use: a use which is incidental to, and customarily incident to the principal use.
- 3.3 Agricultural, Rural: an area of 10 or more contiguous acres which is used for the production of crops, their storage or for the raising of farm animals.
- 3.4 Agricultural, Urban: an area of less than 10 contiguous acres which is used for growing produce intended solely for the use of residents on the property.
- 3.5 Animals, Food: Fish, fowl, cattle, swine, sheep and others raised for purposes of food consumption.
- 3.6 Animals, Fur: animals raised for its pelt.
- 3.7 Animals, Pleasure: dogs, cats, horses, birds.
- 3.8 Animal Unit: a unit of measure used to compare differences in the production of animal wastes which has as a standard the amount of waste produced on a regular basis by a slaughter steer or heifer. For purposes of these regulations, the following equivalents apply: 1 Slaughter steer or heifer = 1 Animal Unit (AU), 1 Mature dairy cow = 1.4 AU, 1 Swine over 55 pounds = .4 AU, 1 Sheep = .1 AU, 1 Turkey = .018 AU, 1 Chicken = .01 AU, 1 Duck = .2 AU.
- 3.9 Apartment: a part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a single family.
- 3.10 Automobile Repair, Major: general repair, rebuilding or reconditioning of engines, motor vehicles, or trailers, including body work, framework, welding and major painting service.
- 3.11 Automobile Repair, Minor: the replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor painting and upholstering service when said services above stated is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross vehicle weight.
- 3.12 Basement: a portion of a building located partly underground. A basement shall be counted as a story if it has 1/2 or more of its height above the highest level to the adjoining ground and/or if it is intended to be used for dwelling or business purposes.

3.13 Billboard: a sign which directs attention to a business, commodity, services or entertainment not exclusively related to the premises where such a sign is located or to which it is affixed.

3.14 Block: an area of land within a subdivision that is entirely bounded by streets or a combination of streets, exterior boundary lines of the subdivision and/or bodies of water.

3.15 Board of Adjustment: shall be that Board as established under Section 11.4 of this ordinance.

3.16 Boulevard: that portion of a street right-of-way between the curb or curb line and the property line.

3.17 Building: any structure having a roof which may provide shelter or enclosure of persons, animals or chattel. When said structure is divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

3.18 Building Height: the vertical distance from the average elevation of the adjoining ground level to the top of the highest point of the structure.

3.19 Building Line: that line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

3.20 Business: any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials, or where services are offered for compensation.

3.21 Butt Lot: a lot at the end of a block and located between two corner lots.

3.22 Church: a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

3.23 Club or Lodge: a club or lodge is a non-profit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.

3.24 Cluster Development: a pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

3.25 Commercial Recreation: bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, tavern, theater, firearms range, and similar uses.

3.26 Comprehensive Plan: the general plan for land use, transportation, and community facilities prepared and maintained by the Planning Commission.

3.27 Conditional Use Permit: a permit specially and individually granted for a conditional use permitted in any use district.

3.28 Contour Map: a map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

3.29 Copy: a print or reproduction made from a tracing.

3.30 Corner Lot: a lot bordered on at least two (2) sides by streets.

3.31 Development: the act of building structures and installing site improvements.

3.32 Double Frontage Lots: lots which have a front line abutting on one street and a back or rear line abutting on another street.

3.33 Drainage Course: a water course or indenture for the drainage of surface water.

3.34 Dwelling: a room or group of rooms providing complete living facilities for one household.

3.35 Dwelling-Attached: a structure having dwelling units joined by one or more party walls.

3.36 Dwelling-Energy Efficient Below Ground: a structure meeting the specifications of the Minnesota Energy Code.

3.37 Dwelling-Multiple: a building having two or more dwelling units.

3.38 Easement: authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

3.39 Encroachment Lines: are limits of obstruction to flood flows. These lines are generally parallel to the stream. The lines are established by assuming that the area landward (outside) of the encroachment lines will be ultimately developed in such a way that it will not be available to convey flood flows. The stream channel and adjoining flood plains between these lines will be maintained as open space and will be adequate to convey a flood without adversely increasing flood heights.

3.40 Engineer: a professional engineer engaged by the County Board.

3.41 Essential Services: underground or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings.

3.42 Family: an individual, or two or more persons each related by blood, marriage, or adoption living together as a single housekeeping unit, or a group of not more than 4 persons not so related, maintaining a common household.

3.43 Farm: a parcel of land having at least one quarter-quarter ( $\frac{1}{4} \frac{1}{4}$ ) section containing approximately forty (40) acres, or two or more abutting parcels under the same ownership having an area of approximately forty (40) acres.

3.44 Feed Lot: the confined feeding, breeding, raising of livestock in enclosures specifically designed as confinement areas in which animal manure may accumulate. This shall not include areas normally used for pasture or crops.

3.45 Fence: any partition, structure, wall or gate erected as a dividing marker, barrier, or enclosure which is open to the passage of light and air.

3.46 Field Windbreak: a strip or belt of trees or shrubs more than 100 feet in length, 50 feet or less in width, adjacent to or within a field.

3.47 Final Plat: a drawing, in final form, showing a proposed subdivision containing all information and detail required by state statutes and by this ordinance to be presented to the County Board for approval, and which, if approved, may be duly filed with the County Recorder.

3.48 Flood: a temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

3.49 Flood Frequency: the average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equalled or exceeded.

3.50 Flood Fringe: that portion of the flood plain outside of the floodway and which has been or hereafter may be covered by the regional flood.

3.51 Flood Proofing: a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages.

3.52 Floodway: the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

3.53 Flood Area: the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls, or from the center line of walls separating two buildings and shall include basement floor area except for porches, balconies, breezeways, and attic areas having a head room of less than 7'6".

3.54 Floor Area Ratio: the numerical value obtained through dividing the floor area of a building or buildings by the lot area on which such building or buildings are located.

3.55 Garage, Residential: an accessory building being no more than 800 sq. ft. designed for the storage of not more than three motor vehicles, only one of which may be a commercial vehicle weighing up to 15,000 pounds.

3.56 Garage, Public: a building or portion of a building used for the storage of vehicles for remuneration.

3.57 Garage, Repair: a building or space for the maintenance of vehicles but not including auto wrecking or junk yards.

3.58 Governing Body: the Board of Commissioners.

3.59 Home Occupation: any occupation which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have an exterior evidence of such secondary use. Such use shall be conducted only by persons residing in the dwelling.

3.60 Hotel: a building having provision for 9 or more guests in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is made through an inside lobby.

3.61 Junkyard: a place maintained for keeping, storing, or piling in commercial quantities, whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used or second hand material of any kind, including used motor vehicles, machinery, and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron or other metals, or articles which from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk. This shall include a lot or yard for the keeping of unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment. This shall not prohibit the keeping of one (1) unlicensed motor vehicle within a garage or other structure in residential districts or three (3) unlicensed motor vehicles, not including farm implements, within agricultural districts.

3.62 Kennel, Animal: a place where 3 or more of any single type of domestic animal over 4 months of age, are owned, boarded, bred or offered for sale.

3.63 Key Map: a map drawn to comparatively small scale which definitely shows the area proposed to be platted and the areas surrounding it to a given distance.

3.64 Landscaping: planting such as trees, grass and shrubs.

3.65 Land Reclamation: the recovery or restoration of wasteland, wetlands, marshes, etc. by ditching, grading, filling or similar means. Any lot or parcel of land upon which 400 cubic yards or more of fill is to be deposited shall be land reclamation.

3.66 Licensed Engineer: a person licensed as a professional engineer by the State of Minnesota.

3.67 Loading Berth: an unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, wares, materials, and merchandise.

3.68 Lot: a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

3.69 Lot, Butt: a lot located on the end of a block, excluding corner lots.

3.70 Lot, Corner: a lot situated on the junction of and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

3.71 Lot, Interior: a lot other than a corner lot, including through lots.

3.72 Lot, Through: any lot other than a corner lot which abuts more than one street.

3.73 Lot Area: the area of a lot on a horizontal plane bounded by the lot lines.

3.74 Lot Line: a lot line is the property line bounding a lot except that where any portion of a lot extends into the public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.

3.75 Lot Depth: the mean horizontal distance between the front lot line and the rear lot line.

3.76 Lot Line, Front: that boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street except that a corner lot in a non-residential area shall be deemed to have frontage on both streets.

3.77 Lot Line, Rear: the boundary of a lot, other than a through lot, which is opposite the front lot line. If the rear lot line is less than 30 feet in length or if the lot forms a point in the rear, the rear lot line shall be a line 30 feet in length within the lot, parallel to the front lot line.

3.78 Lot Line, Side: any boundary of a lot which is not a front lot line or a rear lot line.

3.79 Lot of Record: a platted lot or metes and bounds parcel which has been recorded in the office of the County Recorder prior to the adoption of the January 7, 1978 zoning map. Also includes parcels described in unrecorded contracts for deed if the contract was notarized prior to the adoption of the January 7, 1978 zoning map.

3.80 Lot Width: the horizontal distance between the side lot lines of a lot measured parallel to the front line of the lot at the setback line.

3.81 Manufacturing-Heavy: all manufacturing, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located.

3.82 Manufacturing-Light: all uses which include the compounding, processing, packaging, treatment, or assembly of products and materials provided such use will not generate objectionable influences that extend beyond the lot on which the use is located.

3.83 May: means permissive.

3.84 Mean Flow Level: the average flow elevation of a stream or river computed as a mid-point between extreme low and extreme high water.

3.85 Metes and Bounds Description: a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.

3.86 Minimum Subdivision Design Standards: the guides, principles and specifications for the preparation of subdivision plans indicating among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

3.87 Mining: the extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site without processing shall be mining. The only exclusion from this definition shall be removal of materials associated with construction of a building provided such removal is an approved item in the building permit.

3.88 Mobile Home: any structure designed and constructed to meet the requirements of the United States of America Standard Institute Code A119.1, except travel and camp trailers.

3.89 Mobile Home Park: any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

3.90 Mobile Home Subdivision: a platted area of lots which is designed and intended for exclusive placement of mobile homes and so stipulated by deed restrictions. Said lots must be for sale.

3.91 Motor Freight Terminal: a building or area in which freight brought by motor truck is transferred and/or stored for movement.

3.92 Motor Fuel Station: a retail place of business engaged primarily in the sale of motor fuels, but also may be engaged in supplying goods and services generally associated with the operation and maintenance of motor vehicles. These may include sales of petroleum products, sale and servicing of tires, batteries, automotive accessories, and replacement items, washing and lubrication services; and the performance of minor automotive maintenance and repair.

3.93 Motor Court, Motor Hotel or Motel: a building or group of buildings not to exceed two (2) stories other than a hotel used primarily as a temporary residence of a motorist, tourists, or travelers.

3.94 Natural Waterway: a natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area.

3.95 Normal High Water Mark: a mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The normal high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

3.96 Noxious Matter or Materials: material capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental effects on the physical or economic well-being of individuals.

3.97 Nursery, Day: a facility where care is provided for pay for 3 or more children for periods of 4 hours or more per day.

3.98 Nursery, Landscape: a business growing and selling trees, flowering and decorative plants, and shrubs.

3.99 Nursing Home: an institution or facility required to be licensed as such under Minnesota Statutes by the State Board of Health.

3.100 Obstruction: any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction or flow of water, either in itself, or by catching or collecting debris carried by such water, or that is placed where the flow of the water might carry the same downstream to damage of life and property.

3.101 Official Map: the map established by the County Board, in accordance with State Statutes, showing streets, highways, and parks and drainage, both existing and proposed.

3.102 Open Sales Lot: land devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.

3.103 Open Storage: storage of material outside of a building.

3.104 Owner: an individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity having a legal or equitable interest in the land.

3.105 Parking Space: a surfaced and maintained area for the storage of one standard automobile (10' x 20').

3.106 Party Wall: a common wall which divides 2 independent structures.

3.107 Person: an individual, to include both male and female and shall also extend and be applied to bodies political and corporate and to partnership and other unincorporated associations.

3.108 Pine Plantation: a thick or dense planting of coniferous trees more than 50 feet in width and more than 100 feet in length.

3.109 Planning Commission or Commission: the duly appointed Planning Advisory Commission of the County Board.

3.110 Plat: a map or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record of title. The plat is a recorded legal document and must conform to all Minnesota State laws.

3.111 Preliminary Plat: the preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission and County Board for their consideration.

3.112 Private Street: a street serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

3.113 Property Line: the legal boundaries of a parcel of land.

3.114 Protective Covenants: contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

3.115 Public Land: land owned and/or operated by a governmental unit.

3.116 Public Sewer: a sewer system constructed, operated and maintained by a governmental body.

3.117 Public Waters: any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes 1974, Section 105.37, Subdivision 6.

3.118 Publication: notice placed in the official county newspaper stating the time, location, date of meeting and description of the topic(s).

3.119 Reach: a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive crossings would most likely constitute a reach.

3.120 Recreation Equipment: play apparatus such as swing sets and slides, sandboxes, poles for nets, picnic tables, lawn chairs, barbecue stands, and similar apparatus but not including tree houses, swimming pools, playhouses exceeding 25 square feet of floor area, or sheds utilized for storage or equipment.

3.121 Regional Flood: a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval.

3.122 Regulatory Flood Protection Elevation: a point not less than one (1) foot above the water surface profile associated with the regional flood plus any increase in flood heights attributable to encroachment on the flood plain. It is the elevation to which uses regulated by this ordinance are required to be elevated or flood proofed.

3.123 Retail Sales: stores and shops selling personal services or goods.

3.124 Right-of-way: the land covered by a public road or other land dedicated for public use or for certain private use such as land over which a power line passes.

3.125 Road: a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, lane, place, or however otherwise designated.

3.126 Setback: the minimum horizontal distance between the line of a structure and the nearest specified property line.

3.127 Setback, Pump: the distance from the street right-of-way to the centerline of the motor fuel station pump island measured as a perpendicular distance from the right-of-way.

3.128 Shall: means mandatory.

3.129 Shoreland: land located within 1000 feet from the normal high water mark of a lake, pond or flowage; or within 300 feet from a river or stream, or the landward side of a flood plain on such a river, lake or stream, whichever is greater, except where the limits are designated by natural drainage divides as designated on the official zoning map.

3.130 Sign: the board or display used to identify or advertise a place of business, goods or services.

3.131 Sign-Advertising - (Billboard): a sign which is not related to the use of the property on which it is located.

3.132 Sign-Business: a sign which is related to the use of the property on which it is located.

3.133 Sign-Flashing: an illuminated sign which is not constant in intensity or color at times of operation.

3.134 Sign-Gross Area of: the area within the frame shall be used to calculate the gross area except that the width of the frame in excess of 12 inches shall be added thereto. When letters or graphics are mounted without a frame, the gross area shall be the area bounded by straight line 6 inches beyond the periphery of said letters or graphics. Each surface utilized to display a message or to attract attention shall be measured as a separate sign.

3.135 Sign-Nameplate: a sign which states the name and/or address of the occupant.

3.136 Sign-Temporary: a sign allowed for a period of 90 days.

3.137 Sketch Plan: a drawing showing the proposed subdivision of property. This plan is not necessarily drawn to scale and exact accuracy is not a requirement.

3.138 Streets and Alleys:

- a. Street: a public way for vehicular traffic, whether designated as a street, highway, thoroughfare, arterial parkway, throughway road, avenue, lane, place or however otherwise designated.
- b. Collector Street: a street which carries traffic from local streets to arterials.
- c. Cul-de-sac: a minor street with only one outlet and having a turn-around.
- d. Service Street: marginal access street, or otherwise designated, is a minor street, which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.
- e. Local Street: a street of limited continuity used primarily for access to the abutting properties and the local need of a neighborhood.
- f. Alley: a minor way which is used primarily for secondary vehicular service access to the back of the side of properties abutting on a street.
- g. Arterial Street: a street or highway with access restrictions designed to carry large volumes of traffic between various sectors of the county and beyond.

3.139 Street Width: the shortest distance between the lines delineating the right-of-way of a street.

3.140 Structure: anything constructed or erected, the use of which requires location on the ground; or attached to something having a location on the ground. This shall include signs, fences and tanks.

3.141 Structure-Non Conforming: a structure which is legally existing upon the effective date of this ordinance, which would not conform to the applicable regulations if the structure were to be erected under the provisions of this Ordinance.

3.142 Structural Alteration: a change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

3.143 Subdivider: any person, firm, corporation, partnership, or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

3.144 Subdivision: a described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than forty acres in area, for the purpose of transfer of ownership or building development, or, if construction or development of a new street, road or highway is involved, any division of a parcel of land. The term includes resubdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided. "Subdivision" does not apply to the split or division of a lot or parcel for the purpose of attaching the parts thereof to abutting contiguous lots or parcels, provided no residue remains unattached.

3.145 Surveyor: a person duly registered as a land surveyor by the State of Minnesota.

3.146 Travel and Camp Trailer: any trailer or semi-trailer not used as a residence but is used for temporary living quarters for recreational or vacation activities and one that may be towed on public roads in connection with such use.

3.147 Truck Stop: a motor fuel station devoted principally to the needs of trucks and which shall include eating and/or sleeping facilities.

3.148 Use: the purpose or activity for which the land or structure thereon is designated, arranged or intended under the zoning ordinance, or for which it is occupied, utilized, or maintained.

3.149 Use, Accessory: a use subordinate to and serving the principal use or structure on the same lot.

3.150 Use, Conditional: the uses designated in each Zoning District, which for their respective conduct, shall require reasonable conditions, established by the Planning Commission.

3.151 Use, Non-Conforming: use of land or structures legally existing upon the effective date of this Ordinance which would not conform to the regulations if the use were to be established under the provisions of this Ordinance.

3.152 Use, Open: the use of land without a building or including a building incidental to the open space.

3.153 Use, Permitted: a use which conforms with the requirements of the zoning district within which it is located.

3.154 Use, Principal: the primary use of the land or structures as distinguished from accessory uses.

3.155 Veterinary: those uses concerned with the diagnoses, treatment, and medical care of animals, including animal or pet hospitals.

3.156 Warehousing: the storage of materials or equipment within an enclosed building.

3.157 Wholesaling: the selling of goods, equipment and materials by bulk to another business that in turn sells to the final customer.

3.158 Yard: a required open space on a lot, which is unoccupied and unobstructed by any structure from its lowest ground level to the sky except as expressly permitted in this Ordinance.

3.159 Yard, Front: a yard extending across the front of the lot between the side property lines and lying between the front lot line and the nearest line of a building. Any yard adjacent to a shoreline shall be considered to be a front yard.

3.160 Yard, Rear: a yard extending across the rear of the lot between the side property lines and lying between the rear lot line and the nearest line of the building.

3.161 Yard, Side: a yard between the side line and the nearest line of the building and extending from the front yard line to the rear yard line.

3.162 Zoning Administrator: the person, regardless of job title, designated to supervise the application of this ordinance and to enforce the provisions thereof.

3.163 Zoning District: an area within the limits of the zoning jurisdiction for which the regulations and requirements governing use, height and bulk of structures and premises are uniform.

4.0 General Provisions:

4.1.1 In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.

4.1.2 Where the conditions imposed by any provision of the Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

4.1.3 The provisions of this Ordinance shall apply to all land within the County which is not within the boundaries of an incorporated city.

4.2 Non-Conforming Uses and Structures:

4.2.1 Any non-conforming use existing on the date of this Ordinance other than a use specified in 4.2.3, may be continued until its normal expiration.

- (1) No such use or occupancy shall be extended, expanded, enlarged or increased in intensity.
- (2) If a non-conforming use or occupancy is discontinued for a period of more than one year, further use of the structure or property shall conform to this Ordinance. The County Assessor shall notify the Zoning Administrator or Planning Commission in writing of all instances of non-conforming uses which have been discontinued for a period of twelve consecutive months.
- (3) If a non-conforming use or structure is destroyed by any cause, to an extent fifty percent of its market value as indicated by the records of the County Assessor, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
- (4) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

4.2.2 Any structure which will, under this Ordinance, become non-conforming, but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, shall be a non-conforming structure.

4.2.3 No junk yard or auto reduction yard shall continue as a non-conforming use for more than one year after the effective date of this Ordinance, except that it may continue as a conditional use in an industrial or agricultural district if within that period it is completely enclosed within a building, within a continuous fence, or a screening of trees. Plans of such building, fence, or screening, shall be reviewed by the Planning Commission and approved by the County Board before it is erected.

4.3 Dwelling Units Prohibited:

No cellar, garage, trailer or basement with unfinished structure above (excluding energy efficient subterranean dwellings), or accessory building shall at any time be used as a dwelling unit or residence or parked within the county except as hereinafter provided.

- 4.3.1 A camper or travel trailer of the type generally used temporarily as living quarters during the hunting, fishing, or vacation season and duly licensed and registered under the laws of the State of Minnesota may be parked on residential property in the county provided, however, that such camper or travel trailer shall not while so parked be used as a human dwelling place, living abode or living quarters.
- 4.3.2 A camper or travel trailer of the type described in paragraph 4.3.1 above and owned by a non-resident, guest, or visitor may be parked or occupied by said guest or visitor on property on which a permanent dwelling unit is located for a period not to exceed thirty (30) days in the same calendar year while visiting the resident of said property.
- 4.3.3 The Planning Commission may at its discretion upon application grant a temporary permit for the use of a mobile home or similar portable unit for temporary residential purposes within the county in conjunction with a home construction project that is underway, provided however, that a duly authorized and valid building permit shall have been approved by the Zoning Administrator prior to the application for said temporary trailer permit.
- 4.3.4 The applicant for said temporary trailer permit shall file an application with the Zoning Administrator setting forth the area in which said trailer is to be located together with a copy of the building permit for the home to be constructed on said property.
- 4.3.5 The term of said trailer permit shall not exceed one hundred twenty (120) days or upon completion of construction of the residential home in question, whichever comes first.
- 4.3.6 The Planning Commission may attach such conditions and obligations to the issuance of said temporary permit as it deems necessary to protect the health, safety and general welfare of the citizens of Benton County.

4.4 Applicants For Permits:

Applications for building permits, conditional use permits, variances and rezonings will not be accepted from anyone who is not an owner.

5.0 Compliance:

- 5.1 Hereafter no person shall erect, alter, or move any building or structure or part thereof in any district without first obtaining a permit therefore. Application for a permit shall be made to the Zoning Administrator.
- 5.2 No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.
- 5.3 Before any house or other structure is moved onto a vacant lot, the Zoning Administrator shall report to the Planning Commission whether the structure will be compatible with other development in the area. The applicant shall submit photographs taken from two or more angles of the structure to be moved. These requirements do not apply to agricultural buildings or temporary structures to be located on a lot for 18 months or less.

5.4 Sewer and Water Systems:

- 5.4.1 In areas not served by public sewer, all on site sewage disposal facilities shall be required to comply with section 9.6 of this ordinance regulating sewage disposal systems and requiring permits therefor.
- 5.4.2 Private wells shall be so located and constructed that they will not be contaminated by any existing or future sewage disposal systems. They shall also be constructed to minimize the possible contamination from all possible external sources within the geological strata surrounding the well. Private wells shall be located in a manner to be free from flooding and the top shall be so constructed and located as to be above all possible sources of pollution. Wells already existing in areas subject to flooding shall be flood-proofed.

5.5 Preservation of Locational Markers:

- 5.5.1 All international, Federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to insure that these markers are maintained in good condition during and following construction and development. All section, 1/4 section and 1/16 section corners shall be duly described and tied.

6.0 Height, Bulk and Area Restrictions:

6.1 Lot Size Requirements:

6.1.1 No land division or split shall be made which results in one or more substandard sized lots, parcels or tracts of land in the zoning district in which the land is situated. No use shall be established or maintained on a lot, parcel, or tract of land which is substandard in size for the zoning district in which it is located, except as hereinafter provided.

6.1.2 A substandard sized Lot of Record now owned by or hereafter acquired by the owner of an abutting tract or parcel of land shall be deemed to be a part of the abutting tract or parcel of land to the extent necessary to reduce or eliminate the substandard features of the lot for the zoning district in which it is situated.

6.1.3 Any substandard sized Lot of Record may be allowed as a building site provided such use is permitted in the zoning district in which the lot is located, the lot is in separate ownership from abutting lands, and all sanitary sewer requirements of this Ordinance are complied with.

6.1.4 Public rights-of-way are not part of the buildable lot area and therefore shall not be included as part of the minimum lot area required. No public road right-of-way shall be considered to be less than 66 feet.

6.1.5 There shall be no more than one principal building on each lot.

6.2 Accessory Buildings and Structures:

6.2.1 No accessory building or use shall be constructed or developed on a lot prior to the time of obtaining a building permit for the principal building to which it is accessory.

6.2.2 An accessory building shall be considered as an integral part of the principal building if it is located less than six feet from the principal building.

6.2.3 No detached garages or other accessory building shall be located nearer the front lot line than the principal building on that lot.

6.2.4 No accessory building such as a private garage in residential districts shall exceed the square footage of the main floor of the principal structure.

6.2.5 All accessory buildings in residential districts shall be constructed with materials and to a design which conforms to neighborhood architecture.

6.3 Yard Requirements:

6.3.1 On a corner lot, nothing shall be placed or allowed to grow in such a manner as to impede vision between a height of two and one-half (2½) feet and ten (10) feet above the intersecting right-of-way lines nor within fifty (50) feet of the intersecting right-of-way lines.

6.3.2 Through lots shall have a required front yard on each street or shore line.

6.3.3 Permitted Encroachments:

The following shall be considered as permitted encroachments on setback and height requirements except as hereinafter provided:

6.3.31 In any yard: posts, off-street open parking spaces, flues, belt course, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks, and fences, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter provided.

6.3.32 In side and rear yards: bays not to exceed a depth of three (3) feet or contain an area of more than thirty (30) square feet, fire escape not to exceed a width of three (3) feet. Balconies eight (8) feet above grade may extend into yards to within five (5) feet of a lot line provided said balconies do not extend over driveways. Breezeways, detached outdoor picnic shelters, open arbors, trellises, and detached outdoor living rooms may extend to within five (5) feet of a side or rear lot line except that no such structure shall exceed five hundred (500) square feet. Covered porches may extend twenty (20) feet into the rear yard but not closer than ten (10) feet from the rear lot line.

6.3.33 Height limitations shall not apply to barns, silos and other structures on farms; to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flag poles, public utility facilities; transmission towers of commercial and private radio broadcasting station; television antennae, and parapet walls extending not more than four feet above the limiting height of the building except as hereinafter provided and subject to approval by the Minnesota Department of Aeronautics.

6.3.34 In no event shall off-street parking space, structures of any type, buildings, or other features cover more than 75 percent of the lot area resulting in less than twenty-five (25) percent landscaped area in Residential Districts.

6.4 Building Bulk Limitations:

In all residences the gross floor area in square feet developed on a lot shall not be less than 720 square feet, except that in the case of seasonal homes or cabins for recreational use the Planning Commission may authorize Conditional Use permits for less area if they do not violate the intent of the Ordinance. Such dwellings not meeting the 720 square foot area requirement shall not be used as full-time residences.

7.0 Zoning Use Districts:

7.0.1 For the purposes of this Ordinance, the County of Benton, outside of incorporated area is hereby divided into Districts which shall be designated as follows:

Agricultural	"A-1"	(Section 7.1)
Agricultural	"A-2"	(Section 7.2)
Residential	"R-1"	(Section 7.3)
Residential	"R-2"	(Section 7.4)
Business	"B"	(Section 7.5)
Light Industrial	"I-1"	(Section 7.6)
Heavy Industrial	"I-2"	(Section 7.7)
Shoreland	"S"	(Section 7.8)
Floodplain	"FP"	(Section 7.9)

7.0.2 The boundaries of the Districts as established by this ordinance are as shown on the Zoning Map. A permanent and updated copy of the Zoning Map shall be filed with the County Recorder.

7.1 Agricultural District "A-1"

Permitted Uses:

Farming, general and dairy, providing animal unit density is not greater than three (3) units per acre.

Agricultural land uses.

Farmstead residences, which may be mobile homes.

Forestry and Nurseries.

Essential services - telephone, telegraph, and power transmission lines and necessary appurtenant structures.

Public recreation.

Historic sites and areas.

Churches, Cemeteries.

Horticulture uses and structures designed for the storage of products and machinery pertaining and necessary thereto.

Conventional residences and mobile homes on lots of record.

Permitted Accessory Uses:

Private garages, parking spaces, carports.

Home occupations.

Decorative landscaping features.

Signs as regulated by this ordinance.

Private swimming pools and tennis courts.

Temporary buildings located for purposes of construction on the premises for a period of time not to exceed normal, necessary construction time.

Roadside stands for sale of home occupations or horticulture products, provided off-street parking is available.

Conditional Uses:

Single-family dwellings, including energy efficient subterranean dwellings and mobile homes - four (4) non-farm dwellings per 40 acres at a minimum lot size of one and one-half ( $1\frac{1}{2}$ ) acres with the following conditions:

- a. It can be demonstrated that the soil is not "prime" or "good" farmland, but that it is "marginal" or otherwise not feasible for agricultural production.
- b. The parcel abuts an existing public road.
- c. The proposed homesite will not encroach upon an existing or potential irrigation system.
- d. That the proposed site will not create a residential density of more than ten (10) non-farm dwellings within one-half ( $\frac{1}{2}$ ) mile of an existing feed lot.

A second home, which may be a mobile home, in addition to the permitted farmstead residence if placed on the farm building site and if used to house members of the resident farming family or for help employed full time on the farm and if the need for such an additional unit to support and carry on the principal use has been established.

Airports, provided such facility has approval of the Minnesota Board of Aeronautics, Department of Transportation.

Land reclamation and mining as regulated by this and other ordinances. Governmental buildings and structures.

Public or parochial schools which teach a curriculum similar to public schools, provided the site is not less than five (5) acres and no building shall be located within fifty (50) feet of a lot line.

Operating of through trains but not including switching, storage, or other related operations.

Commercial livestock feed lots; livestock sales yards; livestock experimentation; small animal and restricted livestock farming; kennels; animal hospitals; intensive poultry farming; nurseries and greenhouses.

Grain elevators and farm implement sales.

Fertilizer plants; bulk liquid storage.

Repair garages; warehousing.

Lot Area, Heights, Lot Width, and Yard Requirements

Height

No structure shall exceed three (3) stories or thirty-five (35) feet, except farm service structures and as otherwise regulated in this Ordinance.

Setbacks

Front yard or side yard when:

Abutting a State or Federal Highway:	116 feet
Abutting a County Road or Township Road:	65 feet
Side Yard:	15 feet
Rear Yard:	30 feet
Side Yard abutting a farm:	80 feet
Rear Yard abutting a farm:	40 feet

Lot Area Regulations

- a. For farmstead residences - none.
- b. For non-farm dwellings in areas where agricultural production is non-feasible -  $1\frac{1}{2}$  acre minimum lot size.

Lot Width and Depth Regulations

Every lot or plot of land on which a single family dwelling is constructed shall have a minimum width of not less than two hundred and fifty (250) feet and a minimum depth of not less than two hundred and fifty (250) feet.

## 7.2 Agricultural District "A-2"

### Permitted Uses

Same as "A-1" except for:

Single family dwellings: including mobile homes and energy efficient subterranean dwellings, four (4) non-farm dwellings per 40 acres at a minimum lot size of one and one-half ( $1\frac{1}{2}$ ) acres with the following conditions:

- a. The parcel abuts a public road.
- b. The proposed homesite will not encroach upon an existing or potential irrigation system.
- c. The parcel will not create a residential density of more than ten (10) non-farm dwellings within a one-half ( $\frac{1}{2}$ ) mile of any existing feed lot.

### Permitted Accessory Uses

Same as "A-1"

### Conditional Uses

Airports, provided such facility has approval of the Minnesota Board of Aeronautics, Department of Transportation.

Land reclamation and mining as regulated by this and other ordinances.

Governmental buildings and structures.

Public or parochial schools which teach a curriculum similar to public schools, provided the site is not less than five (5) acres and no building shall be located within fifty (50) feet of a lot line.

Operations of through trains but not including switching, storage or other related operations. A second home in addition to the permitted farmstead if placed on the farm building site and if used to house members of the resident farming family or for help employed full time on the farm and if the need for such an additional unit to support and carry on the principal use has been established.

Grain elevators, farm implements and kennels.

Fertilizer plants, bulk liquid storage.

Repair garages and warehousing.

Lot Area, Heights, Lot Width, and Yard Requirements

Height

No structure shall exceed three (3) stories or thirty-five (35) feet, except farm service structures and as otherwise regulated in this Ordinance.

Setbacks

Front Yard or Side Yard when:

Abutting a State or Federal Highway:	116 feet
Abutting a County Road or Township Road:	65 feet
Side Yard:	15 feet
Rear Yard:	30 feet

Lot Area Regulations

- a. For farmstead residence - none.
- b. For non-farm dwellings - one and one-half ( $1\frac{1}{2}$ ) acres minimum lot size.

Lot Width and Depth Regulations

Every lot or plot of land on which a single family dwelling is constructed shall have a minimum width of not less than two hundred fifty (250) feet and a minimum depth of not less than two hundred fifty (250) feet.

### 7.3 R-1 Single Family Residence District

#### Permitted Uses

Single family detached dwellings; horticulture; essential services; field crops; wildlife forest and wetland management; educational and cultural institutions; parks, religious institutions; accessory uses incidental to and on the same lot as the principal use.

#### Conditional Uses

Cemeteries, including mausoleums; general farming; public utility buildings; necessary schools; nurseries and greenhouses growing planting materials with no retail sales; mobile homes, mobile home parks; energy efficient subterranean dwellings; and multi-family dwellings.

#### Yard Regulations

Lot Area:	2½ Acres minimum
Lot Width:	165 feet minimum
Lot Depth:	330 feet minimum
Front yard or side yard:	
Abutting a Federal or State Road:	116 feet minimum
Abutting a County or Township Road:	65 feet minimum
Abutting a service road or street within a subdivision:	50 feet minimum
Side yard of interior lot:	15 feet minimum
Rear yard:	30 feet minimum
Abutting Agriculture:	
Side yard:	80 feet minimum
Rear yard:	40 feet minimum
Building Height Limitation:	40 feet

7.4 R-2 Single Family Residence District

Permitted Uses

Same as R-1

Conditional Uses

Same as R-1

Yard Regulations

Lot Area:

- a. Private sewer one acre minimum
- b. Public sewer 12,000 sq. ft. minimum

Lot Width:

- a. One acre lot 150 feet minimum
- b. 12,000 sq. ft. lot 80 feet minimum

Lot Depth:

- a. One acre lot 200 feet minimum
- b. 12,000 sq. ft. lot 100 feet minimum

Front yard or side yard:

- Abutting a Federal or State Road: 116 feet minimum
- Abutting a County or Township Road: 65 feet minimum
- Abutting a service road or street within a subdivision: 50 feet minimum

Side yard of interior lot:

15 feet minimum

Rear yard:

30 feet minimum

Abutting agriculture:

- a. Side yard: 80 feet minimum
- b. Rear yard: 40 feet minimum

Building Height Limitation:

40 feet

Zoning District Boundary Clarification

To clarify the zoning district boundaries of R-2 for the Rural Service Centers, the following intersections zoned R-2 are 40 square acres in area centering on each respective intersection resulting in 10 acre square parcels per intersection quadrant:

a. C.R. 71 and CSAH 22	e. S.H. 25 and CSAH 11
b. CSAH 6 and CSAH 22	f. C.R. 58 and CSAH 2
c. C.R. 70 and CSAH 22	g. C.R. 41 and CSAH 12
d. C.R. 54 and CSAH 3	h. CSAH 13 and CSAH 1

7.5 Business District "B"

Permitted Uses

Motels; cafes and restaurants; offices; public utility buildings; essential services; retail sales; wholesale business; repair and transit garages; professional services; signs.

Conditional Uses

Farm equipment and implement sales; landscape nurseries; produce stands; recreational facilities; human and animal care facilities; light manufacturing; motor fuel stations\* and truck stops; drive-in businesses; commercial recreation; mobile home park; open sales lot; vehicle wash; bulk liquid storage, kennels.

Yard Regulations

Lot Area:	2½ acres minimum
Lot Width:	200 feet minimum
Lot Depth:	330 feet minimum
Front yard or side yard:	
Abutting a Federal or State Road:	116 feet minimum
Abutting a County or Township Road:	65 feet minimum
Abutting a service road or street within a subdivision:	50 feet minimum
Side yard, interior lot:	20 feet minimum or 80 feet if abutting residential property
Rear yard:	15 feet minimum or 30 feet if abutting residential property

Building Limitations

Height:	40 feet
Bulk:	50% of net site area maximum

Additional Business District Areas not Expressed  
on Official Zoning Map

The land areas listed in Appendix I are herein legally described and zoned Business "B".

\*See Section 9.8

7.6 Light Industrial District I-1

Permitted Uses

Any production, processing, cleaning, servicing, testing, repair or storage or wholesaling of materials, goods or products provided said operation is totally contained within the structure, including storage; and which conform with the performance standards established by the community for the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious materials, odors, fire or explosive hazards, or glare or heat; except those uses involving the storage, utilization or manufacture of materials or products which decompose by detonation; public utility buildings; essential services; signs.

Conditional Uses

All on-site sewerage disposal uses; vehicle testing grounds; parks or playgrounds; race tracks, sewage treatment plants; accessory uses incidental to, and on the same zoning lot as the principal use; planned unit developments; motor fuel stations\*, cafes and restaurants; auto and/or truck wash; grain and/or feed storage; sanitary landfills; mining operations, kennels.

Yard Regulations

Lot Area:	2½ acres minimum
Lot Width:	200 feet minimum
Lot Depth:	330 feet minimum
Front yard or side yard:	
Abutting a Federal or State Road:	116 feet minimum
Abutting a County or Township Road:	65 feet minimum
Abutting a service road or street within a subdivision:	50 feet minimum
Side yard, interior lot:	20 feet minimum or 80 feet if abutting a residential district
Rear yard:	40 feet minimum or 80 feet if abutting a residential district

Building Limitations

Height:	none
Bulk:	50% of net site area maximum

\*See Section 9.8

7.7 Heavy Industrial District I-2

Permitted Uses

Any production, processing, cleaning, servicing, testing, repair or storage or wholesaling of materials, goods or products provided said operation conform with the performance standards established by the community for the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic or noxious materials, odors, fire or explosive hazards, or glare or heat; public utility buildings; essential services; signs.

Conditional Uses

All on-site sewerage disposal uses; those uses involving the storage, utilization or manufacture of materials or products which decompose by detonation; auto reduction yards; junk yards; bulk liquid storage; and all conditional uses listed in Light Industrial District of this ordinance.

Yard Regulations

Lot Area:	5 acres minimum
Lot Width:	300 feet minimum
Lot Depth:	330 feet minimum
Front yard or side yard:	
Abutting a Federal or State Road:	116 feet minimum
Abutting a County or Township Road:	65 feet minimum
Abutting a service road or street within a subdivision:	50 feet minimum
Side yard:	80 feet minimum
Rear yard:	80 feet minimum or 120 feet if abutting residential property

Building Limitations

Height:	none
Bulk:	50% of net site area maximum

## 7.8 Flood Plain District (FP)

### 7.81 Purpose

The Flood Plain District is created for the purpose of protecting the public health and safety and to minimize property damage and pollution from flood waters.

The standards contained in this District have been incorporated from the model flood plain ordinance developed by the Department of Natural Resources (DNR) in conformance with the Flood Plain Act, MN Statutes Ch. 104.

The Flood Plains of Benton County have been delineated and made a part of the Zoning Map by referencing the Benton County, Minnesota Unincorporated Areas Flood Hazard Boundary Map, revised October 21, 1977, published by the U.S. Department of Housing and Urban Development, Federal Insurance Administration, a copy of which is on file in the office of the Benton County Auditor.

### 7.82 Permitted Uses

- a. General agricultural uses such as: farming, pasture, grazing, outdoor nurseries, horticulture, truck farming, forestry, sod farming, crop harvesting and such like uses.
- b. Industrial-commercial uses such as loading and parking areas and other open area uses.
- c. Public and private recreational uses such as: parks, swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature areas, game farms, fish hatcheries, target, trap and skeet ranges, provided that no permanent or temporary structure shall be required.
- d. Open space uses such as lawns, gardens, parking areas and play areas.
- e. Uses permitted in the underlying zoning districts provided that no permanent structures are constructed or moved or provided to house a use so permitted.

### 7.83 Conditional Uses

The Flood Plain District is divided into a floodway area and a flood fringe area. The County shall determine whether the proposed use would be located in either the floodway or the flood fringe. If the site location of the proposed use is found to be situated within the floodway area, the provisions of Section 7.84 shall apply. However, if it is determined that the proposed site is located in the flood fringe area, the provision of Section 7.85 shall apply. All uses shall be subject to the provisions of this Ordinance.

A. Procedure.

Upon receiving an application for a conditional use permit involving the use of fill, construction of structures, or storage of materials, the County Planning Commission shall, prior to rendering a decision thereon:

1. Require the applicant to furnish such of the following information as is deemed necessary by the Commission for determining the regulatory flood protection elevation, whether the proposed use is located in the floodway or flood fringe, and other factors necessary to render a decision on the suitability of the particular site for the proposed use.
  - a. Plans drawn to scale showing the nature, location, dimensions and elevation of the lots, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel.
  - b. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and highwater information.
  - c. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevation of streets, water supply, sanitary facilities, photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.
  - d. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.
  - e. Specifications for hauling construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
2. In addition to the normal application for special permit uses, the Zoning Administrator shall submit a copy of the application to the Commissioner of Natural Resources for review at least ten (10) days prior to the hearing date set before the County Board of Adjustment.

3. Transmit one copy of the information described to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is located in the floodway or flood fringe areas of the Flood Plain, in determining the regulatory flood protection elevation, and in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

7.84 Conditional Uses Permitted in the Floodway Area

- A. Other uses are allowed only as Conditional Uses within the floodway provided they comply with the provisions of this Section, other standards established in this Ordinance, and any conditions attached by the Planning Commission to the issuance of the Conditional Use Permit. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use shall be permitted which acting alone or in combination with existing or reasonably anticipated uses unduly affects the efficiency or the capacity of the floodway or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. Conditional Uses include:

1. Uses or structures accessory to open space or Conditional Uses.
2. Roadside stands, signs and billboards.
3. Marinas, boat rentals, docks, piers, wharves, and water control structures.
4. Railroads, streets, bridges, utility transmission lines and pipelines.
5. Storage yards for equipment, machinery and materials.
6. Kennels and stables.
7. Other uses similar in nature to uses described in Section 7.82 of this Section which are consistent with the provisions set forth in this Ordinance.

B. Fill

1. Any fill or materials proposed to be deposited in the floodway will be allowed only upon issuance of a Conditional Use Permit. The fill or materials must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
2. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover, or bulkheading.

C. Structures (temporary or permanent) Accessory to Conditional Uses Listed in Section 7.84-A

1. Structures shall not be designed for human habitation.
2. Structures shall have a low flood damage potential.
3. The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
  - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
  - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those adjoining structures.
4. Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river.
5. Service facilities such as electrical and heating equipment shall be placed at or above the regulatory flood protection elevation for the particular area or adequately floodproofed.

D. Storage of Materials and Equipment

1. The storage of materials that in time of flooding are buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.
2. Storage of other material or equipment may be allowed upon issuance of Conditional Use Permits if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

E. Garbage and Solid Waste Disposal

1. No Conditional Use Permits for garbage and waste disposal sites or feedlots shall be issued for floodway areas.

F. Structural Works for Flood Control

Structural works for flood control such as dams, levees, dikes, and floodwalls shall not be allowed within the floodway except upon issuance of a Conditional Use Permit. In addition, any proposed structural work in the beds of public waters as defined in Minnesota Statutes 1969, c. 105, which will change the Course, current or cross-section of the waters shall be subject to the provisions of Minnesota Statutes 1969, c. 105, and other applicable statutes.

#### 7.85 Conditional Uses Permitted in the Flood Fringe Area

A. Structural or other uses shall be permitted within the flood fringe as Conditional Uses to the extent they are not prohibited by other standards found in other sections of this zoning ordinance and they meet the following applicable standards:

1. Residential Uses. Residences shall be constructed on fill with the first floor or basement floor at or above the regulatory flood protection elevation. The finished fill elevation shall be no more than one foot below the regulatory flood protection elevation for the particular area and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities are at elevation which make compliance with this provision impractical or in other special circumstances the Board of Adjustment may authorize other techniques for protection. The minimum lot size shall be 10 acres.
2. Commercial Uses. Commercial structures generally must be constructed on fill with no first floor or basement floor below the flood protection elevation. Accessory land uses, such as yards, railroad tracks and parking lots, may be at lower elevation. However, a permit for such facilities to be used by the general public shall not be granted, in the absence of a flood warning system, if the area is inundated to a depth greater than two feet or subject to flood velocities greater than four feet per second upon the occurrence of the regional flood.
3. Manufacturing and Industrial Uses. Manufacturing and industrial buildings, structures and appurtenant works shall be protected to the flood protection elevation. Measures shall be taken to minimize interference with normal plant operations especially for streams having protracted flood durations.
4. Utilities, Railroad Tracks, Streets and Bridges. Public utility facilities, roads, railroad tracks and bridges within the flood plain shall be designed to minimize increases in flood elevations and shall be compatible with local comprehensive flood plain development plans. Protection to the regulatory flood protection elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads or utilities.

5. Waste Treatment and Waste Disposal

- a. No new construction, addition, or modification to existing waste treatment facilities shall be permitted within the flood plain unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with and approved by the Minnesota Pollution Control Agency. The emergency plans and procedures must provide for measures to prevent introduction of any pollutant or toxic material into the flood waters. New waste treatment facilities shall conform to the waste control section of this zoning ordinance.
- b. There shall be no disposal of garbage or solid waste materials within flood fringe areas.

7.86 Conditional Use Permits

Any use listed in Section 7.84 requiring a Conditional Use Permit may be allowed only upon application to the Zoning Administrator and the issuance of a conditional use permit by the Planning Commission.

A. Factors for Consideration

Structure accessory to the open space uses shall be permitted by Conditional Use only upon consideration by both the Planning Commission and the County Board of the following factors:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The requirements of the facility for a waterfront location.
6. The availability of alternative locations not subject to flooding for the proposed use.
7. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
8. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

B. Conditions attached to Conditional Use Permits

Upon consideration of the factors listed above and the purposes of this Ordinance, the Planning Commission may attach such conditions to the granting of Conditional Use permits or variances as it deems necessary to further the purposes of this Ordinance. Among such conditions without limitation because of specific enumeration may be included:

1. Modification of waste disposal and water supply facilities.
2. Limitations on period of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees and other protective measures.
5. Floodproofing measures. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular areas, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Planning Commission shall require that the applicant submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures may be required without limitation because of specific enumeration:
  - a. To resist flotation and lateral movement, either anchor or add mass or weight to structures.
  - b. Installation of watertight doors, bulkheads, and shutters, or similar methods of construction to resist rupture or collapse caused by water pressure or floating debris.
  - c. Reinforcement of walls to resist water pressures.
  - d. Use of paints, membranes, or mortars to reduce seepage of water through walls.
  - e. Construction of water supply and waste treatment systems to prevent the entrance of flood waters.
  - f. Install pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures as well as lower water levels in structures.

- g. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent back-up of sewage and storm waters into the building or structures. Gravity draining of basements may be eliminated by mechanical devices.
- h. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and provide protection from inundation by the regional flood.
- i. Location of any structure storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety, and welfare above the flood protection elevation of provision of adequate flood proofing to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.

#### 7.87 Variances

Any variance granted to the provisions of this section must be consistent with the general purpose of these standards and the intent of applicable state and national laws and programs. Variances may be used to modify permissible methods of flood protection, but no variance shall provide for a lesser degree of flood protection than stated in this section.

7.9 Shoreland Zoning District (S)7.91 Purpose

The major purpose of this District is to control the density and location of developments in the shorelands of the public waters of the County in order to preserve the water quality and the natural characteristics of the shorelands and public waters in the County.

7.92 Jurisdiction

The shoreland district includes land within 1,000 feet from the normal high water mark of a lake; 300 feet from a river or stream; or the landward extent of a regulatory flood plain whichever is greatest.

7.93 Water Bodies Included in the Shoreland District

The regulations in the Shoreland Zoning District of Benton County will apply to all rivers and lakes classified as either Natural Environment (NE), Recreational Development (RD) or General Development (GD) by the Department of Natural Resources.

Lakes and Streams Included Under the Shoreland Zoning District

- a. Natural Environment Lakes
  - 1. Little Rock Creek
  - 2. All other lakes (see chart)
- b. Recreational Development Lakes
  - 1. Little Rock Lake and flowage to the Mississippi
- c. General Development Lakes and Streams
  - 1. All other streams and rivers including the following:

## Zoning

## Map

Ident. Number	Name	Range	Township	Location	Area in Acres
				Section	
1	Bible's Duck				
	Slough	28	36	15, 16	54
2		29	36	22	33
3		29	36	30, 31	24
4	Donovan	30	36	27, 33, 34	93
5		30	36	36	62
6		30	37	6, 7	26
7	Mayhew	30	37	8, 17	127
8		30	37	22, 23	65
9	Pularskis	30	38	29, 30	138
10		31	36	3	16
11		31	36	23	32
12		31	37	14, 15	95
13	Little Rock	31	37, 38	2, 3, 10, 11, 14, 34, 35	1259
14		31	38	8	32
15	Mill Pond	31	38	20, 21	11

### Rivers and Streams

All rivers and streams in Benton County having a total drainage area of greater than two square miles are assigned a public waters classification of General Development.

### 7.94 Shoreland Use Districts

Shorelands in Benton County have been divided into three categories for purposes of shoreland management. The three categories are Natural Environment Lakes, Recreational Development Lakes and General Development Lakes. General Development and Recreational Development Lakes are larger in size and potentially more suitable for all around development and recreation purposes and can thus support a higher density of residential development on the shoreland. Natural Environment Lakes are smaller, often marshy in character, and require stricter shoreland standards to protect the quality of the lake resource. The shoreland of rivers will have the same standards as General Development Lakes.

### 7.95 Shoreland Alterations

- a) Natural vegetation in shoreland areas shall be preserved insofar as practical and reasonable in order to retard surface runoff and soil erosion, and to utilize excess nutrients. The removal of natural vegetation shall be controlled in accordance with the following criteria:
  - 1) Clearcutting shall be prohibited, except as necessary for placing public roads, utilities, structures, and parking areas.
  - 2) Natural vegetation shall be restored insofar as feasible after any construction project.
  - 3) Selective cutting of trees and underbrush shall be allowed as long as sufficient cover is left to screen motor vehicles and structures when viewed from the water.
- b) Grading and filling in shoreland areas or any other substantial alteration of the natural topography must be authorized by a conditional use permit. The permit may be granted subject to the conditions that:
  - 1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
  - 2) Temporary ground cover, such as mulch, shall be used and permanent vegetative cover, such as sod, shall be provided.
  - 3) Methods to prevent erosion and trap sediment shall be employed.
  - 4) Fill shall be stabilized to accepted engineering standards.

c) Excavations on shorelands where the intended purpose is connection to a public water shall require a permit from the county zoning administrator before construction is begun. Such permit may be obtained only after the Commissioner of Natural Resources has issued a permit for work in the beds of public waters.

#### 7.96 Land Use Restrictions

The following restrictions apply on all shorelands:

##### Permitted Uses

1. Agricultural uses, not to include feedlots.
2. Nurseries and forestry uses, not to include greenhouses.
3. Public recreation.
4. Golf courses.
5. Single-family dwellings.
6. Public utility lines.

##### Accessory Uses

1. Open, off-street parking, not to exceed two spaces per dwelling unit in residential zones.
2. Garages and carports.
3. Fences.
4. Gardening and other horticultural uses and the sale of farm products grown on the premises.
5. Decorative landscape features such as statues, rocks, reflecting ponds, and benches.
6. Recreation equipment.

##### Prohibited Uses

The following uses are considered incompatible with recreational use of shorelands and waters and are expressly prohibited from locating on shorelands.

1. Junkyards.
2. Sanitary landfills.

3. Wholesale trades.
4. Warehouses.
5. All industries.
6. Any processing of animals or agricultural products.
7. Mining and extraction.

Conditional Uses

All uses not expressly cited as permitted, prohibited or accessory shall be conditional uses. Conditional use permits may be granted only if they conform with county zoning ordinances and only if the Planning Commission decides that such use will not be incompatible with recreational use of the water body. If the conditional use permit is granted, the Planning Commission may place conditions on the establishment of such use. Conditional use permits may be granted for a specified period of time. If the use does not conform to the conditions, the conditional use permit may be revoked.

Area Restriction

The total area of all impervious surfaces on a lot shall not exceed 30 percent of the total lot area.

Land Suitability

No land shall be subdivided which is held unsuitable by the county for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the county.

Summary of Use Restrictions

Land Use	General Development	Recreation	Rivers & Natural Environment
	Lakes and Rivers	Lakes	Lakes
Single-Family Dwelling	P	P	P
Duplex	C	C	C
Multiple Dwelling	C	C	C
Modular Dwelling	P	C	C
Mobile Home Dwelling	C	C	C
Prefabricated Dwelling	P	C	C
Restaurant, Cafe	C	C	C
Church, Synogogue	C	C	N
Community Center	C	C	C
Dams, Diking	C	C	C
Electrical Power Generation	C	C	C
Hotel or Motel	C	C	N
Mobile Home Court	C	C	N
Nursery	P	P	P
Offices, Medical Clinics	C	C	C
Recreation, Commercial	P	C	C
Recreation, Public	P	P	P
Research Facilities	C	C	C
Retail Trade	C	C	N
School	C	C	C
Utility Lines	P	P	P

P - Permitted Use      C - Conditional Use      N - Prohibited Use

<u>Minimum Lot Size and Setback Requirements</u>	<u>General Development Lakes and Rivers</u>	<u>Recreation Lake</u>	<u>Natural Environment Lake</u>
Bldg. Setback from Co. Rd.	65 ft.	65 ft. from right-of-way	65 ft. from right-of-way
Bldg. Setback from St. Rd.	116 ft.	116 ft. from right-of-way	116 ft. from right-of-way
Bldg. Setback from Township Rd.	65 ft.	65 ft. from right-of-way	65 ft. from right-of-way
Bldg. Setback from Shoreline (from normal high water mark)	75 ft.	100 ft. <sup>1</sup>	200 ft.
Lot Size	1 acre	1 acre <sup>2</sup>	2½ acres
Lot Width	100 ft.	150 ft.	200 ft.
Lot Depth	150 ft.	250 ft.	200 ft.
Side Yard Setback	10 ft.	10 ft.	20 ft.
Rear Yard	50 ft.	50 ft.	50 ft.
Height	2½ Stories (35 feet)	2½ Stories (35 feet)	2½ Stories (35 feet)
Land Height (above high water line at building)	4 ft.	4 ft.	4 ft.

1. Boat houses, piers, and docks may be placed within the lake setback requirements, but only with a conditional use permit from the Planning Commission.
2. On general development and recreation lakes, the minimum lot size applies only where soils percolation tests indicate that lot will be sufficiently large to provide the drainfield and septic tank setbacks required by this ordinance.

In those areas where soils and slopes present potential additional problems of well and public water contamination, the Planning Commission shall require either larger lot sizes than detailed in this ordinance or provision for the disposal of sewage in a manner that the County Land Use & Agriculture Inspector deems will not contaminate well or public waters.

#### 7.97 Planned Unit Developments or Cluster Developments

Altered zoning standards may be allowed as exceptions to the county shoreland ordinance for planned unit developments provided:

- 1) Preliminary plans shall be approved by the Commissioner prior to their approval by the county.
- 2) Central sewage facilities shall be installed which at least meet the applicable standards, criteria, rules, or regulations of the Minnesota Department of Health and the Pollution Control Agency.
- 3) Open space is preserved. This may be accomplished through the use of restrictive deed covenants, public dedications, or other methods.
- 4) There are centralized shoreline recreation facilities such as beaches, docks and boat launching facilities.

#### 7.98 Variances and Conditional Use Permits

- 1) A copy of all notices of any public hearings to consider variances or conditional uses shall be received by the Commissioner of Natural Resources at least ten (10) days prior to such hearing.
- 2) A copy of all decisions granting a variance or conditional use shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such actions.

#### 7.99 Subdivision Plats

- 1) All plats which are inconsistent with this section shall be reviewed by the Commissioner of Natural Resources before final county approval may be granted. Such review shall require that proposed plats be received by the Commissioner of Natural Resources at least ten (10) days before a hearing is held by the county.
- 2) Copies of all plats within shoreland areas approved by the county shall be submitted to the Commissioner of Natural Resources within ten (10) days of approval by the county.

8.0 Performance Standards:

The guiding of land development into a compatible relationship of uses depends upon the maintenance of certain standards. In the various Use Districts, the permitted, accessory and conditional uses shall conform to the following standards.

8.1 Nuisance Standards

8.1.1 Noise

Any use established shall be so operated that no undue noise resulting from said use is perceptible beyond the boundaries of the property on which such use is located. This standard shall not apply to incidental traffic, parking, loading, construction, farming or maintenance operations.

8.1.2 Vibration

Any use creating periodic earth-shaking vibration shall be prohibited if undue vibrations are perceptible beyond the boundaries of the property on which the use is located. The standard shall not apply to vibrations created during the process of construction.

8.1.3 Glare and Heat

Any use producing intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located.

8.1.4 Smoke and Particulate Matter

Any use established, enlarged or remodeled after the effective date of this ordinance shall be so operated as to meet the minimum requirements of the Minnesota Pollution Control Agency for the emission of smoke or particulate matter.

8.1.5 Toxic or Noxious Matter

Any use shall not discharge into the atmosphere, water or subsoil, any toxic or noxious matter.

## 8.2 Storage Standards

All materials and equipment shall be stored within a building or screened from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used for construction on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking except as otherwise regulated herein. Boats and house trailers, less than 20 feet in length, are permissible, if stored in the rear yard not less than 10 feet distant from any property line. Existing uses shall comply with this provision within 12 months of the effective date of this ordinance. Plans for screening shall be reviewed by the Planning Commission and approved by the County Board before it is erected.

### 8.2.1 Bulk Storage (liquid)

All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshall and Minnesota Department of Agriculture's offices and have documents from those offices stating that the use is in compliance. Fuel tanks may be permitted as an accessory use only and shall be subject to set-back regulations. All existing, above ground liquid storage tanks which have a capacity in excess of 2,000 gallons shall comply with the requirements of Minnesota State Fire Marshall's office within 12 months following enactment of this ordinance.

## 8.3 Visual Standards

### 8.3.1 Screening

Where any business or industrial use is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator. The screening required herein shall consist of fence, trees, or shrubs. Plans for such screening shall be approved by the Planning Commission before it is erected.

### 8.3.2 Residential Fences

Fences may be located on any lot line to a height of  $3\frac{1}{2}$  feet and a fence up to 6 feet in height may be erected behind the nearest rear corner of the principal building.

Should the rear lot line be common with the side lot line of an abutting lot, that portion of the rear lot line equal to the required front yard of the abutting lot shall not be fenced to a height of more than  $3\frac{1}{2}$  feet.

### 8.3.3 Business and Industrial Fences

Fences may be located on a lot line to a height of 6 feet. Fences over 6 feet in height and with a security arm for barbed wire shall be permitted when needed for security reasons as approved by the Zoning Administrator. Other fencing over 6 feet in height shall require a conditional use permit, unless such fencing is described in a permit for another project.

### 8.3.4 Access Driveways

- (a) The distance from a driveway to the intersection of two streets shall not be less than 20 feet measured along the street curb line; provided, however, that if, in the opinion of the Engineer, present or future traffic conditions warrant greater distances, such greater distances shall be required subject to approval by the County Board. The distance from a driveway to the intersection of 2 thoroughfares shall be no less than 100 feet.
- (b) The minimum distance between driveways shall be 25 feet; provided however, that if, in the opinion of the Engineer, present or future traffic conditions warrant greater distances, such greater distances shall be required subject to approval by the County Board.
- (c) The driveway angle to the street shall be 90 degrees unless otherwise recommended by the Engineer and approved by the County Board.
- (d) The distance from a driveway to the property line of an adjacent property shall not be less than 5 feet measured along the street curb line, unless otherwise recommended by the Engineer and approved by the County Board.
- (e) Access driveways for other than single family dwellings, shall be 30 feet wide measured along the property line between the curb faces of the driveway unless otherwise recommended by the Engineer and approved by the County Board.
- (f) Access driveways for single family dwellings shall be not less than 12 feet nor more than 24 feet wide measured along the property line unless otherwise recommended by the Engineer and approved by the County Board.

### 8.4 Hazardous Elements Standards

#### 8.4.1 Explosives

Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than 400 feet from any residence. This section shall not apply to the storage or usage of liquid petroleum or natural gas for normal residential or business purposes.

8.4.2 Radiation Emission

All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.

8.5 Solid Waste Disposal

All disposal of solid waste shall be in accordance with the Benton County Solid Waste Ordinance dated November 7, 1972.

8.5.1 In all districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

8.5.2 All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a special use permit, or otherwise permitted by provisions of this Ordinance shall be considered as refuse.

8.6 Incinerators

The installation of incinerators, their use and design shall be in conformity to the regulations and standards adopted by the Minnesota Pollution Control Agency and Benton County.

9.0 Special Provisions:

9.1 Signs

9.1.1 Signs are a permitted accessory use in all use districts subject to the following regulations.

- (a) Private signs, other than warning signs posted by public utilities, are prohibited within public rights-of-way.
- (b) Illuminated signs may be permitted but devices giving off an intermittent or rotating beam of rays of lights shall be prohibited, except those signs giving public service information, such as, without limiting the generality of the foregoing; time, date, temperate, weather or news.
- (c) For the purpose of selling, renting or leasing a single parcel, a sign not in excess of twenty-five (25) square feet per surface may be placed within the front yard. Such signs shall not be less than ten (10) feet from the right-of-way line.
- (d) For the purpose of selling or promoting a residential project, commercial area, or an industrial area, one sign not to exceed 240 feet of surface may be erected upon the project site.
- (e) No sign shall, by reason of position, shape or color interfere in any way with the proper functioning or purpose of a traffic sign or signal.
- (f) Except with industry, signs shall not be painted directly on the outside wall of a building.
- (g) Signs shall not be painted on fences, rocks, or similar structures or features nor shall paper or similar signs be attached directly to a building wall, by an adhesive or similar means.
- (h) There shall be no more than one temporary sign on any lot, and such sign shall not exceed twenty-five (25) square feet in size.
- (i) Election signs are permitted provided such signs are removed within ten (10) days following the election as related to the sign. No election sign shall be permitted more than four (4) months preceding the election the sign relates to.

- (j) No sign in excess of three (3) square feet shall be less than 300 feet from the intersection of two (2) or more public roads or less than 300 feet from the intersection of a public road and a railroad, provided that advertising may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.
- (k) No sign shall be less than two (2) feet from a public right-of-way line.

#### 9.1.2 Signs Permitted with Residences

- (a) One nameplate sign for each dwelling not to exceed two (2) square feet in area per surface, and no sign shall be so constructed as to have more than two (2) surfaces.
- (b) One nameplate sign for each permitted non-residential use or use by conditional use permit. Such signs shall not exceed twelve (12) square feet in area per surface and no sign shall be so constructed as to have more than two (2) surfaces.

#### 9.1.3 Signs Permitted with Businesses

- (a) The aggregate square footage of sign space per lot shall not exceed the sum of one square foot for each front foot of lot, or 160 square feet, whichever is less.
- (b) No sign shall extend in height more than six (6) feet above the highest outside wall or parapet of any principal building except that one identification sign in a commercial area of three (3) or more outlets may extend thirty (30) feet above the highest roof provided that such sign is not closer than thirty (30) feet from any lot line.
- (c) Motor fuel stations and truck stops shall have no more than two (2) pedestal type business identification signs not to exceed thirty (30) feet in height erected within any yard except that no part of said sign shall be less than six (6) feet from a property line measured as a horizontal distance. Said sign shall have no more than three (3) faces and shall not exceed more than 150 square feet per face. No part of said sign surface shall be less than sixteen (16) feet vertical distance from the grade of the nearest driveway or parking area. The pedestal shall not be less than five (5) feet from a driveway at its nearest point.

Motor fuel stations and truck stops may have two (2) accessory signs. Said signs shall have no more than two (2) faces per sign and shall not exceed more than thirty (30) square feet per face. The top of said sign shall not be more than twenty (20) feet in height from the grade of the nearest driveway or parking area.

#### 9.1.4 Signs Permitted with Industries

- (a) The aggregate square footage of sign space per lot shall not exceed the sum of four (4) square feet per front foot of building, plus one square foot per front foot of property not occupied by a building. No individual sign surface shall exceed 100 square feet except advertising signs. Advertising signs permitted as an accessory use shall not exceed 600 square feet of sign surface and such sign when permitted as a principal use shall not exceed the sum of five (5) square feet per front foot of lot up to a maximum of 600 square feet.
- (b) No ground sign shall exceed a height of forty (40) feet above the average grade and no roof sign or sign attached to a building shall exceed a height of thirty (30) feet above the highest outside wall or parapet of any principal building. No sign shall be located closer than ten (10) feet from any lot line.

#### 9.1.5 Advertising Signs (Billboards)

- (a) Advertising signs may be permitted as a Conditional Use in all Business, Industrial and Agricultural Districts providing they are not larger than 300 square feet nor less than 160 square feet.
- (b) Advertising signs shall not be less than 1,000 feet apart on the same side of the road.
- (c) Advertising signs shall not exceed twenty-five (25) feet above the average ground level at the base of the sign.

#### 9.1.6 Sign Removal

- (a) The applicant for a sign permit, shall be deemed the owner and thus responsible for the removal of the sign within six (6) months of its discontinued use as determined by the County Assessor or for the removal of a sign which is structurally unsafe or in disrepair as determined by the County Zoning Administrator.
- (b) Signs not so removed by the owner will be removed by the County at the owner's expense.

### 9.2 Off-Street Parking

#### 9.2.1 General Provisions

- (a) Under no circumstances shall required parking facilities accessory to residential structures be used for the parking of automobiles belonging to the employees, owners, tenants, or customers of nearby business or manufacturing establishments.

- (b) Required off-street parking space shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or for rent.
- (c) Required Off-Street Parking. Parking spaces shall be provided as determined by the County Planning Commission.

#### 9.2.2 Location Requirements

All off-street parking facilities required herein shall be located in respect to the following:

- (a) Spaces accessory to one family, two family and multiple dwellings on the same lot as the principal use served.
- (b) There shall be no off-street parking space within 5 feet of any road right-of-way.
- (c) No off-street open parking area containing more than 4 parking spaces shall be located closer than 15 feet from an adjacent lot zoned or used for residential purposes.
- (d) Open parking spaces accessory to residential structures, may be located anywhere on the lot other than a required yard area except that garages may be located to within 5 feet of an interior side lot line and to within 8 feet of a rear lot line. No garage stall accessory to a residential structure on a corner lot or other similar situation shall be located within any required yard area abutting a street except by Conditional Use Permit.
- (e) Business and Industrial off-street parking spaces shall not be less than 10 feet from a property line.

#### 9.2.3 Design Requirements

- (a) Each parking stall shall be not less than 10 feet wide and 20 feet in length, exclusive of access drives. All outside parking spaces shall be clearly marked.
- (b) Parking areas shall be designed so as to provide adequate means of access to public streets. Such driveway access shall not exceed 30 feet in width.
- (c) All of the area intended to be utilized for parking space and driveways shall be surfaced with a material which controls dust and drainage. Parking areas for less than 3 vehicles shall be exempt. Plans for surfacing and drainage shall be subject to approval of the Engineer.

- (d) All lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property and right-of-way.
- (e) All open off-street parking areas shall provide a curb or a guard of normal bumper height to ensure that no portion of a vehicle encroaches into the required setback.
- (f) All off-street parking spaces shall have access off driveways and not directly off the public street.

#### 9.3 Loading Spaces

Loading spaces shall be provided as determined by the County Planning Commission.

#### 9.4 Drive-In Businesses

##### 9.4.1 Location Requirements

- (a) No drive-in business shall be located within 500 feet of a school or church.
- (b) No drive-in shall be located within 300 feet of any residentially zoned property.
- (c) No access drive shall be within 50 feet of intersecting street right-of-way lines.

##### 9.4.2 Site Requirements

- (a) The entire area other than that occupied by structure or landscaping shall be paved surface which will control dust and drainage.
- (b) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.
- (c) Lighting shall have no direct source visible from the public right-of-way or adjacent land.
- (d) A six (6) inch insurmountable curb shall separate all walks and landscape areas from parking areas.
- (e) A screen fence not over 6 feet in height nor less than 4 feet, at least 50 percent opaque throughout its height shall be constructed along the property line abutting a residential zoning district. Should the use be a drive-in theater, an opaque fence not less than 8 feet in height and extending at least to within 2 feet of the ground shall be constructed around the property.

9.5 Planned Unit Development

The purpose of this section of the Zoning Ordinance is to provide a method where flexibility of site design and architecture may be applied by placing more than one building on a lot in residential districts by conditional use permit according to the following provision: The plan for the development shall conform to the requirements of the use district within which it is located except as herein amended.

- (a) The tract of land for which a development is proposed and a permit requested shall contain not less than 5 acres.
- (b) The tract of land shall not have less than three hundred (300) feet of frontage on a public right-of-way.
- (c) The proposed development if located in an "R-1" District shall have a central sewage disposal system.
- (d) No principal building shall be nearer than its height to the rear or side lot line.
- (e) No principal building shall be nearer to another principal building that is one-half the sum of the height of the two buildings.
- (f) Private roadways within the project shall have an improved surface of twenty-six (26) feet or more in width and shall be so designed and constructed to meet the township standards of the township within which the parcel is located.
- (g) No building shall be located less than fifteen (15) feet from the back of the improved roadway surface.
- (h) Utilities shall be along the rear of the buildings or underground.
- (i) The development shall have a drainage system constructed according to a plan approved by the County Public Works Director.

## 9.6 Sewage Disposal Standards

### 9.6.1 Licensing

No person, firm or corporation shall engage in the business of installing and constructing sewage disposal systems within the County of Benton without first obtaining a license to carry on such occupation from the County Board and procuring and posting with the County Auditor a bond in the amount of \$1000.00 in favor of the County and the public, conditioned upon the faithful performance of contracts and compliance with this ordinance. Such license shall be revoked by the Board for cause. Any installation, construction, alteration or repair of a sewage disposal system by a licensee in violation of the provisions of Section 9.6 of this Ordinance or refusal on the part of a licensee to correct such defective work performed by such licensee shall be cause for revocation of or refusal to renew a license.

Before any license issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing to show cause why such license should not be revoked or refused. Notice of the time, place and purpose of such hearing shall be in writing. Application for such license shall be made annually on a form furnished by the County Board.

### 9.6.2 Permits

- A. No person, firm or corporation shall install, alter, repair, or extend any individual sewage disposal system in the county without first obtaining a permit therefor from the Board or its authorized representative for the specific installation, alteration, repair, or extension; and, at the time of applying for said permit, shall pay a fee established by the County Board. Such permits shall be valid for a period of six months from date of issue.
- B. Applications for permits shall be made in writing upon printed blanks or forms furnished by the County and shall be signed by the applicant.
- C. Each application for a permit shall have thereon the correct legal description of the property on which the proposed installation, alteration, repair, or extension is to take place, and each application for a permit shall be accompanied by a plot plan of the land showing the location of any proposed or existing buildings located on the property with respect to the boundary lines of the property and complete plans of the proposed system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this ordinance. A complete plan shall include the location, size and design of all parts of the system to be installed, altered, repaired or extended. The application shall also show the present or proposed location of water supply facilities and water supply piping, and the name of the person, firm or corporation who is to install the system and shall provide such further information as may be required by the County Board.

#### 9.6.3 General Provisions

- (1) Raw sewage, septic tank effluent, or seepage from a soil absorption system shall not be discharged onto the ground surface, into abandoned wells, or bodies of surface water, or into any soil or rock formation, the structure of which is not conducive to purification of water by filtration, or into any well or other excavation in the ground which does not comply with the other requirements of this Ordinance.
- (2) Bulldozers, trucks, or other heavy machinery shall not be driven over the system after installation.
- (3) In areas with a high ground water table, the final disposal unit shall be a tile field. The bottom of the trenches shall be not less than three (3) feet above the highest known or calculated water table.
- (4) The portions of any buried sewer shall be of adequate size and constructed of cast-iron, vitrified clay, cement-asbestos, concrete or other pipe material acceptable to the MPCA. Clay pipe and clay pipe fittings shall conform to A.S.T.M. specifications for standard strength or extra strength clay pipe and clay pipe fittings. No building drain or building sewer shall be less than four (4) inches in diameter.
- (5) The system shall consist of a building sewer, a septic tank, and a soil absorption unit. The soil absorption unit shall consist of a sub-surface disposal field. All sewage shall be treated in the septic tank and the septic tank effluent shall be discharged to the disposal field.
- (6) Septic tank effluent shall not be discharged into an agricultural tile line or drainage system.
- (7) The Minnesota Pollution Control Agency 6 MCAR Section 4.8040 Individual Sewage Treatment Systems Standards are herein referenced and made part of this Ordinance.

#### 9.6.4 Septic Tank Standards

##### (1) Capacity

###### a. Residential Units

The liquid capacity of a septic tank serving a dwelling shall be based on the number of bedrooms contemplated in the dwelling served and shall conform to capacities given below:

TABLE 1

<u>Number of Bedrooms</u>	<u>Tank Liquid Capacities (Gallons)</u>
2 or less	750
3	1,000
4	1,250
5 or 6	1,500
7, 8 or 9	2,000

For ten (10) or more bedrooms, the septic tank shall be sized as a non-residential unit.

b. Non-Residential Units

The liquid capacity of a septic tank serving an establishment other than a dwelling shall be sufficient to provide a sewage detention period of not less than 36 hours in the tank for flows less than 1,500 gallons per day, but in no instance shall the liquid capacity be less than 750 gallons. For flows greater than 1,500 gallons per day, the minimum liquid capacity shall equal 1,125 gallons plus 75 percent of the daily sewage flow rate, which shall be determined by measurement or estimated from data provided by the MPCA.

(2) Location

- a. The septic tank shall be placed so that access is convenient for the removal of liquids and accumulated solids.
- b. The septic tank shall be placed on firm and settled soil capable of bearing the weight of the tank and its contents.
- c. Septic tanks shall be set back the following distances from the features given below.

TABLE 2

<u>Feature</u>	<u>Minimum Setback Distances (Feet)</u>
Water Supply Well	75
Buried Pipe Distributing Water Under Pressure	10

(3) Maintenance

The owner of any septic tank or his agent shall annually measure the depth of scum and sludge accumulated in the tank.

When such measurement shows that the top of the sludge layer in the tank or any compartment of the tank is less than twelve (12) inches below the bottom of the outlet device, the owner or agent shall arrange for the removal and sanitary disposal of sludge and scum from the tank.

When such measurement shows that the bottom of the scum layer in the tank or any compartment of the tank is less than three (3) inches above the bottom of the outlet device, the owner or agent shall arrange for the removal and sanitary disposal of sludge and scum from the tank.

- (4) The liquid depth of any septic tank or compartment thereof shall be not less than thirty (30) inches. A liquid depth greater than six and one-half ( $6\frac{1}{2}$ ) feet shall not be considered in determining liquid capacity.
- (5) No tank or compartment thereof shall have an inside horizontal dimension less than twenty-four (24) inches.
- (6) Inlet and outlet connections of the tank and of each compartment thereof shall be submerged by means of vented tees or baffled so as to obtain effective retention of scum and sludge.
- (7) The space in the tank between the liquid surface and the top of the inlet and outlet baffles or submerged pipes shall not be less than twenty (20) percent of the total required liquid capacity, except that in horizontal cylindrical tanks this space shall not be less than fifteen (15) percent of the total required liquid capacity.
- (8) The inlet baffle or submerged pipe shall extend at least six (6) inches but not more than twenty (20) percent of the total liquid depth, to the nearest inch, below the liquid surface and at least one (1) inch above the crown of the inlet sewer.
- (9) The outlet baffle or submerged pipe and the baffles or submerged pipes between compartments shall extend below the liquid surface a distance equal to forty (40) percent, to the nearest inch, of the liquid depth except that the penetration of the indicated baffles or submerged pipes for horizontal cylindrical tanks shall be thirty-five (35) percent, to the nearest inch, of the total liquid depth. They also shall extend above the liquid surface to provide for scum storage. In no case shall they extend less than six (6) inches above the liquid surface.

- (10) There shall be at least one inch between the underside of the top of the tank and the highest point of the inlet and outlet devices and partitions so as to provide the required ventilation of the system through the main building stack.
- (11) The inlet invert shall be not less than three (3) inches above the outlet invert.
- (12) Construction of the tank shall be such as to assure its being watertight and to prevent the entrance of rainwater, surface drainage, or ground water.
- (13) The tank shall be constructed of sound and durable material not subject to excessive corrosion or decay. Properly cured precast and cast-in-place reinforced concrete tanks are acceptable. Precast tanks should have a minimum wall thickness of two and one-half ( $2\frac{1}{2}$ ) inches and be adequately reinforced. Precast slab covers should have a thickness of at least three (3) inches and be adequately reinforced. No metal tanks will be allowed.

#### 9.6.5 Drainfield Standards

##### (1) General

Final treatment and disposal of sewage tank effluent shall be by means of soil treatment and disposal.

##### (2) Sizing

- (a) The required soil treatment area shall be determined by number of bedrooms.
- (b) The minimum soil treatment area required for multiple residential units shall provide for at least two (2) bedrooms.
- (c) The minimum soil treatment area required for multiple residential units shall consist of the sum of the areas required for each individual unit.
- (d) Trench and bed size shall be as set forth in Table 3.

TABLE 3

Percolation rate in minutes per inch	Required Soil Treatment Area In Square Feet						
	Per gallon of waste per day (c)	Beds	Per bedroom (a) (b)		Trenches		Depth of filter material below distribution pipe (c) in inches
			6	12	18	24	
Faster than 1/2	--	--	--	--	--	--	
1/2 to 5	0.83	125	125	100	85	75	
6 to 15	1.27	190	190	150	125	115	
16 to 30	1.67	250	250	200	165	150	
31 to 45	2.00	300	300	240	200	180	
46 to 60	2.20	330	330	265	220	200	
Slower than 60*	--	--	--	--	--	--	

1. Table is based on sewage flow of one hundred fifty (150) gallons per day per bedroom.
2. In every case sufficient area shall be provided for at least two (2) bedrooms in residential units.
3. When treatment system design is based on gallons of waste per day, the required treatment area may be reduced for trenches only, by the following percentages: 20 percent for 12 inches of filter material below the distribution pipe; 34 percent for 18 inches; and 40 percent for 24 inches. The filter material shall completely encase the disposal pipes to a depth of at least one (1) inch.

\*Alternative systems required

(3) Location

- (a) Construction of drainfields shall not be allowed on soils with a percolation rate slower than sixty (60) minutes per inch.
- (b) Bed construction shall be limited to areas having natural slopes of less than six (6) percent.
- (c) Any soil treatment area other than seepage pits shall be set back the following distances from the features given below:

TABLE 4

<u>Feature</u>	<u>Setback distance in feet</u>
Water supply well less than 50 feet deep and not encountering at least ten feet of impervious material	100
Any other water supply well or buried water suction pipe	75
Buried pipe distributing water under pressure	10
Building	20
Property lines	25
Natural Environment Lakes & Streams	150
Recreational Development Lakes	75
General Development Lakes & Streams	50
Wild River	150
Scenic River	100
Recreational River	75
Designated Tributaries of Wild, Scenic, & Recreational Rivers	75
Road Right-of-Way	5

(4) Design and Construction

- (a) The bottom of trenches and beds shall be at least four (4) feet above the watertable or bedrock.
- (b) The trenches shall be not less than eighteen (18) inches nor more than thirty-six (36) inches wide. Any trench wider than thirty-six (36) inches shall be considered a bed.
- (c) Trenches and beds shall be not more than one hundred (100) feet in length.
- (d) The bottom of the trench or bed excavation shall be level.
- (e) The bottom and sides of the trench or bed excavation to the level of the filter material shall be scarified to remove smears left by the construction equipment and footprints. All loose material shall be removed from the excavation. The bottom of the excavation shall not be driven on or walked on after scarification.
- (f) When the soil percolation rate at the bottom of the trench or bed is slower than fifteen (15) minutes per inch, no vehicle or excavation equipment shall be allowed on the trench or bed area. Excavation shall be by back hoe or other means that allow the equipment wheels or tracks to remain on the surface soil.
- (g) There shall be a layer of at least six (6) but not more than twenty-four (24) inches of filter material in the bottom of the trenches and beds.
- (h) Where disposal trenches are constructed within ten (10) feet of trees six (6) inches or larger in diameter, or dense shrubbery, or where it can reasonably be anticipated that such vegetation will be present during the expected life of the system, at least twelve (12) inches of filter material shall be placed beneath the distribution pipe.
- (i) Distribution pipe used in trenches or beds for gravity flow distribution shall be at least four inches in diameter and constructed of sound and durable material not subject to corrosion or decay or to loss of strength under continuously wet conditions.
  - 1. Agricultural drain tile shall be in twelve (12) inch lengths and laid with one-fourth ( $\frac{1}{4}$ ) inch open joints on grade boards. All open joints shall be protected on top by strips of asphalt-treated building paper at least ten (10) inches long and three (3) to six (6) inches wide or by other acceptable means.

2. Perforated plastic pipe shall be laid with one (1) row of perforations on the bottom. Perforations shall be at least one-half ( $\frac{1}{2}$ ) inch in diameter and spaced no farther than thirty-six (36) inches apart.
3. Other devices may be used to distribute sewage tank effluent over the soil treatment area upon approval of the local administrator of the sanitary ordinance.
  - (j) The distribution pipes shall be laid level or on a uniform slope away from the sewage tank of no more than four (4) inches per one hundred (100) feet.
  - (k) The distribution pipes in beds shall be uniformly spaced no more than five (5) feet apart and not less than thirty (30) inches from the side walls of the bed.
  - (l) The filter material shall completely encase the disposal pipes to a depth of at least one (1) inch.
  - (m) The filter material shall be covered with untreated building paper or a two (2) inch layer of hay or straw or similar, approved permeable materials.
  - (n) The trenches or beds shall be backfilled with the excavated material and slightly crowned above finished grade to allow for settling. The backfill shall not be compacted to a density greater than that of the original soil.
  - (o) The minimum depth of cover over the distribution pipes shall be at least eighteen (18) inches.
  - (p) The maximum depth of cover over the distribution pipes shall be no more than thirty-six (36) inches and preferably twenty-four (24) inches.
  - (q) A grass cover shall be established over the soil treatment area.

#### 9.6.6 Holding Tanks

##### (1) General

Holding tanks shall be considered for replacement systems only if there are no other alternatives and it can be shown that their installation will eliminate a public health or pollution hazard.

(2) Construction

A holding tank shall be constructed of the same materials and by the same procedures as those specified for watertight septic tanks.

(3) Access

A cleanout pipe of at least six (6) inches diameter shall extend to the ground surface and be provided with seals to prevent odor and to exclude insects and vermin. A manhole of at least twenty (20) inches dimension shall extend through the cover to a point within twelve (12) inches, but no closer than six (6) inches below finished grade. The manhole cover shall be covered with at least six (6) inches of earth.

(4) Depth of Bury

The tank shall be protected against flotation under high watertable conditions. This shall be achieved by weight of tank, earth anchors or shallow bury depths.

(5) Capacity

- (a) For a dwelling the size shall be at least 1,500 gallons.
- (b) For permanent structures other than dwellings, the capacity shall be based on measured flow rate or estimated flow rates. The tank capacity shall be at least five (5) times the daily flow rate.

(6) Location

Holding tanks shall be located:

- (a) In an area readily accessible to the pump truck under all weather conditions.
- (b) Where accidental spillage during pumping will not create a nuisance.

(7) Accidental Overflow

Holding tanks shall be monitored to minimize the chance of accidental sewage overflows. Techniques such as visual observation, warning lights or bells, or regularly scheduled pumping shall be used. For institutional use, a positive warning system shall be installed which allows twenty-five (25) percent reserve capacity after actuation.

#### 9.6.7 Seepage Pit

Seepage pits shall only be allowed in areas where it can be proven that a seepage pit will function without the risk of failure or pollution of ground water. Standards for construction of a seepage pit shall be the same as those recommended in MPCA 6 MCAR Section 4.8040. In no situation, however, shall seepage pits be allowed for sewage disposal in subdivisions of land including five (5) or more homes.

#### 9.6.8 Alternative Systems

Where limiting soil characteristics exist, special systems of sewage treatment and disposal, including but not limited to those in Appendix A of MPCA 6 MCAR Section 4.8040 adopted by reference, may be employed provided:

- A. Reasonable assurance of performance of such system is presented to the County Land Use & Agriculture Inspector.
- B. The engineering design of such system is first approved by the County Land Use & Agriculture Inspector.
- C. There is no discharge to the ground surface or to surface waters.
- D. Treatment and disposal of wastes is in such a manner so as to protect the public health and general welfare.
- E. Such systems comply with all applicable requirements of these standards and with all other provisions of this Ordinance.

#### 9.6.9 Nonconforming and Substandard Systems

##### A. Nonconforming Systems

A nonconforming system is a system that is polluting surface or ground waters or one that has failed. All sanitary facilities inconsistent with Section 9.6.3 of this Ordinance shall be brought into conformity or discontinued within 60 days after notification by the County Land Use & Agriculture Inspector.

All other nonconforming systems shall be subject to the following conditions:

1. No such system shall be expanded or enlarged except in conformity with the provisions of this ordinance.
2. If such system is discontinued for twelve (12) consecutive months, any future use of the system shall conform to this ordinance.
3. Systems which are nuisances shall not be permitted to continue as nonconforming systems.

B. Substandard Systems

A substandard system is a system that is not designed or constructed according to present standards, but which is functioning in a sanitary manner. Substandard sanitary facilities shall be allowed to continue. However, any alteration or addition to a substandard system which will increase the substandard dimensions shall not be allowed.

9.6.10 Enforcement

Each system for which a permit is required must be inspected by the Land Use and Agriculture Inspector or his designee before the system is covered. It is the responsibility of the permit holder or landowner to notify the Land Use and Agriculture Inspector that the system is ready for inspection. Failure to comply with said requirement shall be a misdemeanor.

The Land Use and Agriculture Inspector shall visually inspect the system within two business days from the time the permit holder or landowner gives notice of readiness.

Any licensed sewage disposal system installer who covers a system without complying with the above inspection requirement shall be subject to forfeiture of his license.

## 9.7 Mining and Extraction

### 9.7.1 Permit Review

A permit shall be required for all commercial mining operations. Said permit shall be valid for a three (3) year period; after which a permit renewal shall be required.

Persons requesting a mining permit shall submit said fee to the Benton County Planning Commission together with all information required in this section. The owner shall provide five (5) copies of the required information.

All residents and landowners within one thousand (1,000) feet of the proposed mining operations shall be notified in writing of the permit request and the date of the Planning Commission review. Notification shall be mailed at least ten (10) days prior to the Planning Commission Review.

If the request is denied, no reapplication shall be made for a period of six (6) months.

### 9.7.2 Information Required

The following information shall be provided by the person requesting the permit:

- (1) Name and address of person requesting the mining permit.
- (2) The exact legal property description and acreage of area to be mined.
- (3) The following maps of the entire site and to include all areas within five hundred (500) feet of the site. All maps shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below:

Map A - Existing conditions to include:

Contour lines at five (5) foot intervals.  
Existing vegetation.  
Existing drainage and permanent water areas.  
Existing structures.  
Existing wells.

Map B - Proposed operations to include:

Structures to be erected.  
Location of sites to be mined showing depth of proposed excavation.  
Location of tailings deposits showing maximum height of deposits.  
Location of machinery to be used in the mining operation.  
Location of storage of mined materials, showing height of storage deposits.  
Location of vehicle parking.  
Location of storage of explosives.  
Erosion and sediment control structures.

Map C - End use plan to include:

Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.  
Location and species of vegetation to be replanted.  
Location and nature of any structures to be erected in relation to the end use plan.

- (4) A soil erosion and sediment control plan.
- (5) A plan for dust and noise control.
- (6) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation.
- (7) Any other information requested by the Planning Commission or governing body.

9.7.3 Renewal of Mining Permits

All property owners and residents within one thousand (1,000) feet of the mining operation shall be notified of a mining permit renewal request.

A public hearing shall be conducted for renewal permit approval if seventy-five (75) percent of the property owners or residents of voting age within one thousand (1,000) feet of the mining operations request such a hearing in writing.

9.7.4 Use Restrictions

Mining operations shall be a Conditional Use in the Agricultural and Industrial Districts.

The crushing, washing, refining or processing other than the initial removal of material shall be considered a Conditional Use.

In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a Conditional Use.

The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operation shall be considered as a Conditional Use.

Mining operations shall be prohibited in business and residential districts.

#### 9.7.5 Performance Standards

(1) General Provisions. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.

No sand and gravel operation shall be conducted on parcels of less than twenty (20) acres in size. This limitation shall not apply when the tract of land is contiguous to an active mining operation, provided that both tracts are being operated by the same sand and gravel producer.

All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.

(2) Water Resources. The mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.

The mining operation shall not adversely affect the quality of surface or subsurface water resources.

Surface water originating outside and passing through the mining site shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.

(3) Safety Fencing. Any mining operation adjacent to a residential zone or within three hundred (300) feet of two (2) or more residential structures shall be bound by the following standards:

(a) Where collections of water occur that are one and one-half ( $1\frac{1}{2}$ ) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as a snow fence of at least four (4) feet in height.

(b) In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similarly effective barrier such as a snow fence at least four (4) feet in height.

- (4) Mining Access Roads. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of the public road in view so that any turns onto the public road can be completed with a margin of safety.
- (5) Screening Barrier. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier shall be maintained between the mining site and adjacent residential and commercial properties. A screening barrier shall also be maintained between the mining site and any public road within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees such as green ash.

Existing trees and ground cover along public road frontage shall be preserved, maintained (and supplemented), for the depth of the roadside setback except where traffic safety requires cutting and trimming.

- (6) Setback. Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structures located prior to commencement of processing operations without the written consent of all owners and residents of said structures.

Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property line, unless the written consent of the owner in fee of such adjoining property is first secured in writing.

Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.

- (7) Appearance. All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.
- (8) Dust and Dirt. All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred (600) feet of the mining operations lot line.

All access roads from mining operations to public highways, roads or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

The above limitations shall not apply to any mining operation in any industrial zone, unless such operations are closer than one hundred fifty (150) yards to another zone other than an industrial zone.

- (9) The governing body may impose additional performance standards as part of the Conditional Use Permit.

#### 9.7.6 Land Rehabilitation

All mining sites shall be rehabilitated immediately after mining operations cease. Rehabilitation shall be complete within one (1) year. The following standards shall apply:

- (1) Within a period of three (3) months after the termination of a mining operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a mining permit, all buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants. A conditional use permit may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such permit may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.
- (2) The peaks and depressions of the area shall be graded and back-filled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No finished slope shall exceed eighteen (18) percent in grade.
- (3) Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches.

Such required topsoil shall be planted with legumes and grassed. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion.

Excavations completed to a water producing depth need not be back-filled if the water depth is at least ten (10) feet and if banks shall be sloped to the water line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.

The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

## 9.8 Motor Fuel Stations

### 9.8.1 General Provisions

- (a) For architectural purposes, each side of a motor fuel station shall be considered as a front face.
- (b) The storage of items for sale outside the principal building shall be displayed in specially designed areas.
- (c) All trash, waste materials, and obsolete parts shall be stored within a separate enclosure.
- (d) All goods for sale, other than those required for the operation and maintenance of motor vehicles, shall be displayed within the principal structure.
- (e) Open dead storage of motor vehicles shall not be permitted for a period of more than 48 hours.
- (f) All rental campers, trailers, or motor vehicles shall be stored within the rear and/or side yard not adjacent to the street.

### 9.8.2 Site Requirements

- (a) Wherever a motor fuel station abuts residential property, a fence or compact evergreen hedge not less than 50 percent opaque nor less than 6 feet high shall be erected and maintained along the side and rear property line that abuts the residential property. Application of this provision shall not require a fence within 15 feet of any street right-of-way line.
- (b) The entire motor fuel station site, other than that part devoted to landscaping and structures, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage.
- (c) Driveways shall not exceed 30 feet in width nor be spaced closer than 30 feet apart measured at the property line. No more than 2 access drives to any street shall be permitted.
- (d) A 6 inch non-surmountable, curb shall separate all walks and landscape areas from parking and maneuvering areas.

### 9.8.3 Setbacks

(a)	Lot Width	Front Yard	Side Yard			Pump Setback
			Adjacent to another lot	Adjacent to street	Rear Yard	
Motor Fuel Station	200'	70'	30'	70'	30'	30'
Truck Stop	200'	80'	60'	80'	60'	30'

(b) The setback of any overhead canopy or weather protection, free standing or projecting from the station structure, shall be not less than 10 feet from the street right-of-way line nor less than 20 feet from an adjacent property line.

### 9.9 Essential Services

9.9.1 Essential Services are permitted uses in all zoning districts and are not subject to height, yard, setback requirements, or permits or certificates of any kind; subject only to the provisions of this section.

9.9.2 Public utility buildings shall be permitted uses in all zoning districts, except that a conditional use permit shall be required before construction in any residential district.

9.9.3 Since some essential services, as defined by this Ordinance, may have an effect upon County parks and recreation areas, the location of all such essential service in any zoning district shall be filed with the Zoning Administrator prior to commencement of any construction by the applicant.

9.9.4 Except as otherwise provided herein, essential services, not located within highway and street rights-of-way shall observe the following procedure:

- (a) The applicant shall file with the Zoning Administrator maps indicating the location, alignment, and type of service proposed.
- (b) The Zoning Administrator shall review the location and alignment to determine whether the same encroaches upon any County park or recreation area existing or approved by the County Board; and if there is no such encroachment, he shall so indicate on the application.
- (c) The Zoning Administrator shall furnish the applicant with information as to land use which may be of assistance to the applicant in the development of the proposed service.

9.9.5 An application for a permit for essential services located within any County highway or County State Aid highway rights-of-way shall observe the following procedure:

- (a) The applicant shall file with the County Engineer, on forms supplied by the County, an application for such permit accompanied by maps indicating the locations, alignment and type of service proposed.
- (b) The application and accompanying data shall be reviewed by the County Engineer, and the County Engineer may issue the permit after determining that the application is acceptable and in the best interest of the County.
- (c) The County Engineer may require in conjunction with the issuance of such permit that:
  - (1) The applicant submit as-built drawings of the essential service after construction.
  - (2) The applicant construct the essential service to take into consideration contemplated widening, regrading, or relocation of a County highway or County State Aid highway, providing the County owns such additional right-of-way.

9.9.6 Recognizing the need for adequate and timely service by applicants for construction of essential services the designated County officials shall act upon all information filings or permit applications within thirty (30) days of receipt thereof. Failure to act within thirty (30) days shall constitute approval.

9.9.7 No filing shall be necessary to maintain, reconstruct or relocate existing lines or facilities where the general line and conformation thereof remain essentially the same. Nor shall any filing be necessary for electric lines unless the voltage is in excess of 35 KV. Emergency work otherwise requiring a permit or filing may be accomplished provided such filings are made as soon thereafter as possible.

## 9.10 Mobile Homes

9.10.1 Mobile homes shall be subject to the requirements of this Ordinance governing dwelling units in the zoning district within which the mobile home is located on residential size lots, the following requirements shall be met:

- (a) All mobile homes shall be skirted between the bottom of the mobile home and the ground with a fire-proof material harmonious with the appearance of the mobile home within three months of the placement of the mobile home. Plywood, hardboard, cardboard or baled hay or straw shall be prohibited.
- (b) Steps and stoops shall be of acceptable wood, metal, or concrete construction.
- (c) Storm entries and porches must be of durable materials harmonious in appearance with the mobile home.

9.10.2 The minimum square footage of area of a mobile home shall be based on the factory size designation, rather than on the actual dimensions of the floor space, e.g., A factory size of 12' x 60' is considered as meeting the minimum residence size of 720 square feet even though the factory length designation includes the hitch. Attachment of other structures or construction of attached buildings shall not be considered as changing the size designation of a mobile home.

9.10.3 Temporary Conditional Use Permits may be allowed in any district on an annual basis when, in the opinion of the Planning Commission, this use will not violate the spirit or intent of this Ordinance. Temporary Conditional Use Permits shall be issued for a period of not longer than one year and renewal shall be at the discretion of the Planning Commission, and shall not be renewed after the special conditions under which they were issued no longer exist. Such permits may be issued for the following:

- (a) Sub-standard size mobile homes for temporary use.
- (b) Any mobile home located on land not owned by the owner of the mobile home outside of a State Licensed Mobile Home Park.

9.10.4 When a mobile home is to be used as a second residence on a farm to house members of the farming family, or for help employed full time on the farm, the 720 square foot requirement may be waived if the mobile home is currently existing in the County as a legal non-conforming structure outside of a mobile home park.

## 9.11 Commercial Feedlots

### 9.11.1 Permits

All proposed commercial feedlots shall require a separate permit to be submitted to the Zoning Administrator and to the Pollution Control Agency for review. The following information shall be submitted as part of this permit:

- (1) A map or aerial photo indicating dimensions of feedlot and showing all existing homes, buildings, lakes, ponds, water courses, wetlands, dry-runs, rock outcroppings, roads, wells, and general contour and north arrow.
- (2) A description of the geological conditions, soil types, and ground water elevations, including the high water table to a depth of ten (10) feet below the lowest elevation on the site.
- (3) A plan indicating an operational procedure, the location and specifications of proposed animal waste treatment facilities, land used for the disposal of waste and the quantity and type of effluent to be discharged from the site.
- (4) Should the land indicated as a disposal site not be owned by the applicant, a lease must be submitted indicating that the applicant has the right to dispose of waste on said property.

### 9.11.2 Set-back Requirements

The following set-back requirements shall be used on all feedlots:

- (1) No feedlot shall be located within one thousand (1,000) feet of the normal high water mark of any lake, pond, or flowage, or within three hundred (300) feet of a river or stream.
- (2) No feedlot shall be located within the Flood Plain.
- (3) Feedlots shall not be located within one thousand (1,000) feet of a public park.
- (4) Feedlots shall not be located within one-half ( $\frac{1}{2}$ ) mile of ten (10) or more non-farm dwellings.

9.12 Field Windbreak

No person shall remove or destroy any field windbreak or pine plantation, nor remove trees or stumps remaining after a field windbreak or pine plantation is destroyed by natural causes or any cause, in an agricultural district of the county without first making an application for and obtaining a conditional use permit. No such permit shall be issued unless the land owner has entered into a contractual restrictive covenant providing for the implementation of an alternate erosion control plan meeting the standards and specifications contained in the Benton Soil and Water Conservation District Technical Guide, of which a copy is filed with the Benton County SCS District Office, said covenant to run with the land. The restrictive covenant must be approved by the County Board before a permit may be issued and must be recorded in the office of the County Recorder. No permit shall be required for the normal harvest of trees planted for harvesting, for ornamental or decorative purposes, or for the normal and necessary thinning of trees in a field windbreak or pine plantation.

10.0 Subdivision Regulations

10.1 Purpose

All subdivisions of land hereafter submitted for approval shall fully comply, in all respects, with the regulations set forth herein. It is the purpose of these regulations to:

- (1) Encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction.
- (2) Provide for the health and safety of residents by requiring the necessary services such as properly designed streets and adequate sewage and water service.
- (3) Place the cost of improvements against those benefiting from their construction.
- (4) Secure the rights of the public with respect to public lands and waters.

10.2 Procedure

Before subdividing any tract of land within Benton County, the following procedures shall be followed, except as hereinafter provided for in Section 10.10:

Pre-Application Meeting

Prior to the preparation of a preliminary plat, the subdividers or owners may meet with the Benton County Planning Commission, the Zoning Administrator, and other appropriate officials in order to be made fully aware of all applicable ordinances, regulations and plans in the area to be subdivided. At this time or at subsequent informal meetings, the subdivider may submit a general sketch plan of the proposed subdivision and preliminary proposals for the provision of water supply, waste disposal and roads. The sketch plan can be presented in simple form but should show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivisions and developments, and to the topography of the site.

The subdivider is urged to avail himself of the advice and assistance of the Planning Commission and County staff at this point in order to save time and effort, and to facilitate the approval of the preliminary plat.

Preliminary Plat

- (1) After the pre-application meeting, the subdividers or owners shall file with the Administrator five copies of a preliminary plat and a fee as set by separate action of the County Board. This fee will be used for the expenses of the County in connection with the review of said plat.

(2) Within forty-five (45) days after the plat was filed and after reports and certifications have been received as requested, the County Planning Commission shall hold a public hearing on the preliminary plat after notice of the time and place thereof has been published once in the official newspaper at least ten (10) days before the day of the hearing in addition to written notices as required by M.S. 394.26. This shall constitute the public hearing on the plat as required by state law. Within fifteen (15) days of the date of the public hearing, the Planning Commission shall make its report to the County Board.

The County Board shall act to approve or disapprove. If the Board disapproves the preliminary plat, the grounds for any such disapproval shall be set forth in the minutes of the Board meeting and reported to the owners or subdividers.

Final Plat

(1) The owners or subdividers shall file five (5) copies of the final plat with the County Board. If this is not done within ninety (90) days after preliminary plat approval, the preliminary plat will be considered void unless for good cause an extension is requested in writing by the subdivider and granted by the Board. The owners or subdividers shall also submit at this time an up-to-date certified abstract of title or registered property report and a current title opinion from an attorney.

(2) The final plat shall have incorporated all changes recommended by the County Zoning Administrator, the County Engineer regarding county roads, the County Planning Commission and County Board as conditions to approval of the preliminary plat, but in all other respects it shall conform to the preliminary plat as approved. It may constitute only that portion of the approved preliminary plat which the subdivider proposed to record and develop at that time, provided that such a portion conforms with all requirements of this Ordinance.

(3) The County Zoning Administrator shall refer two copies of the final plat to the Planning Commission for its review and report. The report of these agencies and persons shall be submitted to the County Board within thirty (30) days of the date of submission of the plat and the County Board shall act on the final plat within sixty (60) days of submission of the plat.

(4) Upon approval of the final plat by the County Board, the subdivider shall record such final plat with the County Recorder as provided for by that office, within sixty (60) days after the approval. Otherwise the approval of the final plat shall be considered void. The subdivider shall, within thirty (30) days of recording, furnish the County with three black line prints and a reproducible print of the final plat showing evidence of the recording.

10.3 Data for Preliminary Plat

Identification and Description

- (1) Proposed name of subdivision, which shall not duplicate or be similar in pronunciation or spelling to the name of any plat heretofore recorded in the County.
- (2) Location by section, township, range and by metes and bounds description.
- (3) Names and addresses of the record owner and any agent having control of the land, subdivider, land surveyor, engineer, and designer of the plat.
- (4) Graphic scale not less than one (1) inch to one hundred (100) feet.
- (5) North direction.
- (6) Key map including area within one (1) mile radius of plat.
- (7) Date of preparation.
- (8) A current Abstract of Title or a Registered Property Certificate along with any unrecorded documents affecting title and a current opinion of title by the subdivider's attorney.

Existing Conditions

- (1) Boundary line of proposed subdivision.
- (2) Existing zoning classifications for land within and abutting the subdivision.
- (3) A general statement on the approximate acreage and dimensions of the lots.
- (4) Location, right-of-way width, and names of existing or platted streets, or other public ways, parks, and other public lands, permanent buildings and structures, easements and section and corporate lines within the plat and to a distance one hundred fifty (150) feet beyond shall also be indicated.
- (5) Boundary lines of adjoining unsubdivided or subdivided land, within one hundred fifty (150) feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.

- (6) Topographic data, including contours at vertical intervals of ten (10) feet, water courses, marshes, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. USGS datum shall be used for all topographic mapping where feasible.
- (7) Soil percolation and boring tests may also be required if conditions warrant it.
- (8) A central water and sewer system feasibility study to be completed by a registered civil engineer, if a central water and sewer system is determined to be feasible. Where a central sewer system is found to be unfeasible, a qualified soil scientist from the SCS shall report on the feasibility of individual home sewer systems and shall include soil borings and percolation tests as needed to verify conclusions.
- (9) A survey prepared by a qualified person, identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing.
- (10) The flood plain, floodway and flood fringe areas as determined by standards set forth in NR 86(c) must be clearly labeled on the plat.

#### Subdivision Design Features

- (1) Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross sections, and proposed names of streets. The name of any street heretofore used in the county or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used.
- (2) Locations and widths of proposed alleys and pedestrian ways.
- (3) Layout, numbers and preliminary dimensions of lots and blocks.
- (4) When lots are located on a curve, the width of the lot at the building setback line.
- (5) Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
- (6) Park dedication areas.

Other Information

- (1) Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.
- (2) Provision for surface water disposal, drainage, and flood control.
- (3) If any zoning changes are contemplated, the proposed zoning for the areas.
- (4) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission shall require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be shown to relate well with existing or potential adjacent subdivisions.
- (5) Potential resubdivision and use of excessively deep lots shall be indicated in a satisfactory manner.
- (6) A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, and landscaping of the erosion and sediment control system.
- (7) A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted.
- (8) A water feasibility study shall also be required to determine if water is readily available. No water well shall have a casing larger than four (4) inches.
- (9) Such other information as may be requested by the County Zoning Administrator.

Approval of Preliminary Plat

The County Planning Commission and the County Zoning Administrator may forward to the County Board a favorable, conditional or unfavorable report and said reports shall contain a statement of findings and recommendations. The County Board may require as a condition of approval, such changes or revisions as it deems necessary for health, safety, general welfare and convenience of the people of the County.

The approval of a preliminary plat is an acceptance of the general layout as submitted, and indicates to the subdivider that he may proceed toward final plat in accordance with the terms of approval and provisions of the ordinance.

During the intervening time between approval of the preliminary plat and the signing of the final plat, the subdivider must submit acceptable engineering plans for all required improvements.

10.5 Data for Final Plat

General

The plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall comply with the provisions of Minnesota State Statutes and of this Ordinance.

Surveying requirements of the final plat shall be under the regulation of the County Engineer.

The subdivider or owner shall prepare a map showing all existing and proposed private restrictions.

Restrictive deed covenants shall be filed with the final plat and shall provide that the flood plain area be left essentially in the state shown on the plat, establish finished elevations of buildings, structures and private streets and roads, and require that additions or modifications to these facilities will not violate any provisions of the flood plain zoning ordinances or supplemental regulations.

A title opinion by a practicing attorney-at-law based upon an examination of an abstract of the records of the County Recorder or the Registrar of Titles for the lands included within the plat and showing the title to be in the name of the owner or subdivider. The date of continuation of the abstract examined or the date of the examination of the records shall be within thirty (30) days prior to the date the final plat is filed with the County Auditor. The owner or subdivider shown in the title opinion shall be the owner of record of the platted lands on the date of recording of the plat with the County Recorder or Registrar of Titles.

Execution by all owners of any interest in the land, including any holders of a mortgage therein of the certificate required by Minnesota Statutes and which certificate shall include an accurate legal description of any area to be dedicated for public use and shall include a dedication to the County of sufficient easements to accomodate utility services in such form as shall be approved by the County Attorney.

Certifications

(1) Form for approval by signature of county officials concerned with the recording of the plat.

(a) No delinquent taxes and transfer entered this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
(Name)  
Benton County Auditor

(b) Document Number \_\_\_\_\_

I hereby certify this instrument was filed in the office of the Benton County Recorder for record on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_.M., and was duly recorded in Book \_\_\_\_\_ of \_\_\_\_\_ on page \_\_\_\_\_.

\_\_\_\_\_  
(Name)  
County Recorder, Benton County

(c) If property being platted is in the Torrens System, use the following:

Document Number \_\_\_\_\_

I hereby certify this instrument was filed in the office of the Registrar of Titles for record on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_.M., and was duly recorded in Book \_\_\_\_\_ of \_\_\_\_\_ on page \_\_\_\_\_.

\_\_\_\_\_  
(Name)  
Registrar of Titles, Benton County

(2) Form of approval of the County.

(a) Approved by the Planning Commission of the  
County of Benton, Minnesota, this \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_.

Signed Chairman

Signed \_\_\_\_\_  
Secretary

(b) Approved by the Board of County Commissioners of  
Benton County, Minnesota, this \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_.

(3) Form for approval of the County Attorney.

I hereby approve this plat as to form and execution.

(Name) Benton County Attorney

## 4.0.6 Subdivision Design Standards

## General Requirements

- (1) The Planning Commission, in its review of the preliminary plat, will take into consideration the requirements of the community and the best use of the land being subdivided.
- (2) The arrangement, character, extent, width and location of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Wherever possible and necessary, the arrangement of streets in new subdivisions shall provide for the continuation of existing streets in adjoining areas. Where adjoining unsubdivided areas may be subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations.

Streets

(1) Widths: Street right-of-way widths shall conform to the following minimum dimensions:

<u>Street</u>		<u>Right-of-Way Width</u>	
		<u>Minimum</u>	<u>Desirable</u>
Major Arterial	(state)	150 ft.	300 ft.
Minor Arterial	(county)	80 ft.	150 ft.
Collectors	(city or township)	66 ft.	100 ft.
Local	(city or township)	50 ft.	80 ft.

(2) Street Intersections: Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two streets be less than 60 degrees. Intersections having more than four corners shall be prohibited. Adequate land for future intersection and interchange construction needs shall be dedicated.

(3) Tangents: A tangent of at least three hundred (300) feet shall be introduced between reverse curves on arterial and collector streets.

(4) Deflections: When connecting street lines deflect from each other at one point by more than ten (10) degrees they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than five hundred (500) feet for arterials, three hundred (300) feet for collectors, and one hundred (100) feet for all other streets.

(5) Street Jogs: Street jogs with centerline offsets of less than 150 feet shall be avoided for local streets.

(6) Local Streets: Minor streets shall be laid out so that their use by through traffic is discouraged.

(7) Cul-de-sacs: The maximum length of a street terminating in a cul-de-sac shall be 500 feet, measured from the centerline of the street of origin to the end of the right-of-way.

(8) Centerline Gradients: All centerline gradients shall be at least 0.5 percent and shall not exceed the following:  
arterials and collector streets - 5 percent, minor streets and marginal access streets - 8 percent.

(9) Access to Arterial Streets: In the case where a proposed plat is adjacent to a limited access highway (arterial), there shall be no direct vehicular or pedestrian access from individual lots to such highways. As a general requirement, access arterials shall be at intervals of not less than  $\frac{1}{4}$  mile and through existing and established cross roads where possible.

- (10) Platting of Small Tracts: In the platting of small tracts of land fronting on arterial streets where there is no convenient access to existing entrances and where access from such plat would be closer than  $\frac{1}{4}$  mile from an existing access point, a temporary entrance permit may be granted by the appropriate jurisdiction. Provision shall be made in such plats for the connection of roads to neighboring land. As the neighboring land is platted and developed, and access becomes possible at a preferred location, such temporary entrance permits shall become void.
- (11) Half Streets: Half streets shall be prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted. The probable length of time elapsing before dedication of the remainder shall be considered in this decision.
- (12) Private Streets: Private streets shall be permitted; however, they must conform to the same standards as public streets.
- (13) Hardship to Owners of Adjoining Property: The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

#### Blocks

- (1) The length, width and acreage of blocks shall be sufficient to provide for convenient access, circulation, control and safety of street design. Blocks may be longer than 1300 feet or shorter than 300 feet only if the County Zoning Administrator and Highway Engineer agree that exceptions are warranted. Exceptions may be warranted in order to foster design originality provided that such exceptions do not violate sound planning principles. Pedestrian ways may be required on blocks longer than 900 feet or in other areas to provide access to schools, parks and other destinations. Pedestrian ways shall be at least ten (10) feet wide and shall be located so as to minimize intersections with streets.

#### Lots

- (1) Size: The lot dimensions shall be such as to comply with the minimum lot areas specified in the zoning ordinance.
- (2) Side Lot Lines: Side lines of lots shall be substantially at right angles to straight street lines or radial or curved street lines.

- (3) Lots: Lots shall be graded so as to provide drainage away from building locations.
- (4) Natural Features: In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, wetlands, steep slopes, water courses, historic spots, or similar conditions, and plans adjusted to preserve those which will add attractiveness, safety and stability to the proposed development.
- (5) Lot Remnants: All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as substandard parcels.
- (6) Through Lots: Through lots (lots with frontage on two parallel streets) or reverse frontage shall not be permitted except where lots back on an arterial or collector street. Such lots shall have an additional depth of at least ten (10) feet in order to allow for screen planting along the back lot line.

#### Sewage Disposal

In areas being platted for rural development, the size and relative location of on-site soil absorption sewer systems shall be governed by the Sewage Disposal Standards as stated in Section 9.6 of this Ordinance. In addition, the following requirements shall also apply:

- (1) No cesspools will be allowed. Seepage pits will only be allowed where it can be demonstrated that a drainfield will not function properly and that a seepage pit will function without danger of contamination to surface and subsurface water resources.
- (2) On each lot, there shall be an area preserved for the construction of an additional drainfield system should the original drainfield fail. The area set aside for a second drainfield shall be of a size and so located that a drainfield can be constructed that will meet all standards on size and setbacks recommended by the Minnesota Department of Health.
- (3) No part of any drainfield shall be within 75 feet of any well.
- (4) No septic tank shall be smaller in size than 750 gallons liquid capacity.
- (5) No septic tank shall be constructed of metal.

#### Tree Removal and Conservation of Vegetation

All subdivisions shall be planned, designed, constructed and maintained so that:

- (1) Existing healthy trees and native vegetation on the site are preserved to the maximum extent feasible and are protected by adequate means during construction.
- (2) Existing native vegetation is not disturbed, injured or removed prior to site development, except to the extent necessary for the preparation of a tentative map.

#### Erosion and Sediment Control

The following guidelines shall be applied in the subdivision and construction of land areas:

- (1) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.
- (2) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
- (3) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
- (4) When soil is exposed, the exposure shall be for the shortest reasonable period of time.
- (5) Where the topsoil is removed, a sufficient amount shall be set aside for respreading over the developed area. The soil shall be restored to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.

#### Drainage

The natural drainage system shall be used as far as is feasible for the storage and flow of runoff.

The following requirements shall also apply:

- (1) Storm water drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control.

- (2) No existing ditch, stream, drain or drainage canal shall be deepened, widened, filled, rerouted or filled without written permission from the County Board.
- (3) Where artificial channels must be constructed to augment the natural drainage systems, such channels, as well as the natural drainage ways, may be planned as part of a recreation trail system. Channels shall be designed to be aesthetically compatible for recreational trail use.
- (4) The drainage system shall be constructed and operational as quickly as possible during construction.

Easements

All easements shall be dedicated by appropriate language on the plat as required by Section 505.02, Subdivision 2, M.S.A.

- (1) Provided for Utilities: Easements at least twelve (12) feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary. They shall have continuity of alignment from block to block.
- (2) Drainage: Easements shall be provided along each side of the centerline of any water course or drainage channel, whether or not shown in the comprehensive plan, to a width sufficient to provide proper maintenance and protection and to provide for storm water runoff from a ten year storm of one hour duration. Where necessary, drainage easements corresponding with lot lines shall be provided. Such easements for drainage purposes shall not be less than twenty (20) feet in width.

10.7 Improvements Required

Improvements Listed and Described

Prior to the approval of a final plat, the subdivider shall have agreed in the manner set forth below to install in conformity with construction plans approved by the County Engineer and in conformity with all applicable standards and ordinances, the following improvements on the site:

- (1) Monuments: Monuments of a permanent character, as required by Section 505.02, M.S.A., shall be placed at each corner or angle on the outside boundary of the subdivision; and pipes or steel rods shall be placed at each corner of each lot and each intersection of street centerline.

- (2) Streets: The full width of the right-of-way of each street and alley dedicated in the plat shall be graded. All streets and alleys shall have an adequate sub-base and shall be improved with an all-weather permanent surface in accordance with the design standards specified by the applicable Township and/or the County. Except in areas where lot widths exceed one hundred (100) feet or topography or tree cover dictates otherwise, grading shall provide for each installation of sidewalks at some future date.
- (3) Paving: The County Board may require that all streets and alleys be improved with a concrete or bituminous surface. Paving shall be required if central sewer and water surfaces are provided. If central sewer and water services will not be provided for at least ten (10) years, paving may be required. If central sewer and water services are to be provided within ten (10) years, paving should not be required until after the central sewer and water services are installed. The County may require a cash deposit to be used for paving the streets after central sewer and water services are provided. Streets to be paved shall be surfaced for five-ton axle weight capacity.
- (4) Concrete Curb and Gutter: Concrete curb and gutter may be required for all paved streets.
- (5) In all subdivisions the subdivider shall either:
  - (a) Install a system providing each lot with an adequate supply of potable water or,
  - (b) State on his final plat that purchasers of individual lots will be required to install their own approved wells.
- (6) Park Dedication: An area of public open space equal to 7% of the gross area subdivided shall be dedicated for public recreation space, not including dedications for streets, alleys, easements or other public use. Such area must be approved as being suitable and needed for the public health, safety, convenience and general welfare. When, in the opinion of the Benton County Board of Commissioners, the subdivision is too small for practical dedication or no land within the proposed subdivision is suitable, or if no need for land dedication is perceived, the subdivider shall pay a fee equal to the greater of \$50 per lot created or 7% of the subdivided land value (assessed valuation) prior to subdivision.
- (7) Street Lighting: Street lighting of a type approved by the County may be required at all intersections within the subdivision.

(8) Sewage Disposal: Sanitary sewer mains and service connections shall be installed to serve all the lots in the subdivision and shall be connected to the public system. When a subdivision cannot be connected immediately to a trunk line of the county system, but in the opinion of the County Board and County Engineer, a trunk line will be extended to serve the area within five years through the County disposal system, the County may require that sewer mains and service connections be installed within the subdivision and the entire system connected to a temporary, package sewage treatment plant.

In areas being platted for rural real estate development with large lots, as specified in this Ordinance, individual on-site sewage disposal facilities shall be provided for each lot. On-site sewage disposal systems shall be so located as to permit easy and the least expensive connection to the sewer when it becomes available and usable. Where such on-site units are installed, the subdivider shall provide underground plumbing to extend three (3) feet beyond the footing which shall be temporarily plugged. The area around the stack shall be scored so that the septic tank line can be disconnected and connection can be made with the public sanitary sewer system.

When an individual sewage system is used and the septic tank is placed on a side other than that from which the public sewer would connect, it shall be required that a capped sewage disposal line shall be extended from the point of ground entrance to basement or house to a point five (5) feet beyond and to the side from which the future sewer connection will be made. Inside the basement the elbow shall be set up to be easily reversed for connection to the capped line.

There shall be no overflow outlets from septic tanks or seepage pits allowing effluent to flow to any waterway, drainage way or roadside ditch.

The subdivider or owner shall be required to provide appropriate soil borings and percolation tests in order to determine proper sewage system design. Standards for the installation of home sewer systems can be found in Section 9.6 of this Ordinance.

(9) Drainage: A system that will adequately take care of the surface water runoff within the subdivision shall be provided. Storm sewers and culverts shall be installed where necessary in conjunction with the grading of streets. Cross drains shall be provided to accomodate all natural water flow and shall be of sufficient length to permit full-width roadways and required side slopes. Drainage ditches shall be sodded to prevent erosion.

(10) Street Signs: Street signs of standard design approved by the County shall be installed at each street intersection.

(11) Public Utilities: All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles.

10.8 Payment for Installation of Improvements

The required improvements to be furnished and installed by the subdivider, which are listed and described above, are to be furnished and installed at the sole expense of the subdivider and at no expense to the public; provided, however, that in the case of an improvement, the cost of which would by general policy of the governing body be assessed only in part to the improved property and the remaining cost paid out of general tax levy, the County Board may make provision for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the County. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, the County Board may make provision for causing a portion of the cost of the improvement representing the benefit of such lands to be assessed against the same; the in such case the subdivider will be required only to pay for such portions of the whole cost of said improvements as will represent the benefit to the property within the subdivision.

Required Agreement Providing for Proper Installment of Improvements

Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a contract in writing with the County requiring the subdivider to furnish and construct said improvements at his sole cost in accordance with the plans and specifications and usual contract conditions all approved by the County Board which shall include provisions for supervision of details of construction by the County Zoning Administrator and grant to the Administrator the authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the County in the vicinity. The agreement shall require the subdivider to make an escrow deposit or in lieu thereof to furnish a performance bond.

The amount of the deposit and the penal amount of the bond shall equal the Administrator's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection by the County.

The time for completion of work and the several parts thereof shall be determined by the County Board upon recommendation of the Zoning Administrator after consultation with the subdivider and shall be reasonable in relation to the work to be done, the season of the year, and proper correlation with construction activity in the subdivision.

Financial Guarantee

The contract shall require the subdivider to make an escrow deposit or in lieu thereof furnish the performance bond as follows:

- (1) Escrow Deposit: An escrow deposit shall be made with the County, including cost of inspection by the County of all improvements to be furnished and installed by the subdivider pursuant to the contract, and which have not been completed prior to the approval of the final plat; but the County shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by the County for completion of the work in case of default of the subdivider under said contract and for any damages sustained by the County on account of any breach thereof. Upon completion of the work and termination of any liabilities to the County or the subdivider under said contract, the balance remaining of said deposit shall be refunded to the subdivider.
- (2) Performance Bond: In lieu of making an escrow deposit above described, and if the County Board so agrees, the subdivider may furnish the County with a public contract of performance bond, in the form prescribed by statute, with corporate surety in a penal sum equal to the total cost as estimated by the Zoning Administrator including cost of inspection of all improvements to be furnished and installed by the subdivider pursuant to the contract and which have not been completed prior to approval of the final plat. The bond shall be approved by the County Attorney and filed with the Auditor.

Construction Plans

Construction plans for the required improvements, conforming in all respects to the standards of the County and the applicable ordinances, shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota; and said plans shall contain his seal. Such plans, together with the quantity of construction items, shall be submitted to the Administrator for his approval and for his estimate of total cost of the required improvements; upon approval they shall become a part of the contract. The tracings of the plans approved by the County, plus two prints, shall be filed with the County.

## 10.9 Modifications, Exceptions and Variances

### Hardship

The Board of Adjustment may grant a variance upon receiving a report from the Planning Commission in any particular case where the subdivider can show by reason of exceptional topography or any other physical conditions that strict compliance with these regulations would cause exceptional and undue hardship provided such relief may be granted without detriment to the public welfare and without impairing the intent and purpose of these regulations. The Planning Commission may recommend variations from the requirements of this ordinance in specific cases which, in its opinion, do not affect the land use plan or the intent of this Ordinance. Any modifications thus recommended shall be entered in the minutes of the Planning Commission in setting forth the reasons which justify the modifications. The Board of Adjustment may approve variances from these requirements in specific cases which, in its opinion, do not affect the comprehensiveness and spirit of this ordinance.

### State and Special District Considerations

It shall be the responsibility of any unit of government involved to refer any preliminary plat to appropriate special districts or state agencies affected and involved, if any of the following circumstances exist:

- (1) Items of regional or state significance are involved such as regional parks, state highways, sewer extensions, or similar matters.
- (2) Pollution (air, water, ground) may be a factor.
- (3) Airports, mass transit, schools, major employment centers, or similar considerations are involved.
- (4) Flooding, shoreland, streams, watershed problems, or similar considerations are involved.

### Easements

All easements required for public purposes shall be provided at locations approved by the governing body. Said easements may be for utilities, drainage, floodplain protection, lakeshore access, walking trails, etc. However, all easements other than utility and drainage easements must be transferred and recorded at the office of the County Recorder prior to plat approval. No plat shall be approved that may for any reason be detrimental to local, county or regional utility plans.

Oversizing of utilities to provide future service for more intense development of the land or to provide future service to other areas may be required.

### Land Division

In any case where the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development does not come within the definition of subdivision as defined by this ordinance, a description of such land division shall be filed with the County Planning Advisory Commission.

#### 10.10 Small Subdivisions

It is not the intent of this Ordinance to require that subdivision plats (Minnesota Statute, Ch. 505) be required for all subdivisions. The county board recognizes that the public health, safety and general welfare may be secured and substantial justice done by simplifying the process of making small subdivisions.

When any lot or parcel of land is split or subdivided to result in from two to not more than five lots or parcels, then the subdivider in lieu of fulfilling the requirements of Sections 10.1 through 10.9 may apply to the zoning administrator for approval of the small subdivision, provided he fulfills the requirements of this section.

The zoning administrator shall approve the application for a small subdivision if and when the subdivider submits the following information and complies with the following requirements:

- (1) The land split or subdivision does not result in more than five lots or parcels.
- (2) Each of the lots or parcels meets the minimum lot size requirement in the zoning district in which the land is situated.
- (3) Each lot or parcel abuts upon and has direct access to an existing public road.
- (4) A certificate of survey or registered land survey shall be required for the resultant parcels or lots.
- (5) The subdivider must submit evidence of ownership of a legal interest in the property. That may include the deed of ownership or it may be an attorney's written title opinion.
- (6) The subdivider previously has not divided the tract or parcel, including contiguous lands then or previously owned by him, in such a manner that the requested small subdivision will result in a total of more than five lots or parcels, including those tracts or parcels previously subdivided by said owner.

In the event that the zoning administrator has reason to believe that the subdivider intends to repeatedly use the small subdivision provisions to thwart the purpose and requirements of Section 10.0 of this Ordinance, he may elect to refer the application to the planning commission for action thereon.

10.11 Conveyance by Metes and Bounds

Subdivided land parcels may be conveyed by metes and bounds property description. However, no building permit may be issued for any such parcel that has not been surveyed and a certificate of survey or registered land survey been filed in the office of the County Recorder.

11.0 Administration

11.1 Purpose

The following sections outline the major zoning and subdivision procedures for implementation of the Development Code.

11.2 Zoning Administrator

The office of the zoning administrator is hereby established, for which the County Board may appoint such staff as it may deem proper. The term of office of the zoning administrator shall be indefinite and shall terminate at the pleasure of the County Board.

11.2.1 Duties

The zoning administrator shall:

- (a) enforce and administer the provisions of this Ordinance;
- (b) issue permits and maintain records thereof;
- (c) receive and forward to the county planning commission and the county board applications for conditional use permits, subdivision plats and petitions for ordinance amendments, including rezoning;
- (d) receive and forward applications and petitions for matters to come before the board of adjustment;
- (e) maintain the county zoning map as amended from time to time by ordinance of the county board;
- (f) conduct inspections to determine compliance with the provisions of this Ordinance;
- (g) serve as ex-officio member of the planning commission;
- (h) such other matters and responsibilities as the county board may assign from time to time;
- (i) collect all fees required by this Ordinance;
- (j) file for record with the county recorder or registrar of titles all conditional use permits, variances and appellate orders of the board of adjustment.

11.3 Planning Commission

11.3.1 There is hereby created the Benton County Planning Commission.

11.3.2 Membership

The planning commission shall be composed of eleven (11) members. Each member shall be appointed by the county board.

There shall be one member from Commissioner District Four (4) and one member from Commissioner District Five (5). The county commissioner from the applicable district will recommend to the county board a nominee from the district for planning commission membership.

The remaining nine members shall be residents of County Commissioner Districts One, Two or Three. There shall be one member selected from each of the following townships: St. George, Glendorado, Graham, Langola, Watab and Mayhew Lake. There shall be one member selected from each pair of the following combined township areas: Gilmanton-Maywood, Granite Ledge-Alberta, and Sauk Rapids-Minden. The county board shall select and appoint the member from a list of nominees recommended by the applicable township board, or boards, of supervisors.

#### 11.3.3 Term of Office

Commission members shall serve three-year staggered terms. Appointment to the planning commission shall be made at the January meeting of the county board, or as soon thereafter as it is practicable.

#### 11.3.4 Ex-officio Members

The following are appointed as non-voting ex-officio members of the planning commission:

The County Attorney  
The County Coordinator  
A County Commissioner  
The SCS Soils Technician  
The Extension Director  
The Land Use & Agricultural Inspector

#### 11.3.5 Removal

Any member of the planning commission may be removed from the commission by majority vote of the County Board for failing to attend three consecutive meetings or five meetings within a calendar year or for conduct or activity detrimental to or in conflict with the ends and purposes of County planning and zoning. Before removal, such commission member shall be given written notice by the County Board, and an opportunity to be heard by the County Board. An excused absence for just cause will not be counted when making the above determination.

11.3.6 Vacancy

Any vacancy on the planning commission shall be filled in the same manner as above provided for appointments. Such an appointment shall be limited to the unexpired term of the vacancy.

11.3.7 Officers

The planning commission shall elect a chairman, a vice-chairman and a secretary from among its members.

11.3.8 Conflict of Interest

Any planning commission member who has a conflict of interest on any issue before the commission shall not be allowed to participate as a commission member on such issue. Any question of whether the particular issue involves a conflict of interest sufficient to disqualify a commission member from acting thereon, shall be decided by majority vote of all commission members present except the member who is being challenged.

11.3.9 Powers and Duties

The planning commission shall have the powers and duties established by law, and in addition thereto, the following:

1. To conduct public hearings concerning the issuance of conditional use permits and the application of this Ordinance pertaining to subdivisions.
2. To conduct such other public hearings as required by law for the administration of this Ordinance except those which are assigned to the board of adjustment and County Board.
3. To finally approve all conditional use permits and order the issuance thereof.
4. To review and report to the County Board on plans for subdivision of land.

Separate written findings of fact shall be made by the planning commission for each conditional use permit granted or denied.

11.3.10 Compensation

Except as hereinafter provided, the members and ex-officio members of the planning commission may receive a per diem and mileage as determined by separate action of the County Board. No member or ex-officio member who receives compensation or mileage from a government unit, including the County, for attending the planning commission meetings shall be entitled to additional mileage or per diem.

11.4 Board of Adjustment

- 11.4.1 There is hereby created the Benton County Board of Adjustment.
- 11.4.2 The Board of Adjustment shall consist of five members representing each of the five commissioner districts and shall be appointed by the Board of County Commissioners. At least one member shall be a resident of the unincorporated portion of the county. One member of the Board of Adjustment shall also be a voting member of the planning commission. No elected county officer nor any employee of the county shall serve as a member of the Board of Adjustment.
- 11.4.3 The members of the Board of Adjustment shall be paid a per diem and their mileage in an amount to be determined by separate action of the County Board.
- 11.4.4 Except for the representative of the planning commission and the first Board of Adjustment, the members shall serve three year terms. The terms of office shall be staggered terms. On the first Board of Adjustment, except for the representative of the Planning Commission, two members shall serve for three years, one member shall serve for two years, and one member shall serve a one year term. The terms of office of the first board shall be determined by said members by lot. The representative of the Planning Commission shall always serve a one year term. The members shall serve until their successors are appointed and have qualified for the office. The members shall be appointed at the January meeting of the Board of Commissioners, or as soon thereafter as practicable. The interim between the appointment of the members of the first Board of Adjustment and the next January shall be in addition to the aforesaid term of office. Members may be appointed for more than one term of office. The County Board of Commissioners shall fill vacancies with new members who shall serve for the unexpired terms. All members shall serve at the pleasure of the County Board of Commissioners.
- 11.4.5 The Board of Adjustment shall elect a chairman and a vice chairman from among its members and shall appoint a secretary who need not be a member of the Board. It shall adopt rules for the transaction of its business and such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The Board shall provide for a record of its proceedings which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order.
- 11.4.6 The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify.

11.4.7 Appeals. An aggrieved party may appeal to the Board of Adjustment from any order, requirement, decision, or determination made by any administrative official charged with enforcing this Ordinance. Actions of the Planning Commission and the County Board shall not be appealable to the Board of Adjustment.

The appeal shall be taken by filing written notice thereof with the zoning administrator not more than thirty (30) days after the order, requirement, decision or determination appealed from.

The notice of appeal shall be in writing and shall specify the grounds thereof.

The filing fee established by the County Board shall be paid to the zoning administrator at the time of filing the notice of appeal as a condition of perfecting the appeal.

11.4.8 The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control, including restrictions placed on non-conformities. Application for a variance shall be made to the Board of Adjustment on forms provided by the zoning administrator by filing such application and paying the filing fee with the zoning administrator. The Board of Adjustment shall fix a reasonable time for the hearing on the application and give notice thereof as required by law.

11.4.9 A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance, shall be filed for record with the county recorder or the registrar of titles. The order issued by the Board of Adjustment shall include the legal description of the property involved. The zoning administrator shall be responsible for meeting the requirements of this subdivision.

The zoning administrator shall be responsible for giving written notice of the decision or order of the Board of Adjustment to the proper parties having matters before the Board of Adjustment.

11.4.10 The Board of Adjustment shall have such other powers and duties as are assigned to it by law.

11.4.11 Separate written findings of fact shall be made by the Board of Adjustment for each variance granted or denied and for each appellate decision made.

## 11.5 Variances

### 11.5.1 Criteria for Granting Variances

- (1) The proposed use is not prohibited in the zoning district in which the subject property is located.
- (2) The variance must be in harmony with the general purposes and intent of this Ordinance.
- (3) The terms of the variance must be consistent with the comprehensive plan.
- (4) The landowner must show that the variance is necessary to alleviate practical difficulties or particular hardship in the way of carrying out the strict letter of this Ordinance. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Ordinance.

### 11.5.2 Procedure

- (1) The person applying for a variance shall fill out and submit to the Zoning Administrator a variance application which shall include a statement of the difficulties or particular hardships claimed along with the filing fee.
- (2) The Zoning Administrator shall refer the application to the Board of Adjustment for review.
- (3) The Board of Adjustment shall hold a public hearing on the proposal. Notice of the time, place and purpose of the public hearing shall be according to Minnesota Statute 394.26.
- (4) The petitioner or his representative shall appear before the Board of Adjustment in order to present evidence concerning the proposed variance.
- (5) The Board of Adjustment may impose conditions on the granting of variances to insure compliance and to protect adjacent properties and the public interest.
- (6) No resubmission of application for six (6) months will be allowed without new evidence.
- (7) Granted variances become void if applicant does not proceed substantially on work within six months.

## 11.6 Conditional Use Permits

### Criteria for Granting Conditional Use Permits

In granting a conditional use permit, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands. Among other things, the Planning Commission shall make the following findings where applicable:

- (1) The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- (2) The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- (3) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
- (4) The use in the opinion of the Planning Commission is reasonably related to the existing land use.
- (5) The use is consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- (6) The use is not in conflict with the Land Use Plan of the county.
- (7) The use will not cause traffic hazard or congestion.

#### 11.6.1 Conditions

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

- (1) Increasing the required lot size or yard dimension.
- (2) Limiting the height, size or location of buildings.
- (3) Controlling the location and number of vehicle access points.

- (4) Increasing the street width.
- (5) Increasing the number of required off-street parking spaces.
- (6) Limiting the number, size, location or lighting of signs.
- (7) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- (8) Designating sites for open space.

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Planning Commission, time limits, review dates, and such other information as may be appropriate.

#### 11.6.2 Procedure

- (1) The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use application form and filing fee.
- (2) The Zoning Administrator shall refer the application to the Planning Commission for review.
- (3) The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by Minnesota Statute 394.26.
- (4) The petitioner or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use.
- (5) If the Planning Commission grants the conditional use permit, it may impose conditions it considers necessary to protect the public health, safety and welfare. Such conditions may include a time limit for the use to exist or operate.
- (6) An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. The fee shall be as set by separate action of the County Board. Amended conditional use permits shall include requests for changes in conditions, and as otherwise described in this Ordinance.
- (7) No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of said order of denial.

- (8) If a time limit or period review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to review; it shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review. A public hearing for annual review of conditional use permits may be granted at the discretion of the Benton County Planning Commission.
- (9) Any conditional use permits granted shall become void if significant work is not begun within six (6) months.

#### 11.7 Building Permits

11.7.1 Hereafter no person shall erect, alter, or move any building, structure or part thereof without first securing a building permit therefore.

11.7.2 Application for a building permit shall be made to the Zoning Administrator on forms to be furnished by the County. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon, and the size and location of the building and accessory buildings to be erected. Applications for any kind of building permit shall contain such other information as may be deemed necessary by the Zoning Administrator for the proper enforcement of the ordinance. The Zoning Administrator shall issue the building permit only after determining the application complies with the terms of this Ordinance.

11.7.3 No building permit shall be required for normal maintenance such as painting, siding, roofing and other similar improvements, which do not involve exterior structural changes to the building.

11.7.4 The Zoning Administrator may deny a permit for the construction of a dwelling unit upon grounds which, according to the information furnished, is too low for proper drainage, or otherwise deemed unsuitable for building through provisions of this Ordinance.

11.7.5 The work for which a building permit is issued shall commence within six (6) months after the date thereof unless an application for an extension of sixty (60) days has been submitted and approved. The work shall be completed within one year unless an application for an extension has been submitted to and approved by the Zoning Administrator.

## 11.8 Zoning Amendments

### Procedure

- (1) An amendment to this Ordinance or the zoning map may be initiated by the County Board, the Planning Commission or by application of a property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the County Board until it has received the Planning Commission's recommendations. Individuals wishing to initiate an amendment to this Ordinance shall fill out a zoning amendment application form and submit it to the Zoning Administrator with a filing fee.
- (2) Written notice of public hearings on proposed amendments shall be sent to the governing bodies of all towns and municipalities located within the County.
- (3) A public hearing on the rezoning application shall be held by the Planning Commission and the County Board within thirty (30) days after the request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing. The Planning Commission shall make its reports to the County Board at the next regular meeting of the Benton County Board following the hearing for recommending approval, disapproval, or modified approval of the proposed amendment.
- (4) The Benton County Board must take action on the application within sixty (60) days following referral by the Planning Commission. The person making the application shall be notified of the action taken.
- (5) No application of a property owner for an amendment to the text of this Ordinance or the zoning map shall be considered by the Planning Commission within a one-year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrants it.

11.9 Fees

- 11.9.1 The fees for permits, rezonings, licenses, variances, amendments, or conditional use permits shall be established by the County Board. The County Board may review and revise the fee schedule periodically. The Administrator shall issue the permit only after the fee has been paid and a determination has been made that the building plans, together with the application, comply with the terms of this Ordinance.
- 11.9.2 Any person doing any work or instituting any action requiring a permit or license under the terms of this Development Code which was commenced before said permit or license was applied for and granted shall be in violation of the Development Code and shall pay a fee equal to twice the regular fee as set by separate action of the County Board.
- 11.9.3 Any person filing a petition for an amendment to this Ordinance or the zoning map, requesting a variance, conditional use permit or a change in regulations within any use district shall pay the prescribed fees according to the schedule established by the County Board at the time of application. The fee is payable at the time of filing a petition and is not refundable.
- 11.9.4 Municipal corporations and governmental agencies shall be exempt from the fee requirements as prescribed by this Ordinance.
- 11.9.5 Fees paid for building and on-site sewer system permits may be refunded within a six month period following the date of original application if applicant is unable to begin construction and if no on-site inspection has been made by county staff.

11.10 Violations and Penalties

- 11.10.1 Violation of this Ordinance shall be a misdemeanor.
- 11.10.2 In the event of a violation or a threatened violation of this Ordinance, the County Board, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations and it is the duty of the County Attorney to institute such action.
- 11.10.3 Any taxpayer of the county may institute mandamus proceedings in district court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

12.0 Effectuation

12.1 Separability

- 12.1.1 It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following:

12.1.2 If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.

12.1.3 If any court of competent jurisdiction shall adjudge invalid the application of any portion of this ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

12.2 Repealer

Except as hereinafter specified, all official controls adopted under Minnesota Laws, 1959, Chapter 559, and amendments thereto, by the County of Benton prior to the date of this Ordinance be and hereby are repealed, except the Benton County Solid Waste Ordinance adopted November 7, 1972, and Ordinances 102, 105, 108, 109, 110, 111, and 112.

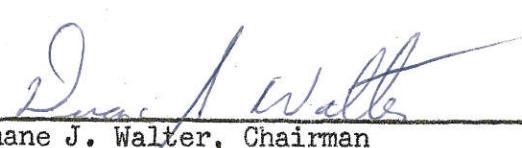
12.2.1 The above repealer clause shall not affect the validity of any judgment or order made or any other action taken prior to the effective date of this Ordinance under any repealed or amended land use regulation and does not affect any action or proceedings instituted before the effective date of this Ordinance.

12.2.2 The provisions of this Ordinance shall govern all actions and proceedings brought after it takes effect and also all further proceedings and actions then pending except to the extent that in the opinion of the court their application in a particular pending action would not be feasible, or would work injustice, in which event the provision existing at the time the action was brought shall govern.

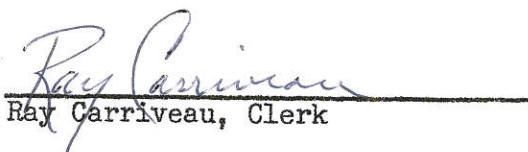
12.3 Effective Date

This Ordinance shall take effect upon passage and publication.

ORDAINED AND ADOPTED by the Benton County Board of Commissioners this 20th day of March, 1979.

  
\_\_\_\_\_  
Duane J. Walter, Chairman

ATTEST:

  
\_\_\_\_\_  
Ray Carriveau, Clerk

APPENDIX I

Additional Business District Areas  
Not Expressed on Official Zoning Map

- A. That part of Government Lot One (1), of Section Fourteen (14), Township Thirty-seven (37) North, Range Thirty-one (31) West of the Fourth Principal Meridian, described as follows, to-wit: Commencing at the Northwest corner of said Section 14; thence South along the Westerly line of said Section to a point where the same intersects the Easterly line of the right-of-way of State Trunk Highway No. 27 (now U.S. Highway No. 10) as now laid out and established by the Commissioner of Highways of the State of Minnesota; thence South-easterly along the Easterly line of said State Trunk Highway No. 27 to a point 300 feet Southeasterly of the Southerly shore line of Little Rock Creek where the same intersects with the easterly line of said Highway; thence at right angles to the last described line and in a Northwesterly direction to the Southerly shore line of Little Rock Creek or Lake as the case may be; thence in a straight line northerly to a point where the westerly meander line of Little Rock Lake intersects the Northerly line of said Section 14; thence Westerly along the Northerly line of said Section 14 to the point of beginning, all according to the Government Survey Thereof.
- B. Commencing at the Southeast corner of Section Ten (10), Township Thirty-seven (37) North, Range Thirty-one (31) West of the Fourth Principal Meridian; thence North  $3^{\circ}4'$  West, along the center line of a fence a distance of 533.30 feet to the place of beginning; thence North  $3^{\circ}40'$  West in a straight line for a distance of 175 feet to the shoreline of Little Rock Lake; thence Northwesterly along the shore line of Little Rock Lake a distance of 65 feet; thence South  $44^{\circ}50'$  West, a distance of 496 feet, more or less, to the Easterly right-of-way line of U.S. Highway No. 10; thence Southeasterly along the said easterly right of way line of Highway 10 for a distance of 200 feet; thence Northeasterly in a straight line to the place of beginning and there terminating.
- C. That part of Government Lot One (1) in Section Twenty-seven (27), Township Thirty-seven (37) North of Range Thirty-one (31) West of the Fourth Principal Meridian, lying West of the center line of the State Aid Road No. 55, lying North of the land described in the deeds recorded in Book 83 of Deeds on page 202 and Book 85 of Deeds on page 91 in the office of the Register of Deeds of said county, and lying North and East of Goodhue Creek.

D. That part of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section Twenty-three (23), Township Thirty-seven (37) North, Range Thirty-one (31) West, Fourth Principal Meridian, described as follows, to-wit:

Beginning at a point on the South line of said Section 23, said point being North 88° 50' East 376.77 feet from the Southwest corner of said Section 23; thence, continuing along said South line, North 88° 50' East 321.89 feet; thence North 01° 10' West 433 feet; thence South 88° 50' West 368.10 feet to a point on the Easterly 100 foot right-of-way line of Minnesota Trunk Highway No. 10; thence, along said right-of-way line, South 05° 54' West 326.58 feet more or less; thence South 42° 38' East 99.15 feet; thence South 05° 54' West 33.25 feet to the point of beginning; said tract being subject to a road right-of-way over the South 33 feet of the described tract, containing 3.62 acres, more or less.

