

8.0 Performance Standards

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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 Signs

(Ord. #429, adopted 07/15/08)

8.1.1 Purpose and Intent

The intent of the establishment of use and performance standards for signs is to protect and promote the health, safety, morals and general welfare of the inhabitants of Benton County through the creation of impartial standards, regulations and procedures which govern the erection, use and/or display of devices, signs, or symbols serving as a means of visual communication to persons situated within, upon or adjacent to public rights-of-way of properties.

8.1.2 General Provisions:

- (A) Signs except those issued by the County, State, Municipality or public utility are prohibited within public right-of-ways.
- (B) The light from any illuminated sign or from any light source, including interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas.

8.1.3 General regulations for every district:

- (A) For the purpose of selling, renting or leasing a single parcel, a temporary sign not in excess of 32 square feet of sign area per side may be placed within the front yard.
- (B) For the purpose of selling a commercial area or an industrial area, 1 temporary sign not to exceed a total of 240 square feet in sign area.
- (C) No sign in excess of 3 square feet shall be closer than 300 feet from the intersection of 2 or more public roads, or closer than 300 feet from the

intersection of a public road and a railroad, provided that a sign 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.

(D) No sign shall be closer than 2 feet from a public right-of-way line.

8.1.4 Signs Not Requiring Permits:

The following types of signs are exempt from permit requirements but must otherwise be in conformance with all requirements of this section:

- (A) Directional, warning or informational signs authorized by federal, state, county or municipal governments;
- (B) Building mounted signs
- (C) Portable or temporary signs, subject to subsection 8.1.6

8.1.5 Prohibited signs:

The following types of signs are prohibited in all districts:

- (A) Abandoned signs
- (B) Signs imitating or resembling official traffic or government signs or signals;
- (C) Any sign placed that may obstruct motorist or pedestrian visibility;
- (D) Signs attached to telephone poles, public benches, street lights, or placed on any public property or public right-of-way without approval of the public authority;
- (E) A sign that obstructs any window, door, fire escape, stairway, or opening intended to provide light, air, ingress, or egress for any building or structure.
- (F) Signs suspended beneath a canopy, overhang, roof, or marquee without a minimum clearance from grade of 8 feet in a vehicular way or 7 feet in a pedestrian way;
- (G) Any sign erected above the roof line of a building;
- (H) Unsafe/dangerous signs.

(I) Searchlights.

8.1.6 Portable and Temporary Signs

- (A) Portable and temporary signs shall only be allowed once during any 12 month period for no more than 90 days and not to exceed 32 square feet per side sign area with a maximum of 2 sides. Portable and temporary signs shall be located a minimum of 10 feet from the property line and/or right-of-way.
- (B) There shall be no more than 1 portable sign per parcel permitted at any one time.
- (C) Anchors for portable or temporary signs shall be maintained to prevent displacement or tipping during high winds.

8.1.7 Billboard Signs.

- (A) All signs that exceed 150 square foot sign area per side shall require a conditional use permit.
- (B) A site shall be limited to either 1 monument sign or 1 billboard. Billboards are limited to the B-1, B-2, I-1 and I-2 Districts.
- (C) All Billboards must be in conformance with the following standards:
 - (1) Maximum sign area shall be 300 square feet per side with no more than 2 sides.
 - (2) The minimum ground clearance shall be 12 feet.
 - (3) The maximum height of a billboard shall be 60 feet.
 - (4) No part of the billboard structure shall be built upon or over the public right-of-way.
 - (5) The minimum distance from other billboards on the same side of a road shall be 1,000 feet.
 - (6) The minimum distance from street intersection shall be 300 feet as measured from the edge of the right of way to the base of the billboard.

- (7) Billboards shall be located a minimum of 20 feet from the side and rear property line and 10 feet from the right-of-way along Federal or State Roads, and 50 feet from the right-of-way along all other roads.
- (8) **Illumination**
 - (a) No billboard located within 1,000 feet of residentially zoned property may be illuminated.
 - (b) Lighting devices used in association with billboards shall be placed and directed in a manner which, so far as practicable, illuminates the sign only, and does not illuminate or reflect upon public roadways or adjacent properties.
- (c) **Digital Display**
 - (i) **Message Display**
 - a. Any Digital Display containing animation, streaming video, or text or images which flash, pulsate, move, or scroll is prohibited. Each complete message must fit on one screen.
 - b. One message/display may be brighter than another, but each individual message/display must be static in intensity.
 - c. The content of a digital display must transition by changing instantly, with no transition graphics (e.g., no fade-out or fade-in).
 - (ii) **Default Design**

The sign shall contain a default design which shall freeze the sign message in one position if a malfunction should occur.
 - (iii) **Message Duration**

The minimum message duration for any digital display shall be no less than 10 seconds.

- (iv) Brightness
 - a. Digital displays shall not exceed the following measurements of external illuminance:
 - i. Daytime: 4,500 candela per square meter (Nits)
 - ii. Dusk until dawn: 350 Nits
 - b. All digital displays shall submit an external illuminance plan and shall provide an ability to adjust external illuminance along with the contact information of person available to adjust external illuminance by request.
- (v) Conversion of a permitted non-digital sign to a digital sign requires an amendment to the CUP permitting the non-digital billboard.
- (vi) The addition of any digital display to a nonconforming sign is prohibited.

8.1.8 Signs Permitted in Agricultural (A) and Rural Agricultural (RA) Districts

- (A) One building mounted sign not to exceed 32 square feet in sign area
- (B) One monument sign for each dwelling, non-residential use or use by conditional use permit not to exceed 32 square feet in sign area per side, and no sign shall be so constructed as to have more than 2 sides. Monument signs shall be located a minimum of 20 feet from the side and rear property line and 10 feet from the right-of-way. No monument sign shall exceed 20 feet in height above the average grade.
- (C) Signs permitted in every district and signs not requiring permits in accordance with subsections 8.1.3 and 8.1.4.

8.1.9 Signs Permitted in the Rural-Service (RS) District

- (A) One building mounted signs not to exceed 32 square feet in sign area.
- (B) One monument sign for each parcel not to exceed 50 square feet in sign area per side with no more than 2 sides. No monument sign shall exceed

20 feet in height above the average grade. Monument signs shall be located a minimum of 20 feet from the side and rear property line and 10 feet from the right-of-way.

(C) Signs permitted in every district and signs not requiring permits in accordance with subsections 8.1.3 and 8.1.4.

8.1.10 Signs permitted in a Residential (R-1, R-2, R-3) District

(A) One building mounted sign not to exceed 8 square feet in sign area.

(B) One monument sign for each permitted non-residential use or use by conditional use permit. Such signs shall not exceed 32 square feet in sign area per side and no sign shall be so constructed as to have more than 2 sides. No sign shall exceed 10 feet in height above the average grade. Signs shall be located a minimum of 20 feet from the side and rear property line and 10 feet from the right-of-way.

(C) Signs permitted in every district and signs not requiring permits in accordance with subsections 8.1.3 and 8.1.4.

8.1.11 Signs Permitted in the Businesses (B-1) and Business Enterprise (B-2) District

(A) Building mounted signs shall be permitted.

(B) One monument sign shall be permitted per lot and shall be limited to a maximum of 150 square feet in sign area per side and no more than 2 sides. No sign shall extend in height more than 50 feet above the average grade level of the lot on which the sign is erected. Monument signs shall be located a minimum of 10 feet from the right-of-way and 20 feet from the side and rear property line.

(C) Signs permitted in every district and signs not requiring permits in accordance with subsections 8.1.3 and 8.1.4.

(D) Portable signs subject to subsection 8.1.6.

(E) Billboards subject to subsection 8.1.7 and Section 11.6.

8.1.12 Signs Permitted in the Industrial (I-1, I-2) District

(A) Building mounted signs shall be permitted.

- (B) One monument sign shall be permitted per lot and shall be limited to a maximum of 150 square feet in sign area per side and no more than 2 sides. No sign shall extend in height more than 50 feet above the average grade level of the lot on which the sign is erected. Monument signs shall be located a minimum of 10 feet from the right-of-way and 20 feet from the side and rear property line.
- (C) Signs permitted in every district and signs not requiring permits in accordance with subsections 8.1.3 and 8.1.4.
- (D) Portable signs subject to subsection 8.1.6.
- (E) Billboards subject to subsection 8.1.7 and Section 11.6.

8.1.13 Sign Removal

- (A) The applicant for a sign permit shall be deemed the owner and thus responsible for the removal of the sign within 3 months of its abandonment, or for the removal of a sign which is structurally unsafe or in disrepair as determined by the Department of Development.
- (B) Signs not so removed by the owner will be removed by the County at the owner's expense.

8.2 Off-Street Parking and Loading

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

8.2.2 Location Requirements

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

- (A) Spaces accessory to one family, 2 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) Business and Industrial off-street parking spaces shall not be less than 10 feet from a property line.

8.2.3 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.

8.2.4 Loading Spaces

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

8.3 Nuisance Standards

8.3.1 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.

8.3.2 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.

8.3.3 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.

8.3.4 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.

8.3.5 Toxic or Noxious Matter

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

8.4 Outdoor Storage

8.4.1 General Outdoor Storage in Residential Districts

- (A) In residential districts, except for parcels larger than 40 acres actually being used for horticulture or general farming, all materials, equipment, and other items, shall be stored within a building or completely screened from adjoining properties and public roads, except for the following:
 - (1) laundry drying,
 - (2) recreational equipment,
 - (3) construction and landscaping materials and equipment currently being used for construction on the premises,
 - (4) agricultural equipment and materials if these are used or intended for use on the premises,
 - (5) off street parking, except as otherwise regulated herein, and
 - (6) boats and house trailers, less than 20 feet in length, if stored in the rear yard not less than 10 feet distance from any property line.
- (B) In Residential Districts, wood piles are permitted provided they are neatly stacked, a maximum of 8 feet in height and do not take up more than 10 percent of the total open area of a yard.

(Ord. #192, adopted 08/01/89)

8.4.2 Bulk Storage (liquid)

- (A) 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.
- (B) Fuel tanks may be permitted as an accessory use only and shall be subject to setback regulations.
- (C) 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.

8.5 Unlicensed Motor Vehicle Storage

(Ord. #282, adopted 03/17/98)

The storage of unlicensed motor vehicles for personal use shall be subject to the following regulations:

8.5.1 Residential Districts

In areas zoned R-1, R-2, R-3 or R-S, no unlicensed motor vehicles may be stored unless completely enclosed within a structure.

8.5.2 Agricultural Districts

- (A) In areas zoned A or R-A the storage of up to 3 unlicensed motor vehicles shall be a permitted use.
- (B) In agriculturally zoned area, the storage of more than 3 vehicles shall be permitted if the following criteria are met:
 - (1) If all the unlicensed motor vehicles on the property are within a fully enclosed structure, there shall be no limit to the number of unlicensed vehicles stored on the property; or,
 - (2) Up to 25 unlicensed motor vehicles may be stored within an area that is totally encircled by an opaque wall or opaque privacy fence of not less than 6 feet in height. Property owners who store unlicensed motor vehicles pursuant to this item must first obtain a land use permit authorizing storage within a fenced area. Applicants must state the number of vehicles to be stored. Land use permits issued pursuant to this section shall be valid for 2 years from the date of issuance.

8.5.3 Commercial Storage Not Allowed

No storage of motor vehicles for commercial purposes, such as sale, repair or salvage shall be allowed in any zoning district, except for permitted, conditional or accessory uses specifically authorized by the Benton County Development Code. Commercial uses are subject to the regulations of the pertinent zoning districts.

8.6 Visual Standards

8.6.1 Screening

- (A) Where any business or industrial use is adjacent to property zoned residential or within 500 feet of a residential dwelling, that business or industry shall provide screening between it and the residential property for a distance to reasonably screen the business or industrial use.
- (B) 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 Department of Development Director.
- (C) Screening shall consist of the following:
 - (1) The Planning Commission may require outdoor storage areas to be screened with a fence, plantings or other screening elements for outside storage areas if the storage areas are adjacent to residential uses (within 500 feet) to provide more visual variability.
 - (2) The majority of materials and equipment stored outside shall be screened by a fence, plantings or other screening elements from residential homes within 500 feet and from public roadways. Limited materials maybe displayed so long as it is for display purposes only and is not being used as a storage area for materials used on a daily basis.
 - (3) Outside storage areas may not be located within the front yard or street side yard.
 - (4) Any repair or maintenance of equipment or vehicles incidental to the business shall only be allowed if such activities are conducted completely indoors and by-products of such activities, such as used motor oil, are disposed of in accordance with County standards. Repair and maintenance of equipment or machinery that does not fit within a structure due to size may occur outside so long as it is in an area with limited visibility from the roadway or residential dwellings. Spills shall be reported as required by the Environmental Protection Agency.

(D) Plans for such screening for permitted uses shall be approved by the Department of Development Director before it is erected. Plans for such screening for conditional or interim uses shall be approved by the Planning Commission as part of the permit approval process.

8.6.2 Residential Fences

(Ord. #407, adopted 11/14/06)

(A) Fences located in a residential district, rural service district or cluster lot may be located on any lot line to a height of 4 feet and a fence up to 6 feet in height may be erected behind the nearest front corner of the principal building.

(B) Fences between 4 feet and 6 feet in height may be allowed as a conditional use in front yards in a residential district, rural service district or cluster lot.

(C) 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 4 feet.

(D) Fences erected from the building line to the ordinary high water level shall not exceed a height of 4 feet and have at least 90 percent of the surface uniformly open and unobstructed unless the lot abuts a public park or public access.

8.6.3 Business and Industrial Fences

(A) Fences may be located on a lot line to a height of 7 feet.

(B) Fences over 7 feet in height may be permitted subject to the provision of engineered plans in accordance with the State Building Code.

(Ord. #407, adopted 11/14/06)

8.6.4 Access Driveways

(A) The distance from a driveway to the intersection of 2 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 Road Authority. 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 Road Authority.
- (C) The driveway angle to the street shall be 90 degrees unless otherwise recommended by the Engineer and approved by the Road Authority.
- (D) 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 Road Authority.
- (E) Access driveways for single family dwellings shall be not less than 12 feet, nor more than 24 feet, wide measured along the property line, except as provided for in the lot access requirement provisions of Sections 7.2 and 7.3, unless otherwise recommended by the Engineer and approved by the County Board.

(Ord. #308, adopted 11/04/99) (Ord. #407, adopted 11/14/06)

8.7 Hazardous Elements Standards

8.7.1 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.

8.7.2 Radiation Emission

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

8.8 Solid Waste Disposal

All disposal of solid waste and demolition waste shall be in accordance with the Benton County Solid Waste Ordinance #471 as amended from time to time.

8.8.1 In all districts, all waste material, debris, refuse, or garbage shall be kept in a safe and appropriate manner designed for the proper management of each waste type. The owner of vacant land shall be responsible for keeping such land free of refuse.

(Ord. #334, adopted 08/21/01)

8.8.2 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.

8.8.3 The storage of more than 50 waste tires is prohibited unless permitted as a tire collector or exempt according to the Solid Waste Ordinance. Tire collectors shall be permitted as a conditional use as specified within a zoning district. All waste tires shall be stored indoors or in a manner which will not create a nuisance, blight, health hazard or fire hazard (i.e. tarped.)

8.8.4 No landowner or other person shall cause, permit or allow open burning of solid waste or demolition debris unless otherwise allowed by State Statutes or Rules.

8.8.5 Waste Accumulations. Except as otherwise allowed by Ordinance #471, owners, or occupants of every property shall be responsible for maintaining all open areas free of improperly stored waste accumulations. Waste accumulations may include; but not limited to auto/machinery hulks, tires, construction and demolition debris, garbage, hazardous waste, household hazardous waste, major appliances, mixed municipal solid waste, recyclable materials, refuse, rubbish, solid waste, yard waste, any other form of waste which is in a condition of disrepair such as to have no immediate useful purpose.

(Ord. #447, adopted 12/20/11)

8.9 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.

8.10 Right to Farm

(Ord. #308, adoption 11/4/99) (Ord. #407, adopted 11/14/06)

8.10.1 In General

- (A) Farmers have a right to farm even if development is taking place around them. If the farm was in operation before the complaining person moved to the area, the complaining person shall be deemed to have "come to the nuisance." An agricultural operation is not and shall not be considered a private or public nuisance by Benton County if the operation:
 - (1) Is located in an agriculturally zoned area;
 - (2) Complies with the provisions of all applicable federal, state, or county laws, regulations, rules, and ordinances and any permits issued for the agricultural operation; and
 - (3) Operates according to generally accepted agricultural practices.
- (B) Farmers shall have the right to farm without unreasonable restrictions, regulations, or harassment. Complaints against the operations of farms shall be considered to be unwarranted and frivolous as long as the farming activities are being conducted according to generally accepted agricultural standards.
- (C) These farming activities shall include, but not be limited to:
 - (1) The right to operate equipment in the fields, on the roads, or on any farm or homestead property, at any time and on any day of the week.
 - (2) Farming activities that generate noise and dust. This can be caused in a variety of ways including fieldwork, caring for livestock, harvest, or care and maintenance of the farm.
 - (3) The generation of odor from livestock, manure, fertilizer, feed, and farm-related other sources.
- (D) All farming operations that lawfully exist in Benton County shall be protected by this Ordinance.

8.10.2 Nuisance

- (A) An agricultural operation conducted or maintained on agricultural land shall not be or become a nuisance, public or private, if the operation was not a nuisance when it began. This provision shall not apply:

- (1) To a condition or injury that results from the negligent or improper operation of an agricultural operation or from operations conducted and maintained in a manner that is contrary to commonly accepted agricultural practices;
- (2) When an agricultural operation causes injury or direct threat of injury to health or safety of any person;
- (3) When an agricultural operation causes the pollution of, or change in the condition of, waters of the State or the water flow of water on the lands of any person; or
- (4) When an agricultural operation causes the obstruction of free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, street or highway.

(B) The provisions of this section do not apply:

- (1) To an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the pollution Control Agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more,
- (2) To any prosecution for the crime of public nuisance as provided in Minn. Stat. § 609.74, as may be amended or to an action by a public authority to abate a particular condition which is a public nuisance, or
- (3) To any enforcement action brought by Benton County related to other sections of the Development Code.

8.11**Private Swimming Pools**

(Ord. #350, adopted 09/17/02) (Ord. #440, adopted 10/20/09)

8.11.1 Fencing for outdoor pools regardless of size shall be provided as required by the Minnesota State Building Code.

8.11.2 Pools with a capacity of 5,000 gallons or greater shall require a land use permit.

8.11.3 The pool shall meet all structure setback requirements of the specified zoning district