

BENTON COUNTY MINNESOTA  
CHERYL L. KANTOR  
COUNTY RECORDERBy: BS

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**BENTON COUNTY ORDINANCE NO. 468**

WHEREAS, the Benton County Department of Development instituted proceedings to amend the Benton County Ordinance 185; and,

WHEREAS, on June 26, 2018 and June 30, 2018, Notice of Public Hearing and intent to amend Benton County Ordinance was published in the official newspapers of the county; and,

WHEREAS, on July 12, 2018, the Benton County Planning Commission held a public hearing; and,

WHEREAS, on July 17, 2018 the Benton County Board of Commissioners held a public hearing and approved the proposed ordinance amendment; and,

NOW PURSUANT TO THE AUTHORITY VESTED BY MINNESOTA STATUTES SECTION 394.25, THE BENTON COUNTY BOARD OF COMMISSIONERS ORDAINS:

That the following be amended to read:

**Section 6.6 the following changes should be made:****Residential Density calculation in the Agricultural and Rural Agricultural District (Ord. #431, adopted 10/7/08)**

- a. The number of single family dwellings allowed shall be calculated as follows for standard subdivisions in Agricultural District (A):
  1. The total acreage of the tract within a quarter, quarter section shall be calculated subtracting any acreage deed restricted for density. The total tract area to be used for calculating density shall be determined as follows. The tract acreage shall include areas located in easements and land previously or proposed to be dedicated for right-of-way, if the right-of-way was a part of the original tract. If the tract contains less than 40 acres but is described by the rectangular survey system as a quarter, quarter section, also referred to as a "short quarter quarter section", that is

Benton Co. DOB  
no fee

in common ownership, the tract shall be considered eligible for up to 4 dwelling units per quarter, quarter section. For a short quarter quarter section, 40 acres will be used for the following calculations.

2. First the acreage already deed restricted for density shall be subtracted from the total acreage of the tract.
23. Next, Ten acres shall be subtracted from the result from 2 above this total for each existing dwelling unit (not to include temporary farm dwellings or temporary dwelling for supportive care).
34. The result from 1 and 2 3 above shall be divided by ten acres. This shall be the maximum number of dwelling units allowed on the entire tract.
45. The transfer of dwelling units from one quarter, quarter section to another quarter, quarter section within the a contiguous tract of land may be allowed by Conditional Use, provided that the density to be transferred is buildable and not created by wetland mitigation. The transfer may allow up to 8 units within a 40 acre tract or short the quarter, quarter section provided that the necessary deed restriction is recorded within said tract.
56. Each new dwelling unit shall be retained on a separate lot and meet the minimum lot requirements of the Agricultural District.
67. Lots of Record or parcels of land separated by a public road and less than 10 acres in size shall be exempt from items 1 – 3 above and allowed as a building site, provided such use is permitted in the zoning district and meets the setback requirements in the district in which the lot is located, the lot is in separate ownership from abutting lands, except as permitted for nonconforming shoreland lots in Section 4.2 and 7S5.20 for shoreland lots, and all sanitary sewer requirements of this Ordinance are complied with.

b. The number of single family dwellings allowed shall be calculated as follows for cluster subdivisions in Agricultural District (A):

1. The total tract area to be used to calculate density shall be determined as follows. The total acreage of the tract shall be calculated subtracting any acreage deed restricted for density. The tract acreage shall include areas located in easements and land previously or proposed to be dedicated for right-of-way, if the right-of-way was a part of the original tract. If the tract contains less than 40 acres but is described by the rectangular survey system

as a quarter, quarter section, in common ownership, the tract shall be considered eligible for up to 6 dwelling units per quarter, quarter section.

2. ~~First the acreage already deed restricted for density shall be subtracted from the total acreage of the tract. The total acreage of the tract shall be calculated subtracting any acreage deed restricted for density.~~
23. ~~Next Ten (10) acres shall be subtracted from the total the result from 2 above for each existing dwelling unit that is not part of the cluster or 6.5 acres if the existing lot is a part of the cluster subdivision. Existing dwellings are not to include temporary farm dwellings or temporary dwelling for supportive care.~~
34. The result from 1 and 23 above shall be divided by 6.5 acres. This shall be the maximum number of additional dwelling units allowed on the entire tract as part of a cluster subdivision.
45. Each new dwelling unit shall be retained on a separate lot and meet the minimum lot requirements of the cluster subdivision in accordance with Section 9.18.
6. Residual land shall be deed restricted against further division or subdivision for residential purposes.

c. The number of single family dwellings allowed shall be calculated as follows for the Rural Agricultural District (R-A):

1. The total acreage of the tract shall be calculated subtracting any acreage deed restricted for density. The tract acreage shall include areas located in easements and land previously or proposed to be dedicated for right-of-way, if the right-of-way was a part of the original tract.
2. Five (5) acres shall be subtracted from this total for each existing dwelling unit (not to include temporary farm dwellings or temporary dwelling for supportive care)
3. The result from 1 and 2 above shall be divided by five (5) acres. This shall be the maximum number of additional dwelling units allowed on the entire tract.
4. Each new dwelling unit shall be retained on a separate lot and meet the minimum lot requirements of the Agricultural District.

5. Lots of Record or parcels of land separated by a public road and less than 10 acres in size shall be exempt from items 1 – 3 above and allowed as a building site, provided such use is permitted in the zoning district and meets the setback requirements in the district in which the lot is located, the lot is in separate ownership from abutting lands, except as permitted for nonconforming shoreland lots in Section 4.2 and 7S5.20 for shoreland lots, and all sanitary sewer requirements of this Ordinance are complied with.

**Section 10.5.1 A. add the following:**

BLA Application signed by all parties with an ownership interest.

**Section 10.5.1 B. add the following:**

7. The area and dimensions of each lot following the proposed adjustment.

**Section 10.5.1 add the following:**

D. Adjustments creating lots less than 20 acres shall be subject to the requirements outlined in Section 10.6.3.

**Section 10.6 Administrative Land Splits. Make change from A-E to A-D as noted below:**

The conveyance of certain parcels of land may be split administratively in any zoning district if the requirements of this section are met. The Director shall have the authority to approve administrative land splits. An administrative land split for items A-E D below shall only be approved if the conveyance does not require creation or altering of any public road right-of-way and any parcel created by the land split is in compliance with the minimum standards and residential density of the district in which it is located. The land split shall not result in a lot, parcel, site, division or building which does not meet the minimum requirements of the Development Code for setbacks, size requirements and/or access. An administrative corrective action shall be approved in accordance with item d below and Section 6.1.2.

**Section 10.6 A. add the following:**

Agricultural or recreational splits (20 acres or greater)

**Section 10.6 B. add the following:**

Parcels 20 Acres or greater for building site development

**Section 10.6 D. Make the following changes at noted below:**

Farmstead Administrative Land Split (between 5 acres and 19.9 acres)

~~Existing Farmstead Residences, as of July 9, 2013 as defined within Section 3.0, may be split from the existing farm through the administrative land split process if located within an Agricultural District "A" and Rural Agricultural District "R-A". State Law requires that with the creation of any new or residual lot, said lot is capable of supporting two Type 1 sewage treatment systems. If the intent of the land split is not for the creation of a building site then sewerability would not be required, however a deed restriction stating that the conveyance is not intended as a building site shall be required.~~

The creation of three or fewer parcels in a quarter, quarter section as described by the rectangular survey system may be permitted subject to compliance with the requirements of Sect. 10.6.3. Parcels created (or remnants) must be 10 acres or greater in a shoreland district or 5 acres or greater if located within an Agricultural District "A" and Rural Agricultural District "R-A". State Law requires that with the creation of any new or residual lot, said lot is capable of supporting two Type 1 sewage treatment systems.

If the intent of the land split is not for the creation of a building site then sewerability would not be required, however a deed restriction stating that the conveyance is not intended as a building site shall be required.

Subdivisions of less than 20 acres in the remaining districts are subject to platting.

#### **Section 10.6.1. Make the following changes as noted below:**

Administrative Land Split Procedures (20 acres or greater)  
(Ord #440, adopted 10/20/09)

The following documents (A-E) shall be provided as a part of the Administrative Land Split procedure. Failure to provide the necessary documents will result in the inability to create a legal subdivision according to this Ordinance.

- A. Administrative Land Split Application signed by all parties with an ownership interest.
- B. One three paper copies and one digital copy of a certificate of survey signed by a registered land surveyor for the land being conveyed.
  - 1. A certificate of survey for all affected lots, tracts or parcels (lots) that shall include a legal description of each parcel;
  - 2. The parcel area;
  - 3. Any existing site improvements within 100 feet of the property lines; and
  - 4. Distances from buildings to property lines.
- C. When applicable, a deed restriction, recorded with the appropriate language approved by the Director prior to the conveyance of the lot, tract or parcel.
- D. Evidence of ownership or a legal interest in the property. That may include the deed of ownership or a title commitment or a title opinion by a practicing attorney at law.
- E. Written approval for public road access for each parcel from the appropriate road authority. (Township, County, State).
- F. In the event that it is determined that a public or private roadway is necessary, a plat will be required.

**Section 10.6.2. Make the following changes as noted below:**

- A. Administrative Corrective Action Application signed by all parties with an ownership interest.
- B. One three paper copies and one digital copy, if available, of a certificate of survey signed by a registered land surveyor for the land being conveyed.
  - 1. A certificate of survey for all affected lots, tracts or parcels that shall include a legal description of each parcel;
  - 2. The parcel area;
  - 3. Any existing site improvements within 100 feet of the property lines; and
  - 4. Distances from buildings to property lines.
- C. Evidence of ownership or a legal interest in the property. That may include the deed of ownership a title commitment or a title opinion by a practicing attorney at law.

**Section 10.6.3. Make the following changes as noted below:**

~~Farmstead Split Administrative Land Split Procedures~~ (between 5 acres and 19.9 acres)

The following documents (A-H) shall be submitted as a part of the ~~Farmstead Administrative Land Split (between 5 acres and 19.9 acres)~~ procedure. Failure to provide the necessary documents will result in the inability to create a legal subdivision according to this Ordinance.

- A. Administrative Land Farmstead Split Application signed by all parties with an ownership interest.
- B. One three paper copies and one digital copy, if available, of a certificate of survey signed by a registered land surveyor for the land being conveyed.
  - 1. A certificate of survey for all affected lots, tracts or parcels that shall include a legal description of each parcel;
  - 2. The parcel area;
  - 3. Any existing site improvements within 100 feet of the property lines;
- C. Distances from buildings to property lines;
- D. Distances to surrounding feedlots;
- D. ~~Updated abstract and title opinion; and~~
- E. ~~Wetland delineation for Farmstead Residence lots less than 20 acres.~~
- F. Evidence of ownership or a legal interest in the property. That may include the deed of ownership a title commitment or a title opinion by a practicing attorney at law.
- G. When applicable, a deed restriction, recorded with the appropriate language approved by the Director prior to the conveyance of the lot, tract or parcel.
- H. Written approval for public road access for each parcel from the appropriate road authority. (Township, County, State).

This ordinance shall be effective upon publication.

ATTEST:

Montgomery Headley  
Montgomery Headley  
Benton County Administrator

Edward D. Popp

Edward D. Popp, Chair  
Benton County Board of Commissioners