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**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 Intent and Purpose**

2.1.1 This Ordinance is adopted for the following purposes:

- (A) To promote and protect the public health, safety, comfort, convenience, and general welfare of the people;
- (B) To divide the unincorporated areas of the county into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and the use of structures and land;
- (C) To promote the orderly development of residential, business, industrial, recreational and public areas;
- (D) To provide for adequate light, air and convenience of access to property by regulating the use of land, buildings and the bulk of structure;
- (E) To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts;
- (F) 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;
- (G) To limit congestion in the public right-of-way by providing for the off-street parking and loading of motor vehicles;
- (H) 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;
- (I) 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;
- (J) To discourage the premature and unnecessary conversion of prime agricultural land to urban uses;

- (K) To discourage noncontiguous urban development patterns which unnecessarily increase the costs of community services;
- (L) To further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations;
- (M) To avoid the creation of substandard lots whereby uniform setback requirements cannot be complied with.

**3.0 DEFINITIONS****3.1 Purpose**

For the purpose of these regulations, the following terms, phrases, words, and their definitions shall have the meaning given in this chapter. 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.

**3.2 A.**

3.2.1 Accessory Building: a subordinate building excluding storage structures or portion of the principal building, the use of which is incidental to that of the dominant use of the principal building or land; not to include livestock or persons.

3.2.2 Accessory Use: a use which is incidental to, and customarily incident to the principal use.

3.2.3 Administrative Land Splits: Approval of a subdivision or change in property description of land that is approved by the Director of Development and not subject to public hearings.

(Ord. #398, adopted 05/08/06)

3.2.4 Agriculture: The production, storage, keeping, harvesting, grading, packaging, processing, boarding, or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to forages and sod crop; grains and seed crop; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of these animals; bees; fur animals; trees and forest products with the exception of sawmills; fruits and vegetables of all kinds; aquaculture, hydroponics and aquaponics; or land devoted to a soil conservation or forestry management program.

(Ord. #398, adopted 05/08/06) (Ord. #431, adopted 10/07/08)

3.2.5 Agricultural Building: A building used solely for agricultural uses or storage of agricultural products or machinery and on a parcel 10 acres or larger.



(Ord. #427, adopted 05/06/08)

3.2.6 Agricultural Tourism: Activities conducted seasonally for profit accessory to a working farm and offered to the public or to invited groups for the purpose of visitation, recreation, enjoyment or active involvement in the farm operation. Seasonal activities can include, but are not limited to, corn mazes, pumpkin patches, farm tours, and hayrides.

3.2.7 Airport or Heliport: Any land or structure which is used or intended for use for the landing and take-off of aircraft, and for appurtenant land or structure used or intended for use for port buildings or other port structures of rights-of-way.

(Ord. #398, adopted 05/08/06)

3.2.8 Alcohol Fuel Plant: A facility where alcohol fuel is stored, processed or distributed.

(Ord. #398, adopted 05/08/06)

3.2.9 Animal, Domestic: dogs, cats, birds, and any member of the animal kingdom housed principally in a case, aquarium, or other confined area with the homestead and kept principally for non-commercial and non-scientific purposes.

(Ord. #431, adopted 10/07/08)

3.2.10 Animals, Food: fish, fowl, cattle, swine, sheep and other members of the animal kingdom raised for purposes of food consumption.

3.2.11 Animals, Fur: mammals which are raised for their pelts.

3.2.12 Animal Hospitals: A facility rendering surgical and/or medical treatment to animals.

3.2.13 Animals, Miscellaneous: members of the animal kingdom which do not come within the definition of animals, food; animals, fur; or animals, pleasure.

3.2.14 Animal Unit: a unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or a manure storage area, calculated by multiplying the number of animals of each type in items (A) through (I) by the respective multiplication factor and summing the resulting values for the total number of animal units. For purposes of this Ordinance, the following multiplication factors shall apply:

- (A) dairy cattle:
  - (1) 1 mature cow (whether mixed or dry);
    - (a) over 1,000 pounds, 1.4 animal unit; or
    - (b) under 1,000 pounds, 1.0 animal unit;
  - (2) 1 heifer, 0.7 animal unit; and
  - (3) 1 calf, 0.2 animal unit;
- (B) beef cattle:
  - (1) 1 slaughter steer or stock cow, 1.0 animal unit;
  - (2) 1 feeder cattle (stocker or backgrounding) or heifer, 0.7 animal unit;
  - (3) 1 cow and calf pair, 1.2 animal units; and
  - (4) 1 calf, 0.2 animal unit;
- (C) 1 head of swine:
  - (1) over 300 pounds, 0.4 animal unit;
  - (2) between 55 pounds and 300 pounds, 0.3 animal units; and
  - (3) under 55 pounds, 0.05 animal unit;
- (D) 1 horse, 1.0 animal unit;
- (E) 1 sheep or lamb, 0.1 animal unit;
- (F) chickens:
  - (1) 1 laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or
  - (2) 1 chicken if the facility has a dry manure system:
    - (a) over 5 pounds, 0.005 animal unit; or
    - (b) under 5 pounds, 0.003 animal unit;

(G) 1 turkey:

(1) over 5 pounds, 0.018 animal unit; or

(2) under 5 pounds, 0.005 animal unit;

(H) 1 duck, 0.01 animal unit; and

(I) for animals not listed in items (A) through (H), the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.

(Ord. #329, adopted 03/20/01)

3.2.15 Antennas: Residential radio and television reception antennas and amateur radio station antennas for non-commercial uses and less than 50 feet in height.

(Ord.#410, adopted 04/17/07)

3.2.16 Apartment: a part of the building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a single family.

3.2.17 Applicant: Means any person or business entity who submits a written application related to zoning, land use, subdivision, site plans, sanitary codes, building codes, housing codes, and official maps pursuant to this Ordinance.

(Ord. #398, adopted 05/8/06)

3.2.18 Aquaculture: The hatching, raising, and breeding of fish or other aquatic animals for sale. Aquaculture is considered livestock that is subject to feedlot standards.

3.2.19 Aquaponics: The cultivation of plants and aquatic animals in a recirculating environment.

3.2.20 Auction Business: a building or areas within a building used for the regularly scheduled public sale of goods, wares, merchandise, or equipment to the highest bidder. This definition excludes farm auctions, estate sales, garage sales, or similar on-site events conducted no more than 10 total calendar days per year.  
(Ord. #483, adopted 02/15/22)

3.2.21 Auto 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.

- 3.2.22 Automobile and Vehicle Sales: Storage and display for sale of motor vehicles, including cars, trucks, and recreational vehicles, and where repair or body work is incidental to the operation of the new or used vehicle sales; includes automobile retail or wholesale sales.
- 3.2.23 Automobile and Vehicle Sales, Small Scale: the sale of small numbers of used or repairable automobiles, trucks or other motorized vehicles, whether on a continuous or intermittent basis. Such a business shall be considered "small scale" if no more than 7 vehicles of any type are offered for sale on the property at any given time, and no more than 3 additional unlicensed vehicles are stored on the property at any given time.
- (Ord. #221 adopted 10/06/92)
- 3.2.24 Auto Salvage: Includes the business of buying of second hand motor vehicles, parts and accessories for the remodeling, taking apart or rebuilding of the same, or the buying, storage or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicles.
- (Ord. #410, adopted 04/17/07)
- 3.3 B.**
- 3.3.1 Bank: Any establishment wherein the primary occupation is concerned with businesses as banking, savings and loans, loan companies and investment companies.
- (Ord. #398, adopted 05/08/06)
- 3.3.2 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.
- 3.3.3 Bed and Breakfast: Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation.
- (Ord. #407 adopted 11/14/06)

- 3.3.4 Best Management Practices or “BMPs”: Practices to prevent or reduce the pollution of the waters of the State, including schedules of activities, prohibitions of practices, and other management practices, and also treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge, or waste disposal or drainage from material storage.
- (Ord. #438, adopted 06/16/09)
- 3.3.5 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.
- 3.3.6 Bluff: a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
- (A) Part or all of the feature is located in a shoreland area;
  - (B) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
  - (C) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
  - (D) The slope must drain toward the waterbody.
- 3.3.7 Bluff Impact Zone: a bluff and land located within 20 feet from the top of a bluff.
- 3.3.8 Board of Adjustment: shall be that Board as established under Section 11.4.
- 3.3.9 Boathouse: a structure designed and used solely for the storage of boats or boating equipment.
- 3.3.10 Boulevard: that portion of a street right-of-way between the curb or curb line and the property line.
- 3.3.11 Boundary Line Adjustment: A process for modifying property lines between 2 or more properties by either adding or subtracting land.
- (Ord. #398, adopted 05/08/06)
- 3.3.12 Building: any structure having a roof which may provide shelter or enclosure of persons, animals or chattel.

- 3.3.13 Building Height: the vertical distance from the average elevation of the natural ground at the building or 10 feet above the lowest ground level, whichever is lower to the top of the highest point of the structure.
- (Ord. #388, adopted 07/05/05)
- 3.3.14 Building Line: that line measured across the width of the lot of the point where the main structure is placed in accordance with setback provisions.
- 3.3.15 Building Site: A dry buildable lot, tract or parcel that is capable of supporting a structure.
- (Ord. #398, adopted 05/08/06)
- 3.3.16 Bulk Liquid Storage. A structure used for the storage of liquids in bulk.
- (Ord. #398, adopted 05/08/06)
- 3.3.17 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.
- 3.4 C.**
- 3.4.1 Cabinet Shops: The building where the manufacturing of cabinets or countertops is conducted.
- (Ord. #398, adopted 05/08/06)
- 3.4.2 Campground, Recreational: Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of tents, live in fish houses, recreational camping vehicles, or park trailers free of charge or for compensation. Ancillary uses of a campground may include storm shelters, bathrooms, clubhouse, swimming pool, maintenance facilities, and other similar uses as determined by the Planning Commission which use does not require its own conditional or interim use permit. Recreational Campgrounds exclude: (1) United States Forest Service camps (2) State Forest service camps (3) State wildlife management areas or state-owned public access areas which are restricted in use to picnicking and boat landings.
- (Ord. #500, adopted 05/20/25)

3.4.3 Cannabis Business: any of the following licensed under MN Statutes, Section 342:

- (A) Cannabis Cultivator
- (B) Cannabis Delivery Service
- (C) Cannabis Event Organizer
- (D) Cannabis Manufacturer
- (E) Cannabis Mezzobusiness
- (F) Cannabis Microbusiness
- (G) Cannabis Retailer
- (H) Cannabis Testing Facility
- (I) Cannabis Transporter
- (J) Cannabis Wholesaler
- (K) Medical Cannabis Combination Business

(Ord. #497, adopted 12/17/24)

3.4.4 Car Wash: A structure, or portion thereof, containing facilities for washing motor vehicles by hand or by using production-line, automated or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning or similar mechanical device.

(Ord. #398, adopted 05/08/06)

3.4.5 Caretakers Residence: A dwelling unit for a caretaker, owner or employee of an on-site business.

(Ord. #398, adopted 05/08/06)

3.4.6 Carport: A roofed structure providing space for the parking of motor vehicle and enclosed on not more than 3 sides.

(Ord. #398, adopted 05/08/06)

- 3.4.7        Cemetery: Property used for the internment of the dead.  
(Ord. #398, adopted 05/08/06)
- 3.4.8        Child Care Center: A facility licensed by the Minnesota Department of Human Services as a child care center, unless exempted by law, that provides supervision of children during the day at a location other than the provider or caregiver's residence. Child care centers generally have larger groups of children and staff.  
(Ord. #458, adopted 01/17/17)
- 3.4.9        Club or Lodge: a club or lodge is a non-profit association of persons who are bonafide members paying annual dues, use of premises being restricted to members and their guests.
- 3.4.10       Cluster Development: See Subdivision, Cluster.  
(Ord. #398, adopted 05/08/06)
- 3.4.11       Commercial Multiple Unit Developments: are a type of development in the shoreland district permitted through a conditional use permit that typically provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial multiple unit developments.  
(Ord. #500, adopted 05/20/25)
- 3.4.12       Commercial Recreation, Indoor: Facilities located within a building or enclosed structure operated as a business and shall include, but are not limited to, banquet halls, pool halls, skating facilities, indoor swimming pools, bowling alleys, movie theaters, arcades, jump center, indoor firearms range, and other similar businesses. Such businesses may also provide accessory snack bar, restaurant, retails sales of related items, and other support facilities.
- 3.4.13       Commercial Recreation, Outdoor: Land or facilities operated as a business that shall include, but is not limited to, golf courses, outdoor swimming pools, amusement parks, go-kart tracks, paintball, firearms range, hunting club, shooting preserve and other similar businesses. Campgrounds and resorts are excluded from commercial recreation, outdoor. Such facility may also provide



accessory snack bar, restaurant, retail sales of related items, and other support facilities.

(Ord. #500, adopted 05/20/25)

3.4.14 Commercial Use: the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

3.4.15 Commissioner: the commissioner of the Department of Natural Resources.

3.4.16 Communication Towers: radio and television broadcasting, transmission and/or receiving towers and antennas which are subject to licensing requirements of the Federal Communications Commission. This does not include residential radio and television reception antennas and amateur radio station antennas, all of which are deemed to be incidental to residential use.

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

3.4.18 Concept Plan: A plan indicating the present usage, plus the proposed plan for future development of the remainder of the property whenever the proposed plan does not incorporate all the lands owned by the applicant, and said remainder lands may be developed by the applicant or owner within 5 years from the date of the application.

(Ord. #398, adopted 05/08/06)

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

3.4.20 Construction Activity: Clearing, grading and excavating that result in land disturbance of equal to or greater than 1 acre of total land area. Construction activity also includes the disturbance of less than 1 acre of total land that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than 1 acre.

(Ord. #438, adopted 06/16/09)

3.4.21 Contiguous: Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous.

(Ord. #398, adopted 05/08/06)

- 3.4.22 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.
- 3.4.23 Contractor Shops: A building or buildings used as an office, or for storage of materials and equipment, for an individual or business entity engaged in the construction, demolition or repair of any building, highway, road, railroad, sewer, project development, housing, housing development, improvement, or any construction undertaking in whole or in part; this includes landscaping contractors, well drillers and excavation contractors.
- (Ord. #445, adopted 04/12/11)
- 3.4.24 Convenience Stores: any retail store whose principal business is selling convenience grocery items, health and beauty items, and other items intended for routine use and consumption by the consumer. These stores shall be no more than 4,800 square feet.
- 3.4.25 Copy: a print or reproduction made from a tracing.
- 3.4.26 Cultivation, Cannabis: means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts. Cultivation includes indoor, outdoor and mixed light cultivation.
- (Ord. #497, adopted 12/17/24)
- 3.5** **D.**
- 3.5.1 Daycare Facility, Licensed Group Family: a residence providing care for no more than 14 children outside of the children's' own homes on a regular basis, as defined in Minn. R. 9502.0315, as may be amended and which is licensed by the Commissioner of Human Services pursuant to Minn. Stat. Ch. 245A, as may be amended and Minn. R. Ch. 9502, as may be amended.
- (Ord. #265, adopted 07/16/96) (Ord. #398, adopted 05/08/06)
- 3.5.2 Deck: a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than 3 feet above ground.

- 3.5.3 Delivery Service, Cannabis: Transports cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products to the end consumer.  
(Ord. #497, adopted 12/17/24)
- 3.5.4 Department: The Benton County Department of Development, or other designated agent who is a qualified employee or licensee.  
(Ord. #329, adopted 04/03/01)
- 3.5.5 Detention Pond: Impoundments that have a permanent pool of water and have the capacity to temporarily store storm water until it is released from the structure.  
(Ord. #398, adopted 05/08/06)
- 3.5.6 Development: the act of building structures and installing site improvements.
- 3.5.7 Director: the Benton County Department of Development Director, or delegate.  
(Ord. #398, adopted 05/08/06)
- 3.5.8 Double Frontage Lots: lots which have a front line abutting on one street and a back or rear line abutting on another street.
- 3.5.9 Drainage Course: a water course or indenture for the drainage of surface water.
- 3.5.10 Drainage Plan: An indication of surface water flow and water control systems, including the capacity of said systems.  
(Ord. #398, adopted 05/08/06)
- 3.5.11 Drive-In Business: A facility selling, serving, or offering goods directly to customers waiting in a motor vehicle who consume or use the goods on or off premise of the principal use.  
(Ord. #398, adopted 05/08/06)
- 3.5.12 Dry Buildable: Contiguous acreage containing non-hydric soils and void of wetlands, hydric vegetation, floodways, bluffs, right-of-way and restrictive easements. The site shall be capable of supporting 2 standard individual septic systems.

(Ord. #398, adopted 05/08/06)

- 3.5.13 Duplex, triplex, and quad: a dwelling structure on a single lot, having 2, 3, and 4 units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 3.5.14 Dwelling: a room or group of rooms providing complete living facilities for one household.
- 3.5.15 Dwelling-Attached: a structure having dwelling units joined by one or more party walls.
- 3.5.16 Dwelling-Energy Efficient Below Ground: a structure meeting the specifications of the Minnesota Energy Code.
- 3.5.17 Dwelling-Multiple: a dwelling designed exclusively for occupancy by 2 or more families living independently of each other; the term includes double bungalows and duplexes, but not hotels, motels, lodging houses, boarding houses or tourist homes.
- 3.5.18 Dwelling-Single Family: a detached dwelling designed exclusively for occupancy by one family and containing not more than one dwelling unit.
- 3.5.19 Dwelling Site: a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 3.5.20 Dwelling Unit: consists of one or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed or used as living quarters for one family or household.

### **3.6 E.**

- 3.6.1 Easement: authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.
- 3.6.2 Edible Cannabis Product: “Edible cannabis product” means any product that is intended to be eaten or consumed as a beverage by humans; contains a cannabinoid other than an artificially derived cannabinoid in combination with food ingredients; is not a drug; and is a type of product approved for sale by the Office of Cannabis Management, or is substantially similar to a product approved by the Office of Cannabis Management including but not limited to products that

resemble nonalcoholic beverages, candy, and baked goods. Edible cannabis product does not include lower-potency hemp edibles.

(Ord. #497, adopted 12/17/24)

- 3.6.3 Endorsement: means an authorization from OCM to conduct a specified operation activity.

(Ord. #497, adopted 12/17/24)

- 3.6.4 Engineer: a professional engineer engaged by the County Board.

- 3.6.5 Essential Services: public roads, 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, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings.

- 3.6.6 Excavation: The digging, removal, filling with, or storage of any naturally occurring dirt, rock, sand, gravel, clay, silt, soil, or other like mineral(s).

(Ord. #398, adopted 05/08/06)

- 3.6.7 Expansion: An expansion of a structure in any manner, including but not limited to, increase of height, width, footprint, size or volume.

- 3.6.8 Extractive Use: the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minn. Stat. §§ 93.44 to 93.51, as may be amended.

### **3.7 F.**

- 3.7.1 Family: an individual, or 2 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.

- 3.7.2 Farm: An agriculturally zoned area used for:

- (A) Growing products such as, but not limited to, grains, forages, vegetables, nuts, trees, sod or specialty horticultural crops.
- (B) Raising animals or fowl such as, but not limited to, cattle, swine, chickens, turkeys, horses, sheep or exotic species.

- (C) Land enrolled in limited term contractual programs through which payments are made to the farmer (e.g. CRP).
- (D) For the purpose of this Ordinance, abutting parcels in common ownership (which meet the above definition of a farm) shall be considered to be only one farm and shall qualify for only one farmstead residence (except as hereinafter provided).

(Ord. #329, adopted 03/20/01) (Ord. #398, adopted 05/08/06)

3.7.3 Farming, General: the growing of products such as, but not limited to, grains, forages, vegetables, nuts, trees, sod or specialty horticultural crops; the raising of animals; and land enrolled in limited term contractual programs through which payments are made to the farmer. Animal density greater than 3 animal units per acre owned or leased shall be considered intensive livestock farming.

(Ord. #431, adopted 10/07/08)

3.7.4 Farm Implement Sales: An area that may or may not be located within a structure where farming equipment is available for sale.

(Ord. #398, adopted 05/08/06)

3.7.5 Farmstead: the buildings and adjacent service areas of a farm, including lawns, windbreak and feedlot area.

3.7.6 Farmstead Residence: A single family dwelling associated with the farmstead.

(Ord. #398, adopted 05/08/06)

3.7.7 Feedlot: a fenced land area or building or combination of fenced land areas and buildings intended for the confined feeding, breeding, raising or holding of at least fifty animal units or 10 animal units if in a shoreland area and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these rules, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be feedlots. Pastures shall not be considered to be animal feedlots. (Ord. #483, adopted 02/15/22)

A feedlot does not cease to be a feedlot merely because confined feeding, breeding, raising or holding of animals is not actually taking place at a given time,

however, such areas, buildings or combinations which have not been used for confined breeding, raising or holding of animals for a 10-year period shall not be considered a feedlot until such use resumes. A written statement provided by the landowner may remove the status of an unused feedlot, regardless of when the feedlot was last used and permit a residence to be located within 660 feet of the unused feedlot.

(Ord. #431, adopted 10/07/08)

- 3.7.8 Feedlot, Contiguous Parcel: A parcel, or abutting parcels, upon which the feedlot is located and which is owned by the feedlot permit applicant.

(Ord. #431, adopted 10/07/08)

- 3.7.9 Feedlot, Non-Feedlot Residence: Any dwelling that is not located on the same farmstead as the feedlot.

(Ord. #431, adopted 10/07/08)

- 3.7.10 Feedlot, Tier 1: An area or building intended and designed for the feeding, breeding, raising or holding of between 50 to 999 animal units or 10-999 animal units in a shoreland area. This also includes warm or cool water species fish farms producing less than 100,000 pounds per year and cold water species (trout, salmon, char) operations producing less than 20,000 pounds per year or feeding less than 5,000 pounds per month of feed.

(Ord. #431, adopted 10/07/08)

- 3.7.11 Feedlot, Tier II: An area or building intended and designed for the feeding, breeding, raising or holding of between 1,000 and 2,500 animal units. This also includes warm or cool water species fish farms producing more than 100,000 pounds per year and cold water species (trout, salmon, char) operations producing more than 20,000 pounds per year or feeding more than 5,000 pounds per month of feed.

(Ord. #431, adopted 10/07/08)

- 3.7.12 Fence: any partition, structure, wall or gate erected as a dividing marker, barrier, or enclosure.

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

- 3.7.13      Fertilizer plants: A building or structure where fertilizer is processed made or stored.
- (Ord. #398, adopted 05/08/06)
- 3.7.14      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.
- (Ord. #398, adopted 05/08/06)
- 3.7.15      Filter strip: Grass or other close growing vegetation designed to receive overland flow of storm water; and designed such that the overland flow of water travels a minimum of 20 feet through the vegetation.
- 3.7.16      Final Plat: a drawing, in final form, showing a proposed subdivision containing all information and detail required by Minnesota 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.
- 3.7.17      Flood Frequency: the average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 3.7.18      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.
- 3.7.19      Forest Land Conversion: the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- 3.7.20      Forestry: The use and management including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skid ways, landings, and fences. May include an accessory nursery and/or greenhouse for the growing of trees for reforestation.
- (Ord. #398, adopted 05/08/06)
- 3.7.21      Full Time on the Farm: someone employed through at least 3 of the 4 seasons of the year, and who, with the exception of a vacation period of not more than 3 weeks, works at least 5 days per week on the farm, and who averages at least 40 hours per week through 3 seasons of the year. The seasons of the year are



as follows: Winter, 12/21 to 3/21; Spring, 3/22 to 6/20; Summer, 6/21 to 9/20; Fall, 9/21 to 12/20.

### **3.8**      **G.**

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

3.8.2      Garage, Repair: a building or space for the maintenance of vehicles, but not including auto wrecking or junkyards.

3.8.3      Governing Body: the Board of Commissioners.

3.8.4      Government Buildings and Structures: Any building or structure held, used or controlled exclusively for public purposes by any department or branch of the Federal Government, State of Minnesota, Benton County or Township.

(Ord. #398, adopted 05/08/06)

3.8.5      Grain Elevator: A building used for elevating, storing, discharging and/or processing grain.

(Ord. #398, adopted 05/08/06)

3.8.6      Greenhouses: A structure or building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for sale.

(Ord. #398, adopted 05/08/06)

### **3.9**      **H.**

3.9.1      Hemp Business: A hemp business means either of the following licensed under Ch. 342:

(A)      Lower-Potency Hemp Edible Manufacturer

(B)      Lower-Potency Hemp Edible Retailer

(C)      Hemp business does not include a person or entity licensed under Ch. 18K to grow industrial hemp for commercial or research purposes or to process industrial hemp for commercial purposes.

(Ord. #497, adopted 12/17/24)

- 3.9.2 Historic Site or Area: Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minn. Stat. § 307.08, as may be amended. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- (Ord. #398, adopted 05/08/06)
- 3.9.3 Home Extended Business: An occupation or profession engaged in by the occupant of the dwelling unit that is carried out in an accessory structure that is clearly incidental and secondary to the residential use of the premises and does not change the character of the principle use.
- (Ord. #352, adopted 12/17/02) (Ord. #407, adopted 11/02/06)
- 3.9.4 Home Occupation: Any activity carried out for financial gain by a resident which is clearly secondary to the principal use, when carried on within the resident's dwelling unit and not in any accessory building, except an attached garage, and which shows no activity other than activity normally present in a residential dwelling unit.
- (Ord. #352, adopted 12/17/02)
- 3.9.5 Horticulture: The cultivation of a garden or orchard for income and structures designed for the storage of products and machinery pertaining and necessary thereto.
- (Ord. #398, adopted 05/08/06)
- 3.9.6 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.
- 3.9.7 Human Care Facilities: A facility that provides care and living facilities for elderly or disabled individuals.

(Ord. #431, adopted 10/07/08)

- 3.9.8 Hydroponic: The cultivation of plants through the process of adding plant-specific nutrients to a recirculating water system.

**3.10 I.**

- 3.10.1 Ice Ridge: A modification to the topographic characteristics of the shoreline resulting from a natural process from a water basins expanding and contracting ice sheet and consisting of a linear mound of soil generally parallel to the water's edge.

- 3.10.2 Illicit Discharge: Any direct or indirect non-storm water discharge to the separate storm sewer system, except as exempted below.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited **except** as described as follows:

The following discharges are exempt from discharge prohibitions established by this Ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than 1PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

(Ord. #438, adopted 06/16/09)

- 3.10.3 Impervious Surface: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand, limerock, clay or gravel, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

(Ord. #352 adopted 12/17/02)

- 3.10.4 Industrial Use: the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

- 3.10.5 Infiltration Basin or Trench: A water impoundment constructed over permeable soils designed to temporarily store storm water and allow the storm water to infiltrate through the bottom and sides of the impoundment.

(Ord. #398, adopted 05/08/06)

- 3.10.6 Intensive Livestock Farming: the feeding, breeding, raising or holding of animals in feedlots when the ratio of animal units to tillable cropland acres owned or leased by the feedlot operator exceeds 3:1.

(Ord. #431, adopted 10/07/08)

- 3.10.7 Intensive Vegetation Clearing: the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

- 3.10.8 Interim Use: A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

(Ord. #441, adopted 06/15/10)

### **3.11 J.**

- 3.11.1 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 1 unlicensed motor vehicle within a garage or other structure in residential districts or 3 unlicensed motor vehicles, not including farm implements, within agricultural districts.

### **3.12 K.**

- 3.12.1 Kennel: the boarding and/or breeding of dogs, cats or other domestic animal offered for sale or other compensation that exceeds 5 animals over 4 months or age.

(Ord. #431, adopted 10/07/08)

3.12.2 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.

**3.13** L.

3.13.1 Land Reclamation: The restoration of land after the conclusion of a mining or landfill operations to an acceptable topography, vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

(Ord. 398, adopted 05/08/06)

3.13.2 Land Rehabilitation: The restoration of land due to a natural or human disaster.

(Ord. #398, adopted 05/08/06)

3.13.3 Land Split: see Subdivision.

(Ord. #398, adopted 05/08/06)

3.13.4 Land Use Application: The term includes, but not limited to applications for the following: land use permits, vegetative alteration permits, topographic alteration permits, or other types of zoning permits, conditional use permits, amendments to this Ordinance, variances from the provisions of Ordinance, and the subdivision of real estate. The application is not considered complete and will not be accepted by the Department of Development unless all fees are paid, preliminary reviews and approvals completed, submitted with associated supporting information and documents, and such other information as required by the Department of Development Director.

(Ord. #330, adopted 04/03/01)

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

3.13.6 Legal Subdivision: See Subdivision, Legal.

(Ord. #398, adopted 05/08/06)

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

3.13.8 Littoral Lot: a lot or parcel of land adjacent to, or bordering, a lake or pond.

- 3.13.9      Livestock: Animals, and especially farm animals, raised for use, profit or enjoyment, including horses, ponies, bison (American buffalo), cattle, sheep, goats, poultry, llamas and other similar domesticated animals.
- (Ord. #398, adopted 05/08/06)
- 3.13.10     Livestock Experimentation: Conducting research on livestock that may involve genetic manipulation, cross-breeding, disease prevention and/or similar research.
- (Ord. #398, adopted 05/08/06)
- 3.13.11     Livestock Farming, Small or Restricted Animals: Raising of small fur-bearing animals (i.e. minks, chinchillas or similar animal).
- (Ord. #398, adopted 05/08/06)
- 3.13.12     Livestock Sales Yards: Area that may or may not be within a structure where livestock is available for sale.
- (Ord. #398, adopted 05/08/06)
- 3.13.13     Livestock Waste Storage Facility: a diked enclosure, pit or structure for temporary disposal or storage of livestock wastes.
- 3.13.14     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.
- 3.13.15     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.
- 3.13.16     Lot, Corner: a lot situated on the junction of and abutting on 2 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.
- 3.13.17     Lot, Flag: A lot not meeting minimum frontage requirements and where access to the public road is by fee title.
- (Ord. #398, adopted 05/08/06)
- 3.13.18     Lot, Interior: a lot other than a corner lot, including through lots.

- 3.13.19 Lot, Residential: a lot in a Residential District (R-1, R-2, R-3, or R-S).  
(Ord. # #427, adopted 05/06/08)
- 3.13.20 Lot, Through: any lot other than a corner lot which abuts more than one street.
- 3.13.21 Lot Area: the area of a lot on a horizontal plane bounded by the lot lines.
- 3.13.22 Lot Depth: the mean horizontal distance between the front lot line and the rear lot line.
- 3.13.23 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.
- 3.13.24 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. For flag lots the setback for the front yard shall be equal to the rear yard setback of the district.  
(Ord. #398, adopted 05/08/06)
- 3.13.25 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. For lots abutting a Federal or State Road and a Service Road or Street Within a Subdivision, the area abutting the service road or street within a subdivision shall be deemed to be the front lot line. On flag lots the front lot line shall be the point where the lot meets the minimum lot width requirement.  
  
Notwithstanding the above language, any lot line which is a shoreline shall be deemed to be the front lot line.  
  
(Ord. #202 adopted 11/06/90) (Ord. #220 adopted 09/01/92) (Ord. #398. adopted 05/08/06)
- 3.13.26 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. For corner lots in the non-residential area the lot line opposite the front lot line shall be deemed a side yard for setbacks.  
  
(Ord. #440, adopted 10/20/09)

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

3.13.28 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 August 1, 1978 zoning map. Also includes parcels described in unrecorded contracts for deed if the contract was notarized prior to the adoption of the August 1, 1978 zoning map.

(Ord. #373, adopted 02/17/04)

3.13.29 Lower-Potency Hemp Edible:

(A) "Lower-potency hemp edible" means any product that:

- (1) is intended to be eaten or consumed as a beverage by humans;
- (2) contains hemp concentrate or an artificially derived cannabinoid, in combination with food ingredients;
- (3) is not a drug;
- (4) does not contain a cannabinoid derived from cannabis plants or cannabis flower;
- (5) is a type of product approved for sale by the office or is substantially similar to a product approved by the office, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods; and
- (6) meets either of the requirements in paragraph (B).

(B) A lower-potency hemp edible includes:

- (1) A product that:
  - (a) consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol; no more than 25 milligrams of cannabidiol, cannabigerol, cannabinol, or cannabichromene; any other cannabinoid authorized by the office; or any combination of those cannabinoids that does not exceed the identified amounts;



- (b) does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving; and
  - (c) does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol, except that a product may include artificially derived cannabinoids created during the process of creating the delta-9 tetrahydrocannabinol that is added to the product, if no artificially derived cannabinoid is added to the ingredient containing delta-9 tetrahydrocannabinol and the ratio of delta-9 tetrahydrocannabinol to all other artificially derived cannabinoids is no less than 20 to one; or
- (2) A product that:
  - (a) contains hemp concentrate processed or refined without increasing the percentage of targeted cannabinoids or altering the ratio of cannabinoids in the extracts or resins of a hemp plant or hemp plant parts beyond the variability generally recognized for the method used for processing or refining or by an amount needed to reduce the total THC in the hemp concentrate; and
  - (b) consists of servings that contain no more than five milligrams of total THC.

(Ord. #497, adopted 12/17/24)

### **3.14      M.**

- 3.14.1      Manufactured Home: a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
- 3.14.2      Manufactured Home Park: any site, lot, field or tract of land upon which 2 or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

- 3.14.3 Manufactured Home Subdivision: a platted area of lots which is designed and intended for exclusive placement of manufactured homes and so stipulated by deed restrictions. Said lots must be for sale.
- 3.14.4 Manufacturing, Cannabis: the process by which cannabis flower or plants, cannabis concentrate, artificially derived cannabinoid, hemp plant part, or hemp concentrate are prepared into useable consumer products, or products intended for further processing. Manufacturing includes the production of edible cannabis products or lower-potency hemp edible, processing of cannabinoid products, and extraction and concentration that creates cannabis concentrate, hemp concentrate or artificially derived cannabinoids.
- (Ord. #497, adopted 12/17/24)
- 3.14.5 Manufacturing, Heavy: an establishment or use of land that manufactures, assembles, or fabricates using processes that generally create odor, noise, vibration, illumination or particulates that may impact surrounding properties. This category shall also include any use of land that needs large unscreened outdoor structures or storage that cannot be incorporated into the building.
- 3.14.6 Manufacturing, Hemp: the process by which hemp plant parts, are prepared into hemp concentrate or artificially derived cannabinoids, and hemp plant parts, hemp concentrate, and artificially derived cannabinoids are prepared into lower-potency hemp edibles and into usable consumer products. Manufacturing includes the production of lower-potency hemp edibles, processing of cannabinoid products, and extraction and concentration that creates hemp concentrate or artificially derived cannabinoids.
- (Ord. #497, adopted 12/17/24)
- 3.14.7 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.
- 3.14.8 May: means permissive.
- 3.14.9 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.

- 3.14.10 Minerals: the non-metallic materials found naturally in the earth including, but not limited to, rock, sand, gravel, clay, silt, and soil which may be covered by overburden.

(Ord. #428, adopted 06/17/08)

- 3.14.11 Mini Storage (Self-Service Storage Facility): a structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

- (A) However, the following uses are prohibited;
- (B) Auctions, commercial, wholesale, or retail sales, or miscellaneous or garage sales;
- (C) The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment;
- (D) The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment (except for maintenance or repair of the structure);
- (E) The establishment of a transfer and storage business;
- (F) Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations; and
- (G) Any use of any portion as a dwelling or living facility.

(Ord. #267 adopted 10/15/96)

- 3.14.12 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.

- 3.14.13 Mining, Commercial: Involving the total amount of 500 cubic yards, or more, of rock, sand, gravel, clay, silt, soil, or any other like mineral(s) or combination thereof for sale.

(Ord. #398, adopted 05/08/06)

- 3.14.14      Mining Operation(s): The excavation and/or processing of rock, sand, gravel, clay, silt, soil or other like mineral(s) being conducted by an entity on a commercial basis.
- (Ord. #398, adopted 05/08/06)
- 3.14.15      Mining, Processing: the crushing, screening, washing, compounding, or treatment of rock, sand, gravel, clay, silt, soil, or other like mineral(s) being conducted within the unincorporated areas of Benton County, including the production of asphalt compositions for pavement and the recycling of previously-used concrete and asphalt.
- (Ord. #428, adopted 06/17/08)
- 3.14.16      Mining, Rehabilitation: to renew the land with the goal being to return it to a self-sustaining state where there is self-sustaining vegetation and its long-term use is compatible with contiguous land uses in accordance with the standards set forth in Section 9.16.
- (Ord. #428, adopted 06/17/08)
- 3.14.17      Motel / Hotel: A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.
- (Ord. #398, adopted 05/08/06)
- 3.14.18      Motor Vehicle: every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires. Motor vehicles does not include a vehicle moved solely by human power.
- (Ord. #334, adopted 08/21/01)
- 3.14.19      Multiple Unit Development: a type of development in the shoreland district permitted through a conditional use permit characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of

dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

(Ord. #500, adopted 05/20/25)

3.14.20 Municipal Separate Storm Sewer System: A conveyance or system of conveyances (including roads within drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) that is:

- (A) Owned and operated by Benton County;
- (B) Designed or used for collecting and conveying storm water;
- (C) Which is not a combined sewer, and
- (D) Which is not part of a Publicly Owned Treatment Works as defined at 40 C.F.R. 122.2 and 40 C.F.R. 403.3, as may be amended.

(Ord. #438, adopted 06/16/09)

3.14.21 Must: obligation or necessity, mandatory.

### **3.15 N.**

3.15.1 New Development : Construction Activity that creates new impervious surface.

(Ord. #438 adopted 06/16/09)

3.15.2 Nonconforming Structure: A structure or building, the size, dimensions, or locations of which was lawful prior to the adoption, revision, or amendment of the Development Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Development Code.

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

3.15.3 Nonconforming Use: a use or activity that was lawful prior to the adoption, revision, or amendment of the Development Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Development Code.

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

- 3.15.4 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.
- 3.15.5 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.
- 3.15.6 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.
- 3.15.7 Nursery, Day: a facility where care is provided for pay for 3 or more children for periods of 4 hours or more per day.
- 3.15.8 Nursery, Landscape: a business growing and selling trees, flowering and decorative plants and shrubs.
- 3.15.9 Nursing Home: an institution or facility required to be licensed as such under Minnesota Statutes by the State Board of Health.
- 3.16 O.**
- 3.16.1 OCM: OCM means the Office of Cannabis Management.  
(Ord. #497, adopted 12/17/24)
- 3.16.2 Official Map: the map established by the County Board, in accordance with Minnesota Statutes, showing streets, highways, parks and drainage, both existing and proposed.
- 3.16.3 On-site Consumption, Cannabis: the consumption of edible cannabis products and lower-potency hemp edibles at a cannabis microbusiness.  
(Ord. #497, adopted 12/17/24)
- 3.16.4 On-site Consumption, Hemp: the consumption of lower-potency hemp at a lower-potency hemp edible retailer.  
(Ord. #497, adopted 12/17/24)

- 3.16.5      Open Sales Lot: private land devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed in a building; not including vehicle sales or large equipment sales.
- (Ord. #378, adopted 05/18/04)
- 3.16.6      Open Storage: Seasonal or temporary storage of boats, vehicles, recreational vehicles, trailers, or other similar items which are not the personal property of the property owner on which it is stored. Open storage shall not be used for the placement of storage or shipping containers for any reason, or for the storage of inoperable or unlicensed motor vehicles and/or semi-trailers.
- (Ord. #491, adopted 02/20/2024)
- 3.16.7      Outdoor Mixed Light Facility: a hoop house, green house, or other structure with non-rigid walls that utilizes natural light, in whole or in part, for cultivation.
- (Ord. #497, adopted 12/17/24)
- 3.16.8      Outside Storage: storage of material outside of a building.
- 3.16.9      Ordinary High Water Level: the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- 3.16.10     Outlot: A lot remnant or parcel of land left over after platting, which is intended as open space or other future use.
- (Ord. #441, adopted 06/15/10)
- 3.16.11     Overburden: those materials which lie between the surface of the earth and the mineral(s) to be excavated.
- (Ord. #428, adopted 06/17/08)
- 3.16.12     Overhang: a projection of the roof or upper story of a building beyond the wall or support posts of the lower part or beyond a point which is perpendicular with the point of intersection of the upper part and the outer-most support structure.

- 3.16.13 Owner: an individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity having a legal or equitable interest in the land.
- 3.17 P.**
- 3.17.1 Parking Space: a surfaced and maintained area for the storage of 1 standard automobile (10' x 20').
- 3.17.2 Party Wall: a common wall which divides 2 independent structures.
- 3.17.3 Pasture: Areas where grass or other growing plants are used as food for animal grazing. (Ord. #483, adopted 02/15/22)
- 3.17.4 PCA: Minnesota's Pollution Control Agency.
- 3.17.5 Permittee, Mining: the recipient of Benton County's consent to conduct a mining operation at a specified site. Permittee shall include the approved operator and owner of the parcel.  
  
(Ord. #428, adopted 06/17/08)
- 3.17.6 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.
- 3.17.7 Pine Plantation: a thick or dense planting of coniferous trees more than 50 feet in width and more than 100 feet in length.
- 3.17.8 Planned Unit Development: Rezoning of a tract or parcel to permit flexibility of site design in any zoning district.  
  
(Ord. #398, adopted 05/08/06)
- 3.17.9 Planning Commission or Commission: the duly appointed Planning Advisory Commission of the County Board.
- 3.17.10 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.
- 3.17.11 Platting Committee: Committee used to review the technical requirements of plats.



(Ord. #398, adopted 05/08/06)

- 3.17.12 Pond: Type 3, 4 or 5 wetland 1 acre or larger in size as defined in the United States Fish and Wildlife Circular 39 (1971 edition).

(Ord. #428, adopted 06/17/08)

- 3.17.13 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.

- 3.17.14 Private Sewer: an individual sewage treatment system, a central sewer system or a community sewer system.

(Ord. #330, adopted 04/03/01)

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

- 3.17.16 Professional Services: consists of the practice of law, medicine, dentistry, chiropractic, psychology, accounting and the practice of other professions which have in common the following: that the person rendering such service is licensed by a government unit or certified by a regional or national authority; that the service is rendered to an individual rather than to a piece of property owned by an individual; that the person rendering the service is bound by a code of conduct established by the licensing or certifying authority.

- 3.17.17 Program Facilities, Nonresidential: facilities which provide care, supervision, rehabilitation, training, or habitation of a person provided outside the person's own home and provided for fewer than 24 hours a day, as defined in Minn. Stat. § 245A.02, subd. 10, as may be amended, and which are licensed by the Minnesota Commissioner of Human Services pursuant to Minn. Stat. Ch. 245A, as may be amended.

(Ord. #265, adopted 07/16/96)

- 3.17.18 Program Facilities, Residential: facilities which provide 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habitation, or treatment outside a person's own home, as defined in Minn. Stat. § 245A.02, subd. 14, as may be amended, and which are licensed by the Minnesota Commissioner of Human Services pursuant to Minn. Stat. Ch. 245A, as may be amended.

(Ord. #265, adopted 07/16/96)

- 3.17.19 Property Line: the legal boundaries of a parcel of land.
- 3.17.20 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.
- 3.17.21 Public Conservation Lands: Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this Ordinance public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
- 3.17.22 Public Land: land owned and/or operated by a governmental unit.
- 3.17.23 Public Road: a road which has been accepted by a governmental unit, is regularly maintained by a governmental unit, and which is in regular use as a road.
- 3.17.24 Public Sewer: a sewer system constructed, operated and maintained by a governmental body.
- 3.17.25 Public Utility Building: A building or structure used or intended to be used by any public utility, including but not limited to any gas treatment plant reservoir, tank, or other storage facility; water treatment plant, well, reservoir, tank, or other storage facility; electric generating plant, distribution, or transmission substation; telephone switching or other communications plant, earth station, or other receiving or transmission facility; any storage yard for public utility equipment or vehicles; and any parking lot for parking vehicles or automobiles to serve a public utility.
- 3.17.26 Public Waters: means any waters as defined in Minn. Stat. § 103G.005, subd. 15, as may be amended.
- 3.17.27 Publication: notice placed in the official county newspaper stating the time, location, date of meeting and description of the topic(s).

**3.18 R.**

- 3.18.1 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 of equipment.
- 3.18.2 Recreational Camping Vehicle: Recreational camping vehicles or recreational vehicles shall have the meaning given in Minnesota Statutes, Section 327.14, subdivision 7, as may be amended from time to time. Recreational Camping Vehicle includes Travel and Camp Trailer. Any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses; B. Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation; C. Any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; and D. Any folding structure, mounted on wheels and designed for travel, recreation, and vacation use.
- (Ord. #500, adopted 05/20/25)
- 3.18.3 Recreational Facility: any facility, park, or other property intended to be used principally for public, non-commercial recreational purposes.
- 3.18.4 Recycling Center: a facility or site for the processing, collection, and preparation of recyclable materials for use in their original form, or for use as raw materials, or for using materials in a manufacturing process that does not cause the destruction of recyclable materials in a manner that precludes further use. Recycling centers must have all the applicable local, state, or federal permits required to operate. Recycling centers do not include smelters, junkyards, manufacturing facilities (light or heavy), metal shredders, disposal facilities, or composting processing facilities.
- (Ord. #219, adopted 09/01/92)
- 3.18.5 Religious Institution: 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.

- 3.18.6 Residential Fire Protection Water: a subdivision served with hydrants, piping and necessary infrastructure to deliver 1,000 gallons per minute of water at 20 pounds per square inch pressure at a fire hydrant outlet for fire departments, for fire suppression purposes. The piping, hydrant and infrastructure design must be signed by a licensed engineer, certifying that the water system will deliver the required amount of fire protection water as required by State Standards Ordinances. After the system is constructed, an engineer must certify that the water supply system was constructed per the design requirements and the fire protection water supply system must be tested and an engineer must certify the test results.

(Ord. #300, adopted 05/04/99)

- 3.18.7 Residential Multiple Unit Development: a use in the shoreland district permitted through a conditional use permit where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential multiple unit development, a development must contain at least 5 dwelling units or sites.

(Ord. #500, adopted 05/20/25)

- 3.18.8 Resort: A commercial establishment that includes buildings, recreational camping areas, lodges, structures, dwelling units/sites, enclosures or any part thereof kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are furnished to the public and primarily to those seeking recreation, for periods of one (1) day, one (1) week, or longer, and having for rent one (1) or more cabins, rooms, campsites or enclosures. These establishments must be primarily service-oriented for transient lodging of guests. All cabins, rooms, dwelling units/sites or enclosures must be included in the resort rental business. Resorts shall not allow residential use of a dwelling unit/site except dwellings used as residences for the service providers. In order to qualify as a resort pursuant to this definition, a resort shall also be fully licensed and permitted under appropriate state and local regulations. The entire parcel of land must be controlled and managed by the licensee.

(Ord. #500, adopted 05/20/25)

- 3.18.9      Restaurants, Cafes and Taverns: An eating establishment where food and drink are prepared, served, and consumed mostly within the principal building.  
  
(Ord. #398, adopted 05/08/06)
- 3.18.10     Resubdivision: The further division of lots or the relocation of lot lines of any lot or lots within a subdivision previously recorded as a subdivision plat.  
  
(Ord. #398, adopted 05/08/06)
- 3.18.11     Retail Sales: stores and shops selling personal service or goods to consumers.
- 3.18.12     Retail, Cannabis: the retail sale of immature cannabis plants and seedlings, adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived consumer products, and other products authorized by law to customers.  
  
(Ord. #497, adopted 12/17/24)
- 3.18.13     Retail, Hemp: the retail sale of lower-potency hemp edibles and other products authorized by law to customers.  
  
(Ord. #497, adopted 12/17/24)
- 3.18.14     Retreat Center: A facility consisting of a building or buildings whose purpose is to offer hospitality, education, crafting, enlightenment, contemplation, renewal, solitude, or passive recreation (non-motorized) and may offer temporary lodging (not exceeding two weeks). Excludes Program Facilities (residential and nonresidential) as defined by Minn. Stat. § 245A, as may be amended which are licensed by the Minnesota Commissioner of Human Services pursuant to Minn. Stat. § 245A, as may be amended.  
  
(Ord. #491, adopted 02/20/2024)
- 3.18.15     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.
- 3.18.16     Riparian Lot: a lot or parcel of land adjacent to, or bordering, a river or stream.
- 3.18.17     Rip-Rap: Large, natural rock placed along a shoreline to control or stop erosion in areas where aquatic vegetation, woody debris, or near shore vegetation are unable to prevent continued erosion from occurring. Rip-rap can be either larger rocks (6 inches diameter or larger) from field stone or commercially mined rock

products. Concrete products or waste materials (such as tires filled with concrete) are prohibited as rip-rap material.

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

3.18.19 Rural Event Venue: A structure or designated area used for celebration, weddings, ceremonies, receptions, corporate functions or similar activities for the benefit for someone other than the property owner that takes place on an occasional basis. This does not include uses accessory to single-family uses, such as private parties, gatherings and similar activities.

### **3.19 S.**

3.19.1 Sale: for the purposes of Section 9.22, the term “sale” means a conveyance of property as evidenced by the recording of a duly executed deed or contract for deed.

(Ord. #336, adopted 10/02/01)

3.19.2 Seasonal Worker: An individual who performs seasonal agricultural labor.

(Ord. #398, adopted 05/08/06)

3.19.3 Seasonal Worker Housing: Dwelling unit for a seasonal worker.

(Ord. #398, adopted 05/08/06)

3.19.4 Saw Mill: a facility that processes trees and forest products into lumber or other by-products.

(Ord. #431, adopted 10/07/08)

3.19.5 Sensitive Resource Management: the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

3.19.6 Septic, Authorized Representative: An employee or agent of the Benton County (County).

- 3.19.7      Septic, Class V Injection Well: A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (see 40 CFR Parts 144 and 146).
- 3.19.8      Septic, Cluster System: SSTS under some form of common ownership that collects wastewater from 2 or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.
- 3.19.9      Septic, Design Flow: The daily volume of wastewater for which an SSTS is designed to treat and discharge.
- 3.19.10     Septic, Failure to Protect Groundwater: At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in Minn. R. 7080.1500, subp. 4(D) and 4(E), as may be amended (with no more than a 15 percent reduction in the separation to account for settling, variations in measurement, and interpretation of the restrictive layer); and a system not abandoned in accordance with Minn. R. 7080.2500, as may be amended. The determination of the threat to groundwater for other conditions must be made by a qualified employee or a currently licensed inspection business.
- 3.19.11     Septic, Imminent Threat to Public Health and Safety: At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a qualified employee inspector or a currently licensed inspection business.
- 3.19.12     Septic, ISTS: An “individual sewage treatment system” having a design flow of no more than 5,000 gallons per day.

- 3.19.13      Septic, Malfunction: The partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.
- 3.19.14      Septic, Management Plan: A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.
- 3.19.15      Septic, Minor Repair: The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.
- 3.19.16      Septic, MSTs: A “midsized subsurface sewage treatment system” that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.
- 3.19.17      Septic, New Construction: Construction of a new structure that has a water using device that is not replacing an existing dwelling.
- 3.19.18      Septic, Notice of Noncompliance: A written document issued by the Department of Development or Licensed Inspector notifying a system owner that the treatment system has been observed to be noncompliant with the requirements of this Ordinance.
- 3.19.19      Septic, Pre-Treatment Device: A device that reduces, eliminates or alters the nature of the amount or nature of the pollutant properties in wastewater prior to discharging into a SSTS. The reduction, alteration or elimination may be obtained by physical, chemical or biological process or by other means, except by diluting the concentration of the pollutants unless specifically allowed by the applicable pretreatment standard.
- 3.19.20      Septic, Record Drawings: A set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.
- 3.19.21      Septic, SSTS: A “subsurface sewage treatment system” which includes both ISTS and MSTs.



- 3.19.22      Septic, Treatment Level: Treatment system performance levels defined in Minn. R. 7083.4030, Table III, as may be amended, for testing of proprietary treatment products.
- 3.19.23      Septic Type I System: A subsurface sewage treatment system that follows a standard trench, bed, at-grade, mound, or graywater system design in accordance with PCA rules, Minn. R. 7080.2200 through 7080.2240, as may be amended.
- 3.19.24      Septic Type II System: A subsurface sewage treatment system with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots in floodplains and privies or holding tanks in accordance with PCA rules, Minn. R. 7080.2250 through 7080.2290, as may be amended.
- 3.19.25      Septic Type III System: A custom designed subsurface sewage treatment system having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system in accordance with PCA rules, Minn. R. 7080.2300, as may be amended.
- 3.19.26      Septic Type IV System: An individual subsurface sewage treatment system, having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.
- 3.19.27      Septic Type V System: A subsurface sewage treatment system, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.
- 3.19.28      Setback: the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
- 3.19.29      Setback, Pump: the distance from the street right-of-way to the centerline of the motor fuel station pump island measured as the perpendicular distance from the right-of-way.

- 3.19.30 Sewage: Waste from toilets, bathing, laundry, or culinary activities or operations of floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.
- 3.19.31 Sewage Treatment Plant: A facility designed for the collection, removal, treatment, and disposal of waterborne sewage generated within a given service area
- 3.19.32 Shall: means mandatory.
- 3.19.33 Shopping Center: A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.
- (Ord. #238, adopted 04/19/94)
- 3.19.34 Shore Impact Zone: Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback, or 75 feet from the ordinary high water level of a natural environment lake or forested/transition river, whichever is less, or 50 feet of the ordinary high water level of a recreational development lake, whichever is less. In agricultural districts, the shore impact zone is the land located between the ordinary high water level and a line parallel to, and fifty feet away from, the ordinary high water level.
- 3.19.35 Shoreland: Land located within 1,000 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.
- 3.19.36 Sign: Any object, writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag (excluding the American or Minnesota State Flag), banner or pennant or any other device, figure or similar character which is used to announce, direct attention to, identify, advertise or otherwise make anything known; and is visible from the public right-of-way or from adjoining property. Monument signs that exceed 150 square feet sign area per side shall be regulated as a billboard signs.

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

- 3.19.37 Sign, Abandoned: Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of 1 year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of 1 year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned.

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

- 3.19.38 Sign Area: 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. The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. When letters or graphics are mounted without a frame, on a building the gross area shall be the area bounded by a 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. The sign area does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Stripes or colors on an awning or canopy that are not part of the actual sign shall not be counted as sign surface area.

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

- 3.19.39 Sign, Billboard: A sign that exceeds 150 square feet per side in sign area.

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

- 3.19.40 Sign, Building Mounted: A sign painted on or placed against or attached to the exterior wall surface of a building.

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

- 3.19.41 Sign, Construction: A temporary sign erected on the premises where construction or mining is taking place, indicating the firms having a role in the construction or mining.

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

- 3.19.42 Sign, Digital Display: the portion of a sign message, within an illuminated sign, made up of internally illuminated components capable of changing the message

periodically. Digital displays may include but are not limited to LCD, LED, or plasma displays.

- 3.19.43 Sign, Governmental: A sign erected by a local or other unit of government which is used to identify a public building or area, to direct traffic or to otherwise inform the public.

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

- 3.19.44 Sign, Illuminated: Any sign which depends upon any artificial light source either directed at the sign or as an integral component of the sign.

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

- 3.19.45 Sign, Monument: A sign which is either attached directly to the ground or is on pylons, posts or walls and is completely independent of any building or other structures on the property on which it is located.

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

- 3.19.46 Sign, Non-conforming: Any sign lawfully in existence of the effective date of this Ordinance or any sign lawfully in existence on the date of any amendment to this Ordinance which does not conform to the regulations affecting signs for the district in which the sign is located.

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

- 3.19.47 Sign, Political: Any sign which states the name and/or picture of an individual seeking election or appointment to a public office, or pertaining to a forthcoming public election or referendum.

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

- 3.19.48 Sign, Portable: Any sign which is not affixed permanently to the premises on which it is located and which is constructed so as to permit it to be moved from place to place whether on wheels or otherwise.

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

- 3.19.49 Sign-Temporary: A sign affixed, erected, or maintained on a premise for a total of 90 calendar days, including portable signs which are designed for and capable of being moved from one location to another; and including banners, pennants, or similar display.

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

3.19.50 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.

3.19.51 Slaughterhouses and Meat Processing Plants: A commercial building where livestock is killed and/or processed for human consumption or commercial use.

(Ord. #398, adopted 05/08/06)

3.19.52 Solar Collector: A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply.

3.19.53 Solar Energy: Radiant energy (direct, diffuse, and reflected) received from the sun.

3.19.54 Solar Energy System: A solar collector mounted on a building, pole or rack whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical or chemical means.

3.19.55 Solar Energy System, Accessory: A solar energy system less than 5 acres in size which is directly connected to or designed to serve the energy needs of the primary use.

3.19.56 Solar Farm, Community: A solar array composed of multiple solar panels on ground-mounted rack or poles which is not directly connected to or designed to serve the energy needs of the primary use but rather for the primary purpose of wholesale sales of generated electricity or a financial proxy for retail power. A community solar system may be either an accessory or a principal use.

3.19.57 Solar Garden, Private: A solar energy system greater than 5 acres which is directly connected to or design to serve the energy needs of the primary use. A private solar garden is an accessory use.

3.19.58 Solar Skyspace: The space between a solar energy collector and the sun which must be free of obstructions that may shade the solar energy collector and reduce the solar energy collector's cost-effective operation.

3.19.59 Solar Skyspace Easement: A right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument obtained by

private party, that protects the solar skyspace of an actual, proposed, or designated solar energy collector at a described location by forbidding or limiting activities or land uses by neighboring property owners to prevent the obstruction or reduction of the solar energy collector's access to solar energy. The solar skyspace must be described as the three-dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two methods.

- 3.19.60     Solar Structure: A structure designed to utilize solar energy as an alternative for or supplement to, a conventional energy system.
- 3.19.61     Solid Waste: Per Ord. #471, means Garbage, Refuse, Rubbish, Construction and Demolition Debris, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi-solid, liquid, or contained gaseous form, resulting from residential, industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste, wood chips, animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.
- 3.19.62     Solid Waste Management Facility: any tract or parcel of land, including any constructed facility used for the treatment of, or preliminary, intermediate or final disposal of solid waste, including, but not limited to, transfer station, incineration, composting, waste reduction and landfill disposal.
- 3.19.63     Stable: the boarding or breeding of horses for sale or compensation that exceeds the number of animal units permitted as an accessory use.  
  
(Ord. #431, adopted 10/07/08)
- 3.19.64     State: The State of Minnesota.
- 3.19.65     Steep Slope: land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction

techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

- 3.19.66 Storage Structure: Any building having a roof which may provide shelter or enclosure of movable personal goods but not to include livestock or persons.

(Ord. #445, adopted 04/12/11)

- 3.19.67 Storm Water: Any water collected, directed or diverted, that puddles, flows, ponds on the soil surface; from natural or man-made sources or conveyances.

(Ord. #398, adopted 05/08/06)

- 3.19.68 Storm Water Treatment: The removal or reduction of pollutants, pathogens and sediments from storm water.

(Ord. #398, adopted 05/08/06)

- 3.19.69 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 designed.
- (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 or 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.

- 3.19.70      Street Width: the shortest distance between the lines delineating the right-of-way of a street.
- 3.19.71      Structure: any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities. "Structure" does not include accessory or storage buildings smaller than or equal to 200 square feet, improved driveways, sidewalks, or slabs.
- (Ord. #373, adopted 02/17/04) (Ord. #427, adopted 05/06/08)
- 3.19.72      Structure, Nonconforming: see subsection 3.15.2: Nonconforming Structure.
- 3.19.73      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.
- 3.19.74      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.
- 3.19.75      Subdivision: Any land, vacant or improve which is divided or proposed to be divided into 2 or more lots, parcels, sited, units, plots, condominiums, tracts, or interest for the purpose of offer, sale, lease or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of residentially and non-residentially zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument. Subdivision includes the resubdivision and condominium creation or conversion.
- (Ord. #398, adopted 05/08/06)
- 3.19.76      Subdivision, Cluster: A method of subdivision that permits reduced lot sizes and concentrates dwelling units on a part of the site to allow the remaining land to be used for agriculture, recreation, common open space, and/or preservation of environmentally valued features.
- 3.19.77      Subdivision, Legal: Subdivision approved in accordance with the applicable procedures and rules governing at the time of the subdivision.



- 3.19.78      Subdivision, Major: Subdivision of 7 or more lots in the R-1, R-2, R-3, R-S, B-1, B-2, I-1, I-2 Districts or 10 or more lots in the A or R-A Districts created through the platting process.
- (Ord. #431, adopted 10/07/08)
- 3.19.79      Subdivision, Minor: Subdivision of 6 or fewer lots in the R-1, R-2, R-3, R-S, B-1, B-2, I-1, I-2 Districts or 9 or fewer lots in the A or R-A Districts created through the platting process.
- (Ord. #431, adopted 10/07/08)
- 3.19.80      Subdivision, Standard: The subdivision of a lot in accordance with the lot size requirements and bulk regulations specified in the district.
- 3.19.81      Substations: A subsidiary station in which electric current is transformed.
- 3.19.82      Surface Water-Oriented Commercial Use: the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.
- 3.19.83      Surveyor: a person duly registered as a land surveyor by the State of Minnesota.
- 3.20      I.**
- 3.20.1      Temporary Dwelling for Supportive Care: A dwelling for the housing of a caregiver or person receiving care that will be removed once the care is no longer needed.
- (Ord. #398, adopted 05/08/06)
- 3.20.2      Temporary Sales: Any sale made by a person, firm, or corporation engaging in the temporary business of selling goods, wares, or merchandise from a tent, truck, vending cart, or other area outside of a permanent structure. (Ord. #483, adopted 02/15/22)
- 3.20.3      Testing, Cannabis: the testing of immature cannabis plants and seedlings, cannabis flower, cannabis products, hemp plant parts, hemp concentrate, artificially derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products from cannabis microbusinesses, cannabis mezzobusinesses, cannabis cultivators, cannabis manufacturers, cannabis wholesalers, lower-

potency hemp edible manufacturers, medical cannabis combination businesses, and industrial hemp growers.

(Ord. #497, adopted 12/17/24)

- 3.20.4 Tire Collector: a person who owns or operates a site used for storage, collection, or deposit of more than 50 waste tires.

(Ord. 447 adopted 12/20/11)

- 3.20.5 Toe of the Bluff: the lower point of a 50-foot segment with an average slope exceeding 18 percent.

- 3.20.6 Top of the Bluff: the higher point of a 50-foot segment with an average slope exceeding 18 percent.

- 3.20.7 Topsoil: that portion of the overburden which lies closest to the surface of the earth and which supports the growth of vegetation.

(Ord. #428, adopted 06/17/08)

- 3.20.8 Tract: an area, parcel, site, piece of land, or property that is the subject of a development application.

(Ord. #308 adopted 11/04/99)

- 3.20.9 Trailer: A vehicle without motive power, designed to be towed by a passenger automobile but not designed for permanent human occupancy and which may include a camper trailer, utility trailer, boat trailer, horse trailer, or snowmobile trailer.

- 3.20.10 Transfer Station: an intermediate solid waste disposal facility in which solid waste collected from any source is temporarily deposited to await transportation to another solid waste management facility. This process must take place inside of a building.

(Ord. #326 adopted 01/16/01)

- 3.20.11 Transient Merchant: any person, individual, copartnership, limited liability company, and corporation, both as principal and agent, who engage in, do, or transact any temporary and transient business in this state, either in one locality, or in traveling from place to place in this state, selling goods, wares, and merchandise; and who, for the purpose of carrying on such business, hire, lease,

occupy, or use a building, structure, vacant lot, or railroad car for the exhibition and sale of such goods, wares, and merchandise. (Minn. Stat. § 320.099) (Ord. #483, adopted 02/15/22)

3.20.12 Transmission Line: Those electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

3.20.13 Transport, Cannabis: the transport of immature cannabis plants and seedlings, cannabis flower, cannabis products, artificially derived cannabinoids, hemp plant parts, hemp concentrate, lower-potency hemp edibles, and hemp-derived consumer products from cannabis microbusinesses, cannabis mezzo businesses, cannabis cultivators, cannabis manufacturers, cannabis wholesalers, lower-potency hemp edible manufacturers, medical cannabis retailers, medical cannabis processors, and industrial hemp growers to cannabis microbusinesses, cannabis mezzo businesses, cannabis manufacturers, cannabis testing facilities, cannabis wholesalers, cannabis retailers, lower-potency hemp edible retailers, , and medical cannabis combination businesses.

(Ord. #497, adopted 12/17/24)

3.20.14 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.

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

3.20.16 Truck Terminal: A facility for the receipt, transfer, short term storage and dispatching of goods transported by truck.

(Ord. #445, adopted 04/12/11)

### **3.21** **U.**

3.21.1 Unlicensed Motor Vehicle: Any self-propelled vehicle not bearing current number license plates and tabs issued to the vehicle pursuant to Minn. Stat. Ch. 168, as may be amended. For the purposes of this definition, the term “vehicle” includes, but is not limited to, passenger cars, trucks, vehicles used for racing or demolition derbies, inoperable vehicles, snowmobiles, all-terrain vehicles, and motorcycles.

- 3.21.2 A vehicle that is regularly used by the property owner for lawn care, snow removal, or agricultural purposes shall not be considered an unlicensed vehicle.
- 3.21.3 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.
- 3.21.4 Use, Accessory: a use subordinate to and serving the principal use or structure on the same lot.
- 3.21.5 Use, Conditional: the uses designated in each Zoning District, which for their respective conduct, shall require reasonable conditions established by the Planning Commission.
- 3.21.6 Use, Nonconforming: see subsection 3.15.3 Nonconforming Use.
- 3.21.7 Use, Open: the use of land without a building or including a building incidental to the open space.
- 3.21.8 Use, Permitted: a use which conforms with the requirements of the zoning district within which it is located.
- 3.21.9 Use, Principal: the primary use of the land or structures as distinguished from accessory uses.

### **3.22** **V.**

- 3.22.1 Vegetated Swale: Broad shallow channels containing a dense stand of established vegetation that are designed to promote infiltration and trap pollutants. Channels must be designed to have a maximum storm water flow velocity of 2 feet per second.

(Ord. #398, adopted 05/08/06)

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

### **3.23** **W.**

- 3.23.1 Warehousing: the storage of materials or equipment within an enclosed structure as a principal use.

(Ord. #398, adopted 05/08/06)

- 3.23.2 Water-Oriented Accessory Structure or Facility: a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.
- 3.23.3 Wetland: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands Must:
- (A) have a predominance of hydric soils;
  - (B) be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and,
  - (C) under normal circumstances support a prevalence of hydrophytic vegetation.
- (Ord. #352, adopted 12/17/02)
- 3.23.4 Wholesale: The selling of goods, equipment and materials by bulk to another business that, in turn, sells to the final customer.
- 3.23.5 Wholesale, Cannabis: the purchase of immature cannabis plants and seedlings, cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products from cannabis businesses, purchase hemp plant parts and hemp concentrates from industrial hemp processors licensed under Minn. Stat. Ch. 18K, and importation of hemp-derived consumer products and lower-potency hemp edibles that contain hemp concentrate or artificially derived cannabinoids that are derived from hemp plants or hemp plant parts to sell to cannabis microbusinesses, cannabis mezzobusinesses, cannabis manufacturers, and lower-potency-hemp edible retailers.
- (Ord. #497, adopted 12/17/24)
- 3.23.6 WECS - Wind Energy Conversion System: Any device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electrical energy.
- (Ord. #440, adopted 10/20/09)

3.23.7 WECS, Commercial: A WECS that meets any of the following:

- (A) Is 40 kW or greater in total name plate generating capacity, or
- (B) Consists of more than 1 WECS on a parcel, or
- (C) Exceeds 150 feet in height.

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

3.23.8 WECS, Large: Any combination of WECS with a combined nameplate capacity of 5,000 kilowatts or more.

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

3.23.9 WECS, Nameplate Capacity: The nameplate capacity of 1 wind energy conversion system must be combined with the nameplate capacity of any other wind energy conversion system that:

- (A) Is located within 5 miles of the wind energy conversion system;
- (B) Is constructed within the same 12-month period as the wind energy conversion system; and,
- (C) Exhibits characteristics of being a single development, including, but not limited to, ownership structure, an umbrella sales arrangement, shared interconnection, revenue sharing arrangements, and common debt or equity financing.

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

3.23.10 WECS, Non-Commercial: A WECS that meets all of the following:

- (A) Is less than 40 kW in total name plate generating capacity, and
- (B) Consists of only 1 WECS on a parcel, and
- (C) Is 150 feet in total height or less.

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

3.23.11 WECS, Feeder Line: Any power line that carries electrical power from 1 or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of

interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.

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

- 3.23.12 WECS, Meteorological Tower: Towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include communication towers; towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

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

- 3.23.13 WECS, Micro-WECS: Micro-WECS are WECS of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

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

- 3.23.14 WECS, Rotor Diameter: The diameter of the circle described by the moving rotor blades.

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

- 3.23.15 WECS, Small (SWECS): Any combination of WECS with a combined nameplate capacity of less than 5,000 kilowatts.

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

- 3.23.16 WECS, Total Height: The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

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

- 3.23.17 WECS, Tower: Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

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

- 3.23.18 WECS, Wind Turbine: A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

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

**3.24      Y.**

- 3.24.1      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.
- 3.24.2      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.
- 3.24.3      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. For corner lots in the non-residential area the lot line opposite the front lot line shall be deemed a side yard for setbacks.
- (Ord. #440, adopted 10/20/09)
- 3.24.4      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.

**3.25      Z.**

- 3.25.1      Zoning Administrator: the person, regardless of job title, designated to supervise the application of this Ordinance and to enforce the provisions thereof.
- 3.25.2      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 Application**

- 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 or a part of an annexation or joint powers agreement.

**4.2 Nonconforming Uses and Structures**

- 4.2.1 Any use or structure existing on March 28, 1979, or legally permitted thereafter that because of a change in the ordinance became nonconforming, other than a use specified in subsection 4.2.3, may continue until its normal expiration.

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

- (A) A nonconformity may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.
- (1) If the nonconformity or occupancy is discontinued for a period of more than 1 year; or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of the damage, and no land use permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
- (2) If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the

time of the damage, the County may impose reasonable conditions upon a building land use permit in order to mitigate any newly created impact on adjacent property or water body.

- (3) When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of the damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a land use permit to mitigate created impacts on the adjacent property or water body.
- (B) The County shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in the floodplain areas in accordance with the Floodplain Management Ordinance #196. Notwithstanding Item (A), the minimal improvement necessary to meet the floodproofing requirements of Ordinance #196 shall not be considered an expansion.
- (C) Existing nonconforming lots in shoreland areas. See subsection 6.1.2 for existing nonconforming lots in areas outside of the shoreland.
  - (1) Item (C) applies only to shoreland lots created prior to June 14, 1972, that do not meet the requirements for lot size or lot width.
  - (2) In a group of 2 or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
    - (a) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minn. R. Ch. 6120, as may be amended;
    - (b) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minn. R. Ch. 7080, as may be amended and Section 9.22 of the this Ordinance;

- (c) impervious surface coverage shall not exceed 25 percent of each lot;
  - (d) development of the lot must be consistent with the comprehensive plan; and
  - (e) The division of the lots will not create a noncompliant setback from the existing structures to the lot lines.
- (D) Any existing nonconforming shoreland lot created prior to June 14, 1972, not meeting the requirements of subpart a-e must be combined with the 1 or more contiguous lots so they equal 1 or more conforming lots as much as possible. Abutting nonconforming lots that come under common ownership shall not be developed or sold separately. No permits shall be issued for any use or structure on any nonconforming parcel of land that was sold separately after coming under common ownership.
- (E) Contiguous nonconforming lots in shoreland areas under a common ownership that were created on or after June 14, 1972, or not meeting the above standards 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.
- (F) Notwithstanding item (C) of this subsection, contiguous nonconforming lots in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minn. Stat. § 115.55 and Minn. R. Ch. 7080, as may be amended, or connected to a public sewer.
- (G) For lots subject to subpart a-e when evaluating all variances, zoning and building permit applications, interim or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.
- (H) Notwithstanding item (A) of this subsection, any otherwise lawful structure which is rendered nonconforming solely by reason a change in the

setback requirements from roads/road right-of-ways or the expansion of a public road right of way through eminent domain, purchase or other permanent governmental action may be extended, expanded, enlarged, or structurally altered; provided, that any extension, expansion or alteration shall not encroach upon the public road right of way to any greater extent than the existing structure and must comply with all other applicable setback restrictions and requirements of this Ordinance.

- (I) A nonconforming lot, unless combined item (C) of this subsection, may be allowed as a building site without variances from lot size requirements, provided that all structure and septic system setback distance requirements and impervious requirements can be met.
- (J) Notwithstanding item (A) of this subsection, an expansion of a nonconforming structure shall not require a variance if it complies with the following:
  - (1) The area of the expansion is on an existing permitted nonconforming structure and the expansion does not further encroach into the nonconforming setback as the existing structure;
  - (2) The expansion does not cause the lot to exceed the permitted impervious area;
  - (3) The expansion does not increase the size of the structure by more than 20 percent;
  - (4) The lot is not within shoreland or floodplain; and
  - (5) The site is served by a compliant septic system as evidenced by a valid certificate of compliance.

4.2.2 Any structure which will, under this Ordinance, become nonconforming, but for which a land use permit has been lawfully granted or existed on March 28, 1979, shall be considered a nonconforming structure.

4.2.3 No junkyard or auto reduction yard shall continue as a nonconforming use after October 12, 1984, but it may continue as a conditional use in a business, industrial, or agricultural district if, prior to October 13, 1984, the land owner applied for and obtained a conditional use permit to continue said operation.

**4.3        Suitability as a Dwelling**

- 4.3.1        No garage, tent, trailer, motor home, accessory buildings storage structure, nor any vehicle or building not specifically approved by the Building Official shall at any time be used as a dwelling.

(Ord. #445, adopted 04/12/11)

- 4.3.2        1 travel trailer or motor home (not to include mobile homes nor park trailers) is permitted for seasonal use on any lot provided that the following are met:

- (A)        Only 1 such unit is allowed per lot.
- (B)        Sewage must be properly treated or hauled away.
- (C)        The travel trailer is for guests or recreational use only. It may not be occupied on any lot for more than 90 days in any calendar year.
- (D)        The unit must have a current license attached in accord with state law.
- (E)        Placement of the unit shall comply with all setback requirements for a principal structure.

(Ord. #445, adopted 04/12/11)

- 4.3.3        A recreational vehicle, camper or travel trailer of the type described in subsection 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 30 days in the same calendar year while visiting the resident of said property.

- 4.3.4        The Department of Development Director may, upon application, grant a temporary permit for the use of a temporary residential structure or permit an existing dwelling unit to remain in conjunction with a home construction project that a duly authorized and valid land use permit has been issued prior to the application for said temporary permit.

- (A)        The applicant for said temporary permit shall file an application with the Department of Development Director setting forth the area in which said trailer or dwelling is to be located, together with a copy of the land use permit for the home to be constructed on said property.

- (B) The term of said temporary permit shall not exceed 6 months or upon completion of construction of the residential home in question, whichever comes first. An agreement shall be signed by the land owner prior to issuance of the land use permit acknowledging the requirement for removal of the structure, dwelling or trailer.

**5.0 COMPLIANCE****5.1 Generally**

5.1.1 Applications for permits, variances, rezonings, orders or approval required by this Ordinance shall be made to the Department of Development Director.

5.1.2 Applications for conditional use permits, interim use permits, variances and rezonings will not be accepted from anyone who is not an owner of land for which the application is made.

5.1.3 No building, structure or land shall be used for any purpose, nor in any manner, which is not in conformity with the provisions of this Ordinance.

5.1.4 No landowner shall erect, construct, structurally alter, extend, convert, move or use--nor allow or permit another person, including a lessee, tenant, agent, employee or contractor, to erect, construct, structurally alter, extend, convert, move or use on the landowner's land--any building or structure in any zoning district without first obtaining a land use permit therefore. In the event that a building or structure is erected or altered without the required permit the current owner shall obtain the required permits within 90 days of discovery by the County. If the current owner allowed the erection or alteration of the structure they shall be subject to after the fact fees as set-up by the County Board. If a previous owner allowed the erection or construction of the structure without the knowledge of the current landowner the current landowner shall not be subject to the after the fact fees.

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

5.1.5 Any use not specifically listed as a permitted, accessory, interim or conditional use in a zoning district shall be prohibited within that district. Amendments to the code may be proposed and initiated pursuant to Section 11.9.

(Ord. #249, adopted 03/21/95)

**5.2 Sewer and Water System**

5.2.1 In areas not served by public sewer, all on-site sewage disposal facilities shall be required to comply with Section 9.22 regulating sewage disposal systems and requiring permits therefor.

- 5.2.2 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 floodproofed.

**5.3 Preservation of Locational Markers**

- 5.3.1 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.

**5.4 Stormwater and Erosion Control Standards**

(Ord. #438, adopted 06/16/09)

- 5.4.1 No person or entity shall cause or permit illicit discharge into a Municipal Separate Storm Sewer System.
- 5.4.2 No person or entity shall engage in construction activity, or allow such activity to take place on property owned by said person or entity, without first: (1) obtaining a National Pollutant Discharge Elimination System (NPDES) Storm water Discharge Permit, and providing a copy of said permit to the Benton County Department, or (2) providing written proof from the Minnesota Pollution Control Agency or the Environmental Protection Agency to the Department of Development of exemption or waiver of the requirement for such a permit.
- 5.4.3 No person or entity shall create new development or redevelopment that disturbs areas equal to or greater than 1 acre in size, or permit such activity to take place on property owned by said person or entity, without first (1) obtaining a National Pollutant Discharge Elimination System permit containing or implementing a Post-Construction Runoff Control Plan or (2) providing written proof from the Minnesota Pollution Control Agency or the Environmental Protection Agency to the Department of Development of exemption or waiver of the requirement for such a permit.



**6.0 HEIGHT, BULK AND AREA RESTRICTIONS AND CALCULATION OF DENSITY**

**6.1 Lot Size Requirements**

- 6.1.1 No land division or split shall be made which results in 1 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. In addition to other remedies under the law and this Ordinance, no permit shall be issued for any use or structure on any parcel of land which was illegally subdivided. Existing lots, tracts or parcels of land that were illegally subdivided prior to January 2006 and have a permitted existing dwelling shall be allowed to have permits issued to said property subject to the landowner completing an Administrative Corrective Action on said lot, tract or parcel regardless of the lots size or dimension. (Ord. #431, adopted 10/07/08)
- 6.1.2 A substandard sized Lot of Record or parcel of land, 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 except as provided under Section 4.2 and subsection 7.14.5(B) for shoreland lots.
- (A) Abutting nonconforming lots that come under common ownership shall not be developed or sold separately. No permits shall be issued for any use or structure on any nonconforming parcel of land that was sold separately after coming under common ownership.
- (B) Tracts or parcels of land separated by a public road shall be deemed to be separate and individual lots of record or parcels.
- (Ord. #440, adopted 10/20/09)
- 6.1.3 Any substandard sized Lot of Record or parcel 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, except as permitted for nonconforming shoreland lots in Section 4.2 and subsection 7.14.5(B) for shoreland lots, and all sanitary sewer requirements of this Ordinance are complied with.

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

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

6.1.5 There shall be no more than 1 residential dwelling on a lot unless otherwise permitted by the Development Code.

(Ord. #431, adopted 10/07/08)

6.1.6 No more than 25 percent of any required minimum lot area may include public water, as defined in Minn. Stat. § 103G.005, subd. 15, as may be amended.

(Ord. #189, adopted 06/20/89)

6.1.7 No building or structure shall be constructed within 65 feet of any area designated for future road construction on an “official map” as described in Minn. Stat. § 394.361, as may be amended.

(Ord. #294, adopted 12/15/98)

## **6.2 Yard Requirements**

6.2.1 On a corner lot in a subdivision, 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 10 feet above the intersecting right-of-way lines, nor within 50 feet of the intersecting right-of-way lines.

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

6.2.3 Permitted Encroachments on Setback Space

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

(A) Belt courses, sills, lintels, and pilasters may project 18 inches into front, rear and side setback spaces.

(B) Cornices, eaves and gutters may project 3 feet into front setback space, 5 feet into rear setback space and 36 inches into side setback space; provided, however, that if the side setback space is less than 5 feet in

width, then such projection shall not exceed one-half of the width of the side setback space.

- (C) Outside stairways may project 5 feet into front setback space, 10 feet into rear setback space and 3 feet into side setback space.
- (D) Unwalled porches, terraces and balconies may extend 5 feet into front and rear setback spaces.
- (E) Chimneys not to exceed 6 feet in width may project 18 inches into front, rear and side setback spaces.
- (F) Building accessories designed and intended to control light entering a building, and being a permanent part of such building, may project 5 feet into front setback space, 10 feet into rear setback space and 3 feet into side setback space.
- (G) Building accessories designed and intended to control light entering a building, and not being a permanent part of such building by being removable therefrom, and by not being attached to a load-bearing member thereof, may project any distance into any setback space.
- (H) Any structure or part thereof which is below the grade of any setback space may project any distance into such setback space.
- (I) 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 stations; television antennae, and parapet walls extending not more than 4 feet above the limiting height of the building except as hereinafter provided and subject to approval by the Minnesota Department of Aeronautics.

### **6.3      Building Bulk Limitations**

- 6.3.1      Except as otherwise provided, in Residential and Rural Service Districts each single family dwelling shall be at least 20 feet in width at its narrowest point, and shall have a ground floor space of at least 800 square feet.

**6.4      Residential Density calculation in the Agricultural and Rural Agricultural District**

(Ord. #431, adopted 10/07/08) (Ord. #468, adopted 07/17/18)

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

- (1)    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 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.
- (3)    Next, 10 acres shall be subtracted from the result from item (2), above, for each existing dwelling unit (not to include temporary farm dwellings or temporary dwelling for supportive care).
- (4)    The result from item (3), above, shall be divided by 10 acres. This shall be the maximum number of dwelling units allowed on the entire tract.
- (5)    The transfer of dwelling units from one quarter, quarter section to another quarter, quarter section within 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 quarter, quarter section provided that the necessary deed restriction is recorded within said tract.
- (6)    Each new dwelling unit shall be retained on a separate lot and meet the minimum lot requirements of the Agricultural District.

- (7) 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) through (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 subsection 7.14.5(B) 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 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.
  - (3) Next 10 acres shall be subtracted from the result from item (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.
  - (4) The result from items (1) and (2), 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.
  - (5) 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 9.6.
  - (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) 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 items (1) and (2), above, shall be divided by 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) through (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 subsection 7.14.5(B) for shoreland lots, and all sanitary sewer requirements of this Ordinance are complied with.

**7.0 ZONING USE DISTRICTS****7.1 Districts Established**

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

Agricultural	"A" (Section 7.2)
Rural Agricultural	"R-A" (Section 7.3)
Single Family Residential	"R-1" (Section 7.4)
Single Family Residential	"R-2" (Section 7.5)
Single Family Residential	"R-3" (Section 7.6)
Rural Service	"R-S" (Section 7.7)
Business	"B-1" (Section 7.8)
Business Enterprise	"B-2" (Section 7.9)
Light Industrial	"I-1" (Section 7.10)
Heavy Industrial	"I-2" (Section 7.11)
Planned Unit Development	"PUD" (Section 7.12)
Floodplain	"FP" (Section 7.13)
Shoreland	"S" (Section 7.14)

7.1.2 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.

**7.2        "A" Agricultural District****7.2.1        Purpose**

This District is intended for those areas of Benton County where it is desirable, because of the high quality of soils and highly productive capacity of the land, to preserve, promote, maintain and enhance the use of land for agricultural purposes. This district shall allow for low density non-farm residence. Residential development may be allowed in this District at an overall density up to 4 dwelling units per 40 acres. The clustering of houses in order to preserve open space, agricultural land and purposes and/or environmentally valuable areas in some cases can be an asset to the community and when appropriate is encouraged by permitting a density up to 6 dwelling units per 40 acres.

(Ord. #308 adopted 11/04/99) (Ord. #398, adopted 05/08/06)

**7.2.2        Permitted Uses:**

(A)    Aquaculture, including those qualifying as a Tier I feedlot, in accordance with the provisions of Section 9.12

(B)    Cemeteries

(C)    Daycare Facilities, Licensed Group Family serving 14 or fewer children

(D)    Dwelling, Single Family

(Ord. #398, adopted 05/08/06)

(E)    Energy efficient subterranean dwellings

(F)    Essential services in accordance with Section 9.11

(G)    Farming, general and dairy, providing animal unit density is not greater than 3 units per acre for lots 20 acres and greater

(Ord. #431, adopted 10/07/08)

(H)    Farmstead Residence

(Ord. #391, adopted 10/04/05)

(I)    Feed Storage



- (J) Feedlot, Tier 1 in accordance with Section 9.12  
(Ord. #431, adopted 10/07/08)
- (K) Field crops
- (L) Forestry
- (M) Government buildings and structures  
(Ord. #408, adopted 11/02/06)
- (N) Historic sites and areas  
(Ord. #440, adopted 10/20/09)
- (O) Horticulture
- (P) Nurseries/greenhouses (no retail sales)
- (Q) Program Facilities, Nonresidential with a licensed capacity of 12 or fewer persons
- (R) Program Facilities, Residential with a licensed capacity of 6 or fewer persons
- (S) Public Utility Building
- (T) Recreational Facilities
- (U) Storage building as a principal use on a lot 10 acres or more  
(Ord. #427, adopted 05/06/08)
- (V) WECS Meteorological Tower for a period of 4 years or less and subject to Section 9.23
- (W) Wildlife forest and woodland management
- (X) Wind energy conversion systems in accordance with Section 9.23  
(Ord. #194, adopted 09/05/89) (Ord. #197, adopted 07/06/90) (Ord. #205, adopted 12/04/90) (Ord. #265, adopted 07/16/96) (Ord. #286, adopted 05/19/98)

(Ord. #303, adopted 11/04/99) (Ord. #352, adopted 12/17/02)(Ord. #391, adopted 10/04/05) (Ord. #398, adopted 05/08/06)

### 7.2.3 Permitted Accessory Uses:

- (A) Accessory buildings
- (B) Agricultural Tourism subject to Section 9.3
- (C) Animal units on lots less than 20 acres as regulated in accordance with Section 9.4
- (D) Antennas
- (E) Home occupations in conformance with the provisions of Section 9.14
- (F) Micro-WECS subject to Section 9.23  
(Ord. #440, adopted 10/20/09)
- (G) Produce Stands
- (H) Recreational Facility
- (I) Roadside stands for sale of home occupations or horticulture products, provided off-street parking is available
- (J) Solar Energy System, Accessory in accordance with subsection 9.20.3  
(Ord. #455, adopted 06/21/16)
- (K) Temporary buildings located for purposes of construction on the premises for a period of time not to exceed normal, necessary construction time
- (L) Temporary Sales / Transient Merchant Stands, in accordance with Section 9.25 (Ord. #483, adopted 02/15/22)
- (M) Open Storage of up to 9 total items on a parcel greater than 5.1 acres and in compliance with Section 8.6.  
(Ord. #491, adopted 02/20/2024)
- (N) Delivery, Cannabis in compliance with Section 9.27. (Ord. #497, adopted 12/17/24)

- (O) Retail, Cannabis in compliance with Section 9.27. (Ord. #497, adopted 12/17/24)

(Ord. #373, adopted 02/17/04) (Ord. #398, adopted 05/08/06)(Ord. #410, adopted 04/17/07) (Ord. #431, adopted 10/07/08)

#### 7.2.4 Conditional Uses:

- (A) Any conditional use granted under section, 7.1.2 of Ordinance #113 or section 7.1.21 of Ordinance #185, will be deemed a conforming use.

(Ord. #197, adopted 07/6/90) (Ord. #205, adopted 12/04/90)

- (B) Airports or airplane runways, provided such facility has approval of the Minnesota Board of Aeronautics, Department of Transportation.

- (C) Alcohol fuel plants

- (D) Animal hospitals

- (E) Aquaculture, including those with Tier II feedlot, in accordance with the provisions of Section 9.12

- (F) Automobile and Vehicle sales, small scale

(Ord. #221, adopted 10/06/92)

- (G) Bed and Breakfast

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

- (H) Bulk liquid storage.

- (I) Cabinet shops

(Ord. #189, adopted 06/20/89)

- (J) Child Care Centers

(Ord. #458, adopted 01/17/17)

- (K) Cluster Subdivisions in accordance with Section 9.6

(Ord. #398, adopted 05/08/06)

- (L) Commercial wind energy conversion systems in accordance with Section 9.23
- (M) Communication towers in accordance with Section 9.8.  
(Ord. #189, adopted 06/20/89)
- (N) Contractor shops (with or without outside storage) in accordance with Section 9.9  
(Ord. #346, adopted 06/16/02)
- (O) Density Transfer within a contiguous tract of land  
(Ord. #398, adopted 05/08/06)
- (P) Farm implement sales
- (Q) Feedlot, Tier II in accordance with Section 9.12  
(Ord. #431, adopted 10/07/08)
- (R) Fertilizer plants
- (S) Garage, Repair  
(Ord. #189, adopted 06/20/89)
- (T) Grain elevators
- (U) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11  
(Ord. #354, adopted 01/21/03)
- (V) Kennels  
(Ord. #431, adopted 10/07/08)
- (W) Livestock experimentation
- (X) Livestock farming, small or restricted animals
- (Y) Livestock sales yards

- (Z) Livestock waste storage facility in accordance with the provisions of Section 9.12 of this Ordinance.

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

- (AA) Manufacturing, Light

- (BB) Mini storage (self-service storage facility)

(Ord. #267, adopted 10/15/96)

- (CC) Nurseries/greenhouses (retail sales)

(Ord. #398, adopted 05/08/06)

- (DD) Recycling Center

- (EE) Retail Sales

(Ord. #398, adopted 05/08/06)

- (FF) Saw Mills

(Ord. #431, adopted 10/07/08)

- (GG) Schools

- (HH) Seasonal Worker Housing according to Section 9.18

- (II) Slaughterhouses and meat processing plants

- (JJ) Solid Waste Management Facilities in accordance with Section 9.21

- (KK) Stables

(Ord. #431, adopted 10/07/08)

- (LL) Storage structure as a principal use on a lot less than 10 acres in compliance with Section 9.1

(Ord. #445, adopted 04/12/11)

- (MM) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11

(Ord. #354, adopted 01/21/03)

(NN) Trailer vehicle sales, including marine, boat and campers

(Ord. #453, adopted 06/18/13)

(OO) Truck Terminal

(PP) Warehousing

(Ord. #189, adopted 06/20/89)

(QQ) WECS Meteorological Tower for a period of more than 4 years and subject to Section 9.23

(Ord. #398, adopted 05/08/06) (Ord. #440, adopted 10/20/09)

(RR) Retreat Center in accordance with Section 9.26

(Ord. #491, adopted 02/20/2024)

(SS) Campgrounds and Resorts in accordance with Section 9.28

(Ord. #500, adopted 05/20/2025)

#### 7.2.5 Interim Uses:

(Ord. #441, adopted 06/15/10)

(A) Commercial Recreation, Outdoor, in accordance with Section 9.7

(B) Home Extended Business in conformance with the provisions of Section 9.14

(Ord. #352, adopted 12/17/02)

(C) Mining Operations subject to Section 9.16

(Ord. #428, adopted 06/17/08)

(D) Rural Event Venue subject to Section 9.17

(E) Second Dwelling for Supportive care or Help on the farm in accordance with Section 9.19

- (F) Solar Garden, Private subject to Section 9.20
- (G) Solar Farm, Community subject to Section 9.20  
(Ord. #455, adopted 06/21/16)
- (H) Auction Business, in accordance with Section 9.24 (Ord. #483, adopted 02/15/22)
- (I) Open Storage of 10 total items or more items on parcels of 5.1 acres or more or any open storage on parcels up to 5.0 acre and in compliance with Section 8.6  
(Ord. #491, adopted 02/20/2024)
- (J) Cannabis Cultivation, Indoor in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (K) Cannabis Cultivation, Outdoor in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (L) Cannabis Cultivation, Mixed-Light in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (M) Manufacturing, Hemp or Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (N) Transport, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

#### 7.2.6 Lot and Site Dimensions

- (A) Lot Dimensional Standards
  - (1) Lot Area Regulations
    - (2) 2 acre minimum dry buildable lot size for a standard subdivision lot.
    - (3) 2 acre maximum lot size for cluster subdivision lots.
    - (4) Cluster subdivision lots shall have a minimum lot size to meet the required setbacks and provide for a well and 2

standard individual septic systems, all of which must be dry buildable.

(Ord. #197, adopted 07/06/90) (Ord. #205, adopted 12/04/90) (Ord. #308, adopted 11/04/99) (Ord. #398, adopted 05/08/06)

(5) Lot Width and Depth Regulations

- (a) Every lot or plot of land in a standard subdivision shall have a minimum width of not less than 250 feet and a minimum depth of not less than 300 feet.
- (b) Cluster subdivision lots shall have a minimum width of 150 feet and depth of 200 feet.

(Ord. #352, adopted 12/17/02) (Ord. #398, adopted 05/08/06) (Ord. #403, adopted 09/05/06) (Ord. #456, adopted 03/15/16)

(B) Site Dimensional Standards

(1) Setbacks

(a) All Structures, Setbacks from Roads:

(i) Classified Roads

Classified Roads	Setback from centerline*	Setback from Right-of-Way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet
Major Collector	125 feet	65 feet
Minor Collector	125 feet	65 feet
* The more restrictive standard will apply		

(ii) Local Collectors and Un-Classified Roads

Local Collectors and Un-Classified Roads	Setback from centerline*	Setback from Right-of-Way *
County Road	125 feet	65 feet
Township Road	98 feet	65 feet
Township Road completely within a cluster subdivision	63 feet	30 feet
* The more restrictive standard will apply		



## (b) Residential Structure Setbacks

- (i) Side Yard or Rear Yard: 50 feet minimum
- (ii) Cluster Subdivision
  - a. Side Yard abutting a Cluster Subdivision Lot or Cluster Subdivision Open Space:  
15 feet minimum
  - b. Rear Yard abutting Cluster Subdivision Lot or Cluster Subdivision Open Space:  
30 feet minimum
  - c. Side or Rear Yard abutting a standard subdivision lot  
50 feet minimum
- (iii) Setback from feedlots: See Section 9.12

(Ord. #379, adopted 08/17/04) (Ord. #398, adopted 05/08/06)

## (c) Other Structure Setbacks

- (i) Side Yard: 15 feet minimum
- (ii) Rear Yard: 30 feet minimum

(Ord. #440, adopted 10/20/09) (Ord. #470, adopted 01/22/19)

- (2) Total Lot Coverage (impervious surface) on Cluster Lot: 25 percent

- (C) See Section 7.14.5(A) for additional shoreland requirements

## 7.2.7 Lot Access Requirements

- (A) Every lot, tract or plot of land, including outlots, shall abut or have direct vehicular access to a public road. Each lot shall have a minimum road frontage equal to the required lot width; however, the Board of

Commissioners with approval of a final plat or the Department of Development Director with an Administrative Land Split may approve a flag lot that meets the following criteria:

- (1) Have ownership to a dedicated public right-of-way by a minimum 33 foot wide access; or,
- (2) In the event that a parcel is unable to be accessed to or from a public right-of-way by land under common ownership, an access and utility easement may be provided to a dedicated public right-of-way by a minimum 33 foot wide access for ingress, egress and utilities. The easement must meet the following criteria: shall be granted for roadway and utility purposes, must be perpetual, be binding upon the heirs, successors and assigns, have a defined legal description, contain provisions for construction, maintenance, repair, alteration and contain provisions for enforceability by the grantor/grantee.
- (3) The public right-of-way shall meet the minimum requirements stated in subsection 10.11.2; however, the construction design standards of the road shall be subject to the requirements of the Township for which the road is so located.

(Ord. #398, adopted 05/08/06) (Ord. #407, adopted 11/14/06) (Ord. #468, adopted 07/17/18)

**7.3        "R-A" Rural Agricultural District****7.3.1        Purpose**

This District is established to provide areas for low density, rural residential structures in agricultural/rural areas on lands that, due to substantial coverage by wooded areas, rock outcroppings and marginal soils, are not conducive to long term agricultural production. Some areas in this District are currently under agricultural production and can remain as such. Residential development may be allowed in this District at an overall density up to 8 dwelling units per 40 acres.

(Ord. #398, adopted 05/08/06)

**7.3.2        Permitted Uses:**

- (A)    Aquaculture, including those with Tier I feedlot, in accordance with the provisions of Section 9.12
- (B)    Cemeteries
- (C)    Daycare Facilities, Licensed Group Family serving 14 or fewer children
- (D)    Dwelling, Single Family

(Ord. #398, adopted 05/08/06)

- (E)    Energy efficient subterranean dwellings
- (F)    Essential services in accordance with Section 9.11
- (G)    Farming, general and dairy, providing animal unit density is not greater than 3 units per acre for lot 20 acres and greater

(Ord. #431, adopted 10/07/08)

- (H)    Farmstead Residence

(Ord. #391, adopted 10/04/05)

- (I)    Feedlot, Tier I in accordance with Sections 9.12

(Ord. #431, adopted 10/07/08)

- (J)    Field crops

- (K) Forestry
- (L) Governmental buildings and structures  
(Ord. #408, adopted 11/02/06)
- (M) Historic sites and areas  
(Ord. #440, adopted 10/20/09)
- (N) Horticulture
- (O) Nurseries/greenhouses (no retail sales)
- (P) Program Facilities, Nonresidential with a licensed capacity of 12)or fewer persons
- (Q) Program Facilities, Residential with a licensed capacity of 6 or fewer persons
- (R) Public Utility Building
- (S) Recreational Facilities
- (T) Religious Institutions
- (U) Storage building as a principal use on a lot 10 acres or more in accordance with Section 9.1  
(Ord. #427, adopted 05/06/08)
- (V) WECS Meteorological Tower for a period of 4 years or less and subject to Section 9.23
- (W) Wildlife forest and woodland management
- (X) Wind energy conversion systems in accordance with Section 9.23

7.3.3 Permitted Accessory Uses:

- (A) Accessory buildings
- (B) Agricultural Tourism subject to Section 9.3

- (C) Animal units on lots less than 20 acres as regulated in accordance with Section 9.4
  - (D) Antennas
  - (E) Home occupations in conformance with the provisions of Section 9.14
  - (F) Micro-WECS subject to Section 9.23  
(Ord. #440, adopted 10/20/09)
  - (G) Recreational Facility
  - (H) Roadside stands for sale of home occupations or horticulture products, provided off-street parking is available
  - (I) Solar Energy System, Accessory in accordance with subsection 9.20.3  
(Ord. #455, adopted 6/21/16)
  - (J) Temporary buildings located for purposes of construction on the premises for a period of time not to exceed normal, necessary construction time
  - (K) Temporary Sales / Transient Merchant Stands, in accordance with Section 9.25 (Ord. #483, adopted 02/15/22)
  - (L) Open Storage of up to 9 total items on parcels greater than 5.1 acres and in compliance with Section 8.6 (Ord. #491, adopted 02/20/2024)
  - (M) Delivery, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/2024)
  - (N) Retail, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/2024)
- (Ord. #373, adopted 02/17/04) (Ord. #398, adopted 05/08/06) (Ord. #410, adopted 04/17/07) (Ord. #431, adopted 10/07/08)

#### 7.3.4 Conditional Uses:

The following uses may be allowed as conditional uses following the procedures set forth in this Ordinance.

- (A) Airports or airplane runways, provided such facility has approval of the Minnesota Board of Aeronautics, Department of Transportation.

- (B) Animal hospital  
(Ord. #352, adopted 12/17/02)
- (C) Aquaculture, including those with Tier I feedlot, in accordance with the provisions of Section 9.12
- (D) Automobile and Vehicle sales, small scale  
(Ord. #221, adopted 10/06/92)
- (E) Bed and Breakfast  
(Ord. #407, adopted 11/14/06)
- (F) Bulk liquid storage
- (G) Cabinet shops
- (H) Child Care Center  
(Ord. #458, adopted 01/17/17)
- (I) Commercial wind energy conversion systems in accordance with Section 9.23
- (J) Communication towers in accordance with Section 9.8
- (K) Contractor shops (with or without outside storage) in accordance with Section 9.9  
(Ord. #346, adopted 06/16/02)
- (L) Farm implement sales
- (M) Feedlot, Tier II in accordance with Section 9.12  
(Ord. #431, adopted 10/07/08)
- (N) Garage, Repair
- (O) Grain elevators
- (P) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11

(Ord. #354, adopted 01/21/03)

(Q) Kennels

(Ord. #431, adopted 10/07/08)

(R) Livestock Experimentation

(S) Livestock sales yard

(T) Livestock waste storage facility in accordance with the provisions of Section 9.12

(U) Manufacturing, Light

(V) Mini storage (self-service storage facility)

(W) Nurseries/greenhouses (retail sales)

(X) Recycling Center in accordance with Section 9.21

(Y) Retail Sales

(Ord. #398, adopted 05/08/06)

(Z) Saw Mills

(Ord. #431, adopted 10/07/08)

(AA) Schools

(BB) Seasonal Worker Housing according to Section 9.18

(Ord. #361, adopted 06/17/03)

(CC) Slaughterhouses and meat processing plants

(DD) Solid Waste Management Facilities in accordance with Section 9.18

(EE) Stables

(Ord. #431, adopted 10/07/08)

(FF) Storage structure as a principal use on a lot less than 10 acres in compliance with Section 9.1

(Ord. #445, adopted 04/12/11)

(GG) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11

(Ord. #354, adopted 01/21/03)

(HH) Trailer vehicle sales, including marine, boat and campers

(II) Truck Terminal

(JJ) Warehousing

(KK) WECS Meteorological Tower for a period of more than 4 years and subject to Section 9.23

(Ord. #398, adopted 05/08/06) (Ord. #440, adopted 10/20/09)

(LL) Retreat Center in accordance with Section 9.26

(Ord. #491, adopted 02/20/2024)

(MM) Campgrounds and Resorts in accordance with Section 9.28

(Ord. #500, adopted 05/20/2025)

#### 7.3.5 Interim Uses:

(Ord. #441, adopted 06/15/10)

(A) Commercial Recreation, Outdoor in accordance with Section 9.7

(B) Home Extended Business in conformance with subsection 9.14 of this Ordinance

(C) Mining Operations subject to Section 9.16 (Ord. #428, adopted 06/17/08)

(D) Rural Event Venue subject to Section 9.17

(E) Second Dwelling for Supportive care or Help on the farm in accordance with Section 9.19

(F) Solar Garden, Private in accordance with Section 9.20



- (G) Solar Farm, Community in accordance with Section 9.20 (Ord. #455, adopted 06/21/16)
- (H) Auction Business, in accordance with Section 9.24 (Ord. #483, adopted 02/15/22)
- (I) Open Storage of 10 items or more on parcels of 5.1 acres or more or any open storage on parcels up to 5.0 acres and in compliance with Section 8.6 (Ord. #491, adopted 02/20/2024)
- (J) Cannabis Cultivation, Indoor in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (K) Cannabis Cultivation, Outdoor in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (L) Cannabis Cultivation, Mixed-Light in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (M) Manufacturing, Hemp or Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (N) Transport, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

#### 7.3.6 Lot and Site Dimensions

- (A) Lot Dimensional Standards
  - (1) Lot Area Regulations.
    - (a) 5 acre minimum lot size with a minimum of 2 dry, buildable acres.  
(Ord. #398, adopted 05/08/06)
  - (2) Lot Width and Depth Regulations.
    - (a) Every lot or plot of land in a standard subdivision shall have a minimum width of not less than 250 feet and a minimum depth of not less than 300 feet.  
(Ord. #403, adopted 09/05/06) (Ord. #456, adopted 03/15/16)

## (B) Site Dimensional Standards

## (1) Setbacks

(Ord. #398, adopted 05/08/06) (Ord. #440, adopted 10/20/09) (Ord. #470, adopted 01/22/19)

## (a) All Structures, Setbacks from Roads:

## (i) Classified Roads

Classified Roads	Setback from centerline*	Setback from Right-of-Way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet
Major Collector	125 feet	65 feet
Minor Collector	125 feet	65 feet
* The more restrictive standard will apply		

## (ii) Local Collectors and Un-Classified Roads

Local Collectors and Un-Classified Roads	Setback from centerline*	Setback from Right-of-Way *
County Road	125 feet	65 feet
Township Road	98 feet	65 feet
* The more restrictive standard will apply		

## (b) Residential Structure Setbacks:

(i) Side Yard or Rear Yard: 50 feet Minimum

(ii) Setback from feedlots: See Section 9.12

(Ord. #379, adopted 08/17/04) (Ord. #398, adopted 05/08/06)

## (c) Other Structure Setbacks

(i) Side Yard: 15 feet Minimum

(ii) Rear Yard: 30 feet Minimum

(Ord. #440, adopted 10/20/09) (Ord. #470, adopted 01/22/19)

- (C) See Section 7.14.5(A) for additional shoreland requirements

#### 7.3.7 Lot Access Requirements.

- (A) Every lot, tract or plot of land, including outlots, shall abut or have direct vehicular access to a public road.
- (B) Each lot shall have a minimum road frontage equal to the required lot width; however, the Board of Commissioners with approval of a final plat or the Department of Development Director with an Administrative Land Split may approve a flag lot that meets the following criteria:
  - (1) Have ownership to a dedicated public right-of-way by a minimum 33 foot wide access; or,
  - (2) In the event that a parcel is unable to be accessed to or from a public right-of-way by land under common ownership, an access and utility easement may be provided to a dedicated public right-of-way by a minimum 33 foot wide access for ingress, egress and utilities. The easement must meet the following criteria: shall be granted for roadway and utility purposes, must be perpetual, be binding upon the heirs, successors and assigns, have a defined legal description, contain provisions for construction, maintenance, repair, alteration and contain provisions for enforceability by the grantor/grantee.
  - (3) The public right-of-way shall meet the minimum requirements stated in subsection 10.11.2; however, the construction design standards of the road shall be subject to the requirements of the Township for which the road is so located.

(Ord. #398, adopted 05/08/06) (Ord. #407, adopted 11/14/06) (Ord. #468, adopted 07/17/18)

**7.4 “R-1” Single Family Residence District****7.4.1 Purpose**

This District is intended for rural residential uses located outside of urban growth areas consisting of primarily single family detached residences served by private septic systems and with a maximum density of 0.5 units per acre.

**7.4.2 Permitted Uses**

- (A) Single family detached dwellings, provided the following design standards are met:
  - (1) No such dwelling shall have a ground floor space of less than 800 square feet.
  - (2) No such dwelling shall have a width of less than 20 feet at its narrowest point. This restriction shall not apply to breezeways or other passageways that connect principal parts of a dwelling as long as the principal parts of the dwelling have a width of at least 20 feet at the narrowest point.
- (B) Daycare Facilities, Licensed Group Family, serving 14 or fewer children
- (C) Essential services
- (D) Field crops
- (E) Government buildings and structures
- (F) Historic sites and areas
- (G) Program Facilities, Nonresidential (12 or fewer people)
- (H) Program Facilities, Residential (6 or fewer people)
- (I) Recreational Facilities
- (J) Religious institutions
- (K) Wildlife forest and woodland management

(Ord. #248, adopted 02/21/95) (Ord. #265, adopted 07/16/96) (Ord. #352, adopted 12/07/02) (Ord. #408, adopted 11/02/06) (Ord. #440, adopted 10/20/09)

### 7.4.3 Permitted Accessory Uses

- (A) Accessory structures
- (B) Animal units in accordance with Section 9.4
- (C) Antennas
- (D) Home Occupations in conformance with the provisions of Section 9.14
- (E) Micro-WECS subject to Section 9.23 (Ord. #440, adopted 10/20/09)
- (F) Signs as regulated by this Ordinance
- (G) Solar Energy System, Accessory in accordance with subsection 9.20.3 (Ord. #455, adopted 66/21/16)

(Ord. #410, adopted 04/17/07) (Ord. #264, adopted 07/16/96)(Ord. #304, adopted 11/04/99) (Ord. #350, adopted 09/17/02) (Ord. #429, adopted 07/15/08) (Ord. #431, adopted 10/07/08)

### 7.4.4 Conditional Uses

- (A) Bed and breakfast
- (B) Cemeteries
- (C) Child Care Center (Ord. #458, adopted 01/17/17)
- (D) Duplexes
- (E) Energy efficient subterranean dwellings
- (F) Farming, general
- (G) Golf courses
- (H) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11
- (I) Manufactured home parks in accordance with Section 9.15
- (J) Public utility buildings
- (K) Schools

- (L) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11.

(Ord. #190, adopted 07/05/89) (Ord. #222, adopted 10/06/92) (Ord. #206, adopted 01/08/99) (Ord. #308, adopted 11/04/99) (Ord. #352, adopted 12/17/02) (Ord. #354, adopted 01/21/03) (Ord. #407, adopted 11/14/06) (Ord. #412, adopted 07/17/07) (Ord. #440, adopted 10/20/09)

#### 7.4.5 Interim Use Permits

- (A) Home extended business in conformance with the provisions of subsection 9.14

#### 7.4.6 Lot and Site Dimensions

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

- (A) Lot Dimensional Standards

- (1) Lot Area Requirements

- (a) 2 acres minimum per dwelling unit

- (b) The 2 acre minimum shall be comprised of non-wetland

- (Ord. #410, adopted 04/17/07)

- (2) Lot Width: 165 feet minimum

- (3) Lot Depth: 300 feet minimum

- (Ord. #410, adopted 04/17/07)

- (B) Site Dimensional Standards

- (1) Setbacks

- (Ord. #440, adopted 10/20/09) (Ord. #470, adopted 01/22/19)

- (a) All Structures, Setbacks from Roads:

## (i) Classified Roads

Classified Roads	Setback from centerline*	Setback from right-of-way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet
Major Collector	125 feet	65 feet
Minor Collector	125 feet	65 feet
* The more restrictive standard will apply.		

## (ii) Collectors and Un-Classified Roads

Collectors and Un-Classified Roads	Setback from centerline*	Setback from right-of-way*
County Road	125 feet	65 feet
Township Road	98 feet	65 feet

## (b) Residential Structure Setbacks

## (i) Abutting land zoned A or R-A

- a. Side Yard or Rear Yard 50 feet minimum

## (ii) Abutting land zoned R-1, R-2, R-3, or R-S

- a. Side Yard 15 feet minimum
- b. Side Yard where residential fire protection water is available with a subdivision:  
10 feet minimum
- c. Rear Yard 30 feet minimum

## (iii) Setback from feedlots: See Section 9.12

(Ord. #388, adopted 07/05/05) (Ord. #300, adopted 05/04/99)

## (c) Other Structure Setbacks

- (i) Side Yard 15 feet minimum
- (ii) Rear Yard 30 feet minimum

- (2) Building Height 40 feet  
(Ord. #388, adopted 07/05/05)
- (3) Total lot coverage (impervious surface) 25 percent  
(Ord. #352, adopted 12/17/02)

(C) See Section 7.14.5(A) for additional shoreland requirements

#### 7.4.7 Lot Access.

(Ord. #398, adopted 05/08/06) (Ord. #468, adopted 07/17/18)

- (A) Every lot, tract or plot of land, including outlots, shall abut or have direct vehicular access to a public road.
- (B) Each lot shall have a minimum road frontage equal to the required lot width; however, the Board of Commissioners with approval of a final plat or the Department of Development Director with an Administrative Land Split may approve a flag lot that meets the following criteria:
  - (1) Have ownership to a dedicated public right-of-way by a minimum 33 foot wide access; or,
  - (2) In the event that a parcel is unable to be accessed to or from a public right-of-way by land under common ownership, an access and utility easement may be provided to a dedicated public right-of-way by a minimum 33 foot wide access for ingress, egress and utilities. The easement must meet the following criteria: shall be granted for roadway and utility purposes, must be perpetual, be binding upon the heirs, successors and assigns, have a defined legal description, contain provisions for construction, maintenance, repair, alteration and contain provisions for enforceability by the grantor/grantee.
  - (3) The public right-of-way shall meet the minimum requirements stated in subsection 10.11.2; however, the construction design standards of the road shall be subject to the requirements of the Township for which the road is so located.



**7.5            “R-2” Single Family Residence District****7.5.1           Purpose**

This District is intended for rural residential uses located outside of urban growth areas, consisting of primarily single family detached housing with a maximum density of 1.0 unit per acre for residences served by private septic systems. Additional density is allowed for residences served by community septic systems or public septic systems.

**7.5.2           Permitted Uses**

- (A)    Single family detached dwellings, provided the following design standards are met:
  - (1)    No such dwelling shall have a ground floor space of less than 800 square feet.
  - (2)    No such dwelling shall have a width of less than 20 feet at its narrowest point. This restriction shall not apply to breezeways or other passageways that connect principal parts of a dwelling as long as the principal parts of the dwelling have a width of at least 20 feet at the narrowest point.
- (B)    Daycare facilities, licensed group family, serving 14 or fewer children
- (C)    Essential services in accordance with Section 9.11
- (D)    Field crops
- (E)    Government buildings and structures
- (F)    Historic sites and areas
- (G)    Program Facilities, Nonresidential (12 or fewer people)
- (H)    Program Facilities, Residential (6 or fewer people)
- (I)    Religious institutions
- (J)    Wildlife forest and woodland management

(Ord. #248, adopted 02/21/95) (Ord. #265, adopted 07/16/96) (Ord. #352, adopted 12/07/02) (Ord. #408, adopted 11/02/06) (Ord. #440, adopted 10/20/09)

### 7.5.3 Permitted Accessory Uses

- (A) Accessory Buildings
  - (B) Animal units in accordance with Section 9.4
  - (C) Antennas
  - (D) Home Occupations in conformance with the provisions of Section 9.14.
  - (E) Micro-WECS subject to Section 9.23 (Ord. #440, adopted 10/20/09)
  - (F) Recreational Facility
  - (G) Solar Energy System, Accessory in accordance with subsection 9.20.3 (Ord. #455, adopted 6/21/16)
  - (H) Storage structure in compliance with Section 9.1 (Ord. #445, adopted 04/12/11)
- (Ord. #352, adopted 12/17/02) (Ord. #410, adopted 04/17/07) (Ord. #264, adopted 07/16/96) (Ord. #308, adopted 11/04/99) (Ord. #350, adopted 09/17/02) (Ord. #429, adopted 07/15/08) (Ord. #431, adopted 10/07/08)

### 7.5.4 Conditional Uses

- (A) Bed and breakfast
- (B) Cemeteries, including mausoleums
- (C) Child Care Center (Ord. #458, adopted 01/17/17)
- (D) Duplex
- (E) Energy efficient subterranean dwellings
- (F) Fences located in a front yard with a height between 4 feet and 6 feet
- (G) General farming
- (H) Golf courses
- (I) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11

- (J) Manufactured home parks in accordance with Section 9.15
  - (K) Schools
  - (L) Nurseries and greenhouses with retail sales of home grown products
  - (M) Parks
  - (N) Public utility buildings
  - (O) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11
  - (P) Storage structure as a principal use in compliance with Section 9.1 (Ord. #445, adopted 04/12/11)
- (Ord. #190, adopted 07/05/89) (Ord. #206, adopted 01/08/91) (Ord. #222, adopted 10/06/92) (Ord. #308, adopted 11/04/99) (Ord. #352, adopted 12/17/02) (Ord. #354, adopted 01/21/03) (Ord. #369, adopted 10/21/03) (Ord. #407, adopted 11/14/06) (Ord. #412, adopted 07/17/07) (Ord. #440, adopted 10/20/09)

#### 7.5.5 Interim Use Permits

- (A) Home extended business in conformance with the provisions of subsection 9.14

#### 7.5.6 Lot and Site Dimensions

(Ord. #308, adopted 11/04/99) (Ord. #364, adopted 07/15/03)

##### (A) Lot Dimensional Standards

##### (1) Lot Area Requirements

- (a) Private sewer per dwelling unit: 1 acre minimum
- (b) Community sewer per dwelling unit: 17,000 sq. ft. minimum
- (c) Public sewer per dwelling unit: 12,000 sq. ft. minimum
- (d) All lots shall have the minimum lot area that is comprised of non-wetland.

## (2) Lot Width:

- (a) 1 acre lot: 150 feet minimum
- (b) 17,000 sq. ft. lot: 115 feet minimum
- (c) 12,000 sq. ft. lot: 80 feet minimum

## (3) Lot Depth:

- (a) 1 acre lot: 200 feet minimum
- (b) 17,000 sq. ft. lot: 150 feet minimum
- (c) 12,000 sq. ft. lot: 100 feet minimum

## (B) Site Dimensional Standards

## (1) Setbacks

## (a) All Structures, Setbacks from Roads:

Classified Roads	Setback from centerline*	Setback from right-of-way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet
Major Collector	125 feet	65 feet
Minor Collector	125 feet	65 feet
Local Collector	98 feet	65 feet
Local collectors and un-classified roads	Setback from centerline*	Setback from right-of-way*
County Road	125 feet	65 feet
Township Road	63 feet	30 feet

\* The more restrictive standard will apply.

(Ord. #440, adopted 10/20/09) (Ord. #470, adopted 01/22/19)

## (b) Residential Structure Dimensions:

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

## (i) Abutting Land zoned A or R-A

- a. Side Yard or Rear Yard 50 feet minimum

(Ord. #388, adopted 07/05/05)

- (ii) Abutting Land zoned R-1, R-2, R-3, or R-S

- a. Side Yard 15 feet minimum

- b. Side Yard where Residential Fire Protection Water is available with a subdivision

10 feet minimum

- c. Rear Yard 30 feet minimum

(Ord. #300, adopted 05/04/99)

- (iii) Setback from feedlots: See Section 9.12

(c) Other Structure Setbacks:

- (i) Side Yard: 15 feet minimum

- (ii) Rear Yard: 30 feet minimum

- (2) Building Height: 40 feet maximum

- (3) Total Lot Coverage (impervious surface) 25 percent maximum

(Ord. #352, adopted 12/17/02)

- (C) See Section 7.14.5(A) for additional shoreland requirements

#### 7.5.7 Lot Access

(Ord. #398, adopted 05/08/06) (Ord. #469, adopted 07/17/18)

- (A) Every lot, tract or plot of land, including outlots, shall abut or have direct vehicular access to a public road. Each lot shall have a minimum road frontage equal to the required lot width; however, the Board of Commissioners with approval of a final plat or the Department of Development Director with an Administrative Land Split may approve a flag lot that meets the following criteria:

- (1) Have ownership to a dedicated public right-of-way by a minimum 33 foot wide access; or,
- (2) In the event that a parcel is unable to be accessed to or from a public right-of-way by land under common ownership, an access and utility easement may be provided to a dedicated public right-of-way by a minimum 33 foot wide access for ingress, egress and utilities. The easement must meet the following criteria: shall be granted for roadway and utility purposes, must be perpetual, be binding upon the heirs, successors and assigns, have a defined legal description, contain provisions for construction, maintenance, repair, alteration and contain provisions for enforceability by the grantor/grantee.
- (3) The public right-of-way shall meet the minimum requirements stated in subsection 10.11.2; however, the construction design standards of the road shall be subject to the requirements of the Township for which the road is so located.

**7.6           “R-3” Single Family Residence District****7.6.1           Purpose**

This District is intended for rural residential uses located outside of urban growth areas consisting of primarily single family detached housing with limited opportunities for 2- to 4-unit developments. Density shall be limited to a maximum of 2.1 units per acre for residences served by private septic systems. Additional density is allowed for residences served by community septic systems or public septic systems.

**7.6.2           Permitted Uses**

- (A)   Single family detached dwellings, provided the following design standards are met:
  - (1)   No such dwelling shall have a ground floor space of less than 800 square feet.
  - (2)   No such dwelling shall have a width of less than 20 feet at its narrowest point. This restriction shall not apply to breezeways or other passageways that connect principal parts of a dwelling as long as the principal parts of the dwelling have a width of at least 20 feet at the narrowest point.
- (B)   Daycare Facilities, Licensed Group Family, serving 14 or fewer children
- (C)   Essential Services
- (D)   Field Crops
- (E)   Government Buildings and Structures
- (F)   Program Facilities, Nonresidential (12 or fewer people)
- (G)   Program Facilities, Residential (6 or fewer people)
- (H)   Recreational Facilities
- (I)   Religious Institutions
- (J)   Wildlife Forest and Woodland Management

(Ord. #248, adopted 02/21/95) (Ord. #265, adopted 07/16/96) (Ord. #352, adopted 12/07/02) (Ord. #408, adopted 11/02/06) (Ord. #440, adopted 10/20/09)

### 7.6.3 Permitted Accessory Uses

- (A) Accessory Buildings
- (B) Animal units in accordance with Section 9.4
- (C) Antennas
- (D) Home Occupations in conformance with the provisions of Section 9.14
- (E) Micro-WECS subject to Section 9.23 (Ord. #440, adopted 10/20/09)
- (F) Recreational Facility
- (G) Solar Energy System, Accessory in accordance with subsection 9.20.3 (Ord. #455, adopted 6/21/16)

(Ord. #410, adopted 04/17/07) (Ord. #264, adopted 07/16/96) (Ord. #308, adopted 11/04/99) (Ord. #350, adopted 09/17/02) (Ord. #429, adopted 07/15/08) (Ord. #431, adopted 10/07/08)

### 7.6.4 Conditional Uses

- (A) Bed and breakfast
- (B) Cemeteries
- (C) Child Care Center (Ord. #458, adopted 01/17/17)
- (D) Duplex, triplex and quad residential housing units on properties served by a public, community or central sewage treatment system
- (E) Energy efficient subterranean dwellings
- (F) Farming, general
- (G) Golf Courses
- (H) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11



- (I) Manufactured Home Park in accordance with Section 9.15
- (J) Program Facilities, Nonresidential with a licensed capacity of 13-16 persons
- (K) Public utility buildings
- (L) Schools
- (M) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11.

(Ord. #206, adopted 01/08/91) (Ord. #222, adopted 10/06/92) (Ord. #265, adopted 07/16/96) (Ord. #308, adopted 11/04/99) (Ord. #352, adopted 12/17/02) (Ord. #354, adopted 01/21/03) (Ord. #369, adopted 10/21/03) (Ord. #407, adopted 11/14/06) (Ord. #412, adopted 07/17/07) (Ord. #440, adopted 10/20/09)

#### 7.6.5 Interim Use Permit

- (A) Home extended business in conformance with the provisions of subsection 9.14

#### 7.6.6 Lot and Site Dimensions

(Ord. #308, adopted 11/04/99) (Ord. #364, adopted 07/15/03)

##### (A) Lot Dimensional Standards

##### (1) Lot Area Requirements

- (a) Private sewer, per dwelling unit:

21,000 sq. ft. minimum

- (b) Community sewer per dwelling unit:

17,000 sq. ft. minimum

- (c) Public sewer, per dwelling unit:

12,000 sq. ft. minimum

- (d) All lots shall have the minimum lot area that is comprised of non-wetland.

## (2) Lot Width:

- (a) 21,000 sq. ft. lot: 100 feet minimum
- (b) 17,000 sq. ft. lot: 90 feet minimum
- (c) 12,000 sq. ft. lot: 80 feet minimum

## (3) Lot Depth:

- (a) 21,000 sq. ft. lot: 170 feet minimum
- (b) 17,000 sq. ft. lot: 145 feet minimum
- (c) 12,000 sq. ft. lot: 120 feet minimum

## (B) Site Dimensional Standards

## (1) Setbacks

## (a) All Structures, Setbacks from Roads:

Classified Roads	Setback from centerline*	Setback from right-of-way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet
Major Collector	125 feet	65 feet
Minor Collector	125 feet	65 feet
Local collectors and un-classified roads	Setback from centerline*	Setback from right-of-way*
County Road	125 feet	65 feet
Township Road	63 feet	30 feet

\* The more restrictive standard will apply.

(Ord. #440, adopted 10/20/09) (Ord. 470, adopted 01/22/19)

## (b) Residential Structure Setbacks

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

## (i) Abutting Land zoned A or R-A

- a. Side Yard or Rear Yard 50 feet minimum

(Ord. #388, adopted 07/05/05)

- (ii) Abutting Land zoned R-1, R-2, R-3 or R-S
  - a. Side Yard: 15 feet minimum
  - b. Side Yard where Residential Fire Protection Water is available with a subdivision: 10 feet minimum
  - c. Rear Yard: 30 feet minimum

(Ord. #300, adopted 05/04/99)

- (iii) Setback from feedlots: See Section 9.12

## (c) Other Structure Setbacks

- (i) Side Yard 15 feet minimum
- (ii) Rear Yard 30 feet minimum
- (2) Building Height 40 feet maximum
- (3) Total Lot Coverage (impervious surface) maximum 25 percent

(Ord. #352, adopted 12/17/02)

- (C) See Section 7.14.5(A) for additional shoreland requirements

## 7.6.7 Lot Access

(Ord. #398, adopted 05/08/06) (Ord. #468, adopted 07/17/18)

- (A) Every lot, tract or plot of land, including outlots, shall abut or have direct vehicular access to a public road. Each lot shall have a minimum road frontage equal to the required lot width; however, the Board of Commissioners with approval of a final plat or the Department of Development Director with an Administrative Land Split may approve a flag lot that meets the following criteria:

- (1) Have ownership to a dedicated public right-of-way by a minimum 33 foot wide access; or,
- (2) In the event that a parcel is unable to be accessed to or from a public right-of-way by land under common ownership, an access and utility easement may be provided to a dedicated public right-of-way by a minimum 33 foot wide access for ingress, egress and utilities. The easement must meet the following criteria: shall be granted for roadway and utility purposes, must be perpetual, be binding upon the heirs, successors and assigns, have a defined legal description, contain provisions for construction, maintenance, repair, alteration and contain provisions for enforceability by the grantor/grantee.
- (3) The public right-of-way shall meet the minimum requirements stated in subsection 10.11.2; however, the construction design standards of the road shall be subject to the requirements of the Township for which the road is so located.

#### 7.6.8 Water Well and Septic System Requirements

- (A) Every land use permit issued for property zoned R-3, which property has no public sewer system, shall contain the following conditions and requirements: "Each well shall be at least fifty feet deep and shall be cased and grouted to prevent contamination from upper soil layers. In order to avoid contamination of neighboring wells and to comply with the setback requirements of Section 9.22, the well and septic system on said property shall be located in the same respective areas of the lot as on the adjoining lots. Non-compliance shall be cause for revocation of the permit by the Department of Development."
- (B) The Board of Adjustment may consider a variance application from this subsection if there is no hazard to the public health, safety and welfare.

**7.7           “R-S” Rural Service District**

(Ord. #398, adopted 05/08/06)

**7.7.1       Purpose**

This District is intended for areas of Benton County that is a concentration of houses and business in an unincorporated area that are located at the intersection of 2 major roads. The County recognizes the existence of the small rural unincorporated service centers that were developed some time ago and which include a mixture of land uses. Thus this District has been designated for flexibility within standards related to public health and safety.

**7.7.2       Permitted Uses:**

- (A)   Banks
- (B)   Daycare Facilities, Licensed Group Family serving 14 or fewer children
- (C)   Dwelling, Single Family
- (D)   Energy efficient subterranean dwellings
- (E)   Essential services in accordance with Section 9.11.
- (F)   Existing commercial and industrial uses, except that additions or expansions thereto shall be subject to the conditional use procedure
- (G)   Field crops
- (H)   Government buildings and structures (Ord. #408, adopted 11/02/06)
- (I)   Historic Sites and Areas
- (J)   Horticulture
- (K)   Nurseries/greenhouses (no retail sales)
- (L)   Professional services
- (M)   Program Facilities, Nonresidential with a licensed capacity of 12 or fewer persons

- (N) Program Facilities, Residential with a licensed capacity of 6 or fewer persons.
- (O) INTENTIONALLY BLANK
- (P) Recreational Facilities
- (Q) Religious Institutions
- (R) Restaurants, Cafes, and Taverns
- (S) Retail, Cannabis or Hemp in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

### 7.7.3 Permitted Accessory Uses:

- (A) Accessory buildings
  - (B) Animal units in accordance with Section 9.4
  - (C) Antennas
  - (D) Home occupations in conformance with the provisions of Section 9.14
  - (E) Micro-WECS subject to Section 9.23 (Ord. #440, adopted 10/20/09)
  - (F) Produce stands
  - (G) Roadside stands for sale of home occupations or horticulture products provided off-street parking is available.
  - (H) Solar Energy System, Accessory in accordance with subsection 9.20.3 (Ord. #455, adopted 06/21/16)
  - (I) Temporary buildings located for purposes of construction on the premises for a period of time not to exceed normal, necessary construction time.
  - (J) Temporary Sales / Transient Merchant Stands, in accordance with Section 9.25 (Ord. #483, adopted 02/15/22)
  - (K) Delivery, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (Ord. #410, adopted 04/17/07) (Ord. #431, adopted 10/7/08)

#### 7.7.4 Conditional Uses

The following uses may be allowed as conditional uses following the procedures set forth in this Ordinance.

- (A) Airports or airplane runways, provided such facility has approval of the Minnesota Board of Aeronautics, Department of Transportation.
- (B) Animal hospital
- (C) Auto fuel stations in accordance with Section 9.5.
- (D) Automobile and Vehicle Sales
- (E) Bed and Breakfast (Ord. #407, adopted 11/14/06)
- (F) Cabinet shops.
- (G) Car washes (when separate from Auto Service)
- (H) Cemeteries
- (I) Child Care Center (Ord. #458, adopted 01/17/17)
- (J) Club or Lodge
- (K) Communication towers in accordance with Section 9.8
- (L) Convenience stores
- (M) Drive-in uses/businesses in accordance with Section 9.10
- (N) Duplex, Triplex and Quad residential housing
- (O) Expansion of an existing commercial and industrial uses
- (P) Farm implement sales
- (Q) Farming, General
- (R) Garage, Repair
- (S) Grain elevators.
- (T) Grocery stores

- (U) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11
- (V) Kennels
- (W) Manufactured Home Park in accordance with Section 9.15
- (X) Manufacturing, Light.
- (Y) Mini storage (self-service storage facility)
- (Z) Motels and hotels
- (AA) Nurseries/greenhouses (retail sales)
- (BB) Open sales lot
- (CC) Restaurants, cafes and taverns
- (DD) Retail Sales
- (EE) Schools
- (FF) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11
- (GG) Trailer vehicle sales, including marine, boat and campers
- (HH) Truck Terminal
- (II) Warehousing
- (JJ) Public Utility Building (Ord. #487, adopted 01/17/23)
- (KK) Retreat Center in accordance with Section 9.26  
(Ord. #491, adopted 02/20/2024)

#### 7.7.5 Interim Uses:

- (Ord. #441, adopted 06/15/10)
- (A) Caretakers residence



- (B) Home extended business in conformance with subsection 9.14 of this Ordinance
- (C) Second Dwelling for Supportive care or Help on the farm in accordance with Section 9.19
- (D) Solar Garden, Private in accordance with Section 9.20
- (E) Auction Business, in accordance with Section 9.24 (Ord. #483, adopted 02/15/22)
- (F) Open Storage in compliance with Section 8.6  
(Ord. #491, adopted 02/20/2024)

#### 7.7.6 Lot and Site Dimensions

##### (A) Lot Dimensional Standards

###### (1) Lot Area:

- (a) Private sewer, per dwelling unit

21,000 sq. ft. minimum

- (b) Community sewer per dwelling unit

17,000 sq. ft. minimum

- (c) All lots shall have the minimum lot area that is comprised of non-wetland.

###### (2) Lot Width:

- (a) 21,000 sq. ft. lot 100 feet minimum

- (b) 17,000 sq. ft. lot 90 feet minimum

###### (3) Lot Depth:

- (a) 21,000 sq. ft. lot 170 feet minimum

- (b) 17,000 sq. ft. lot 145 feet minimum

##### (B) Site Dimensional Standards

## (1) Setbacks:

## (a) All Structures, Setbacks from Roads:

## (i) Classified Roads

Classified Roads	Setback from centerline*	Setback from right-of-way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet

\* The more restrictive standard will apply.

## (ii) Collectors and Un-Classified Roads

Collectors and Un-Classified Roads	Setback from centerline	Setback from Right-of-Way*
County Road	98 feet	65 feet
Township Road	63 feet	30 feet

## (b) Residential Structure Setbacks

- (i) Side Yard 15 feet minimum
- (ii) Rear Yard 30 feet minimum
- (iii) Side Yard or Rear Yard abutting land zoned A or R-A  
50 feet minimum
- (iv) Setback from feedlots See Section 9.12

(Ord. #379, adopted 08/17/04) (Ord. #398, adopted 05/08/06)

## (c) Other Structure Setbacks

- (i) Side Yard 15 feet minimum
- (ii) Rear Yard 30 feet minimum

## (2) Building Height 40 feet maximum

- (3) Total lot coverage (impervious surface) 35 percent maximum

(C) See Section 7.14.5(A) for additional shoreland requirements

#### 7.7.7 Lot Access.

- (A) Every lot, tract or plot of land, including outlots, shall abut or have direct vehicular access to a public road.
- (B) Each lot shall have a minimum road frontage equal to the required lot width; however, the Board of Commissioners with approval of a final plat or the Department of Development Director with an Administrative Land Split may approve a flag lot that meets the following criteria:
  - (1) Have ownership to a dedicated public right-of-way by a minimum 33 foot wide access; or,
  - (2) In the event that a parcel is unable to be accessed to or from a public right-of-way by land under common ownership, an access and utility easement may be provided to a dedicated public right-of-way by a minimum 33 foot wide access for ingress, egress and utilities. The easement must meet the following criteria: shall be granted for roadway and utility purposes, must be perpetual, be binding upon the heirs, successors and assigns, have a defined legal description, contain provisions for construction, maintenance, repair, alteration and contain provisions for enforceability by the grantor/grantee.
  - (3) The public right-of-way shall meet the minimum requirements stated in subsection 10.11.2; however, the construction design standards of the road shall be subject to the requirements of the Township for which the road is so located.

(Ord. # 407, adopted 11/14/06) (Ord. #468, adopted 07/17/18)

**7.8        "B-1" Business District****7.8.1        Purpose**

This District is intended to promote the concentration of a wide range of commercial establishments along primary roadways throughout the County to serve local residents and the traveling public.

**7.8.2        Permitted Uses**

- (A)    Adult Uses according to Section 9.2
- (B)    Banks
- (C)    Commercial Recreation, Indoor
- (D)    Contractor Shop without outside storage in accordance with Section 9.9
- (E)    Drive-in theaters
- (F)    Essential services in accordance with Section 9.11
- (G)    Field Crops
- (H)    Grocery stores
- (I)    Historic Sites and Areas
- (J)    Micro-WECS subject to Section 9.23
- (K)    Mini storage (self-service storage facility)
- (L)    Motels and hotels
- (M)    Nurseries/greenhouses (retail sales)
- (N)    Offices
- (O)    Professional services
- (P)    INTENTIONALLY BLANK
- (Q)    Recreational Facilities
- (R)    Restaurants, cafes and taverns

- (S) Retail sales
  - (T) Schools
  - (U) Truck Terminal
  - (V) Warehousing
  - (W) WECS Meteorological Tower for a period of 4 years or less and subject to Section 9.23
  - (X) Wholesale business
  - (Y) Wind energy conversion systems in accordance with Section 9.23
  - (Z) Delivery, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
  - (AA) Retail, Cannabis or Hemp in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
  - (BB) Transport, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
  - (CC) Wholesale, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (Ord. #266, adopted 09/03/96) (Ord. #271, adopted 01/21/97) (Ord. #356, adopted 03/18/03) (Ord. #410, adopted 04/17/07)

#### 7.8.3 Accessory Uses

(Ord. #445, adopted 04/12/11)

- (A) Accessory Buildings
- (B) Produce stands
- (C) Temporary Sales / Transient Merchant Stands, in accordance with Section 9.25 (Ord. #483, adopted 02/15/22)

#### 7.8.4 Conditional Uses

- (A) Animal Hospital

- (B) Auto fuel stations and truck stops in accordance with Section 9.5
- (C) Automobile and Vehicle Sales
- (D) Bulk liquid storage
- (E) Car Washes (when separate from Auto Service)
- (F) Child Care Center (Ord. #458, adopted 01/17/17)
- (G) Club or Lodge
- (H) Commercial wind energy conversion systems in accordance with Section 9.23
- (I) Communication towers in accordance with Section 9.8
- (J) Contractor Shop with outside storage in accordance with Section 9.9
- (K) Convenience stores
- (L) Drive-in businesses in accordance with Section 9.10
- (M) Farm equipment and implement sales
- (N) Farming, General
- (O) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11
- (P) Human Care Facilities
- (Q) Kennels
- (R) Manufactured Home Park in accordance with Section 9.15
- (S) Manufacturing, Light
- (T) Motels and hotels
- (U) Nurseries/greenhouses (retail sales)
- (V) Open sales lot
- (W) Program Facilities, Nonresidential

- (X) Religious Institutions
  - (Y) Schools
  - (Z) Stable
  - (AA) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11.
  - (BB) Tire Collector (Ord. 447, adopted 12/20/11)
  - (CC) Trailer vehicle sales, including marine, boat and campers
  - (DD) Truck stop
  - (EE) WECS Meteorological Tower for a period of more than 4 years and subject to Section 9.23 (Ord. #440, adopted 10/20/09)
  - (FF) Public Utility Building (Ord. #487, adopted 01/17/23)
  - (GG) Campgrounds and Resorts in accordance with Section 9.28 (Ord. #500, adopted 05/20/2025)
- (Ord. #219, adopted 09/01/92) (Ord. #229, adopted 07/20/93) (Ord. #235, adopted 12/21/93) (Ord. #271, adopted 01/21/97) (Ord. #354, adopted 01/21/03) (Ord. #412, adopted 07/17/07) (Ord. #429, adopted 07/15/08) (Ord. #431, adopted 10/07/08)

#### 7.8.5 Interim Uses:

- (Ord. #441, adopted 06/15/10)
- (A) Commercial Recreation, Outdoor, in accordance with Section 9.7
  - (B) Single family dwelling for caretakers residence
  - (C) Auction Business, in accordance with Section 9.24 (Ord. #483, adopted 02/15/22)
  - (D) Open Storage in compliance with Section 8.6 (Ord. #491, adopted 02/20/2024)
  - (E) Testing, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

## 7.8.6 Lot and Site Dimensions

## (A) Lot Dimensional Standards

- (1) Lot Area 2-1/2 acres minimum
- (2) Lot Width 200 feet minimum
- (3) Lot Depth 330 feet minimum

## (B) Site Dimensional Standards

## (1) Setbacks

## (a) All Structures, Setbacks from Roads:

Classified Roads	Setback from centerline*	Setback from right-of-way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet
Major Collector	125 feet	65 feet
Minor Collector	125 feet	65 feet
Local collectors and un-classified roads	Setback from centerline*	Setback from right-of-way*
County Road	125 feet	65 feet
Township Road	98 feet	65 feet

\* The more restrictive standard will apply.

## (b) Abutting a residential property

- (i) Side Yard 30 feet minimum
- (ii) Rear Yard 30 feet minimum

## (c) Abutting a non-residential property

- (i) Side Yard 20 feet minimum
- (ii) Rear Yard 15 feet minimum

- (2) Building Height 40 feet maximum



- |     |                          |                             |
|-----|--------------------------|-----------------------------|
| (3) | Building Bulk<br>maximum | 50 percent of net site area |
|-----|--------------------------|-----------------------------|

7.8.7 Additional Business District Areas Not Expressed on Official Zoning Map

- (A) The land areas listed in Appendix I are herein legally described and zoned Business "B-1".

**7.9            "B-2" Business Enterprise District**

(Ord. #193, adopted 08/01/89)

**7.9.1        Purpose**

(A)    This District is intended to provide compact and convenient, highway-oriented businesses, in areas closely related to existing urban areas in the county, and provide development standards that will not impair the traffic-carrying capabilities of abutting roads and highways.

(B)    Uses, Generally

All principal uses in the "B-2" Business Enterprise District must comply with the following minimum requirements:

- (1)    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 set forth in the Benton County Sewage Disposal Standards.
- (2)    Each well shall be at least fifty feet deep and shall be cased and grouted to prevent contamination from upper soil layers.
- (3)    In order to prevent contamination of neighboring wells and to comply with setback requirements of Section 9.22 of this Ordinance, the well and septic system on each lot shall be located in the same respective areas of the lot as on the adjoining lots.
- (4)    A plot plan shall be required showing the proposed location of all buildings, well and sewage disposal system. The plot plan must provide for expansion of the business or industry.

**7.9.2        Permitted Uses**

- (A)    Adult Uses according to Section 9.2.
- (B)    Banks
- (C)    Commercial Recreation, Indoor

- (D) Contractor Shop without outside storage in accordance with Section 9.9
- (E) Drive-in theaters
- (F) Essential services in accordance with Section 9.11
- (G) Feed storage
- (H) Fertilizer Plants
- (I) Field crops
- (J) Garage, repair
- (K) Garden stores
- (L) Historic Sites and Areas
- (M) Micro-WECS subject to Section 9.23 (Ord. #440, adopted 10/20/09)
- (N) Mini Storage (Self-Service Storage Facility)
- (O) Nurseries/greenhouses (retail sales)
- (P) Offices
- (Q) Professional services
- (R) INTENTIONALLY BLANK
- (S) Recreational Facilities
- (T) Restaurants, cafes or taverns
- (U) Retail sales
- (V) Warehousing
- (W) WECS Meteorological Tower for a period of 4 years or less and subject to Section 9.23 (Ord. #440, adopted 10/20/09)
- (X) Wholesale businesses
- (Y) Wind energy conversion systems in accordance with Section 9.23

- (Z) Delivery, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (AA) Retail, Cannabis or Hemp in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (BB) Wholesale, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (Ord. #266, adopted 09/03/96) (Ord. #271, adopted 01/21/97) (Ord. #356, adopted 03/18/03)

#### 7.9.3 Accessory Uses

- (Ord. #445, adopted 04/12/11)
- (A) Accessory buildings
- (B) Produce stands
- (C) Temporary Sales / Transient Merchant Stands, in accordance with Section 9.25 (Ord. #483, adopted 02/15/22)

#### 7.9.4 Conditional Uses

- (A) Animal Hospital
- (B) Auto fuel stations in accordance with Section 9.5
- (C) Automobile and vehicle sales
- (D) Bulk liquid storage
- (E) Child Care Center (Ord. #458 adopted 01/17/17)
- (F) Club or Lodge
- (G) Commercial wind energy conversion systems in accordance with Section 9.23
- (H) Communication Towers in accordance with Section 9.8
- (I) Contractor Shop with outside storage in accordance with Section 9.9

- (J) Convenience stores
- (K) Drive-in businesses in accordance with Section 9.10
- (L) Farm implement sales
- (M) Farming, general
- (N) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11
- (O) Human Care Facilities
- (P) Kennel
- (Q) Manufacturing, Light
- (R) Motel and Hotel
- (S) Open sales lot
- (T) Program Facilities, nonresidential
- (U) Recycling centers
- (V) Schools
- (W) Stable
- (X) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11.
- (Y) Trailer vehicle sales, including marine, boat and campers
- (Z) Transfer station
- (AA) Truck stop
- (BB) WECS Meteorological Tower for a period of more than 4 years and subject to Section 9.23
- (CC) Public Utility Building (Ord. #487, adopted 01/17/23)
- (DD) Campgrounds and Resorts in accordance with Section 9.28 (Ord. #500, adopted 05/20/25)

(Ord. #219, adopted 09/01/92) (Ord. #229, adopted 07/20/93) (Ord. #235, adopted 12/21/93) (Ord. #271, adopted 01/21/97) (Ord. #288, adopted 05/19/98) (Ord. #327, adopted 01/16/01) (Ord. #354, adopted 01/21/03) (Ord. #412, adopted 04/17/07) (Ord. #429, adopted 07/15/08) (Ord. #431, adopted 10/07/08) (Ord. #440, adopted 10/20/09)

#### 7.9.5 Interim Uses:

(Ord. #441, adopted 06/15/10)

- (A) Commercial Recreation, Outdoor in accordance with Section 9.7
- (B) Solar Garden, Private in accordance with Section 9.20
- (C) Single family dwelling for caretakers residence
- (D) Auction Business, in accordance with Section 9.24 (Ord. #483, adopted 02/15/22)
- (E) Open Storage in compliance with Section 8.6 (Ord. #491, adopted 02/20/2024)
- (F) Testing, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

#### 7.9.6 Lot and Site Dimensions

##### (A) Lot Dimensional Standards

- (1) Lot Area.....1 acre minimum
- (2) Lot Width.....200 feet minimum
- (3) Lot Depth.....200 feet minimum

##### (B) Site Dimensional Standards

- (1) Setbacks
  - (a) All Structures, Setbacks from Roads:

(Ord. #440, adopted 10/20/09) (Ord. #470, adopted 01/22/19)

Classified Roads	Setback From Centerline*	Setback From Right-Of-Way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet
Major Collector	125 feet	65 feet
Minor Collector	125 feet	65 feet
Local Collectors and Un-Classified Roads	Setback From Centerline*	Setback From Right-Of-Way*
County Road	125 feet	65 feet
Township Road	98 feet	65 feet

\* The more restrictive standard will apply.

(b) Abutting residential property

- (i) Side Yard 30 feet minimum
- (ii) Rear Yard 30 feet minimum

(c) Abutting non-residential property

- (i) Side Yard 20 feet minimum
- (ii) Rear Yard 15 feet minimum

- (2) Building Height 40 feet maximum
- (3) Building Bulk maximum 50 percent of net site area

**7.10        “I-1” Light Industrial District****7.10.1        Purpose**

This District is intended to allow small scale light industrial uses that require limited services that can be suitably located next to existing urban areas in the County and provide development standards that will not impair the traffic carrying capabilities of abutting roads and highways.

**7.10.2        Permitted Uses**

- (A)    Adult Uses according to Section 9.2
- (B)    Cabinet Shops
- (C)    Essential Services in accordance with Section 9.11
- (D)    Field Crops
- (E)    Historic sites and areas
- (F)    Manufacturing, Light
- (G)    Micro-WECS subject to Section 9.23 (Ord. #440, adopted 10/20/09)
- (H)    INTENTIONALLY BLANK
- (I)    Truck Terminal
- (J)    Warehousing
- (K)    WECS Meteorological Tower for a period of 4 years or less and subject to Section 9.23
- (L)    Wholesale businesses
- (M)    Wind energy conversion systems in accordance with Section 9.23
- (N)    Testing, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (O)    Transport, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)



- (P) Wholesale, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

(Ord. #219, adopted 09/01/92) (Ord. #271, adopted 01/21/97) (Ord. #356, adopted 03/18/03)

#### 7.10.3 Accessory Uses

(Ord. #445, adopted 04/12/11)

- (A) Accessory Buildings
- (B) Temporary Sales / Transient Merchant Stands, in accordance with Section 9.25 (Ord. #483, adopted 02/15/22)
- (C) Delivery, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (D) Retail, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

#### 7.10.4 Conditional Uses

- (A) Alcohol Fuel Plants
- (B) Animal hospitals
- (C) Auto fuel stations and truck stops in accordance with Section 9.5
- (D) Automobile and Vehicle Sales
- (E) Bulk liquid storage
- (F) Car Washes (when separate from Auto Service)
- (G) Child Care Center (Ord. #458, adopted 01/17/17)
- (H) Commercial wind energy conversion systems in accordance with Section 9.23
- (I) Communication towers in accordance with Section 9.8
- (J) Convenience stores

- (K) Farming, General
  - (L) Feed storage
  - (M) Grain elevators
  - (N) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11
  - (O) Kennels
  - (P) Recycling Center in accordance with Section 9.21
  - (Q) Restaurants, Cafes, and Taverns
  - (R) Saw Mills
  - (S) Sewage treatment plants
  - (T) Slaughterhouses / meat processing plants
  - (U) Solid Waste Management Facilities in accordance with Section 9.21
  - (V) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11.
  - (W) Tire Collector (Ord. #447, adopted 12/20/11)
  - (X) Transfer Station
  - (Y) Truck Stop
  - (Z) WECS Meteorological Tower for a period of more than 4 years and subject to Section 9.23 (Ord. #440, adopted 10/20/09)
  - (AA) Public Utility Buildings (Ord. #487, adopted 01/17/23)
- (Ord. #224, adopted 03/02/93) (Ord. #229, adopted 07/20/93) (Ord. #271, adopted 01/21/97) (Ord. #354, adopted 01/21/03) (Ord. #412, adopted 07/17/07) (Ord. #429, adopted 07/15/08)

#### 7.10.5 Interim Uses:

- (Ord. #441, adopted 06/15/10)

- (A) Mining operations in accordance with Section 9.16
- (B) Solar Garden, Private in accordance with Section 9.20
- (C) Single family dwelling for caretakers residence
- (D) Auction Business, in accordance with Section 9.24 (Ord. #483, adopted 02/15/22)
- (E) Open Storage in compliance with Section 8.6 (Ord. #491, adopted 02/20/2024)
- (F) Cannabis Cultivation, Indoor in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (G) Cannabis Cultivation, Outdoor in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (H) Cannabis Cultivation, Mixed-Light in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (I) Manufacturing, Hemp or Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

#### 7.10.6 Lot and Site Dimensions

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

##### (A) Lot Dimensional Standards

- |     |           |                     |
|-----|-----------|---------------------|
| (1) | Lot Area  | 2-1/2 acres minimum |
| (2) | Lot Width | 200 feet minimum    |
| (3) | Lot Depth | 330 feet minimum    |

##### (B) Site Dimensional Standards

###### (1) Setbacks

- (a) All Structures, Setbacks from Roads:

(Ord. #440, adopted 10/20/09) (Ord. #470, adopted 01/22/19)

Classified Roads	Setback from centerline*	Setback from right-of-way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet
Major Collector	125 feet	65 feet
Minor Collector	125 feet	65 feet
Local collectors and un-classified roads	Setback from centerline*	Setback from right-of-way*
County Road	125 feet	65 feet
Township Road	98 feet	65 feet

\* The more restrictive standard will apply.

(b) Abutting residential district

- (i) Side Yard 80 feet minimum
- (ii) Rear Yard 80 feet minimum

(c) Abutting non-residential district

- (i) Side Yard 20 feet minimum
- (ii) Rear Yard 40 feet minimum

(2) Building Height Maximum None

(3) Building Bulk maximum 50 percent of net site area

**7.11        “I-2” Heavy Industrial District****7.11.1        Purpose**

This District is intended to allow manufacturing and industrial uses that require limited services which may not be appropriate in other areas due to noise, dust, vibration, traffic, outdoor storage or other impacts which may not be compatible with other uses.

**7.11.2        Permitted Uses**

- (A)    Adult Uses according to Section 9.2
- (B)    Cabinet Shops
- (C)    Essential services in accordance with Section 9.11
- (D)    Field crops
- (E)    Historic Sites and Areas
- (F)    Manufacturing, Light
- (G)    Micro-WECS subject to Section 9.23
- (H)    INTENTIONALLY BLANK
- (I)    Truck Terminal
- (J)    Warehousing
- (K)    WECS Meteorological Tower for a period of 4 years or less and subject to Section 9.23 (Ord. #440, adopted 10/20/09)
- (L)    Wholesale businesses
- (M)    Wind energy conversion systems in accordance with Section 9.23
- (N)    Testing, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (O)    Transport, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

- (P) Wholesale, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

(Ord. #219 adopted 09/01/92) (Ord. #271 adopted 01/21/97) (Ord. #356 adopted 03/18/03)

#### 7.11.3 Accessory Uses

(Ord. #445, adopted 04/12/11)

- (A) Accessory Buildings
- (B) Temporary Sales / Transient Merchant Stands, in accordance with Section 9.25 (Ord. #483, adopted 02/15/22)
- (C) Delivery, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (D) Retail, Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

#### 7.11.4 Conditional Uses

- (A) Alcohol Fuel Plants
- (B) Animal hospitals
- (C) Auto fuel stations and truck stops in accordance with Section 9.5
- (D) Automobile and Vehicle Sales
- (E) Auto Salvage
- (F) Bulk liquid storage
- (G) Cafes and restaurants
- (H) Car washes (when separate from Auto service)
- (I) Child Care Center (Ord. #458 adopted 01/17/17)
- (J) Commercial wind energy conversion systems in accordance with Section 9.23

- (K) Communication towers in accordance with Section 9.8
- (L) Convenience stores
- (M) Farming, general
- (N) Feed storage
- (O) Grain elevators
- (P) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11.
- (Q) Junkyards
- (R) Kennels
- (S) Manufacturing, Heavy
- (T) Recycling Center in accordance with Section 9.21
- (U) Restaurants, Cafes, and Taverns
- (V) Saw Mills
- (W) Sewage treatment plants
- (X) Slaughterhouses / meat processing plants
- (Y) Solid Waste Management Facilities in accordance with Section 9.21
- (Z) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11.
- (AA) Tire Collector (Ord. #447, adopted 12/20/11)
- (BB) Transfer Station
- (CC) Truck wash
- (DD) WECS Meteorological Tower for a period of more than 4 years and subject to Section 9.23 (Ord. #440, adopted 10/20/09)
- (EE) Public Utility Buildings (Ord. #487, adopted 01/17/23)

(Ord. #271, adopted 01/21/97) (Ord. #354, adopted 01/21/03) (Ord. #412, adopted 07/17/07) (Ord. #429, adopted 07/15/08)

#### 7.11.5 Interim Uses:

(Ord. #441, adopted 06/15/10)

- (A) Mining operations in accordance with Section 9.16
- (B) Solar Garden, Private in accordance with Section 9.20
- (C) Uses involving the storage, utilization or manufacture of materials or products which decompose by detonation
- (D) Single family dwelling for caretakers residence
- (E) Auction Business, in accordance with Section 9.24 (Ord. #483, adopted 02/15/22)
- (F) Open Storage in compliance with Section 8.6 (Ord. #491, adopted 12/17/24)
- (G) Cannabis Cultivation, Indoor in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (H) Cannabis Cultivation, Outdoor in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (I) Cannabis Cultivation, Mixed-Light in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)
- (J) Manufacturing, Hemp or Cannabis in compliance with Section 9.27 (Ord. #497, adopted 12/17/24)

#### 7.11.6 Lot and Site Dimensions

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

- (A) Lot Dimensional Standards
  - (1) Lot Area 5 acres minimum
  - (2) Lot Width 300 feet minimum



(3) Lot Depth 330 feet minimum

(B) Site Dimensional Standards

(1) Setbacks

(a) All Structures, Setbacks from Roads:

(Ord. #440, adopted 10/20/09) (Ord. #470, adopted 01/22/19)

Classified Roads	Setback from centerline*	Setback from right-of-way*
Principal Arterial	150 feet	100 feet
Minor Arterial	125 feet	65 feet
Major Collector	125 feet	65 feet
Minor Collector	125 feet	65 feet
Local collectors and un-classified roads	Setback from centerline*	Setback from right-of-way*
County Road	125 feet	65 feet
Township Road	98 feet	65 feet

\* The more restrictive standard will apply.

(b) Abutting residential district

(i) Side Yard 120 feet minimum

(ii) Rear Yard 120 feet minimum

(c) Abutting non-residential district

(i) Side Yard 20 feet minimum

(ii) Rear Yard 40 feet minimum

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

(2) Building Height Maximum None

(3) Building Bulk maximum 50 percent of net site area

**7.12        “PUD” Planned Unit Development District****7.12.1        Authorization:**

- (A)    The purpose of a Planned Unit Development District, “PUD” is to promote flexibility, economy and creativity of site design and architecture in residential, commercial, industrial and rural districts to preserve open space, scenic views and/or rural character while creating compact neighborhoods that have strong visual and physical access to open space, distinct identity and a sense of community. This method of development uses the size and shape of the open space as the central organizing element and may provide commonly-owned open space areas for active and/or passive recreational use by residents and/or the larger community.
- (B)    A PUD may be allowed only through a request for rezoning in any agricultural, residential, business or industrial zoning district. For PUD developments in shoreland districts, refer also to the Shoreland Management Ordinance.
- (C)    Planned unit development authorization may allow:
  - (1)    Variety: Within a comprehensive site design concept, a mixture of land uses, housing types, lot sizes and densities to accommodate a variety of age and income groups.
  - (2)    Sensitivity: By departing from the strict application of required setbacks, yard areas, lot sizes, minimum house sizes, minimum requirements and other performance standards associated with traditional zoning, planned unit development can maximize the development potential of land while remaining sensitive to its unique and valuable natural and cultural characteristics.
  - (3)    Efficiency: The consolidation of areas for recreation, open space and/or agricultural use and reductions in street lengths and other utility related expenses.
  - (4)    Density Transfer: The project density may be clustered on areas that have low agricultural potential and/or natural housing appeal basing density on number of units per acre(s) instead of specific lot dimensions.

- (5) District Integration: The combination of uses which are allowed in separate zoning districts such as:
  - (a) Mixed residential allows both densities and unit types to be varied within the project.
  - (b) Mixed commercial, industrial, residential, or institutional land use with the integration of compatible land uses within the project.
- (6) In considering a request for rezoning to a Planned Unit Development District, the Planning Commission and the County Board shall consider the following factors:
  - (a) Whether the proposed project preserves the natural and scenic qualities of the subject areas.
  - (b) Whether the proposed project limits development to a scale appropriate to the existing terrain and surrounding land use.
  - (c) Whether the proposed project results in effective and unified treatment of the development possibilities on the project site.
  - (d) Whether the proposed project is in harmony with existing and proposed developments in the area surrounding the site.
  - (e) Whether the proposed project has the potential to depreciate surrounding property values.
  - (f) Whether the proposed project is consistent with the purposes of the Development Code and consistent with the Comprehensive Plan.
  - (g) The effect of the proposed project upon the health, safety and general welfare of the occupants of surrounding land.
  - (h) In areas where central sewer and water will not be used, each site shall show that it supports 2 Type I septic and that there is access to adequate domestic water supplies.
  - (i) The PUD shall generally conform to the regulations of the zoning district in which it is proposed to be located, provided that any exceptions to the standard requirements of the

zoning and subdivision regulations are justified by the design of the development.

- (j) Residential PUD’s must contain at least 5 dwelling units or sites.

#### 7.12.2 Allowed Uses

- (A) Uses within the PUD may include only those uses generally associated with the underlying land use category shown for the area on the official Comprehensive Land Use Plan and within the underlying zoning district that existed prior to the creation of the PUD. Any departure from required uses must first be presented to the Planning Commission. Their recommendation will be sent to the Board of Commissioners for final approval.
- (B) Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and in a development plan.
- (C) The PUD development plan shall identify all the proposed land uses and those uses shall become permitted uses with the acceptance of the development plan.
- (D) Any change in the uses presented in the development plan will be considered an amendment to the PUD and will follow the procedures specified in subsection 7.12.5.

#### 7.12.3 Required Standards

- (A) The County shall consider the proposed PUD from the point of view of all design standards and purposes of the Development Code and Comprehensive Land Use Plan to:
  - (1) achieve maximum coordination between the proposed development and the surrounding uses;
  - (2) minimize the impact on natural, scenic and cultural resources of the site including the conservation/protection of historic buildings, prime agricultural lands, endangered species, wetlands, woodlands, hedgerows, mature trees, rare plant communities and other significant vegetation;

- (3) minimize fragmentation of open space;
  - (4) whenever possible, connect with existing or potential open space lands on adjoining parcels; and
  - (5) protect the health, safety and welfare of the community and residents of the PUD.
- (B) To these ends, the County Board of Commissioners shall consider the location of the buildings, compatibility, parking areas and other features with respect to the topography of the area and existing natural features such as streams and large trees; the efficiency, adequacy and safety of the proposed layout of internal streets and driveways; the adequacy and location of green areas; the adequacy, location and screening of parking areas; and such other matters as the Board of Commissioners may find to have a material bearing upon the stated standards and objectives of the Comprehensive Land Use Plan.

#### 7.12.4 Coordination with Other Regulations

- (A) Subdivision review under the subdivision regulations shall be carried out simultaneously with the review of the PUD. The plans required under this Chapter shall be submitted in a manner, which will satisfy the requirements of the subdivision ordinance for the preliminary and final plat.
- (B) Specific structure setback restrictions applicable to PUD property shall be determined by the underlying land use district in which the property is located that existed prior to the creation of the PUD. Any departure from required setbacks must first be presented to the Planning Commission. Their recommendation will be sent to the Board of Commissioners for final approval.

#### 7.12.5 Revisions and/or Changes

- (A) Minor changes in the location, placement and height of structures may be authorized by the Planning Commission if required by engineering or other circumstances not foreseen at the time the Final Plan was approved and filed with the Department of Development Director.
- (B) Changes in uses, significant changes in the location, size, or height of structures, any rearrangement of lots, blocks and building tracts, changes

in the provision of common open spaces, and all other changes to the approved final development plan may be made only after a public hearing conducted by the Board of Commissioners. Any changes shall be recorded as amendments to the recorded copy of the final development plan. Some of these changes may require an amendment to the plat if the plat has been approved.

- (C) All of the provisions of this Ordinance applicable to the original district within which the Planned Unit Development District is established shall apply to the PUD District except as otherwise provided in approval of the Final Plan.
- (D) Review:
  - (1) If substantial development has not occurred within a reasonable time after approval of the PUD Zoning District, the County Board of Commissioners may instruct the Planning Commission to initiate rezoning to the original zoning district.
  - (2) It shall not be necessary for the County Board of Commissioners to find that the rezoning was in error.

#### 7.12.6 Phasing and Guarantee of Performance

- (A) The Planning Commission shall compare the actual development accomplished in the various PUD zones with the approved development schedule.
- (B) Upon recommendation of the Planning Commission and for good cause shown by the property owner, the Board of Commissioners may extend the limits of the development schedule.
- (C) The construction and provision of all of the common open space and public and recreational facilities, which are shown on the final development plan must proceed at the same rate as the construction of dwelling units, if any. The Planning Commission shall review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If they find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, they shall forward this information to the Board of Commissioners for action.

- (D) A performance bond or letter of credit shall be required to guarantee performance by the developer. The amount of this bond or letter of credit, and the specific elements of the development program that it is intended to guarantee, will be stipulated in the development agreement. This section shall conform to the subsections 10.13.2 and 10.13.3 that provides the general requirements for improvements agreement and financial guarantee.

#### 7.12.7 Control of Planned Unit Development Following Completion

- (A) After the land use permit has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned development shall be governed by the final development plan.
- (B) After the land use permit has been issued, no changes shall be made in the approved final development plan except upon application as provided below:
  - (1) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the Final Plan. No change authorized by this Section may increase the cubic volume of any building or structure by more than 10 percent.
  - (2) Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under subsection 7.12.6.
  - (3) Changes in the use of the common open space may be authorized by an amendment to the final development plan under subsection 7.12.6.
  - (4) Any other changes in the final development plan must be authorized by an amendment of the final development plan under subsection 7.12.6.

#### 7.12.8 Procedure for Processing a Planned Unit Development

- (A) There are three stages to the PUD process: Application Conference, Preliminary Concept Plan, and Final Plan, as described below:

- (1) Application Conference: Upon filing of an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the Department of Development Director. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this Ordinance before incurring substantial expense in the preparation of plans, surveys and other data.

- (2) Preliminary Concept Plan

- (a) Purpose:

The Preliminary Concept Plan provides an opportunity for the applicant to submit a plan to the County showing the basic intent and the general nature of the entire development without incurring substantial costs for architectural, planning, engineering, legal or other services. The plan shall include the following:

- (i) Specific location of residential and nonresidential land uses with lot layouts and approximate type and intensities of development.
    - (ii) Overall maximum PUD density.
    - (iii) Specific location of major streets and pedestrian ways.
    - (iv) Location and extent of public and common open space.
    - (v) Staging and time schedule of development.
    - (vi) Areas proposed for stormwater management and on- or off-site sewage treatment.
    - (vii) Other special criteria for development.



- (b) Schedule:
  - (i) Developer meets with the Department of Development Director to discuss the proposed developments.
  - (ii) The applicant shall file the Preliminary Concept Plan application and preliminary plat, together with all supporting data.
  - (iii) After verification by the Department of Development Director that the required plan and supporting data is adequate, the Planning Commission shall hold a public hearing.
  - (iv) The Planning Commission shall conduct the hearing and report its findings and make recommendations to the County Board of Commissioners.
  - (v) The County may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
  - (vi) The Board of Commissioners shall hold a public hearing after the receipt of the report and recommendations from the Planning Commission.
- (c) Applications: 1 hard copy and 1 digital copy of the following exhibits, analysis and plans shall be submitted to the County for Preliminary Concept Plan stage (additional hard copies may be requested for the Planning Commission meeting):
  - (i) Preliminary plat and information required by subdivision Ordinance.
  - (ii) General Information:
    - a. The landowner's name and address and his/her interest in the subject property.

- b. The applicant's name and address if different from the landowner.
  - c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.
  - d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidence as the County Attorney may require to show the status of title or control of the subject property.
- (iii) Present Status:
- a. The address and legal description of the property.
  - b. The existing zoning classification and present land use of the subject property and all lands within 1,000 feet of the property.
  - c. A map depicting the existing development of the property and all land within 1,000 feet thereof and indicating the location of existing buildings, streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within 500 feet of the property.
  - d. A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the County's Comprehensive

Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the County.

- e. Site Conditions: Graphic reproductions of the existing site conditions at a scale of one inch equals one hundred feet (1" = 100').
  - i. Contours; minimum 2 foot intervals.
  - ii. Location, type and extent of tree and other vegetative cover.
  - iii. Slope analysis.
  - iv. Location and extent of water bodies, wetlands, streams and flood plains within 500 feet of the property.
  - v. Significant rock outcroppings.
  - vi. Existing drainage patterns.
  - vii. Vistas and significant views.
  - viii. Soil conditions as they affect development.
  - ix. Historic and cultural resources.

All of the graphics should be the same scale as the Final Plan to allow easy cross reference. The use of overlays is recommended for clear reference.

- f. Schematic drawing of the proposed development concept including but not limited to the general location of major circulation elements, public and common open space, residential and other land uses.

The following uses are permitted within PUD’s. The following uses must meet the standards and criteria specified for those uses, as set forth in and regulated by the Benton County Development Code.

Uses permitted in the designed open space:

- i. Conservation uses (i.e., woodland, meadow, prairie)
- ii. Trails (walking, skiing, biking, horseback riding, snowmobiling)
- iii. Picnic areas
- iv. Community gardens
- v. Turf areas for informal play
- vi. Common areas such as greens or squares
- vii. Ball fields
- viii. Playgrounds
- ix. Courts (tennis, basketball, etc.)
- x. Swimming pools or beaches
- xi. Golf Courses
- xii. Stormwater management sedimentation ponds
- xiii. Underground or subsurface sewage disposal systems for 1 or more lots. Recreation facilities may be made available for use by the general public, provided that buffer standards are met and that traffic and parking needs are

addressed to the satisfaction of the Planning Commission.

- g. Urban Overlay Plat (Ghost Plat). The County may require, at its option, an urban overlay plat for any development within an Urban Growth Area as identified on the officially adopted Land Use Plan that involves a rezoning to a Residential PUD. The overlay plat shall show in concept the following:
  - i. How the land within the subdivision will be subdivided into urban lots in the future.
  - ii. The layout of future streets or extensions.
  - iii. Easements for the extension of municipal sewer and water, and drainage and utility easements.
- h. Calculation of the maximum potential number of dwelling units. The potential number of dwelling units shall be determined by multiplying the base yield of the residential zoned portion of the PUD by the maximum density increase shown in Table 1. The base yield shall be calculated as follows:
  - i. The buildable land area of the residential zoned portion of the PUD shall be calculated. Buildable area shall include the total land area of the residential zoned portion of the PUD less the area considered unbuildable due to wetland, bluff or land below the ordinary high water mark of a water body.

- ii. Where the allowable number of dwelling units in the underlying zoning district is determined by density, the buildable area of the residential zoned portion of the PUD shall be divided by the acres-per-unit density standard for the underlying zoning district.
  - iii. Where the permitted number of dwelling units in the underlying zoning district is determined by lot size standards, the buildable area of the residential zoned portion of the PUD shall be divided by the minimum lot size standard for the underlying district.
- i. A statement of the estimated total number of dwelling units proposed for the PUD. The total number of units proposed shall not exceed the maximum potential calculated in (h) above. A tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area shall also be submitted, which shall include at least the following:
  - i. Area devoted to residential uses.
  - ii. Area devoted to residential use by building type.
  - iii. Area devoted to common open space.
  - iv. Area devoted to public open space.
  - v. Approximate area devoted to streets.
  - vi. Approximate area devoted to, and number of, off- street parking and loading spaces and related access.

- vii. Approximate area, and floor area, devoted to commercial uses.
  - viii. Approximate area, and floor area, devoted to industrial or office use.
- j. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such state and overall chronology of development to be followed from stage to stage.
- k. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
- l. Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
- m. Schematic utilities plans indicating placement of water, sanitary and storm sewers.
- n. The County may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.
- o. The County may require the submission of any additional information or documentation which

it may find necessary or appropriate to full consideration of the proposed PUD.

(3) Final Plan

- (a) Purpose: The Final Plan stage submissions should depict and outline the proposed implementations of the general concept stage for the PUD.
- (b) Schedule: Following preliminary plat approval, if given, the applicant shall submit the Final Plan stage application and final plat. If appropriate because of the limited scale of the proposal, the Preliminary Concept Plan stage and Final Plan stages may proceed simultaneously.
- (c) Application: Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include but not be limited to:
  - (i) A final plat and information required by the County Subdivision Ordinance.
  - (ii) 1 set of preliminary plans drawn to a scale of not less than one inch equals one hundred feet (1"=100') (or scale requested by the Department of Development Director) containing at least the following information and a digital copy:
    - a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the county where the subject property is situated).
    - b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
    - c. The location, size use and arrangement including height in stories and feet and total square feet of ground area coverage and floor



area of proposed buildings, including mobile homes, and existing buildings which will remain, if any.

- d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.
  - e. Location, designation and total area of all common open space.
  - f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
  - g. Proposed lots and blocks, if any and numbering system.
  - h. The location, use and size of structures and other land uses on adjacent properties.
  - i. Detailed sketches and provisions of proposed landscaping.
  - j. General grading and drainage plans for the developed PUD.
  - k. Any other information that may have been required by the Planning Commission or Board of Commissioners in conjunction with the approval of the Preliminary Concept Plan.
- (iii) An accurate legal description of the entire area within the PUD for which Final Development Plan approval is sought.
  - (iv) A tabulation indicating the number of residential dwelling units and expected population.

- (v) A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).
  - (vi) Preliminary architectural "typical" plans indicating use, floor, plan, elevations and exterior wall finishes of proposed building, including mobile homes.
  - (vii) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights of way, utility lines and facilities, lots, block, public and common open space, general landscaping plan, structure, including mobile homes, and uses.
  - (viii) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The Plan should clearly reflect the site treatment and its conformance with the approved concept plan.
  - (ix) A final plat prepared in accordance with the Subdivision Ordinance.
  - (x) A soil erosion control plan acceptable to watershed districts, Department of Natural Resources, Soil Conservation Service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.
- (d) Management of Open Space and Common Facilities
- (i) All open space that is used to meet the “minimum required open space” standards of this section shall be permanently restricted from further development or subdivision by a permanent conservation easement, to be held by either:
    - a. The County or another governmental body empowered to hold an interest in real property

(in accordance with Minnesota Statutes §§ 84C.01-84C.05 as may be amended).

- b. An established land trust or other conservation organization empowered to hold an interest in real property (in accordance with Minnesota Statutes §§ 84C.01-84C.05, as may be amended).
- (ii) Open space that is used for a golf course shall be regulated by a development agreement that restricts any further development or subdivision of the land and requires that land to be retained as an open space use if the golf course is no longer used as a golf course.
- (iii) The open space lands and facilities that are owned in common shall be managed by a homeowners association.
- (iv) The developer shall submit a plan detailing how the open space lands will be managed.
- (e) Homeowners’ Association

A Homeowners’ Association shall be established for the purpose of maintaining any commonly-owned land or facilities. Membership in the Association is mandatory for all purchasers of homes in the development and their successors.

A Homeowners’ Association Agreement, guaranteeing continuing maintenance, shall be submitted to the County as part of the data required for the PUD. The Homeowners’ Association documents or the declaration of covenants, conditions and restrictions shall contain the following information:

- (i) The legal description of the common lands or facilities.

- (ii) The restrictions placed upon the use and enjoyment of the lands or facilities including the persons or entities entitled to enforce the restrictions.
- (iii) A mechanism for resolving disputes among the owners or association members.
- (iv) A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums.
- (v) The conditions and timing of the transfer of ownership and control of land or facilities to the Association or to common ownership.
- (vi) Any other matter the developer deems appropriate.

Table 1

	A	R-A	R-1	R-2	R-3	R-S
Maximum Density (standard in units per acre)	4:40	(determined by lot size)	(determined by lot size)	(determined by lot size)	(determined by lot size)	(determined by lot size)
Minimum lot sizes (standard)						
On-Site Sewer	2.0	5	2.5	1	21,000 sf	21,000 sf
Central Sewer	2.0	5	2.5	12,000 sf	12,000 sf	12,000 sf
Maximum density increase	0%	0%	10%	7.5%	5%	5%

**7.13        “FP” General Flood Plain District****7.13.1        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 Flood Plain District is divided into a Floodway area, Flood Fringe area, and a General Flood Plain area. 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, Minn. Stat. Ch. 103F, as may be amended.

**7.13.2        Establishment of Official Maps and Documents**

Attached hereto and adopted and incorporated herein by reference are the Flood Insurance Study for Benton County prepared by the Federal Insurance Administration dated January 2, 1981 (Exhibit A), the Flood Boundary and Floodway Maps (Exhibit B) and the Flood Insurance Rate Maps (Exhibit C). Said Exhibits A, B and C shall be supplements to and a part of the Official Zoning Map (Ord. #114) as it now exists and as it may hereafter be amended. Reference may also be made to the Official Zoning Map and the zoning district ordinances of Benton County.

**7.13.3        Floodproofing**

The Corps of Engineers Floodproofing Standards are hereby adopted and incorporated herein by reference as Exhibit D and is declared and established as a part of these regulations.

**\*See Ordinance No. 196 for Flood Plain Management information.**

**7.14        “S” Shoreland District****7.14.1       Statutory Authorization and Policy****(A)       Statutory Authorization**

This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minn. R. 6120.2500 through 6120.3900, as may be amended, and the planning and zoning enabling legislation in Minn. Stat. Ch. 394, as may be amended.

**(B)       Policy**

The uncontrolled use of shorelands of Benton County, Minnesota affects the public health, safety and general welfare, not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Benton County.

**7.14.2       General Provisions****(A)       Jurisdiction**

The provisions of this Ordinance shall apply to the shorelands of the public water bodies as classified in subsection 7.14.4. Pursuant to Minn. R. 6120.2500 through 6120.3900, as may be amended, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Ordinance.

**(B)       Compliance**

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of the Shoreland District requirements and other applicable regulations.

### 7.14.3 Administration

#### (A) Permits Required

- (1) A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by subsection 7.14.5(G)(1) and (2).
- (2) Application for a permit shall be made to the Department of Development Director on the forms provided. The application shall include the necessary information so that the Department of Development Director can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

#### (B) Land Use Permit

A land use permit must be obtained from the Department of Development Director for each activity requiring a permit as specified in subsection 7.14.3(A)(1). This permit will specify that the use of land conforms to the requirements of this Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 11.11 of this Ordinance.

#### (C) Notifications to the Department of Natural Resources

- (1) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least 10 days before the hearings. Notices of hearings to consider

proposed subdivisions/plats must include copies of the subdivision/plat.

- (2) A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within 10 days of final action.

#### 7.14.4 Shoreland Classification System and Land Use Districts

##### (A) Lakes

##### (1) Natural Environment Lakes

Name	Section	Township	Range	Protected Water ID No.
Bible's Duck Slough	15, 16	36	28	5-1
Donovan Lake	27, 34	36	30	5-4
Mayhew Lake	8, 17	37	30	5-7
Pularskis Lake	29, 30	38	30	5-9
Vicki Lake	22	38	31	5-50

##### (2) Recreational Development Lakes

Name	Section	Township	Range	Protected Water ID No.
Little Rock Lake	2, 3, 10, 11, 14, 34, 35	37, 38	31	5-13
Little Rock Channel and Flowage to Mississippi	14, 15	37	31	5-12

##### (B) Rivers and Streams

All rivers and streams contained in Benton County shall be classified as Forested, Transition, Agricultural, Urban or Tributary. The classifications of particular rivers and streams shall be designated on the Official Protected Waters and Wetlands Map for Benton County, Minnesota, issued by the Minnesota Department of Natural Resources, Division of Waters. That document is hereby incorporated by reference and made a part of this Ordinance.

##### (C) Land Use Districts



This district contains standards that are additional to those set forth in other sections of this chapter. The specific use restrictions applicable to shoreland property shall be determined by the underlying land use district in which the property is located. Property owners should initially refer to the appropriate zoning district section (e.g. A-1, R-2, etc.) to determine whether a proposed use is permitted in that district. If the property also lies in a designated shoreland area, this chapter should then be reviewed to determine whether further restrictions apply.

#### 7.14.5 Zoning And Water Supply/Sanitary Provisions

##### (A) Lot Area and Width Standards

The lot size restrictions listed below may differ from the standards applicable in the underlying zoning districts and listed in subsections 7.2.6, 7.3.6, 7.4.6, 7.5.6, 7.6.6, and 7.7.6. In such cases, the more restrictive standard shall apply.

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots for the lake and river/stream classifications are the following:

##### (1) Lakes, Private Septic Systems

###### (a) Natural Environment:

	Littoral Lots		Non-littoral Lots	
	Area	Width	Area	Width
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

###### (b) Recreational Development:

	Littoral Lots		Non-littoral Lots	
	Area	Width	Area	Width
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

## (2) Lakes, Public Sewer

## (a) Natural Environment:

	Littoral Lots		Non-littoral Lots	
	Area	Width	Area	Width
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

## (b) Recreational Development:

	Littoral Lots		Non-littoral Lots	
	Area	Width	Area	Width
Single	20,000	80	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

## (3) River/Stream Lot Area and Width Standards

- (a) The minimum area of lots located within River/Stream Shoreland Areas shall be governed by the standards applicable in the underlying zoning districts and listed in subsections 7.2.6, 7.3.6, 7.4.6, 7.5.6, 7.6.6, and 7.7.6.
- (b) The lot width standards (in feet) for single, duplex, triplex and quad residential developments for the 6 river/stream classifications are as follows:

	Forested	Transition	Agricultural	Urban and Tributary No sewer	Urban and Tributary Sewer
Single	200	250	150	100	75
Duplex	300	375	225	150	115
Triplex	400	500	300	200	150
Quad	500	625	375	250	190

## (4) Additional Special Provisions

- (a) Residential subdivisions with dwelling unit densities exceeding those in the tables in subsections 7.14.5(A)(2) and (3) can only be allowed if designed and approved as residential multiple unit developments under subsection 7.14.8. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in subsection 7.14.5(A)(2) can only be used if publicly owned sewer system service is available to the property.
- (b) Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:
  - (i) Each building must be set back at least 200 feet from the ordinary high water level;
  - (ii) Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
  - (iii) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
  - (iv) No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- (c) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian or nonlittoral lots within subdivisions are permissible and must meet or exceed the following standards:
  - (i) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
  - (ii) If docking, mooring, or over-water storage of more than 6 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the

requirements for riparian or littoral residential lots for each watercraft beyond 6, consistent with the following table:

Controlled Access Lot Frontage Requirements	
Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- (iii) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian or nonlittoral lots in the subdivision who are provided riparian or littoral access rights on the access lot; and
- (iv) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(B) Existing nonconforming lots in shoreland areas.

- (1) This item applies only to shoreland lots created prior to June 14, 1972, that do not meet the requirements for lot size or lot width. In a group of 2 or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
  - (a) The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minn. R. Ch. 6120, as may be amended;
  - (b) The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minn. R. Ch. 7080, as may be amended, and Section 9.22 of this Ordinance.
  - (c) Impervious surface coverage shall not exceed 25 percent of each lot; and
  - (d) Development of the lot must be consistent with the comprehensive plan.
  - (e) The division of the lots will not create a noncompliant setback from the existing structures to the lot lines.
- (2) Any existing nonconforming shoreland lot created prior to June 14, 1972, not meeting the requirements of subpart a-e must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible. Abutting nonconforming lots that come under common ownership shall not be developed or sold separately. No permits shall be issued for any use or structure on any nonconforming parcel of land that was sold separately after coming under common ownership.
- (3) Contiguous nonconforming lots in shoreland areas under a common ownership that were created on or after June 14, 1972, or not meeting the above standards 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

- (4) Notwithstanding this item contiguous nonconforming lots in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minn. Stat. § 115.55 and Minn. R. Ch. 7080, as may be amended, or connected to a public sewer.
- (5) For lots subject to subpart a-e when evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

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

(C) Placement of Structures on Lots

When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Structures shall be located as follows:

- (1) Structure and On-site Sewage System Setbacks (in feet) from Ordinary High Water Level\*.

Classes of Public Waters	Structure Setbacks*	Sewage Treatment System
Lakes		
Natural Environment	150	150 (For Septic/Lift Tank and System)
Recreational Development	100	100 (Septic System) 75 (Septic/Lift Tank)
Rivers		
Forested and Transition	150	150 (Septic System) 100 (Septic/Lift Tank)

Agriculture, Urban, and Tributary	100	75 (For Septic/Lift Tank and System)
*1 water-oriented accessory structure designed in accordance with subsection 7.14.5(D) may be set back a minimum distance of 10 feet from the ordinary high water level.		

(Ord. #257, adopted 11/07/95) (Ord. #407, adopted 11/14/06) (Ord. #485, adopted 09/26/22)

(2) Additional Structure Setbacks.

The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback from	Setback (in feet)
Top of bluff	30
Unplatted Cemetery	50

(3) Bluff Impact Zones.

Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(4) Uses Without Water-oriented Needs.

Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(D) Design Criteria For Structures

(1) High Water Elevations.

(2) Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- (a) For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is higher;

- (b) For rivers and streams, by placing the lowest floor at least 3 feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least 3 feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts Minn. R. 6120.5000 through 6120.6200, as may be amended, governing the management of flood plain areas. If more than 1 approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
  - (c) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- (3) Water-oriented Accessory Structures.

Each lot may have 1 water-oriented accessory structure not meeting the normal structure setback in subsection 7.14.5(C) if this water-oriented accessory structure complies with the following provisions:

- (a) The structure or facility must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 400 square feet. Detached decks must not exceed 8 feet above grade at any point;

(Ord. #254, adopted 08/15/95)

- (b) The setback of the structure or facility from the ordinary high water level must be at least 10 feet;



- (c) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
  - (d) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
  - (e) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
  - (f) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the minimum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.
- (4) Stairways, Lifts, and Landings.

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- (a) Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and multiple unit developments;
- (b) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and multiple unit developments;
- (c) Canopies or roofs are not allowed on stairways, lifts, or landings;

- (d) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
  - (e) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - (f) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (a) through (e), above, are complied with in addition to the requirements of Minn. R. Ch.1340, as may be amended.
- (5) Significant Historic Sites.

No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- (6) Steep Slopes.

The Department of Development Director or their agent must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
- (E) Height of Structures

All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 35 feet in height. (Ord. #388, adopted 07/05/05)

(F) Fences

Fences erected from the building 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. (Ord. #407, adopted 11/14/06)

(G) Shoreland Alterations

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

(1) Vegetation Alterations

- (a) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by subsection 7.14.5(H) are exempt from the vegetation alteration standards that follow.
- (b) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in subsections 7.14.5(J)(2) and (3), respectively, is allowed subject to the following standards:
  - (i) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the Soil and Water Conservation District in which the property is located.
  - (ii) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock

watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

- a. The cleared access is no more than 15 feet wide,
  - b. An area no greater than 200sf within 10 feet of the OHW may be cleared. In no case should the cleared area within 10 feet of the OHW be greater than 20 percent of the lot width at the OHW.
  - c. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
  - d. Along rivers, existing shading of water surfaces is preserved; and
  - e. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- (iii) Outside of the Shore/Bluff Impact zone, but within the structural setback, landowners may, under a shoreland alteration permit, create a viewing corridor to the water body. In no instance may more than 25 percent of the trees or 50 percent of the shrubs be removed.

(2) Topographic Alterations/Grading and Filling

- (a) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

- (b) Public roads and parking areas are regulated by subsection 7.14.5(H).
- (c) Notwithstanding Items (a) and (b), above, a grading and filling permit will be required for:
  - (i) the movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and
  - (ii) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- (d) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
  - (i) Grading or filling in any type 1, 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland\*:
    - a. sediment and pollutant trapping and retention;
    - b. storage of surface runoff to prevent or reduce flood damage;
    - c. fish and wildlife habitat;
    - d. recreational use;
    - e. shoreline or bank stabilization; and
    - f. noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

\*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed

district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers.

- (ii) Up to a 15 foot wide path may be altered within the shore impact zone. Within 10 feet of the OHW, an area no greater than 200sf within 10 feet of the OHW may be cleared. In no case should the cleared area within 10 feet of the OHW be greater than 20 percent of the lot width at the OHW. There shall be no fill below the OHW.
- (iii) Outside of the shore impact zone, but within the shoreland zone, up to 25 percent of the lot may be altered.
- (iv) Altered land must be stabilized and seeded within 24 hours.
- (v) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
- (vi) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.
- (vii) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
- (viii) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the Department of Agricultural – Natural Resources Conservation Service; (Ord. #410, adopted 04/17/07).
- (ix) Fill or excavated material must not be placed in a manner that creates an unstable slope.

- (x) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.
  - (xi) Fill or excavated material must not be placed in bluff impact zones.
  - (xii) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of Department of Natural Resources under Minn. Stat. § 103G.245, as may be amended.
  - (xiii) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
- (e) Shoreline Stabilization
- (i) Rip-Rap
    - a. Rip-rap should only be used in areas experiencing active erosion.
    - b. Rip-rap for aesthetic purposes is prohibited.
    - c. The area to be rip-rapped shall be limited to 25 percent of the shoreline length.
    - d. There shall be a minimum 10 foot native vegetation buffer the entire length of the rip-rapped area.
    - e. In rare occasions rip-rap may be placed within the floodway or fringe only for the purpose of stabilizing active erosion. Doing so shall require a Conditional Use Permit and shall be designed by a licensed engineer.
    - f. Placement of natural rock rip-rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the

finished slope does not exceed 3 feet horizontal to 1 foot vertical, the landward extent of the rip-rap is within 10 feet of the ordinary high water level, and the height of the rip-rap above the ordinary high water level does not exceed 3 feet.

(ii) Ice Ridges

- a. Ice ridges may only be removed if they were formed that winter season, and must be removed no later than June 30th after the winter season.
- b. If the ice ridge was not formed that season, removal is limited as follows:
  - i. Removal is limited to 25 percent of the length of the shoreline.
  - ii. All material must be removed to an upland area and stabilized.
  - iii. No additional fill is to be hauled in to replace material removed from the ice ridge.
  - iv. Exposed areas of the ice ridge shall be stabilized within 24 hours.
  - v. Any work conducted waterward of the OHWL requires a DNR permit.

(f) Beach Blanket / Sand Blanket

- (i) A DNR permit may not be necessary if the following conditions are met:
  - a. Blanket is not placed on a natural lake bottom containing greater than 12 inches soft or mucky soils.



- b. Blanket is limited to 25 percent of the length of the shoreline or 25 feet, whichever is less. The blanket shall not extend more than 10 feet waterward of the OHWL
  - c. Blanket is not placed in wetlands.
  - d. Blanket shall not be placed in the floodway (most commonly found along moving waterways).
  - e. Sand must be clean washed and must be of grain size (course sand or larger) that stay in place during wave action.
  - f. Placement of sand shall only be allowed twice in the same location. If sand subsides (sinks) or becomes dislodged, no further replacement of blanket material is to be allowed in the same location.
  - g. Blankets must not be placed over emergent aquatic vegetation such as bulrush(s), sedges, and cattails.
  - h. A plant barrier or liner is not allowed to be installed under the constructed beach.
  - i. Blanket may be up to 6 inches thick.
- (ii) A county shoreland alteration permit is required if any part of the blanket is above the OHW.
- (g) Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner of DNR has approved the proposed connection to public waters.

(H) Placement and Design of Roads, Driveways, and Parking Areas

- (1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local Soil and Water Conservation District, or other applicable technical materials.
- (2) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- (3) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of subsection 7.14.5(G)(2) must be met.

(I) Stormwater Management

The following general and specific standards shall apply:

- (1) General Standards:
  - (a) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
  - (b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
  - (c) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and

vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(2) Specific Standards:

- (a) Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- (b) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local Soil and Water Conservation Districts.
- (c) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(J) Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat

(1) Standards for Commercial, Industrial, Public, and Semipublic Uses.

- (a) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
  - (i) in addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
  - (ii) uses that require short-term watercraft mooring for patrons must centralize these facilities and design

them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

- (iii) uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
  - a. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
  - b. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
  - c. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
  - d. All signs must comply with Section 8.1.

- (b) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(2) Agriculture Use Standards

- (a) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local Soil and Water Conservation Districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- (b) In addition to the standards of subsection 9.12.3, new feedlots must not be located in bluff impact zones.

(3) Forest Management Standards.

- (a) The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

(4) Extractive Use Standards

- (a) Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify

actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

- (b) Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

(K) Conditional Uses

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

(1) Evaluation criteria.

- (a) A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:
  - (i) the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - (ii) the visibility of structures and other facilities as viewed from public waters is limited;
  - (iii) the site is adequate for water supply and on-site sewage treatment; and
  - (iv) the types, uses, and number of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(2) Conditions attached to conditional use permits.

- (a) The Benton County Planning Commission, upon consideration of the criteria listed above and the purposes of

this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance.

- (b) Such conditions may include, but are not limited to, the following:
  - (i) increased setbacks from the ordinary high water level;
  - (ii) limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
  - (iii) special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(L) Water Supply and Sewage Treatment

- (1) Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- (2) Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, and fully comply with the standards set forth in Section 9.22.
  - (a) Publicly-owned sewer systems must be used where available.
  - (b) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in subsection 7.14.5(C).
  - (c) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsection 7.14.5(L)(2)(d)(i) through (iv). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation

tests from on-site field investigations by a certified septic system designer or a licensed engineer.

(d) Evaluation criteria:

- (i) depth to the highest known or calculated ground water table or bedrock;
- (ii) soil conditions, properties, and permeability;
- (iii) slope;
- (iv) the existence of lowlands, local surface depressions, and rock outcrops;

(e) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 9.22.

#### 7.14.6 Nonconformities

All legally established nonconformities as of the date of this shoreland ordinance may continue, but they will be managed according to applicable Minnesota Statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use.

A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(A) Additions/expansions to nonconforming systems

- (1) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of subsection 7.14.5. Any deviation from these requirements must be authorized by a variance.
- (2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:



- (a) the structure existed on the date the structure setbacks were established;
- (b) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- (c) the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 50 feet, whichever is more restrictive; and
- (d) the deck is constructed primarily of wood, and is not roofed or screened.

#### 7.14.7 Subdivision/Platting Provisions

(A) Land suitability.

- (1) Each lot created through subdivision, including multiple unit developments authorized under subsection 7.14.8, must be suitable in its natural state for the proposed use with minimal alteration.
- (2) Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

(B) Consistency with other controls.

- (1) Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose.

- (2) In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with subsections 7.14.5(C) and 7.14.5(L) can be provided for every lot.
  - (3) Each lot shall meet the minimum lot size and dimensional requirements of subsection 7.14.5(A), including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of 2 standard soil treatment systems.
  - (4) Lots that would require use of holding tanks must not be approved.
- (C) Information requirements.
- (1) Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. In addition to requirements of Section 10 of the Development Code, an applicant proposing a subdivision of shoreland property must provide the following:
    - (a) information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
    - (b) location of 100-year (1% probability) flood plain areas and floodway districts from existing adopted maps or data; and
    - (c) a line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- (D) Dedications.
- When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- (E) Platting.

- (1) All subdivisions that create 5 or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minn. Stat. Ch. 505, as may be amended.
  - (2) No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.
- (F) Controlled Access or Recreational Lots.

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in subsection 7.14.5(A)(4).

#### 7.14.8 Multiple Unit Developments (MUD's) in Shoreland Districts

- (A) Types of MUD's Permissible
- (1) Multiple unit developments are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land.
  - (2) The land use districts in which they are an allowable use are identified in Section 7.
  - (3) All developments in Shoreland areas that meet the definition of MUD must be processed pursuant to this Section.
- (B) Processing of MUD's
- (1) Multiple unit developments must be processed as a conditional use, except that an expansion to an existing commercial MUD involving 6 or less new dwelling units or sites since the date this Ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in subsection 7.14.8(E).
  - (2) Approval cannot occur until the environmental review process (EAW/EIS) is complete, if required.
- (C) Application for a MUD

The applicant for a MUD must submit the following documents prior to final action being taken on the application request:

- (1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at 10-foot intervals or less. When a MUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
- (2) A property owners association agreement (for residential MUD's) with mandatory membership, and all in accordance with the requirements of subsection 7.14.8(F).
- (3) Deed restrictions, covenants, permanent easements or other instruments that:
  - (a) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential MUD's; and
  - (b) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in subsection 7.14.8(F).
- (4) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- (5) Those additional documents as requested by the Department of Development Director that are necessary to explain how the MUD will be designed and will function.

(D) Site "Suitable Area" Evaluation

Proposed new or expansions to existing multiple unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in subsection 7.14.8(E).

- (1) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions	Unsewered (feet)	Sewered (feet)
General development lakes-first tier	200	200
General development lakes-second and additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

- (2) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial multiple unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(E) Residential and Commercial MUD Density Evaluation

The procedures for determining the "base" density of a MUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

(1) Residential MUD "Base" Density Evaluation:

- (a) The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and number of dwelling units or sites for the residential multiple unit developments are then

compared with the tier, density, and suitability analyses herein and the design criteria in subsection 7.14.8(F).

(2) Commercial MUD "Base" Density Evaluation:

- (a) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
- (b) Select the appropriate floor area ratio from the following table:

Table: Commercial Multiple Unit Development Floor Area Ratios\*

*Average unit floor area (sq. ft.)	Public waters classes		
	<ul style="list-style-type: none"> <li>• Sewered General Development Lakes;</li> <li>• First tier on unsewered General Development Lakes;</li> <li>• Urban, agricultural, tributary river segments</li> </ul>	<ul style="list-style-type: none"> <li>• Second and additional tiers on unsewered General Development Lakes;</li> <li>• Recreational Development Lakes;</li> <li>• Transition and forested river segments</li> </ul>	Natural Environment Lakes and Remote river segments
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

\*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet.

For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

- (c) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
  - (d) Divide the total floor area by tier computed in Item (c), above by the average inside living area size determined in Item (a), above. This yields a base number of dwelling units and sites for each tier.
  - (e) Proposed locations and numbers of dwelling units or sites for the commercial multiple unit development are then compared with the tier, density and suitability analyses herein and the design criteria in subsection 7.14.8(F).
- (3) Density Increase Multipliers:
- (a) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in subsection 7.14.5 are met or exceeded and the design criteria in subsection 7.14.8(F). are satisfied. The allowable density increases in Item (b), below, will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.
  - (b) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Multiple Unit Developments:

Density Evaluation Tiers	Maximum Density Increase within Each Tier (percent)
First	50
Second	100
Third	200
Fourth	200

Fifth	200
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(F) Maintenance and Design Criteria

(1) Maintenance and Administration Requirements

- (a) Before final approval of a multiple unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- (b) Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
  - (i) commercial uses prohibited (for residential MUD's);
  - (ii) vegetation and topographic alterations other than routine maintenance prohibited;
  - (iii) construction of additional buildings or storage of vehicles and other materials prohibited; and
  - (iv) uncontrolled beaching of watercraft prohibited.
- (c) Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential multiple unit developments must use an owners association with the following features:
  - (i) membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
  - (ii) each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
  - (iii) assessments must be adjustable to accommodate changing conditions; and



- (iv) the association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

(2) Open Space Requirements.

Multiple unit developments must contain open space meeting all of the following criteria:

- (a) at least 50 percent of the total project area must be preserved as open space;
- (b) dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
- (c) open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- (d) open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
- (e) open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
- (f) open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- (g) the appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
- (h) the shore impact zone, based on normal structure setbacks, must be included as open space. For residential MUD's, at

least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial MUD's, at least 50 percent of the shore impact zone must be preserved in its natural state.

(3) Erosion Control and Stormwater Management.

Erosion control and stormwater management plans must be developed and the MUD must:

- (a) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
  - (b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial MUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with subsection 7.14.5(G).
- (4) Centralized and Design of Facilities. Centralization design of facilities and structures must be done according to the following standards:
- (a) Multiple unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department

of Health and subsections 7.14.5(B) and 7.14.5(L). On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;

- (b) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with subsection 7.14.8(E)(3) for developments with density increases;
- (c) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
- (d) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

- (e) Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and
- (f) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in subsection 7.14.5(B) and are centralized.

(G) Conversions

Local governments may allow existing resorts or other land uses and facilities to be converted to residential multiple unit developments if all the following standards are met:

- (1) Proposed conversions must be initially evaluated using the same procedures for residential multiple unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
- (2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.
- (3) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
  - (a) removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
  - (b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
  - (c) if existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other

locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

- (4) Existing dwelling unit or dwelling site densities that exceed standards in subsection 7.14.8(E) may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

## **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

**9.0 USE SPECIFIC STANDARDS****9.1 Accessory Uses and Buildings****9.1.1 Accessory Uses****(A) Accessory Uses Prohibited**

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

No mobile or manufactured home, camper, travel trailer, recreational vehicle, bus, or similar structure shall be used as an accessory structure, out building or for storage purposes in any district.

**9.1.2 Accessory Buildings**

(Ord. #445, adopted 04/12/11)

- (A)** A land use permit is not required for any accessory building or storage structure less than or equal to 200 square feet, however all applicable setbacks shall be met.
- (B)** Except as provided below, no storage structure or accessory use shall be constructed or developed on a lot prior to the time of obtaining a land use permit for the principal building/use and construction of the principal building has commenced. In the case where a manufactured home is the principal building, said manufactured home must be installed prior to the issuance of a land use permit for any storage structure.
  - (1)** An accessory building or storage structure may be constructed or placed on lots zoned R-1, R-2, R-3, R-S without a single family dwelling or other principal building, provided a conditional use permit for said structure is obtained and the following conditions are met:
    - (a)** The accessory building shall conform to all of the requirements of subsection 9.1.2(C); and
    - (b)** The accessory building shall not be used for commercial purposes, except as otherwise allowed with a home occupation or home extended business; and

- (c) The accessory building shall not be used for temporary or permanent residence; and
  - (d) There is land suitable for the construction of a residence and septic system without the need for variances; the septic verification shall require soil borings to be provided to demonstrate compliance with Section 9.22 for new construction; or
  - (e) The accessory building will serve the residents of a single family dwelling located on a lot adjacent and abutting to, or separated by a street or road from, the lot upon which the storage structure will be placed.
- (2) An accessory building or storage structure may be constructed or placed on lots zoned A or R-A less than 10 acres without a single family dwelling or other principal building, provided a conditional use permit for said structure is obtained and the following conditions are met:
  - (a) The accessory building conforms to all of the requirements of subsection 9.1.2(C); and
  - (b) The accessory building will not be used for commercial purposes; and
  - (c) The accessory building will not be used for temporary or permanent residence; and
  - (d) That there is land suitable for the construction of a residence and septic system without the need for variances; the septic verification shall require soil borings to be provided to demonstrate compliance with Section 9.22 for new construction.



- (C) The allowed size of accessory buildings shall be based on the size of the lot as indicated below:

Lot Size* (in Acres)	Maximum Cumulative Accessory Building Footprint Area**	Maximum Building Height
0-0.49	5% of Lot Area	15 feet
0.5<=1.00	5% of Lot Area	20 feet
>1.01-2.49	5% of Lot Area	25 feet
2.50-4.99	5% of Lot Area	35 feet
5.0-9.10	5% of Lot Area	40 feet or 35 feet in Shoreland
10 or greater	Unlimited***	Unlimited or 35 feet in Shoreland
* Only land above the Ordinary High Water level shall be used to calculate lot size.		
** Accessory buildings not requiring a land use permit, as described in Section 9.1.2(A), shall not be calculated towards the cumulative footprint of accessory buildings		
*** Lots 10 acres or greater will only be limited by the total lot coverage		

- (D) The addition of an accessory building shall not cause the property to exceed allowable total lot coverage, as determined by district.
- (E) Garages attached to the primary building shall not be considered in the calculation of the cumulative accessory building area.
- (F) Accessory buildings shall meet the setback requirements of all zoning districts
- (G) Accessory buildings in Residential Districts (R-1, R-2, R-3, and R-S) shall comply with the following:
- (1) Accessory buildings shall be constructed with a design that conforms to the architecture of the principal structure.

- (2) No accessory building shall be located nearer the front lot line than the principal building on that lot, except as provided by subsection 9.1.2(I).
- (3) An alternate septic site shall be designated by a licensed designer prior to the issuance of a land use permit for the accessory structure in a residential district for lots 1 acre or less in size.
- (H) Accessory buildings in Agricultural Districts (A and R-A) shall comply with the following:
  - (1) No storage structure in a cluster development shall be located nearer the front lot line than the principal building on that lot.
- (I) Accessory buildings in Shoreland shall comply with the following:
  - (1) If the presence of a waterbody or watercourse creates a second front yard, accessory buildings in the Shoreland may be placed with a setback 2 times the required setback from the waterbody regardless of the location of the principal structure.
  - (2) An alternate septic site shall be designated by a licensed designer prior to the issuance of a land use permit for an accessory building for lots less than 2 acres in the shoreland.

## **9.2        Adult Uses**

9.2.1        For the purposes of this section, the following definitions shall apply:

- (A) Adult Uses: Adult uses include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.
- (B) Adult Bookstore: A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, or motion picture film if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or

"specified anatomical areas" or the barter, rental or sale of instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities, "Substantial or significant portion of items," for purposes of this Ordinance, shall mean more than 15 percent of usable floor area.

- (C) Adult Cabaret: A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas."
- (D) Adult Conversation/Rap Parlor: A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (E) Adult Health/Sports Club: A health/sports club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (F) Adult Massage Parlor: A massage parlor which restricts minors by reason of age, or which provides the service of "massage," if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (G) Adult Mini-Motion Picture Theater: A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- (H) Adult Motion Picture Theater: A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

- (I) Adult Steam Room/Bathhouse Facility: A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

- (J) Specified Anatomical Areas:

Less than completely and opaquely covered:

- (1) Human genitals;
- (2) Pubic region;
- (3) Buttocks; and,
- (4) Female breast below a point immediately above the top of the areola; and
- (5) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- (K) Specified Sexual Activities:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; and
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

### 9.2.2 Location Requirements

Adult Uses shall be permitted in areas zoned B-1, B-2, I-1, and I-2, provided the following requirements are met:

- (A) No adult use shall be located within 500 feet of:
- (1) Any area zoned R-1, R-2, R-3 or R-S.

(Ord. #423, adopted 12/06/07)

- (2) Any school, as defined in Minn. Stat. § 120A.05, as may be amended.
- (3) Any church, as defined in the Benton County Development Code.
- (4) Any daycare facility, as defined in the Benton County Development Code, or any residential or nonresidential program, as defined in Minn. Stat. § 245A.02, as may be amended.
- (5) Any hotel or motel.
- (6) Any public park.
- (B) Adult uses shall not be established or maintained as a permitted, conditional or accessory use in any area other than those described in item (A), above.

#### 9.2.3 Amortization of Nonconforming Uses

Adult uses established prior to the enactment of Benton County Ordinance 235 shall be permitted and regulated as nonconforming uses until July 31, 1998, at which time such uses shall become unlawful, unless they conform to the requirements of subsection 9.2.2.

(Ord. #260, adopted 11/21/95)

#### 9.2.4 Additional Building Placement Restrictions

Section 9.2, the Adult Use Regulations of the Benton County Development Code, contains standards that are additional to those set forth in other sections of the Code. Minimum setbacks from roads, building bulk limitations, as well as minimum lot and building dimensions, shall be determined by referring to the specific standards set forth in the underlying zoning district (e.g., I-1, I-2, B-1, B-2). In the event of a conflict between the setbacks listed in this chapter and those listed in other appropriate sections of the Development Code, the most restrictive setback shall apply.

(Ord. #242, adopted 07/19/94)

### 9.3 **Agricultural Tourism**

- 9.3.1 Agricultural Tourism, where allowed in this Ordinance, shall be subject to the following standards:

- (A) The parcel shall be actively farmed.
- (B) If the owner of the agricultural tourism use is not the owner of the property on which it is operated, then the owner of the property shall have a letter on file with Benton County stating her/his permission for the use to occur and her/his acknowledgement of the standards required for the use.
- (C) The responsible road authority and law enforcement agency shall be notified of such use at the proposed location.
- (D) A plan for seasonal directional signs shall be administratively approved.
- (E) All structures and portions of the parcel used for agricultural tourism, including temporary structures, shall meet the minimum setback requirements of the district in which it is located.
- (F) Adequate parking for employees and customers shall be provided on site and shall meet parking standards of Section 8.2.
- (G) Adequate restroom facilities shall be provided either through permanent facilities or seasonal, portable toilets.
- (H) Local and state health and liquor regulations shall be met if food or beverages are served.
- (I) Hours of operation shall be limited to 8 a.m. to 10 p.m.
- (J) Any outdoor lighting shall be arranged so as to reflect the light away from adjoining property and right-of-way.

#### **9.4 Animal Unit Density Requirement**

(Ord. #431, adopted 10/07/08)

9.4.1 The following animal density shall apply in the Agricultural and Rural Agricultural districts unless approved for animal boarding.

- (A) Less than 2 acres  
0.5 animal units; and cats and dogs and other domestic animals customarily kept as household pets
- (B) 2.0 - 4.99 acres

1.5 animal units; and cats and dogs and other domestic animals customarily kept as household pets

(C) 5.0 – 10.0 acres

1.5 AU plus 0.5 animal unit for each additional acre owned above 5 acres max of 4 animal units; and cats and dogs and other domestic animals customarily kept as household pets

(D) 10.1 - 19.99 acres

4.0 AU plus 0.5 animal unit for every acre above 10 acres maximum of 9 animal units; and cats and dogs and other domestic animals customarily kept as household pets

9.4.2 The following animal density shall apply in the Residential and Rural Service District

(A) Less than 1 acres

Cats and dogs and other domestic animals customarily kept as household pets

(B) 1.0 - 1.99 acres

Cats and dogs and other domestic animals customarily kept as household pets; and 10 chickens (no roosters) as long as they are within a confined area.

(C) 2.0 - 4.99 acres

1.0 animal unit and cats and dogs and other domestic animals customarily kept as household pets; and 10 chickens (no roosters) as long as they are within a confined area. Up to 10 chickens shall not be counted towards the overall animal unit density.

(D) 5.0 – 10.0 acres

1.0 animal unit plus 0.25 animal units for each additional acre owned above 5 acres max of 2.25 animal units; and cats and dogs and other domestic animals customarily kept as household pet and 10 chickens (no roosters) as long as they are within a confined area. Up to 10 chickens shall not be counted towards the overall animal unit density.

## (E) 10.1 - 19.99 acres

2.25 animal unit plus 0.5 animal unit for every acre above 10 acres maximum of 7.25 animal units; and cats and dogs and other domestic animals customarily kept as household pets”.

**9.5 Auto Fuel Stations****9.5.1 General Provisions**

- (A) For architectural purposes, each side of an auto 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 designated 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.

**9.5.2 Site Requirements**

- (A) Wherever an auto fuel station abuts residential property, a fence or compact evergreen hedge, not less than 50 percent opaque or 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 auto fuel station site, other than the part devoted to landscaping and structure, shall be maintained and operated in such a manner as to minimize, as far as is practicable, conditions which are injurious or substantially annoying to persons living in the vicinity.



- (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.

### 9.5.3 Setbacks

#### (A) Side Yard

	Lot Width	Front Yard	Side Yard Adjacent to another lot	Side Yard Adjacent to street	Rear Yard	Pump Setback
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.

## 9.6 **Cluster Subdivision**

(Ord. #398, adopted 05/08/06)

### 9.6.1 Cluster Subdivision

#### (A) Purpose

The clustering of houses in order to preserve open space, agricultural land and purposes and/or environmentally sensitive areas in some cases can be an asset to the community and when appropriate is encouraged by permitting a density up to 6 dwelling units per 40 acres.

#### (B) Permitted Uses within a Cluster Subdivision

- (1) Daycare Facilities, Licensed Group Family serving 14 or fewer children
- (2) Dwelling, Single Family
- (3) Essential services and necessary appurtenant structures in accordance with Section 9.11.

- (4) Horticulture uses and structures designed for storage of products and machinery pertaining and necessary thereto.
  - (5) Nonresidential Program Facilities with a licensed capacity of 12 or fewer persons.
  - (6) Residential Program Facilities with a licensed capacity of 6 or fewer persons.
- (C) Permitted Accessory Uses within a Cluster Subdivision
  - (1) Accessory Buildings in accordance with Section 9.1 of this Ordinance.
  - (2) Decorative Landscape Features
  - (3) Home Occupations in conformance with the provisions of Section 9.14.
  - (4) Residential garages, parking spaces, carports
  - (5) Private Swimming Pools
  - (6) Private Tennis Courts
  - (7) Signs as regulated by Section 8.1
- (D) Conditional Uses within Cluster Subdivision
  - (1) Energy efficient subterranean dwellings
  - (2) Fences located in a front yard or side yard with a height between 4 feet and 6 feet (Ord. #407, adopted 11/14/06)
  - (3) High voltage transmission lines of between 100 and 200 kilovolts according to Section 9.11
  - (4) Home extended business in conformance with the provisions of Section 9.14
  - (5) Nurseries and greenhouses with retail sales of home grown products;

- (6) Pre-existing single family dwellings moved from another site onto a lot
- (7) Recreational Facilities if located within the cluster subdivision open space
- (8) Residential garages on parcels without a principal building according to Section 9.1
- (9) Substations with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more according to Section 9.11.

(E) Setbacks

Setbacks and lot coverage shall be in accordance with subsection 7.2.6.

(F) Accessory Buildings

Accessory building size and height shall be subject to the requirements of Section 9.1 and shall not be located closer to the front lot line than the principal building on the lot.

(G) Open Space and Buffers

- (1) The Planning Commission as part of the review of the conditional use permit shall determine the need for buffers and open space to be preserved.
- (2) The open space and/or residual parcel shall be limited to recreational facilities associated with the clustered subdivision, open space, and cropland. No structures shall be permitted except those specifically permitted by conditional use for a recreational facility.

(H) Density

Density for the cluster subdivision shall be calculated in accordance with Section 6.4(B). Density transfer is prohibited.

(I) Cluster Siting Standards

- (1) Cluster developments should be sited to achieve the following goals to the extent deemed practicable by the Planning Commission:
  - (a) Avoid prime farmland soils, tillable farmland, large tract of land in agricultural use; and
  - (b) Avoid interference with adjacent or on-site agricultural uses; and
  - (c) Minimize the fragmentation of agricultural land; and
  - (d) Ensure the right to farm for adjacent agricultural lands by careful siting and provision of screening and buffers; and
  - (e) Minimize the disturbance of woodlands or other significant stands of vegetation; and
  - (f) Avoid encroachment upon or disturbing rare plant communities identified in the department of Natural Resources' County Biological Survey for Natural Communities and rare Species; and
  - (g) Avoidance of wetlands or other environmentally sensitive areas; and
  - (h) Cluster developments shall result in contiguous tracts and shall only be allowed where land features and topography allow for contiguous tracts to be sited.
- (2) To meet the above stated goals the applicant shall provide the following with a conditional use permit:
  - (a) Site plan depicting the general layout and size of the lots.
  - (b) Plan depicting the proposed access to the subdivision and individual lots,
  - (c) Soil borings for each lot depicting the potential for 2 standard systems or a centralized system,
  - (d) Location of environmentally sensitive areas, woodlands, or agricultural land being preserved,

- (e) Location of existing vegetation that will be preserved within a restricted open space or proposed vegetation located within a restricted open space to buffer the development from adjacent uses.

(J) Subdivision

- (1) The clustered lots shall be contiguous to one another, which may include the separation by an internal street, and may not exceed 6 dwelling units per 40 acres; however, clustering on less than 40 acres may be permitted proportionate to the tract owned. If the tract contains less than 40 acres but 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) There shall be a minimum of 2 lots and a maximum of 6 lots within a cluster subdivision.
- (3) There shall be no transfer of development rights from one parcel to another to create more than 6 dwelling units.
- (4) Access requirements shall be determined by the Planning Commission in coordination with the road authority and County Engineer. Every lot, tract or plot of land, including outlots, shall abut or have a minimum road frontage equal to the required lot width; however, the Board of Commissioners with approval of a final plat or the Planning Commission with approval of a conditional use permit for a cluster development may approve a flag lot that has ownership to a dedicated public right-of-way by a minimum 33 foot wide access. The public right-of-way shall meet the minimum requirements stated in subsection 10.11.2; however, the construction design standards of the road shall be subject to the requirements of the Township for which the road is so located.
- (5) The remaining portion of the tract shall be deed restricted to prohibit structures, except those specifically permitted by conditional use for a recreational facility and further subdivision to ensure the density will not exceed 6 dwelling units.

- (6) The development shall meet all subdivision standards and regulations per Chapter 10.

## **9.7 Commercial Recreation, Outdoor**

9.7.1 Commercial Recreation, Outdoor Uses, where allowed through an Interim Use Permit, shall be subject to the following:

- (A) The site shall adequately accommodate the recreational use.
- (B) No overnight accommodations shall be provided.
- (C) The responsible road authority shall grant written permission for such use at the proposed location.
- (D) All structures and portions of the parcel used for the outdoor commercial recreation, including temporary structures, shall meet the greater of the minimum setback requirements of the district in which it is located or 300 feet from any existing residential dwelling on an adjacent parcel.
- (E) Adequate parking for employees and customers shall be provided on site and shall meet parking standards of Section 8.2.
- (F) If there is a commercial kitchen on-site or if the facility has its own liquor license, an individual sewage treatment system shall be provided that complies with Section 9.22 and regulations from the Minnesota Pollution Control Agency (PCA). If food and/or alcohol are provided by a caterer, the site, at the discretion of the Planning Commission, may permit the use of a holding tank or provide restroom facilities via portable toilets.
  - (1) Should a plan for portable toilets be approved by the Planning Commission, the applicant/property owner shall provide the Department of Development with the number, location, type, and means of disposing of waste deposited and a copy of the signed contract with the service provider shall be submitted to the Department of Development annually as long as portable toilets are being used.
- (G) All buildings used in conjunction with the use shall meet the requirements of the state building code, including state mandated accessibility requirements.

- (H) Local and state health and liquor regulations shall be met if food or beverages are served.
- (I) Hours of operation shall be limited to 8 a.m. to 10 p.m. The Planning Commission may grant approval for modified hours of operation.
- (J) Any outdoor lighting shall be arranged so as to reflect the light away from adjoining property and right-of-way.
- (K) Expiration. Interim use permit will expire upon the occurrence of any of the following events:
  - (1) Re-subdivision of the property.
  - (2) Change in ownership of the property.
  - (3) Rezoning of the property.
  - (4) Changes or amendments to the Development Code that affect the property on which the use exists.

## **9.8 Communication Towers**

(Ord. #287, adopted 05/19/98)

### **9.8.1 Tower Definition**

A communication tower is any pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus, 50 feet or greater in height, above grade.

### **9.8.2 Purpose**

The purpose of this section is to accommodate the communication needs of residents and businesses while protecting public health, safety and general welfare of the community. The County finds that these regulations are necessary in order to:

- (A) Facilitate the provision of wireless communication services to residents and businesses;

- (B) Minimize adverse visual effects of towers through careful design and site standards;
- (C) Avoid potential damage to adjacent properties from tower failure; and;
- (D) Maximize the use of existing and approved towers and buildings to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community.

### 9.8.3 Permitted Zoning Districts

- (A) The construction and maintenance of a commercial tower shall be permitted within the zoning classification, I-1, I-2, A, R-A, R-S, B-1, B-2, pursuant to a conditional use permit granted in accordance with the Zoning Ordinance. Amateur radio, television towers and exempted dishes shall not require a conditional use permit.
- (B) For construction of a communications tower equal to or in excess of 500 feet in height, or 300 feet in height within 1,000 feet of any protected water or protected wetland or within 2 miles of the Mississippi River, Benton County is the RGU and an Environmental Assessment Worksheet is required before construction of the tower may be approved.
- (C) All applicants shall submit the following information upon application.
  - (1) A plan illustrating all known future location sites for communications towers and/or antennas.
  - (2) Legal description of the property.
  - (3) Survey and/or general site plan of the tower and related facilities, as determined by the Department of Development.
  - (4) One or more color computer generated photographs depicting the proposed tower located on the site.
  - (5) Written authorization by the owner of the land for the tower construction.
  - (6) A statement that affirmatively ensures that the use is consistent with any land use restrictions that apply to the site.



- (D) No land may be subdivided for the purpose of providing space for any antenna unless all lot size requirements for the relevant zoning district are met and subdivision approval is obtained.
- (E) Towers located within a 5 mile radius of an FAA approved airstrip shall provide evidence of FAA consent.
- (F) Only 1 communication tower is permitted on a parcel of land. All other standards contained in this Ordinance must be met.

#### 9.8.4 General Performance Standards

- (A) The applicant shall submit a capacity analysis and coverage analysis, as required, prepared by a qualified radio frequency analyst, showing that the proposed tower site is necessary to meet the needs of the system, and that the tower cannot be located in a less restrictive district, or be accommodated by co-location on an existing tower or structure.
- (B) All towers shall meet the following performance standards:
  - (1) A proposal for a new commercial wireless communication tower shall not be approved unless the County finds that the telecommunications equipment plans for the proposed tower cannot be accommodated by an existing or approved tower of building within a one-half mile search radius of the proposed tower due to one or more of the following reasons:
    - (a) The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be re-enforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    - (b) The planned equipment would cause interference materially impacting the useability of other existing or planned equipment at the tower as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
    - (c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a

height necessary to function reasonable as documented by a qualified and licensed professional engineer.

- (d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
- (C) Any proposed commercial wireless telecommunication service tower shall be designed (structurally and electronically) in all respects, to accommodate both the applicant's antennas and comparable antennas for at least 2 additional users. The tower must be designed to allow for future re-arrangement of antennas upon the tower and to accept antennas mounted at various heights.
- (D) All towers should be of a monopole design unless the Planning Commission deems that an alternative design is necessary or preferred due to the topography or to better blend with existing structures, for safety reasons, or if necessary to allow co-location.
- (E) The tower location shall provide screening for the base as deemed appropriate by the Planning Commission. Screening includes but is not limited to trees, setbacks, and fences. Associated base equipment must be located within a structure whenever possible or housed at the base of the tower and screened from view for adjoining residents by fencing or landscaping. Tower accessory structures shall be constructed of materials designed to minimize visibility to surrounding areas. The Planning Commission reserves the right to require design measures to camouflage facilities by integrating them with existing buildings and other existing uses. Existing on-site vegetation shall be preserved to the maximum extent practicable. (Ord. #410, 04/17/07)
- (F) All towers shall be constructed and maintained in accordance with the Electronic Industry Association Standards and all applicable building codes.
- (G) Minimum spacing between commercial tower locations is one-fourth (1/4) mile; except antennas wholly contained within a building or other structure and not visible to the general public shall be exempt from this spacing regulation.

- (H) All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower from ground level to 12 feet above ground shall be designed in a manner to preclude unauthorized climbing or shall be enclosed by a 6 foot fence with 3 strands of barbed wire at the top with a locked gate.

#### 9.8.5 Tower Setbacks

- (A) The tower should be setback from all property lines a distance deemed appropriate by the Planning Commission. (Ord. #410, adopted 04/17/07)
- (B) Buildings accessory to a tower shall comply with the setback requirements of the zone in which the tower is located.
- (C) Commercial towers shall be setback a minimum of 1,000 feet from schools or structures used as dwellings and a minimum of 600 feet from property zoned for residential use.
- (D) Towers and accessory structures shall be situated in the rear yard when located with another principal residential use, unless the Planning Commission finds that another location on the parcel is more appropriate.

#### 9.8.6 Tower Lighting

- (A) A tower shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other state or federal authority for a particular tower.
- (B) When incorporated into the design standards of the tower, light fixtures to illuminate ball fields, parking lots or similar areas may be attached to the tower.
- (C) Antennas in the "Agricultural District" may be lighted to facilitate identification to low flying aircraft used for crop spraying.

#### 9.8.7 Signs and Advertising

The use of any portion of a tower for signs other than a warning or equipment information signs is prohibited.

#### 9.8.8 Abandoned or Unused Telecommunication Towers

Abandoned, unused telecommunications towers or portions of telecommunications towers shall be removed as follows:

- (A) All abandoned, unused towers and associated facilities shall be removed within 12 months of the cession of operations at the site unless a time extension is approved by the County.
- (B) Any unused portions of towers above a manufactured connection shall be removed within 6 months of the time of antenna relocation.

#### 9.8.9 Interference of Public Safety Communications

- (A) No new or existing telecommunication service shall interfere with public safety communications.
- (B) All applications for a conditional use permit for new service shall be accompanied by an intermodulation study which provides the technical evaluation of existing and proposed transmission and indicates all potential interference problems.
- (C) Before the introduction of a new service or change in existing service, telecommunication providers shall notify the County at least 10 calendar days in advance of such changes and allow the County to monitor interference levels during the testing process.

#### 9.8.10 Conditional Use Application Submittal

In addition to the information generally required to accompany a request for a conditional use permit as found in the Zoning Ordinance, applications for towers shall include the following supplemental information:

- (A) A report from a qualified and licensed engineer which:
  - (1) Describes the tower height and design, including a cross section and elevation;
  - (2) Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distance between antennas;
  - (3) Describes the towers capacity, including the number and type of antennas it can accommodate;

- (4) Describes how the applicant will take action to avoid interference with established public safety communication;
- (5) Describes the lighting to be placed on the tower if such lighting is required by the FCC or FAA;
- (6) Includes the engineer's stamp and registration number.
- (7) Includes other information necessary to evaluate the request.
- (B) Letter of intent committing the tower owner, and successors, to allow the shared use of the tower if any additional user agrees in writing to meet reasonable terms and conditions for shared use.
- (C) Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration.
- (D) A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with all applicable structural and electrical standards.
- (E) A site plan showing the boundaries of the property on which the tower is located, adjacent land uses, the location of the tower and any accessory buildings within the property, distance setbacks from property lines for the tower and accessory buildings, fence locations, and proposed landscaping or screening.
- (F) Proof of insurance against injury and property damage.

#### 9.8.11 Building Mounted Antennas

- (A) An antenna is defined as any device consisting of a metal, carbon fiber, or other electromagnetically conductive rods or elements on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the wiring, related ground equipment and the support structure thereof.
- (B) The placement of a wireless telecommunication antennas on roofs or walls of existing buildings or structures may be approved by the County as a conditional use provided that the antennas meet the requirements of this

Ordinance, after submittal of a final site and building plan, and a report prepared by a qualified licensed professional engineer indicting the existing building structure suitability to accept the antenna as well as a proposed method for affixing the antenna to the structure. Complete details of all fixtures, couplings, and the precise point of attachment shall be indicated.

- (C) The antennas shall be located on an existing structure, if possible, and shall not extend more than 15 feet beyond the height of the structure to which they are attached.
- (D) The structural design, mounting, and installation of any antenna and support structure shall be in compliance with the manufacturer's specifications. The construction plans and design of any antenna requiring a permit shall be approved and certified by a registered professional engineer.
- (E) All obsolete and unused antenna shall be removed within 12 months of cessation of use, unless a written exemption is granted by the Department of Development Director.
- (F) All antenna shall be in compliance with all Federal, State and local building, electrical and other relevant code requirements.
- (G) No advertising message nor identification shall be affixed to any antenna structure.
- (H) Antennas shall not be artificially illuminated unless required by law or by a governmental agency to protect the public health and safety. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of 5 feet from all lot lines. Guy wires within 10 feet of the ground surface must be fenced within an enclosure or maintained with a cover of highly reflective material to prevent accidental collision.
- (I) When applicable, proposals to erect new antenna shall be accompanied by any required federal, state, or local agency licenses or proof of application thereof.
- (J) Antenna support structures under 200 feet in height shall be painted or coated silver or have a galvanized finish to reduce visual impact, unless otherwise required by federal law. Silver or galvanized finishes shall be

required unless the setting or natural surroundings can be used to justify another color.

- (K) No land may be subdivided for the purpose of providing space for any antenna unless all lot size requirements for the relevant zoning district are met and subdivision approval is obtained.

#### 9.8.12 Amateur Radio Towers

Residential radio and television reception antennas and amateur radio station antennas shall be for non-commercial uses and less than 50 feet in height. The setback for the antenna shall be 50 ft.

(Ord. #410, adopted 04/17/07)

#### 9.8.13 Prohibited Uses

- (A) No tower or accessory structure shall be erected in any public or private drainage easements.
- (B) No temporary mobile cell sites are permitted except in the case of equipment failure, equipment testing, or in the case of emergency situation as authorized by the Department of Development Director. Use of temporary mobile cell sites for testing purposes shall be limited to 24 hours, use of temporary mobile cell sites for equipment failure or in the case of emergency situations shall be limited to a term of 30 days. These limits can be extended by the Department of Development Director.
- (C) Permanent platforms or structures, exclusive of antennas, other than those necessary for safety purposes or for tower maintenance are prohibited.

### 9.9 **Contractor Shop**

#### 9.9.1 Contractor Shop without Outside Storage

Contractor Shops without Outside Storage in the A and R-A districts shall be subject to the following conditions:

- (A) 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.

- (B) No operation or activity shall emit any hazardous substances in such quantity, concentration, or duration as to be injurious to human health or property. If hazardous materials are stored and used on the property, a materials management plan shall be submitted to address storage, handling, use, disposal, and potential hazards.

#### 9.9.2 Contractor Shop with Outside Storage

- (A) The lot must be served by a collector or higher functional class of roadway, except that the use may be allowed to be served by a lesser functional class of roadway if the responsible road authority grants written permission for such use at the proposed location.
- (B) Buildings, parking areas, loading areas, and outside storage shall meet the setback requirements of the applicable zoning district.
- (C) All motorized vehicles, including trucks and trailers, and machinery stored in the outside storage area shall be licensed and in operable condition.
- (D) No operation or activity shall emit any hazardous substances in such quantity, concentration, or duration as to be injurious to human health or property. If hazardous materials are stored and used on the property, a materials management plan shall be submitted to address storage, handling, use, disposal, and potential hazards.
- (E) Outside screening shall meet the provisions outline in subsection 8.6.1.

### 9.10 **Drive-In Businesses**

#### 9.10.1 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.

#### 9.10.2 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 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.

## **9.11      Essential Services**

- 9.11.1      Essential Services that are not specifically listed as conditional uses 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 these subsections 9.11.2 through 9.11.7.
- 9.11.2      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, business, and industrial district.
  - (A)      Parcels created for the sole purpose of structures for public utilities shall be exempt from the minimum lot size requirements to permit a lot area, depth and width that is less than the minimum required for the district in which the building or structure is located. Lot shall be large enough, so all structures of facilities comply with the setbacks for the applicable zoning district.
  - (B)      Parcels shall be created in accordance with Section 10 Subdivision Regulations, as amended from time to time.
  - (C)      Structures for public utilities are subject to accessory building setback requirements as outlined in the applicable district.

(Ord. #487, adopted 01/17/23)

- 9.11.3 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 services in any zoning district shall be filed with the Department of Development Director prior to commencement of any construction by the applicant.
- 9.11.4 Except as otherwise provided herein, essential services not located within highway and street right-of-ways shall observe the following procedure:
- (A) The applicant shall file with the Department of Development Director maps indicating the location, alignment, and type of service proposed.
  - (B) The Department of Development Director shall review the location and alignment to determine whether the same encroaches upon a 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 Department of Development Director 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.
- 9.11.5 An application for a permit for essential services located within any County highway or County State Aid highway right-of-ways 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.

- 9.11.6 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 30 days of receipt thereof. Failure to act within 30 days shall constitute approval.
- 9.11.7 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.
- 9.11.8 Prior to the issuance of a conditional use permit for a high voltage transmission line between 100 and 200 kilovolts or substation with a voltage designed for and capable of operations at a nominal voltage of 100 kilovolts or more an Environmental Assessment of the project must be completed as required by Minn. Stat. § 216E.04, as may be amended.

(Ord. #354, adopted 01/21/03)

**9.12 Feedlots and Intensive Livestock/Poultry Farming**

(Ord. #292, adopted 05/19/98) (Ord. #407, adopted 11/14/06) (Ord. #342, adopted 04/16/02) (Ord. #431, adopted 10/07/08) (Ord. #352, adopted 12/17/02)

**9.12.1 Permitted Uses**

Tier I feedlots shall be a permitted use in areas zoned A or R-A, subject to the restrictions set forth in subsections 9.12.3 through 9.12.6.

**9.12.2 Conditional Uses**

(A) Tier II feedlots shall be conditional uses in areas zoned A and R-A. Conditional use permits for feedlots may only be granted if the following requirements are met:

- (1) The applicant must obtain a valid MPCA certificate of compliance, as defined in Minn. R. 7020.0300, as may be amended, pertaining to the feedlot site.
- (2) The feedlot must be located in compliance with the minimum setbacks and minimum parcel size restrictions described in subsection 9.12.3.

- (3) The feedlot must meet the criteria of Section 11.6.
- (B) Livestock waste storage facilities shall be conditional uses in areas zoned A or R-A unless the proposed waste storage facility is covered by a building and has been specifically permitted by the Minnesota Pollution Control Agency (MPCA). If the livestock waste storage facility is covered by a building and has been approved by MPCA a conditional use shall not be required. Conditional use permits for waste storage facilities may only be granted if the following requirements are met:
  - (1) The applicant must have obtained a valid MPCA feedlot permit.
  - (2) The waste storage facility must comply with all applicable state requirements for soil, water and air pollution.
  - (3) The facility shall not be located within 660 feet of any non-feedlot residence at which the storage facility is located.
  - (4) The facility must be at least 200 feet from a road right-of-way.

#### 9.12.3 Minimum Setbacks and Parcel Size

	Tier I	Tier II
Number of Animal Units (au) Permitted:	50-999 au; 10-999 au in shoreland	1,000 – 2,500 au
Minimum Setbacks		
Non-Feedlot Residence	660 feet	660 feet
Centerline of Road	100 feet	100 feet
Incorporated City with a Population over 500	660 feet	660 feet
Lake	1,000 feet	1,000 feet
River, Creek, Stream or Watercourse	300 feet	300 feet
Property Line	80 feet	80 feet
Existing Feedlot	660 feet	660 feet
Minimum Contiguous Parcel	35 acres	75 acres

#### 9.12.4 Feedlot Expansion

- (A) A land use permit or conditional use permit obtained for a Tier I or Tier II Feedlot shall authorize the feedlot owner/operator to maintain any number of animal units within the allowable range for that tier. The number of animal units contained in the feedlot must not exceed the maximum allowed in the permitted tier. If the number of animal units contained in the feedlot at any time exceeds, or is anticipated to exceed, the number allowed in the permitted tier, the property owner must obtain a new or amended conditional use permit for the appropriate higher tier.
- (B) Notwithstanding Section 4.2, any otherwise lawful feedlot which is rendered nonconforming solely by expansion or extension of a municipal boundary may be expanded, provided that the expansion shall not encroach upon the affected municipality to any greater extent than the preexisting feedlot, and provided that the feedlot owner has obtained an appropriate land use permit or conditional use permit, as required by this Section.

#### 9.12.5 Residential Setbacks

- (A) Non-feedlot residences must meet the minimum setbacks from a feedlot set forth in subsection 9.12.3. However, a feedlot or non-feedlot residence that was previously permitted to be within 660 feet of one another shall be permitted to expand or enlarged provided that the expansion does not encroach closer to the other to any greater extent than the existing residence or feedlot.
- (B) Existing residences on the same parcel as an existing feedlot may continue to have setbacks less than 660 feet should the two uses be split by subdivision of property resulting in each on individual parcels.
  - (1) New residences or feedlots on the resulting properties shall meet required setbacks
  - (2) These existing buildings may be expanded or enlarged provided that the expansion does not encroach closer to the other to any greater extent than the existing residence or feedlot.

#### 9.12.6 Permits

All proposed feedlots shall require a separate permit to be submitted to the Department of Development for review. The following information shall be submitted as part of this permit:

- (A) A complete land use permit with a site plan indicating dimensions of feedlot and showing all existing homes, buildings, lakes, ponds, water courses, wetlands, dry-runs, rock outcroppings, roads, wells, general contour, and drainage plan and north arrow.
- (B) A copy of approval from the Pollution Control Agency to operate a feedlot.
- (C) Any additional required state or federal permits, such as a NPDES/SDS permit for construction activity through the Pollution Control Agency.
- (D) No feedlot shall be located within the Flood Plain.

### **9.13 Field Windbreak**

(Ord. #425, adopted 02/19/08)

- 9.13.1 Field windbreaks and the management of them are intended to reduce the amount of suspended soil in air that causes a nuisance. The use of windbreaks and other erosion control practices promotes the protection of the public health and safety and protects the productivity of the soil for future generations.
- 9.13.2 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, on soils listed within wind erodability groups 1-2 or Wind Erodability Index 134 or above within any zoning district of the county without first making an application for and obtaining a land use permit. No such permit shall be issued unless the land owner has agreed, to a deed restriction for the parcel, to utilize Best Management Practices (BMP's) for erosion control. BMP's include, but are not limited to, crop residue management, conservation tillage, permanent grass or tree plantings, ridge orientation, cover crops, wind barriers, perennial grass barriers, ridge roughness, strip-cropping and buffer strips. More than one BMP may be needed to minimize erosion on the site.
- 9.13.3 As a part of the land use permit application the applicant shall specify the BMP's that will be utilized on the site and provide enough information regarding the

specified practice so the practice may be monitored. If a windbreak or portion of a windbreak is to be removed for conversion to a non-erosive land use then the use shall be stated on the permit and no BMP's shall be required.

- 9.13.4 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.

(Ord. #373, adopted 02/17/04)

**9.14 Home Occupations and Extended Home Business**

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

- 9.14.1 Home Occupations, where allowed as a permitted accessory use in this Ordinance, shall be subject to the following conditions:

- (A) Only persons who are members of the household residing on the premises may be employed in the home occupation.
- (B) Not more than 25 percent of the square footage of the dwelling including attached garage, as measured by using the horizontal perimeter of the dwelling, shall be used for a home occupation. No part of the home occupation area shall displace the original purpose of the garage.
- (C) Adequate off street parking shall be provided and not more than 3 parked vehicles may be present at one time.
- (D) Any sign(s) on the premises shall meet the requirements of the zoning district.
- (E) No articles for sale shall be displayed so as to be visible from any street in a residential district.
- (F) There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
- (G) No mechanical or electrical equipment is used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or TV and radio reception and the health and safety of the residents is not endangered.

- (H) No outside storage of material for the home occupation shall be allowed.
- (I) An individual sewage treatment system shall be designed and sized to accommodate both the residential use and the home occupation in accordance with Section 9.22.
- (J) Any home occupation that will have customers come to the site for any reason must meet the Minnesota State Building Code requirements for accessibility.
- (K) Any home occupation in existence prior to the adoption of Ord. #308 adopted 11/04/99 will be allowed to continue as a legal Non-conforming Use subject to Chapter 4.
- (L) Home occupations include, but are not necessarily limited to, the following:
  - (1) Antique shops, not including refurbishing
  - (2) Artists and sculptors
  - (3) Authors and composers
  - (4) Beauty Shop/Barber Shop
  - (5) Dressmakers, seamstresses and tailors
  - (6) Home crafts, such as model making, rug weaving, lapidary work, and ceramics
  - (7) Office facilities, other than home professional offices
  - (8) Schools of special education whose class size does not exceed more than 4 pupils at any given time and not more than 8 pupils in any one day.
- (M) Home Occupations Not Permitted include the following:
  - (1) Antique repair and refurbishing shops
  - (2) Auto Repair
  - (3) Eating establishments



- (4) Gift shops
- (5) Veterinary hospitals
- (6) Other uses specifically listed as a conditional or interim use for the zoning district
- (N) A permit for a home occupation is valid for only the original applicant and is not transferable to any resident, address or any other occupation. Upon termination of the applicant's residency, the home occupation permit shall become null and void.

9.14.2 Home Extended Business, where allowed as an interim use in this Ordinance, shall be subject to the following conditions:

(Ord. #352, adopted 12/17/02)

- (A) The proposed activity shall be clearly incidental and secondary to the residential use of the property, and shall only include the sale of merchandise incidental to the Home Extended Business.
- (B) The principal operator of the home extended business must reside on the parcel and have homestead status on the parcel. No more than 2 non-residents shall be employed or engaged in such home extended business.
- (C) Operation of the home extended business shall be limited to accessory or agricultural buildings on the same parcel.
- (D) All buildings used in conjunction with the home extended business shall meet the requirements for the state building code and accessibility standards.
- (E) All materials and vehicles, incidental to the use, shall be stored within an enclosed structure except as provided for in subsections 9.14.3 and 9.14.4.
- (F) All on-site production, assembly, sales and service shall be conducted within a building approved for the home extended business.
- (G) Adequate off street parking shall be provided for employees and customers.

- (H) Any signage shall meet the requirements of the zoning district.
- (I) There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.
- (J) The home extended business shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved by the Planning Commission.
- (K) An individual sewage treatment system shall be designed and sized to accommodate the home extended business in accordance with Section 9.22, if required.
- (L) Junk and Salvage Yards are prohibited.

9.14.3 Performance Standards - Agricultural and Rural Agricultural District

The following standards apply to home extended businesses within the Agricultural (A) and Rural Agricultural (R-A) Districts, in addition to the general performance standards.

- (A) Outdoor storage may be allowed for home extended businesses in A and R-A Districts on lots 5 acres or less provided the following conditions are met:
  - (1) The outdoor area shall not exceed 3,000 square feet in area.
  - (2) The outdoor storage area is delineated by a fence.
  - (3) The outdoor storage area is located at least 100 feet from adjoining property lines.
  - (4) The outdoor storage is screened from the view of adjoining residential uses and public right-of-way.
  - (5) The height of the storage materials shall not exceed the height of the screening provided.
  - (6) Limited to 3 business related vehicles and or trailers stored outside of the garage/accessory/storage structure.
- (B) Outdoor storage is permitted on lots greater than 5 acres.

- (C) Accessory structure shall meet the standards outlined in Section 9.1.
- (D) Limited to 3 business related vehicles and 3 business related trailers stored outside of the garage/accessory/storage structure.

#### 9.14.4 Performance Standards – All Residential Districts

The following standards apply to home extended businesses within the all Residential Districts, in addition to the general performance standards.

- (A) Outdoor storage of equipment, supplies, or products is prohibited.
  - (1) Residential properties 10 acres or greater may follow the storage standards as outlined in subsection 9.14.3(A).
- (B) The accessory structure shall meet the standards outlined in Section 9.1.
- (C) 1 vehicle associated with the business may be stored outdoors.

#### 9.14.5 Termination and Expiration of Home Occupations or Home Extended Businesses

- (A) Termination. The Planning Commission may terminate any home extended business interim use permit if the use in question violates any of the standards of this Ordinance, or other conditions placed on the permit by the Planning Commission.
- (B) Expiration. Any home occupation permit or home extended business interim use permit will expire upon the occurrence of any of the following events:
  - (1) Re-subdivision of the property.
  - (2) Change in ownership of the property.
  - (3) Rezoning of the property.
  - (4) Changes or amendments to the Development Code that affect the property on which a home occupation or home extended business exists.

### 9.15 **Manufactured Home Parks**

- 9.15.1 Every new manufactured home park constructed in the county shall provide a storm shelter for the protection of the residents of the park. When additions to the

capacity of a park are approved, the storm shelter capacity shall also be increased to provide shelter equal to the projected population of the entire park.

Storm shelters may be multi-purpose and may be used day-to-day as utility rooms, recreation areas or other uses, so long as the area is readily accessible to the residents of the park.

9.15.2 All storm shelters shall be constructed to withstand wind pressure as required by the applicable section of the Uniform Building Code as adopted under Minnesota Statutes.

9.15.3 Minimum Standards

- (A) Minimum Lot Size Per Homesite -- 6,000 square feet.
- (B) All homesites must have two off-street parking spaces -- minimum 20 foot x 20 foot.
- (C) All streets shall have a minimum width of 30 feet and streets and parking areas shall be hard surface.
- (D) There shall be a minimum of a 20-foot front yard setback and 10 feet from the rear lot line.

**9.16 Mining Operations**

(Ord. #428, adopted 06/17/08)

9.16.1 Permit Required

A permit shall be required for all mining operation(s).

- (A) Interim Use Permits.

(Ord. #444, adopted 09/07/10)

Owners and operators of any mining operations commencing on or after June 15, 2010 shall obtain an interim use permit. Said permit shall be valid for a 20 year period, unless it is revoked, expires, or is otherwise terminated earlier. The interim use permit shall be subject to an administrative review and inspection by County staff every 5 years from the date the IUP was approved. IUP's approved after January 1, 2017 are subject to the 20 year permit term period. Administrative review shall

consist of a review and inspection in accordance with Section 9.16.4 through 9.16.7. Additional documentation shall be provided to County staff as requested. Said permit is not transferable or assignable without the prior written consent of the Planning Commission. (Ord. #483, adopted 02/15/22)

(B) Land Use Permits.

Person, firms, partnerships, associations, corporations, or other entities that commenced mining operation(s) prior to December 31, 1995 who applied for and received a land use permit to operate, will be allowed to continue such operation according to the conditions of the permit. Any expansion of an existing Land Use Permit, beyond the limits established in the land use permit requires the entire site to be permitted as an Interim Use Permit and the entire site is subject to the provisions of the Interim Use Permit.

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

(C) Small Scale Mining Operations.

In lieu of an interim use permit, persons, firms, partnerships, associations, corporations or other entities may secure a land use permit from the Planning and Zoning Department providing the following conditions are met:

- (1) A maximum of 10,000 cubic yards of material shall be removed from, and/or processed in, the mining operation;
- (2) The mining operation will be commenced, completed and rehabilitated within a 12 month period;
- (3) Only one land use mining permit may be issued for a deeded tract of land in perpetuity and a deed restriction shall be required to be submitted with the mining application acknowledging the limitation;
- (4) No interim use permit for a mining operation shall be issued within 1 year of the completion of the rehabilitation of a small scale mining operation on the same site.
- (5) All other requirements of this section, shall apply to the permittee.

- (D) Failure to comply with this section shall be a violation of the Benton County Development Code, as amended.
- (E) Persons requesting a permit shall submit the prescribed fee to the Department of Development Director, together with all information required in subsection 9.16.4, below. The applicant shall provide 3 copies of the required information.
- (F) The Planning Commission, in determining whether to grant an interim use permit pursuant to subsection 9.16.1(A), shall apply the criteria for granting interim use permits set forth in Section 11.7 and this section.
- (G) If the request for a permit is denied, no reapplication shall be made for a period of 6 months.

#### 9.16.2 Exceptions

A permit described in subsection 9.16.1 shall not be required for any of the following:

- (A) Excavation for the purpose of the foundation, cellar, or basement of some immediately-pending structure to be erected, built, or placed thereon contemporaneously with or immediately following such excavation, provided that a land use permit for that structure has first been issued.
- (B) All normal and customary agricultural practices.
- (C) Excavation required for completion of a septic system and drain field(s), provided that a land use permit for the septic system and/or drain field(s) has first been issued.
- (D) Excavation for the creation of ponds, wetlands, livestock ponds or other structures for wildlife habitat improvement with appropriate permits.

#### 9.16.3 Termination/and Revocation of Permit

- (A) Termination
  - (1) Permitted mining operations as of June 15, 2010, may continue to operate in accordance with the conditions of approval and performance standards in place at the time of approval.

- (2) Conditional use permits approved prior to June 15, 2010, shall terminate and be subject to a new permit 5 years after the conditional use permit was issued. Applications for mining operations that previously had a CUP, but the CUP terminated in accordance with this Ordinance shall provide all the information required under subsection 9.16.4 when applying for an interim use permit with the exception of the survey of the property boundary per subsection 9.16.4(E)(1) and are subject to additional conditions of approval from the Planning Commission.
- (3) Conditional use mining operation(s) permits approved on or after December 31, 1995, and Interim use mining operation(s) permits shall terminate automatically 5 years after date of issuance. Interim use permits issued after January 1, 2017 are valid for 20 years, subject to administrative review and inspection by County staff every 5 years from the date the IUP was approved. After termination of any CUP or an IUP for mining, any new Interim Use Permits granted for the same operation shall follow all the performance requirements of this Ordinance at the time of the issuance of any new interim use permit. (Ord. #483, adopted 02/15/22)

(B) Revocation

- (1) The Planning Commission may revoke a mining operation(s) permit for violation of this section; for violation of a condition of the permit; or for other cause.
- (2) To revoke a permit the Department of Development Director shall give notice by U.S. Mail (first class mail addressed to the permittee and property owner at the address of the permittee and property owner on file in the office of the Department of Development) of the violation or other cause for revocation, along with the directive of the Planning Commission that the condition be remedied. If the condition has not been repaired, corrected, or otherwise remedied within 30 days, the Planning Commission shall determine, at its next scheduled meeting, whether the mining operation(s) permit should be revoked.
- (3) Mining operation(s) shall be discontinued immediately if the permit is revoked or terminates pursuant to this section; however, such

revocation or termination shall not nullify the obligation of the permittee to undertake rehabilitation under this section.

#### 9.16.4 Information Required

- (A) The name and address of applicant(s) requesting the mining operation(s) permit and/or the name and address of owner(s) of the land upon which the mining operation is proposed to be located.
- (B) The legal description and acreage of the proposed mining operation(s) site, together with proof of applicant(s)' ownership or leasehold interest.
- (C) The purpose of the proposed mining operation(s).
- (D) The estimated duration of the mining operation(s).
- (E) A topographic survey of the proposed site providing at a minimum the following detail:
  - (1) Site property boundaries except for right-of-way, shall be certified by a survey if the boundaries will be within 100 feet of the proposed excavation.
  - (2) Contours of the affected land at intervals no greater than 10 feet.
  - (3) The location and names of all streams, lakes, wetlands, wells, structures and roads on or within 500 feet of the site.
  - (4) Boundaries of previous excavations on the site, and the location and description of boundary stakes for the site.
  - (5) A permanent benchmark that shall be the reference point for all mining specifications, maps, surveys or drawings. The benchmark shall not be located within an area disturbed by the mining operation.
  - (6) The site specifications, maps, surveys or drawings shall be at a scale of one inch = two hundred feet (1" = 200'). Specifications, maps, surveys or drawings detailing information off the mining site may be submitted at a scale of one inch = six hundred and sixty feet (1" = 660').



- (7) General information such as vegetation, depth of topsoil, and screening, etc. of the site.
- (8) Observed or estimated groundwater elevation referenced to the permanent benchmark.
- (9) Location of any proposed asphalt or hot mix bituminous plants.
- (10) Proposed location for the storage of topsoil.
- (F) A detailed soil erosion and sediment control plan. A National Pollutant Discharge Elimination System (NPDES) permit, if required, shall be obtained and submitted to the Department of Development prior to excavation.
- (G) A site plan and description of all phases of the proposed mining operation(s), to include and approximate the amount and depth of excavating to take place as well as the plan of operation, including processing, if any, the nature of the processing and equipment, location of the processing plant, source of water, disposal of water, reuse of water, location of storage areas, haulways and the use of explosives. The site plan must conform to the specifications found in subsection 9.16.4(E). If necessary, the plan should illustrate temporary erosion control measures. A dewatering permit from the appropriate agency (DNR and/or MPCA) shall be submitted if dewatering is proposed to exceed 10,000 gallons per day or one million (1,000,000) gallons per year.
- (H) Description of how the site will be secured when mining is not being conducted on-site (e.g. fence, gates, berm, sloping).
- (I) A comprehensive rehabilitation plan showing suitable provisions for rehabilitation of the mining operation(s) site to a condition compatible with the adjacent land such that it will not become a health or safety hazard or nuisance, which shall include the following:
  - (1) A site plan showing final slope angles, high wall reduction, benching, terracing, other stabilization measures and water impoundments. The plan must conform to the specifications found in subsection 9.16.4(E).
  - (2) Cross-sectional drawings of any water impoundments, high wall reductions, benching, terracing or other conservation practices.

- (3) A description of the proposed reclamation, including final slopes, terracing and other structural slope stabilization.
- (4) A description of how the phased reclamation will be conducted.
- (5) A description of the anticipated topography, water impoundment, artificial lakes and future use of the site.
- (6) A description of the method of disposal of over and undersized materials.
- (7) A seeding plan that includes the methods of seedbed preparation, seed mixtures, seeding rates, mulching and other techniques to accomplish site stabilization.
- (8) A map of the proposed reclamation with the proposed topography.
- (9) Where the Planning Commission deems practical and necessary, such plans shall also include adjoining related areas where excavations have previously been made which remain under the control of the applicant or the owner(s) of the land on which the excavation or processing is proposed.
- (J) Indication of the major routes over which the mined material will be hauled or carried.
- (K) A description of the erosion control practices that will be used during mining.
- (L) A description of the measures taken to screen the operation from view of surrounding land.
- (M) Any other information requested by the Department of Development Director or Planning Commission.

#### 9.16.5 Use Restrictions

- (A) With the exception of those mining operations described in item (B), below, mining operations may be conducted only in areas zoned agricultural district "A", Rural-Agricultural district "R-A", light industrial district "I-1", or heavy industrial district "I-2".

- (B) Any mining operation commenced prior to December 31, 1995, that is located in an area zoned "R-1", "R-2", "B-1" or "B-2" may continue to operate in compliance with the requirements of the permit issued for the site.

#### 9.16.6 Performance Standards

- (A) 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, to prevent seeding on adjoining property.

- (1) All equipment used for mining operation(s) shall be kept operational and shall be maintained and operated in such a manner as to minimize as far as is practicable noises and vibrations. The mining operation shall conform to all noise standards contained in Minn. R. Ch. 7030, as may be amended.
- (2) Abandoned machinery and rubbish shall be removed from the mining operation(s) site and shall not be allowed to accumulate.

- (B) Water Resources.

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

- (1) 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 permittee shall perform any water treatment necessary to comply with this provision and shall, at a minimum, meet the requirements specified in Item (K), below.

- (C) Safety Fencing.

Any mining operation(s) adjacent to a residential zone, or within 300 feet of 4 or more residential structures, shall adhere to the following standards:

- (1) Where collections of water occur that are 1.5 feet, or more, in depth, exist for any period of greater than 7 consecutive days and occupy an area of 700 square feet or more, all access to such

collections of water shall be barred by a fence or similarly effective barrier of at least 4 feet in height with support posts spaced no farther apart than 10 feet.

- (2) In locations where slopes occur that are steeper than 1 foot vertical to 3 feet horizontal existing for a period of 7 days or more, access to such slopes shall be barred by a fence or some similarly effective barrier at least 4 feet in height with support posts spaced no farther apart than 10 feet.
- (3) As an alternative to the fencing requirements of subsection 9.16.6(C)(1) and (2), the entire perimeter of the property on which a mining operation is located may be fenced or protected by some other similarly effective barrier at least 4 feet in height with support posts spaced no farther than 10 feet.

(D) Mining Access Roads.

The intersection of mining access roads with any public roads shall be located in such a manner that traffic on the access roads will have a sufficient length of the public road in view so that any turns onto the public road can be completed safely. The permittee shall specifically request the Road Authority access for a mining operation prior to excavation. A turn lane shall be provided at the entrance prior to excavation if determined necessary by the Road Authority prior to excavation.

- (1) All mining access roads shall be gated or cabled and closed when not in operation.
- (2) Trucks shall not queue on public roads while waiting to load or unload. Ingress and egress points from or onto any public road shall be clearly signed "Trucks Hauling" advising traffic in both directions of this activity with temporary signs during heavy hauling (average of 15 or more trucks per hour).
- (3) Intersections of public roads with the access road shall be maintained by the mine operator and shall be kept free from excessive mud, debris or asphalt tract out of the mining site.

(E) Screening Barrier.

The permittee shall not cause trees and ground cover existing at the time of issuance of the initial permit and present within the depth of the roadside setback to be harmed or destroyed, except where traffic safety requires that said trees and/or ground cover be cut and/or trimmed or except where alteration or destruction of the trees and/or ground cover is necessary for a rehabilitation plan approved by the Planning Commission.

(F) Setback.

All mining operations shall be conducted within the confines of the site described in the permit.

- (1) Processing shall not be conducted closer than 300 feet to any residential or commercial structures existing prior to the commencement of mining operation(s) without the approval of the Planning Commission and written consent of all owners and residents of said structures. Structures owned by the applicant or permittee shall be exempt from the setback requirement. A photocopy of said consent(s) shall be filed by the permittee with the Department of Development Director.
- (2) There shall be no mining activities or storage of materials within 10 feet of a property line without the approval of the Planning Commission and written consent of all owners. The area within 30 feet of the property line may only be excavated if the permittee restores the area within 90 days of excavation to meet a 4:1 slope.
- (3) Mining operations shall not be conducted closer than 30 feet to the right-of-way line of any existing or platted street, road or highway, or any other right-of-way except that excavation, if not otherwise prohibited, may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway or other right-of-way and approved by the Road Authority.
- (4) Mining operations shall not be conducted closer than 150 feet from the ordinary high water mark of any stream, river, lake or pond, as defined in the Benton County Development Code, as amended.

(G) Appearance.

All buildings, structures, and plants used for mining operation(s) shall be maintained in such a manner as is practicable, and according to acceptable and industrial practice, so as to assure that such buildings, structures, and plants will not become dangerously dilapidated.

(H) Dust and Dirt.

Permittees shall use all practical means to reduce the amount of fugitive dust generated by mining operation(s). In any event, the amount of dust or other particulate matter generated by the mining operation(s) shall not exceed air pollution control standards established by the Minnesota Pollution Control Agency, including those set forth in Minn. R. Ch. 7005; Minn. R. Ch. 7009; Minn. R. Ch/ 7011; Minn. R. Ch. 7017; and Minn. R. Ch. 7023, as may be amended.

- (1) All access roads from mining operation(s) to public highways, roads, or streets, or to adjoining property shall be maintained to minimize dust conditions.

(I) Noise.

Maximum noise level at the site shall comply with the limits or standards established by the Minnesota Pollution Control Agency, including those set forth in Minn. R. Ch. 7030, as may be amended.

(J) Hours.

No mining operation(s) shall be conducted during restricted hours specified in the applicable mining operation(s) permit.

(K) Water Pollution.

Permittees shall comply with all applicable Minnesota Pollution Control Agency regulations, including those set forth in Minn. R. Ch. 7001; Minn. R. Ch. 7050; and Minn. R. Ch. 7060, as may be amended; Department of Natural Resources regulations, and all applicable United States Environmental Protection Agency Regulations for the protection of water quality. In addition, no waste products or processed residue shall be deposited in any public (i.e. protected) waters or wetlands in Benton County (as designated by the Minnesota Department of Natural Resources).

(L) Topsoil Preservation.

Sufficient topsoil shall be retained at the excavation site to ensure completion of rehabilitation in accordance with the rehabilitation plan. Mining operators/owners are prohibited from removing topsoil from the mining site unless sufficient topsoil is retained to cover the entire site to a minimum depth of 3 inches.

(M) Slopes During Mining Operation(s).

During the entire period of operation(s), all excavation other than the working face shall be sloped on all sides to a maximum ratio of 1 foot horizontal to 1 foot vertical, unless a steeper slope is approved by the Planning Commission; or, in the alternative, the permittee shall install an effective barrier enclosing the site, the barrier to be no less than a 4 strand wire fence 4 feet in height with support posts spaced no farther apart than 10 feet. In any event, where excavations are adjacent to a public roadway or other right-of-way, the terrain shall have a maximum slope of 4 feet horizontal to 1 foot vertical. Slopes adjacent to waterways shall not exceed 4 feet horizontal to 1 foot vertical.

(N) Reports.

The permittee shall comply with the reporting requirements, if applicable, mandated in Minn. Stat. § 298.75, subd. 3, as may be amended, Aggregate Material Removal Tax as the statute shall prescribe at the time of reporting.

- (1) Failure to submit the reports to the County shall be considered grounds to revoke the interim use permit.

(O) Investigations.

In order to ensure compliance with the performance standards set forth above, the Planning Commission, after being presented with information alleging the permittee's violation of this section, may require the permittee to complete such investigations, surveys and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the Planning Commission.

(P) Surety Bond.

Prior to excavation the permittee shall post a surety bond executed by a corporate surety company acceptable to the county and authorized to do business in the State of Minnesota, or cash escrow, in the sum of \$1,000 per acre for 40 percent of the total excavated area.

- (1) The Planning Commission, at its discretion, may increase or decrease the bond amount if deemed necessary to protect the public health, safety, or welfare. Said bond shall run in favor of the county, and said bond shall remain in full force and effect for a minimum period of 1 year after termination or revocation of the permit, which bond shall guarantee the required rehabilitation as well as all other requirements of this section, and pay, up to its face value, all expense the county may incur for non-compliance.
- (2) All bonds shall be renewed to the minimum required amount in the case of partial or total default.

(Q) Non-assignment.

Permittee shall not allow any other person, firm, partnership, association, or corporation to conduct mining operation(s) at the site, other than hauling to or from the pit, without (1) obtaining the prior written consent of the Planning Commission and (2) receiving written acknowledgement of said other person, firm, partnership, association, or corporation that he/she/they/it agree(s) to be bound by the requirements of the mining operation(s) permit in effect, and has obtained a surety bond guaranteeing the other entity's performance as a permittee. Subcontractors to the permittee shall be allowed to perform mining operations under the direct supervision of the permittee. The subcontractor must follow all applicable rules, standards, laws, regulations or permit conditions pertaining to mining operations. The permittee shall be responsible for any violations of this Ordinance caused or committed by any subcontractor.

(R) Signage:

A 4 ft x 8 ft information sign shall be erected at the access to the site identifying the operator, telephone number and name of the contact person.

(S) Phasing:



As each phase of an operation is completed that phase shall be rehabilitated in accordance to subsection 9.16.7. At no time shall more than 40 percent of the total proposed excavation area be open to excavation unless the Planning Commission specifically approves a higher or lower percentage of the area.

(T) Insurance:

The operator shall provide proof of bodily injury, property damage, and public liability insurance in the amount of \$1,000,000 for any occurrence. If blasting is proposed the operator shall provide proof of blasting insurance.

(U) Additional Requirements.

The governing body may impose additional performance standards as part of the owner(s) interim use permit.

9.16.7 Land Rehabilitation

- (A) Within a period of 3 months after the termination of mining operation(s), or immediately after abandonment of such operation(s) for a period of 12 months, or within 3 months after termination or revocation of a permit, all buildings, structures, and plants incidental to such mining operation(s) shall be dismantled and removed by and at the expense of the permittee last utilizing such buildings, structures and plants.
- (B) Within a period of 3 months after the termination of mining operation(s), or immediately after abandonment of such operation(s) for a period of 12 months, or within 3 months after termination or revocation of a permit, the peaks and depressions of the site shall be graded and backfilled 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. Overall, the finished grade shall be such that it will not adversely affect the adjacent land and shall have slopes that do not exceed 4 feet horizontal to 1 foot vertical.
- (C) Reclaimed areas shall be surfaced with soil of quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least 3 inches; provided, however, that the permittee need not import topsoil to supplement the topsoil existing at the site prior to the commencement of the excavation. The finished reclaimed areas shall be planted with legumes and grassed upon all parts where revegetation is possible. Trees

and shrubs may also be planted but not as a substitute for legumes and grasses. Such ground cover shall be sufficient to hold the topsoil in place and shall be tended by the permittee as necessary until ground cover is self-sustaining.

- (D) Excavations completed to a water producing depth need not be backfilled; however, banks shall be sloped to a grade no steeper than 4 feet horizontal to 1 foot vertical.

## **9.17 Rural Event Venues**

9.17.1 Rural Event Venues, where allowed in this Ordinance, shall be subject to the following standards:

- (A) If the owner of the rural event venue use is not the owner of the property on which it is operated, then the owner of the property shall be a consenter to the interim use permit application and have a letter on file with Benton County stating her/his permission for the use to occur and her/his acknowledgement of the standards required for the use.
- (B) The responsible road authority shall grant written permission for such use at the proposed location.
- (C) All structures and portions of the parcel used for the rural event venue, including temporary structures, shall meet the minimum setback requirements of the district in which it is located.
- (D) Adequate parking for employees and customers shall be provided on site and shall meet parking standards of Section 8.2.
- (E) If there is a commercial kitchen on-site or if the facility has its own liquor license, an individual sewage treatment system shall be provided that complies with Section 9.22 and regulations from the Minnesota Pollution Control Agency (PCA). If food and/or alcohol are provided by a caterer, the site, at the discretion of the Planning Commission, may permit the use of a holding tank or provide restroom facilities via portable toilets.
- (F) All buildings used in conjunction with the use shall meet the requirements of the state building code, including state mandated accessibility requirements.

- (G) Local and state health and liquor regulations shall be met if food or beverages are served.
- (H) Hours of operation shall be limited to 8 a.m. to 10 p.m. The Planning Commission may grant approval for modified hours of operation.
- (I) Any outdoor lighting shall be arranged so as to reflect the light away from adjoining property and right-of-way.
- (J) Local law enforcement shall be notified prior to event.

## **9.18 Seasonal Worker Housing**

(Ord. #361, adopted 06/17/03)

### **9.18.1 Provisions**

- (A) Seasonal worker housing shall be located on the property where the migrant and/or seasonal worker is employed.
- (B) Housing shall only be occupied during the time of employment.
- (C) Seasonal worker housing shall be occupied by workers only and the applicant shall provide written notice to the Department 2 weeks before the housing will be occupied.
- (D) Submitted site plan showing the following:
  - (1) Location of the housing unit on the subject property
  - (2) Location of the access to the housing unit
  - (3) Location of the sewage treatment system
  - (4) Setbacks based upon the zoning district
  - (5) Adjacent land uses
- (E) Occupancy is based upon the amount of habitable space calculated at 80 square feet per occupant. Habitable space is the square footage of the bedroom(s), living room(s) and kitchen areas, excluding bathrooms, corridors and/or hallway areas.
- (F) Severe weather plan shall be provided.

- (G) Site and structural improvements (parking, recreation space, site layout, etc.) as applicable, shall be determined by the Planning Commission.
- (H) Seasonal worker housing shall not be considered in the calculation of any residential density determination as set forth in this Ordinance.

## **9.19 Second Dwelling**

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

### **9.19.1 In General**

- (A) A second dwelling on a property shall be a detached single family dwelling for one of the following uses:
  - (1) Supportive care,
  - (2) Help on the farm, or Farm operator.
- (B) Second dwellings are not intended as rental property and rental of either dwelling is prohibited. All applications and required documents that require signatures must be signed by the primary dwelling occupant(s) over 18 years of age, secondary dwelling occupant(s) over 18 years of age, and the landowner(s).

### **9.19.2 Supportive Care**

- (A) A Second Dwelling for the use of Supportive Care are allowed as an interim use for the following zoning districts:
  - (1) "A" Agricultural District
  - (2) "R-A" Rural Agricultural District
  - (3) "R-S" Rural Service District
- (B) The applicant must provide the documents and meet criteria listed below:
  - (1) Site plan showing the location of the second dwelling unit in relation to the original dwelling unit.
  - (2) Documentation of the type of supportive care to be provided by a physician, nurse practitioner or physician assistant to verify the need for supportive care.

- (3) The principal owner of the property shall annually submit an affidavit to the Department of Development verifying that the dwellings are still occupied by the eligible resident(s) named in the original application.
- (4) A signed statement declaring that the second dwelling shall be removed within 90 days of discontinuance of providing or receiving supportive care.
- (5) The dwelling must be a manufactured home.
- (6) The dwelling unit must be connected to a permitted sewage treatment system.
- (7) The dwelling must meet the state building code and meet the 31 point inspection requirement.

#### 9.19.3 Help on the Farm or Farm Operator

- (A) A Second Dwelling for the use of Help on the Farm or Farm Operator are allowed as an interim use for the following zoning districts:
  - (1) "A" Agricultural District
  - (2) "R-A" Rural Agricultural District
- (B) The applicant must provide the documents and meet the criteria listed below:
  - (1) Provision of Schedule F, or similar document, demonstrating the need for full time help on the farm.
  - (2) Site plan showing the location of the second dwelling unit in relation to the original dwelling unit.
  - (3) Signed written statement that the farm operator or the retired operator will reside on the property.
  - (4) Signed written statement indicating the name or title of the person(s) occupying the second dwelling.
  - (5) A signed statement declaring that the second dwelling shall be removed within 90 days when the demonstrated need for full time

help on the farm no longer exists, or the farm operator no longer resides on the property.

- (6) The dwelling must be a manufactured home.
- (7) The dwelling must meet the state building code and meet the 31 point inspection requirement.
- (8) The dwelling must be connected to a permitted sewage treatment system.

#### 9.19.4 Second Dwelling as a permanent building

A second dwelling may be allowed as a permanent site built dwelling if:

- (A) The requirements of subsection 9.19.2(B) items(1 – 3, 6 & 7) or subsection 9.19.3(B) items(1 – 4, 7 & 8), above, are met;
- (B) The property may be legally subdivided to create 1 lot for the primary dwelling and a separate lot for the secondary dwelling; and
- (C) The property to be subdivided shall meet the zoning district requirements established and documented at the time of the application:
  - (1) residential density
  - (2) all lot standards (length, width, area) as indicated on a site plan
  - (3) all existing or proposed structures meeting the setback requirements
  - (4) access approval from the road authority
  - (5) standard sewerability requirements (soil borings meeting the minimum requirement for 2sewage treatment areas)
  - (6) As an interim use a condition shall be placed on the property that indicates that a change in status of either occupant of the dwellings will require a subdivision of said property according to the requirements established in the permit and within the subdivision portion of the ordinance.

- (D) Upon the expiration of the IUP, the property to be split shall be subdivided in accordance with standards of the Benton County Development Code in place at the time of the actual subdivision. The lots to be created will not need to meet the current zoning district requirements for lots at the time of the actual subdivision, but the lots created must meet the documented zoning district requirements that existed at the time of application for the IUP.

#### 9.19.5 Exemption

If the second dwelling is to be constructed as the principal dwelling to replace the existing dwelling it shall be exempt from subsection 9.19.2(B) items (1 – 5) and 9.19.3(B) items (1 – 6). A condition shall be placed on all associated Interim Use Permits for second dwellings stating the original dwelling shall be removed within 90 days after the original party or parties named in the permit are no longer residing in the original dwelling.

### 9.20 **Solar Energy Systems**

(Ord. #455, adopted 06/21/16)

#### 9.20.1 Purpose

The purpose of this section is to regulate the installation and operation of Solar Energy Systems not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plant Siting Act (Minn. Stat. Ch. 216E, as may be amended) to protect and promote health, safety and general welfare within the county through uniform standards, regulation and procedures governing the type, size, structure, location, height, erection and use of Solar Energy Systems.

In order to ensure adequate solar skyspace, the County does encourage the use of a solar skyspace easement as a means to protect solar skyspace.

#### 9.20.2 Standards for Private Solar Gardens and Community Solar Farms

Private Solar Gardens and Community Solar Farms shall be subject to the requirements of subsection 11.7 and the following additional performance standards:

- (A) Foundations.

A professional licensed engineer in the state of Minnesota shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.

(B) Other standards and codes.

All private solar gardens and community solar farms shall comply with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; the National Electric Code, as amended; the National Pollutant Discharge Elimination System (NPDES), as amended; and shall be in compliance with all applicable federal, state and local wetland laws, rules and regulations, as amended.

(C) Power and communication lines.

Power and communication lines running between banks of solar panels, to electric substations, among other project elements and providing interconnections with buildings shall be buried underground. Exemptions may be granted by the planning commission in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

(D) Setbacks.

Private solar garden and community solar farms must meet the minimum principal building setback for the zoning district and be located a minimum of 300 feet from a residential dwelling unit not located on the property. Setbacks shall be measured to the nearest solar array or other structure within the private solar garden or community solar farm, excluding security fencing, screening or berm.

(E) Maximum Height.

Ground mounted systems shall not exceed 25 feet in height at maximum ground tilt.

(F) Field Windbreak.

As stipulated in Section 9.13, no field windbreaks shall be removed as part of the project unless it can be shown that the windbreak is no longer serving its purpose and the Planning Commission approves such removal.



(G) Screening.

Private solar gardens or community solar farms shall be screened from residential dwelling units as follows when there is less than 1,000 feet of separation between the solar array and residential dwelling:

- (1) Screening shall consist of earth mounds or berms; neutral colored fences; or landscaping used in combination or singularly so as to block direct visual access and to mitigate potential glare concerns.
- (2) The use of berming and landscaping shall be 80 percent opaque at the time of maturity. Planting screens shall consist of healthy plant materials at least 6 feet in height at the time of planting. Or planting screens shall include at least 2 staggered rows of evergreen trees placed no more than 8 feet apart.
- (3) Screening fences that are in disrepair shall be repaired. Planting screens shall be maintained in a neat and healthy condition with plantings that have died being replaced within the current or next growing season.
- (4) Applicant shall provide mitigation of glare issues, failure to mitigate will be a violation of the IUP.

(H) Solar panels must be removed and properly disposed of if they are out of production for more than 1 year unless the Planning Commission grants an extension of time for their removal.

(I) The interim use permit shall expire at the same time the solar energy farm lease expires, but in no case shall the permit be less than 25 years. The IUP may be extended following the same process as establishment of the original IUP. The Planning Commission may waive the expiration requirement for solar energy farms located on property owned by public utilities or other unique owner operated facilities.

(J) Application Requirements.

The following information shall be provided to the Department as part of the IUP permit:

- (1) A site plan of existing conditions showing the following:

- (a) Existing property lines and property lines extending 300 feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
- (b) Existing public and private roads, showing widths of the roads and any associated easements.
- (c) Location and size of any existing or abandoned wells, and sewage treatment systems.
- (d) Existing buildings and any impervious surface.
- (e) Topography at 2 foot intervals and source of contour interval, a contour map of surrounding properties may also be required.
- (f) Existing vegetation (list type and percent of coverage; i.e. grassland, pasture, plowed field, wooded areas, etc.).
- (g) Waterways, watercourses, lakes and public water wetlands.
- (h) Level 2 wetland delineation required. Other levels may be appropriate if approved by the Department of Development staff.
- (i) The 100 - year flood elevation and Regulatory Flood Protection Elevation, if applicable.
- (j) Floodway, flood fringe and/or general flood plain district boundary, if applicable.
- (k) The shoreland district boundary, if any portion of the project is located within a shoreland overlay district.
- (l) In the shoreland overlay district, the ordinary high water level and the highest known water level.
- (m) In the shoreland overlay district, the toe and top of any bluffs within the project boundaries.
- (n) Surface water drainage patterns.

- (o) Mapped soils according to the Benton County Soil Survey.
- (2) Site Plan of Proposed Conditions:
  - (a) Location and spacing of solar panels.
  - (b) Location of access roads.
  - (c) Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load.
  - (d) New electrical equipment other than at the existing building or substation that is the connection point for the solar farm.
  - (e) Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any).
- (3) Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks;
- (4) The number of panels to be installed;
- (5) A description of the method of connecting the array to a building or substation;
- (6) Aviation Analysis. If the project is within 2 miles of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or successor policy. The applicant must also complete the Air Space Case Analysis (Form 7460) and provide the results.
- (7) Visual Impact Analysis. An analysis of the potential visual impacts from the project including solar panels, roads and fencing along with measures to avoid, minimize or mitigate the visual effects shall be required. A plan may be required showing vegetative screening or buffering of the system from those items to mitigate for visual impacts.

- (8) Solar farms must also provide the following:
- (a) A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary;
  - (b) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet all applicable rules and regulations to proper disposal.
  - (c) To ensure proper decommissioning, the applicant shall provide a financial surety by posting a bond, letter of credit or the establishment of an escrow account at a rate of \$25,000 per MW or fraction thereof for Community Solar Farms and at a rate of \$500 per acre for Private Solar Gardens.

Any financial surety arrangement shall be approved by the County Attorney's Office as to form and issuing bank. The issuing bank must be an FDIC insured bank. The issuing bank must be available in its entirety to fulfill the obligations of Developer under the Agreement. Any letter of credit to the County shall contain language requiring its automatic renewal prior to December 31 of each calendar year, unless cancellation of the letter of credit is specifically approved in writing by the County.

### 9.20.3 Standards for Accessory Solar Energy Systems.

Accessory Solar Energy Systems shall be a permitted accessory use in all zoning districts, subject to the following criteria:

- (A) Accessory Building Limit.

Ground mounted systems shall count as an accessory building for the purpose of meeting limits on the number of accessory structures allowed per lot and the coverage limits, as set in Section 9.1.

(B) Height.

Solar energy systems are subject to the following height requirements:

- (1) Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For the purposes of height measurement, solar energy systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district.
- (2) Ground or pole-mounted solar energy systems shall not exceed 25 feet in height when oriented at maximum tilt.

(C) Location within Lot.

Solar energy systems must meet the accessory structure setback for the zoning district.

(1) Roof-mounted Solar energy systems.

In addition to the building setback, the collector surface and mounting devices for the roof-mounted solar systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least 2 feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

(2) Ground-mounted Solar Systems.

Ground-mounted solar energy systems may not extend into the side yard or rear yard setback when oriented at minimum design tilt.

(D) Compliance with State Electric Code.

All photovoltaic systems shall comply with the Minnesota State Electrical Code.

- (E) Compliance with all applicable federal, state and local wetland laws, rules and regulations.
- (F) Solar panels must be removed and properly disposed of if they are out of production for more than 1 year unless the Planning Commission grants an extension of time for their removal.
- (G) Application Requirements.

The following information shall be provided to the Department as part of the land use permit process:

- (1) A site plan of existing conditions showing the following:
  - (a) Existing property lines.
  - (b) Existing public and private roads, showing widths of the roads and any associated easements.
  - (c) Location and size of any existing or abandoned wells, and sewage treatment systems.
  - (d) Existing buildings and any impervious surface.
  - (e) Waterways, watercourses, lakes and public water wetlands
  - (f) The 100 - year flood elevation and Regulatory Flood Protection Elevation, if applicable.
  - (g) Floodway, flood fringe and/or general flood plain district boundary, if applicable.
  - (h) The shoreland district boundary, if any portion of the project is located within a shoreland overlay district.
  - (i) In the shoreland overlay district, the ordinary high water level and the highest known water level.
  - (j) In the shoreland overlay district, the toe and top of any bluffs within the project boundaries.

- (k) Surface water drainage patterns.
- (2) Site Plan of Proposed Conditions:
  - (a) Location and spacing of solar panels.
  - (b) Location of access roads.
  - (c) Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load.
  - (d) New electrical equipment other than at the existing building or substation that is the connection point for the solar farm.
- (3) Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks;
- (4) The number of panels to be installed.

## **9.21 Solid Waste Management/Recycling Facilities**

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

- 9.21.1 The facility/operation is in compliance with the Benton County Solid Waste Ordinance and any other applicable ordinance.
- 9.21.2 The facility /operation is in compliance with the adopted Comprehensive Plan and the Solid Waste Master Plan.
- 9.21.3 The site shall not be located within the Shoreland or Floodplain Districts.
- 9.21.4 The site shall not be located within a wetland as defined in Minn. Stat. § 103G.005, as may be amended.
- 9.21.5 Any required environmental assessment documents have been developed and required review procedures have been completed.
- 9.21.6 Any required County, State, or Federal licenses have been issued.
- 9.21.7 The facility/operation is in compliance with all applicable Minnesota Pollution Control Agency (MPCA) and U. S. Environmental Protection Agency (EPA) rules and regulations.

- 9.21.8 An Operation plan shall be developed and the activity conducted in accordance with the operational plan.
- 9.21.9 The permit shall be subject to annual renewal. Renewal shall occur during the same month as the County license renewal.
- 9.21.10 A site plan is submitted showing adjacent land uses and the type of measures that will be used to buffer the physical impacts to these sites.
- 9.21.11 Reports as required by MPCA/EPA rules and regulations.
- 9.21.12 The facility/operation must not be constructed or used until the property owner complies with all local ordinances and has obtained the appropriate permits(s) from the MPCA.
- 9.21.13 Buildings and any exterior storage shall meet the setback requirements of the underlying zoning district.
- 9.21.14 All parking areas and access drives to parking areas shall be durable and dustless.
- 9.21.15 The site shall be located at least 500 feet from any residential dwelling unit.

## **9.22 Subsurface Sewage Treatment Systems (SSTS)**

(Ord. #432, effective 01/02/09) (Ord. #457, effective 05/26/16)

### **9.22.1 Purpose, Objective and Authority**

#### **(A) Purpose.**

The purpose of this section is to establish minimum requirements for regulation of individual sewage treatment systems (ISTS) and mid-size subsurface sewage treatment systems (MSTS) collectively referred to as subsurface sewage treatment systems (SSTS) for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the county's citizens by protecting its health, safety, general welfare, and natural resources.

#### **(B) Objectives**



- (1) The protection of lakes, rivers and streams, wetlands, and groundwater in Benton County is essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
- (2) Given the extensive resources and numerous supplies of surface water and groundwater and their susceptibility to contamination, the regulation of proper SSTS construction, reconstruction, repair and maintenance is necessary to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
- (3) The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance is necessary to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- (4) The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- (5) The provision of technical assistance and education, plan review, inspections, SSTS surveys and compliance investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

(C) Authority.

This section is adopted pursuant to Minn. Stat. § 115.55; Minn. Stat. Ch. 145A; and Minn. Stat. § 375.51, as may be amended, and Minn. R. Ch. 7080; Minn. R. Ch. 7081; Minn. R. Ch. 7082; Minn. R. Ch. 7083, as may be amended.

9.22.2 General Provisions

(A) Scope.

This section regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the

County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the Minnesota Pollution Control Agency (PCA).

(B) Jurisdiction.

The jurisdiction of this section shall include all lands of the County except for incorporated areas or areas under an annexation or joint powers agreement that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. The County Department of Development shall keep a current list of local jurisdictions within the County administering a SSTS program.

(C) County Administration.

The Department of Development shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review this and revise and update this Ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program. The Department shall have the following duties and responsibilities:

- (1) To review all SSTS applications;
- (2) To issue all permits required by this Ordinance;
- (3) To inspect work in progress and to perform the necessary tests to determine its conformance with this Ordinance
- (4) To investigate complaints regarding SSTS and septage disposal;
- (5) To issue cease and desist orders and notices of violation, pursuant to this Ordinance;
- (6) To maintain proper records for SSTS and septage disposal including site evaluation records, design records including calculations and summaries for all system component sizing and as-builts.

- (7) To submit annual reports to the PCA to demonstrate enforcement of the local Ordinance per Minn. R. 7082.0040, subp. 5, as may be amended.
  - (8) Provide programs by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.
- (D) State of Minnesota
  - (1) Where a single SSTS or group of SSTS existing or proposed under common ownership are within one-half mile of each other, have a combined design flow greater than 10,000 gallons per day, the owner or owners must obtain a State Disposal System (SDS) permit from PCA according to Minn. R. Ch. 7001.
  - (2) SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance including, but not limited to, campgrounds, resorts, mobile home parks, and eating and drinking establishments.
  - (3) For dwellings including apartments, townhouses, resort units, rental cabins and condominiums, the sum of the flows from all existing and proposed sources under single management or ownership will be used to determine the need for a SDS permit.
  - (4) Any SSTS requiring approval by the State of Minnesota shall also comply with this Ordinance.
  - (5) Plans and specifications must receive appropriate state and local approval before construction is initiated.
- (E) Plumbing Code Administration
  - (1) The plumbing code shall be administered by the local building code official as it relates to the hook-up of the water using device to the septic tank or system.

- (2) Verification that the septic system hook-up is compliant with the plumbing code shall be provided by the building code official prior to issuance of a certificate of compliance.

### 9.22.3 General Requirements

#### (A) Standards Adopted by Reference.

The County hereby adopts by this reference Minn. R. 7080 through 7083, as may be amended, in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minn. Stat. §115.55, subd. 7, as may be amended.

#### (B) Retroactivity.

Except as explicitly set forth in subsection 9.22.3 (C), below, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

#### (C) Existing Permits.

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original permit expiration date.

#### (D) Existing SSTS without Permits.

Existing SSTS, including those with no permits of record, shall require a permit for new construction/replacement and the portion being replaced or upgraded shall be brought into compliance with the requirements of this Ordinance regardless of the date they were originally constructed. The portion of the SSTS that is not being replaced or upgraded is not required to be brought into compliance with this Ordinance unless it is failing or in the opinion of the designer is required to be upgraded.

#### (E) Sewerability Requirements

- (1) Newly created lots, and legally created lots created after January 23 1996 shall have a minimum of 2 Type I septic sites. A site without a septic system or a septic system that has not been in

operation for more than 5 years shall be considered a vacant lot.  
(Ord.#436, adopted 04/07/09)

- (2) New construction of a single family dwelling on vacant lots or lots created after January 23, 1996 unable to meet the requirements set forth in subsection 9.22.3(E)(1) shall be able to utilize a “Local Alternative Septic System” designed in accordance with subsection 9.22.7(C). These systems will be “Type III” systems and a minimum of 6 inches of unsaturated soil shall be required. Local Alternative Septic Systems shall be permitted when:
  - (a) One Type I site is found, or no Type I sites are found
  - (b) Said system is not located within shoreland areas, wellhead protection areas or systems serving food, beverage, or lodging establishments;
  - (c) Said system is for a single-family dwelling unit;
  - (d) Said system is not within a wetland; and
  - (e) Said system is designed in accordance with subsection 9.22.7 (C)
  - (f) If a Type I site is found then the property owner shall be required to utilize the Type I site for a Type I septic system. The Local Alternative Septic System site shall qualify as the secondary site.
- (3) Lots created prior to January 23, 1996 shall be considered sewerable provided 2 septic sites can be found and verified with a minimum of 6 inches of separation.

(F) Sewerability Exceptions.

Any newly created lot which is deed restricted for agricultural/recreational use, is exempt from demonstrating Type I septic sewerability requirements of subsection 9.22.3 (E)(1) and Type III septic sewerability requirements of subsection 9.22.3 (E)( 2). Type I sewerability requirements are not required for a replacement sewage treatment system in which a dwelling or other establishment is removed, and a new dwelling or other

establishment is built within 5 years of the date of the removal of the existing dwelling or other establishment.

#### 9.22.4 Prohibitions

(A) Occupancy or Use of a Building without a Compliant SSTS.

It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a SSTS that disposes of wastewater in a manner consistent with the provisions of this Ordinance.

(B) Sewage Discharge to Ground Surface or Surface Water.

It is unlawful for any person to construct, maintain, or use any SSTS under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System (NPDES) program by the PCA.

(C) Sewage Discharge to a Well or Boring.

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minn. R. 4725.2050, as may be amended, or any other excavation in the ground that is not in compliance with this Ordinance.

(D) Discharge of Hazardous/Commercials or Deleterious Materials.

It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous, commercial or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality. (Ord. #436, adopted 04/07/09)

(E) Wetlands.

It is prohibited to construct or place an SSTS, or any part thereof, in a wetland as defined in Minn. Stat. §103G.005, as may be amended; except replacement systems with no other alternative may be placed within a wetland if the criteria under Minn. R. 8420.0420, subp. 6(A)(2), as may be amended, is met.

#### 9.22.5 SSTS Practitioner Licensing

(A) Licensing Requirement

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by PCA in accordance with Minn. R. Ch. 7083, as may be amended, except as exempted in Minn. R. 7083.0700, as may be amended.

(B) Unlicensed Persons

- (1) Unlicensed persons may install a Type I Septic System or Holding Tank on their property for their single family dwelling as permitted by Minn. R. 7083.0700, as may be amended.
- (2) A property owner must follow all applicable County, state, and federal requirements for permitting and construction of an SSTS.
- (3) The property owner shall provide an executed agreement to the Department which indemnifies and saves the County, holding it harmless from all losses, damages, costs, including attorney's fees, and charges that may be incurred by Benton County due to the failure of the permittee to conform to and comply with the provisions of this Ordinance.
- (4) The licensed design business or certified designer of the SSTS must be present at the site during the compliance inspection conducted by the Department of Development.

9.22.6 SSTS Permitting

(A) Permits Required.

It is unlawful for any person to construct, install, modify, replace, repair, rejuvenate, remediate, or operate a subsurface sewage treatment system without the appropriate permit from Benton County. The issuing of any subdivision, permit, variance, or conditional use under the provisions of this Ordinance shall not absolve the applicant's responsibility to obtain any other required permit. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by an appropriately certified and/or licensed practitioner(s). A septic permit is not required for minor repairs or replacements of system components that do not alter the

original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function as determined by the Department.

(Ord. #436, adopted 02/07/09)

(B) Septic Permit Required to Obtain Building or Land Use Permit.

For any property where a SSTS permit is required, approval and issuance of a valid SSTS septic permit must be obtained before a building or land use permit will be issued by the Department or Building Official.

(C) Permit Application Requirements.

Septic permit applications shall be made on forms provided by the Department of Development and signed by the applicant/owner and an appropriately certified practitioner including the practitioner's license number and date of expiration. The applications shall include the Site Evaluation Report as described in Minn. R. 7080.1730, as may be amended, Design Report as described in Minn. R. 7080.2430, as may be amended, a Management Plan as described in Minn. R. 7082.0600, as may be amended. Applications shall be considered incomplete if they are not on the County forms, do not include a management plan and, when applicable, a monitoring plan, mitigation plan, pumping agreement or deed restriction. Applications shall also be considered incomplete if they are not signed by the owner/applicant and designer.

(Ord. #436, adopted 02/07/09)

(D) SSTS Designer Responsibilities

- (1) Upon completion of any SSTS design, the SSTS designer shall review the proposed SSTS design with the applicant/owner. At that time, the designer shall have the applicant/owner sign the SSTS application, and any other required management plan or operational agreement before the design is released to the applicant/owner or installer.
- (2) If a proposed SSTS design cannot meet a technical requirement of Minn. R. Chs. 7080 through 7083, as may be amended, or Section 9.22 of this Ordinance, it is the responsibility of the SSTS designer



to contact the Department of Development before releasing the proposed SSTS design to the applicant/owner.

- (3) If it is determined by the designer and the Department of Development, that the proposed SSTS design would require a variance, the designer shall discuss this finding with the applicant/owner. The need for a variance shall be clearly indicated on a separate sheet of paper and attached to the proposed SSTS design. A variance application shall accompany the septic permit application. The septic application shall be considered incomplete until the variance is approved.

(E) Application Review and Response.

The Department shall review a permit application and supporting documents in accordance with Minn. Stat. §15.99, as may be amended. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event that the applicant makes a change to the approved application, the applicant must resubmit an amended application to the Department detailing the changed conditions prior to initiating or continuing construction, modification, or operation. The Department may approve or deny the amended application. If the permit application is incomplete or does not meet the requirements of this Ordinance the Department shall deny the application or request additional information. A notice of denial or request for additional information shall be provided to the applicant with the reason for the denial or request for additional information. Applications shall be considered incomplete if they are not on County forms, do not include the required signatures, do not include a management plan, and when applicable a monitoring plan, mitigation plan, pumping agreement or appropriate deed restrictions.

(F) Fees.

The County Board shall establish fees for permits and reviews required by this Ordinance. All fees shall be paid prior to the issuance of the septic permit or certificate of compliance whichever shall apply.

(G) Appeal.

The applicant may appeal the Department's decision to deny the septic permit in accordance with the County's established policies and appeal procedures in accordance with Section 11.4 (Ord. #436, adopted 02/07/09). If a septic permit is denied based on a failure to obtain a variance to a requirement of Section 9.22, then the variance denial shall be appealed in accordance with Minn. Stat. 394.27, as may be amended, and not subsection 11.4.7.

(H) Permit Expiration.

The septic permit is valid for a period of no more than 1 year from its date of issue or satisfactorily completion, whichever is shorter. The Department may, at its sole discretion, provide an expiration of the permit shorter than 1 year. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in substantial conformance to the approved design documents by a qualified employee of the Department. The Department may at its sole discretion grant an extension of the septic permit if requested in writing by the owner prior to the expiration of the permit.

(I) Suspension or Revocation.

The Department may suspend or revoke a septic permit issued under this section when issuance of the permit was based on false statements or misrepresentations of facts made by the applicant. The Department may suspend or revoke a septic permit issued under this section when there have unauthorized changes to the system design that alter the original function of the system, change to the treatment capacity of the system, change to the location of the system, or otherwise change to the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If the permit is suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid septic permit is obtained.

(J) Posting.

The septic permit should be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

## 9.22.7 SSTS Standards

## (A) Benton County Standards.

The County hereby adopts by reference Minn. R. Chs. 7080 through 7083, as may be amended. In accordance with Minn. Stat. § 115.55, subd. 7, as may be amended, Benton County has adopted more restrictive standards than required by Minn. R. Chs. 7080 through 7083, as may be amended.

## (B) Additional SSTS Design Requirements.

In addition to the design requirements contained in Minn. R. Chs. 7080 through 7083, as may be amended, the following more restrictive requirements shall be required for all SSTS designs submitted to the Department. (Ord. #436, adopted 02/07/09)

- (1) A minimum of 3 soil borings are required in the primary site and a minimum of 1 boring is required for the secondary site; however, if the primary and secondary site do not adjoin each other a minimum of 2 soil borings are required in both the primary and secondary locations. Soil borings must be representative of the soil conditions throughout the absorption area and shall be verified by staff.
- (2) SSTS for new construction shall have a minimum of 3 feet of separation to the periodically saturated soils, bedrock or other restrictive layer, including 1 foot in the original soil.
- (3) The depth of each soil boring shall be to the water table, bedrock or 3 feet below the proposed depth of the system, whichever is less.
- (4) An authorized representative from the Department of Development shall verify the soil borings prior to issuance of the certificate of compliance for any new or replacement system.
- (5) The proposed location of the soil treatment area shall be roped or staked upon completion of the SSTS design.
- (6) The application shall provide a fixed reference point and distances from the proposed sites and/or borings to that reference point including a benchmark with an assumed elevation.

- (7) All SSTS or part thereof that will no longer be used and/or are found out of compliance shall be identified on the SSTS design.
  - (8) Classification I flows shall be used to determine the average design flow for any SSTS design.
  - (9) If the map unit name of the soil listed in the Benton County Soil Survey states "fine sand," the SSTS designer shall conduct a sieve analysis, or size the soil treatment area using the loading rates in Minn. R. 7080.2150, Table IXa, as may be amended.
  - (10) The absorption area of mounds shall be based upon Minn. R. 7080.2150, Table IXa, as may be amended from either the percolation rate or the heaviest soil texture encountered.
  - (11) Table IX entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions" and Table IXa entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests" from Minn. R. 7080.2150, subp. 3(E), as may be amended are herein adopted by reference and either shall be used to size SSTS infiltration areas for SSTS design.
  - (12) All newly created lots, vacant lots and/or vacant lots of record shall have a minimum of 2 Type I septic sites. A site without a septic system or a septic system that has not been in operation for more than 5 years shall be considered a vacant lot.
  - (13) Exception. All newly created lots, vacant lots and/or vacant lots of record within a floodplain shall have a minimum of 2 Type II septic sites. See the provisions outlined in Section 9.22.7(N).
- (C) Additional Local Alternative Septic System Requirements.

In addition to the design requirements contained in Minn. R. Chs. 7080 through 7083, as may be amended, the following requirements shall be required for all Local Alternative Septic System Requirements. (Ord. # 457, adopted 05/17/16)

- (1) A minimum of 3 soil borings are required in the primary site and a minimum of 2 borings are required in the 3 secondary sites. These will be verified by county staff or designee to determine the depth to the limiting layer.
- (2) Designers shall determine the linear contour loading rate for the drain field locations based upon **Table A**.

Table IX. Effluent absorption and contour loading rates for determining absorption area size and configuration using detailed soil descriptions.\*

**Table A**

USDA Soil Classification			Absorption Loading Rate (gpd/ft <sup>2</sup> )		Contour Loading Rate (gpd/ft) <sup>††</sup>													
					Effluent Treatment Level		0-3% Slope			4-7% Slope			8-10% Slope			>10% Slope		
							Horizon Depth (in.) <sup>‡</sup>		Horizon Depth (in.)		Horizon Depth (in.)		Horizon Depth (in.)		Horizon Depth (in.)			
Texture	Structure and Grade	C <sup>†</sup>	A, A-2, B, B-2 <sup>††</sup>	≥6-12	>12-24	≥24-36	≥6-12	>12-24	≥24-36	≥6-12	>12-24	≥24-36	≥6-12	>12-24	≥24-36	≥6-12	>12-24	>24-36
very coarse sand, coarse sand, loamy very coarse sand, or loamy coarse sand	single grain <sup>*</sup>	LR <sup>**</sup>	1.0	6	8	10	8	10	10	8	10	10	8	10	10	8	10	10
	single grain <sup>*</sup>	LR	2.0															
sand, loamy sand	single grain <sup>*</sup>	0.5 <sup>‡</sup>	1.0															
	single grain or weak <sup>††</sup>	0.8	1.6	5	6	7	6	8	10	7	9	10	8	10	10	8	10	10
fine sand, loamy fine sand, very fine sand, loamy very fine sand	weak to strong non-platy <sup>††</sup>	0.6	1.0	3.5	4	5	4.5	5.5	7	4.5	6	9	5	8	10	5	8	10
	massive <sup>††</sup>	0.4	0.8	3	3.5	4	3.5	4	5	3.5	5	6	4	5	7	4	5	7
	moderate to strong non-platy <sup>††</sup>	0.6	1.0	4.5	5.5	6	5	6	9	5.5	7	10	6	8	10	6	8	10
coarse sandy loam, sandy loam	massive or weak <sup>††</sup>	0.5	0.8	4	4.5	5.5	4.5	5	6	4.5	5.5	6	5	6	7	5	6	7
	moderate to strong non-platy <sup>††</sup>	0.6	0.8	3.5	4	5	4	5	7	5	6	8	5.5	7	9	5.5	7	9
	massive or weak <sup>††</sup>	0.4	0.6	3	3.5	4	3.5	4	5	3.5	4	5.5	4	5	6	4	5	6
fine sandy loam, very fine sandy loam, loam	moderate to strong non-platy <sup>††</sup>	0.5	0.8	3.5	4	4	3.5	4.5	5.5	4	5	7	4.5	5	6	4.5	5	6
	massive or weak <sup>††</sup>	0.4	0.6	3	3.5	3.5	3	4	4.5	3	4	5	3.5	4	5	3.5	4	5
	moderate to strong non-platy <sup>††</sup>	0.5	0.8	3.5	4	4	3.5	4.5	5.5	4	5	7	4.5	5	6	4.5	5	6
silt loam	massive or weak <sup>††</sup>	0.4	0.6	3	3.5	3.5	3	4	4.5	3	4	5	3.5	4	5	3.5	4.5	5.5
	moderate to strong non-platy <sup>††</sup>	0.4	0.6	3	3.5	4	3	3.5	4	3	4	4.5	3	4	5	3.5	4.5	5.5
sandy clay loam, clay loam, silty clay loam	moderate to strong non-platy <sup>††</sup>	0.4	0.6	3	3.5	4	3	3.5	4	3	4	4.5	3	4	4.5	3.5	4	4.5
	moderate to strong non-platy <sup>††</sup>	0.2	0.3	3	3	3.5	3	3	3.5	3	3.5	3.5	3	3.5	3.5	3.5	3.5	3.5

\* Only applies to original soil horizons with < 50% coarse fragments (particle sizes having > 2.00 mm nominal diameters, i.e. gravel or coarser). Absorption area surfaces must not be in contact with soil horizons having ≥ 50% coarse fragments.

† Estimated rates for ISTS. For soil conditions not included in the table, e.g. non-original soil, < 6 in., ≥ 50% coarse fragments, firmer consistence, etc., evaluation of soil morphology and contour loading rate by a licensed Professional Soil Scientist (PSS) who is also an MPCA-licensed SSTS designer is required. Rates projected using hydraulic conductivities measured by a licensed PSS designer supersede table estimates.

‡ Pressure distribution required.

‡ Unsaturated.

‡ Residential strength septic tank effluent with up to 170 mg BOD<sub>5</sub>/L, 60 mg TSS/L, and 25 mg O&G/L.

‡ Additionally pretreated septic tank effluent with up to 25 mg CBOD<sub>5</sub>/L and 30 mg TSS/L.

‡ Non-cemented, loose to very friable consistence.

\*\* LR = Liner required. Use clean sand for liner, to separate distribution media from soil, and its associated absorption loading rate (1.0 gpd/ft<sup>2</sup>).

†† Very friable to friable consistence.

†† Very friable to firm consistence.

- (3) Designer shall verify that said system is not located within shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments.
  - (4) A minimum of 6 inches of unsaturated soil is required.
  - (5) The System shall be time dosed according to linear contour loading rates.
  - (6) The Designer shall sign the design.
  - (7) The County shall allow additional perforation spacing (3.5 to 5ft), Minn. R. 7080.2050, subp. 4(E), Table VI: Maximum Number of Perforations Per Pressure Distribution Lateral, as may be amended.
  - (8) The property owner shall sign a county approved document to be recorded noting that the septic system is an Alternative Local Septic System. The property owner shall be responsible for the recording fees of said document.
- (D) Septic Tank Setback Requirements.

Sewage tanks, aerobic tanks, holding tanks, and sealed privies and any part thereof shall be located no closer to the following features than the minimum horizontal separation distances as stated in **Table 1**.

**Table 1. Septic Tank Setback**

Source	Septic Tank Setback
Dwelling or Principal Structure Foundation	10 ft.
Appurtenance to Dwelling or Principal Structure (deck, porch, any extension of the dwelling or structure that is not on a foundation) <i>*10ft setback must be maintained from dwelling or principal structure foundation.</i>	5 ft.
Accessory Structures	5 ft.
Property Lines	10 ft.
Road right-of-way	5 ft.
Road right-of-way in Shoreland	0 ft.

## (E) Soil Treatment System (Drainfield) Setback Requirements.

All soil treatment systems of an SSTS shall be set back the following minimum horizontal separation distances from the features given in **Table 2**.

**Table 2. Drainfield Setback**

Source	Drainfield Setback
Dwelling or Principal Structure Foundation	20 ft.
Appurtenance to Dwelling or Principal Structure (deck, porch, any extension of the dwelling or structure that is not on a foundation) <i>*20ft setback must be maintained from dwelling or principal structure foundation.</i>	10 ft.
Accessory Structures	5 ft.
Property Line	10 ft.
Road right-of-way	5 ft.
Road right-of-way in Shoreland	0 ft.

## (F) Shoreland Setbacks.

All SSTS's shall be located in accordance with the minimum horizontal separation setback distances from Department of Natural Resources designated lakes, rivers and streams as stated in **Table 3**.

**Table 3. Shoreland Setbacks**

Shoreland District	Septic/Lift Tank Setback	Drainfield Setback
Agricultural/Urban and Tributary Rivers	75 ft.	75 ft.
Bluffs	30 ft.	30 ft.
Recreational Development Lakes	75 ft	100 ft
Natural Environment Lakes and Streams	150 ft.	150 ft.
Transitional/Forested Rivers	100 ft.	150 ft.

## (G) Winter SSTS Designs.

A complete SSTS design, including soil borings and percolation tests are required year round. If weather, frost or light conditions do not permit a



complete design to be conducted and soils verified by the Department, the design shall be considered incomplete.

(H) Incomplete SSTS Installations due to Winter/Wet Soil Conditions.

If the soil treatment system cannot be installed due to frost or wet soil conditions and the installer agrees to install the septic tank as a temporary holding tank system, the owner shall submit a holding tank pumping agreement with a PCA licensed maintainer to the Department prior to occupancy. Records of the frequency of pumping shall be kept for the Departments review or request for submission.

(I) Determination of Hydraulic Loading Rate and SSTS Sizing

- (1) Hydraulic Loading Rate and SSTS Sizing shall be calculated using Minn. R. 7080.2150, subp. 3E, Table IXa, as may be amended, entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests" and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Ordinance.
- (2) For all Local Alternative Septic Systems **Table A** subsection 9.22.7 (C) shall determine the Hydraulic Loading Rate and SSTS sizing based on Contour Loading Rates.

(J) Holding Tanks.

Holding tanks for new residential dwellings are prohibited. Holding tanks may be allowed for replacement SSTS systems only if a drainfield cannot be installed. The final determination of the need for a holding tank shall be made by the Department. It is the responsibility of the designer to contact the Department before releasing the holding tank design to the applicant. (Ord. #436, adopted 04/07/09)

- (1) If a holding tank is permitted by the Department, the property owner shall:
  - (a) Provide to the Department a holding tank Management Plan with the application; and

- (b) Maintain receipts of all maintenance performed. These records are to be available for submission and/or review by the Department.
  - (c) The holding tank shall have a minimum capacity of at least 1,500 gallons or an amount equal to 400 gallons multiplied by the number of bedrooms in the dwelling which the tank will serve, whichever is greater.
  - (d) An operating permit shall be required.
- (2) Low Volume Users. Holding tanks may be allowed for low volume uses subject to meeting the provisions of subsection 9.22.7(J)(1)(a)-(d). Low volume users include the following:
  - (a) An accessory building with no more than 2 water using devices that may consist of only a sink and/or toilet.
  - (b) A place of business with no more than 3 water using devices that may consist of only a sink, toilet, emergency shower and/or washing machine.
  - (c) A township meeting hall that is not open to the public except when conducting official township business.
- (K) Additional SSTS Construction Requirements.

In addition to the construction requirements contained in Minn. R. Chs. 7080 through 7083, as may be amended, the following additional requirements shall be met for the construction of SSTS systems:

- (1) Schedule 40 sewer pipe shall extend a minimum of 3 feet beyond the last septic tank and/or lift tank.
- (2) To prevent freezing problems, the sewer line from the lift tank to a pressurized soil treatment area shall be protected from sagging or bending.
- (3) The final dimensions of an SSTS mound system (the upslope and downslope calculations of the berm) shall be scarified and contain clean sand as defined in Minn. R. 7080.1100 subp. 16 and Minn. R. 7080.2220, subp. 3( C), as may be amended.

- (4) Clean sand used in the construction of mound systems shall be landscaped to a minimum of 4 horizontal units to 1 vertical unit for all new construction. 3 horizontal units to 1 vertical unit may be used for replacement systems if determined by the Department that 4 horizontal units to 1 vertical unit cannot be accommodated on-site.
  - (5) Elevation readings (in reference to the design benchmark) shall be required at the time of the Department's inspection of all sewage treatment systems.
  - (6) The top of the sewage tank for a new system shall not be buried more than 4 feet from the final grade unless specifically approved by the Department.
- (L) Bedroom Addition(s)
- (1) A bedroom addition requires the submission of a compliance inspection. A compliant system shall require the property owner to develop and comply with a management plan for said system.
  - (2) The addition of 2 or more bedrooms over the existing septic system's designed capacity will require a new design.
  - (3) If a dwelling has an existing septic system that is not permitted and capacity cannot be determined, a new design shall be required and a new septic system shall be installed.
- (M) Reporting.
- (1) Type III, Type IV, Type V, Local Alternative Septic Systems and other establishments that are required to install water meters or event counters shall take readings every day for the first 30 days that the system is in operation and once a month thereafter.
  - (2) The readings shall be submitted to the County on the form provided by the County by the following January 30<sup>th</sup>.
  - (3) After reviewing the readings the Department may request additional readings to be conducted or indicate that additional readings are no longer required to be submitted.

- (4) Failure to submit the required readings shall be deemed a violation of the management plan. An agreement signed by the applicant shall be submitted with the application acknowledging these requirements.

(Ord. #436, adopted 04/07/09)

(N) Requirements.

The following sections are in Minn. R. Ch. 7080, as may be amended, and are not more restrictive but are highlighted due to their importance.

(1) SSTS in Floodplains

- (a) SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minn. R. 7080.2270, as may be amended, are met. If an SSTS is built in the flood fringe, the bottom of the distribution medium shall be at least as high as 10 year flood elevation. If the SSTS is a mound system, the bottom of the distribution medium shall be at least ½ foot above the 10 year flood elevation.
- (b) If the 10 year flood elevation is not available, the SSTS must be located on the highest feasible area of the lot and must have location preference over all other improvements except the water supply well. The best hydrological information shall be used in determining the elevation of the bottom of the distribution medium. The best available hydrological information shall include, but is not limited to the following:
  - (i) Flood elevations provided from the Benton County Highway Department;
  - (ii) Flood elevations provided from the Minnesota Department of Transportation;
  - (iii) A flood elevation provided by a certified land surveyor; or

(iv) A geological topographic/contour map.

(2) Class V Injection Wells.

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the 40 C.F.R. 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in 40 C.F.R 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

9.22.8 Operating Permits

(A) SSTS Requiring an Operating Permit

- (1) An operating permit shall be required of all owners of new holding tanks, Type IV systems, Type V systems, Local Alternative Septic Systems, lodging (excluding bed and breakfast facilities unless served of a Type IV or V system), food and beverage facilities or MSTs. Sewage shall not be discharged to a holding tank or MSTs until the Department of Development certifies that the MSTs or holding tank was installed in conformance with the approved plans, receives the final record drawings of the MSTs, and a valid operating permit is issued to the owner. (Ord. #436, adopted 04/07/09)
- (2) The Department shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit in accordance with Minn. Stat. §15.99, as may be amended.
- (3) The Department may not amend an existing permit to reflect changes in this Ordinance until such time the permit term has expired and is renewed unless an amendment is necessary to eliminate an imminent threat to public health or safety.

- (4) The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the operating permit was issued or if the owner fails to meet the requirements of the operating permit. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with subsection 9.22.14. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.
  - (5) Systems found to be out of compliance with the operating permit shall be required to bring the SSTS into compliance within 30 days.
- (B) Compliance Monitoring Type IV Systems, Type V Systems, Food and Beverage Facilities or MSTs
  - (1) Type IV Systems, Type V Systems, Local Alternative Septic Systems, MSTs, food and beverage facilities shall require monitoring performed by licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
  - (2) A report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
    - (a) Owner name and address
    - (b) Operating permit number
    - (c) Average daily flow since last compliance monitoring report
    - (d) Description of type of maintenance and date performed
    - (e) Description of samples taken (if required), analytical laboratory used, and results of analyses

- (f) Demonstrate compliance with Minn. R. 7080.2350, as may be amended (Type IV Systems).
  - (g) The test from the effluent (before discharge into the soil treatment system) as determined by the County in the operating permit.
  - (h) Problems noted with the system and actions proposed or taken to correct them
  - (i) Name, signature, license and license number of the licensed professional who performed the work
- (3) Type IV systems, Type V systems, Local Alternative Septic Systems, food and beverage facilities or MSTs operating permits shall expire on January 30<sup>th</sup>. The owner of the operating permit shall apply for renewal of their operating permit by December 30<sup>th</sup>. The operating permit renewal period shall be determined by the County. (Ord. #436, adopted 04/07/09)
- (C) Holding Tanks.
  - (1) Owners of holding tanks shall provide to the Department of Development a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner and that prevents an illegal discharge.
  - (2) A monitoring and disposal contract is not required for a farmer who is exempt from licensing pursuant to Minn. R. 7083.0700 (D). , as may be amended.
  - (3) The owner of the operating permit shall apply for renewal of their operating permit by December 30<sup>th</sup>. (Ord. #436, adopted 04/07/09)

#### 9.22.9 Management Plans

##### (A) SSTS Requiring Management Plans

- (1) Management plans are required for all new or replacement SSTS, including Local Alternative Septic Systems.

- (2) The management plan shall be submitted to the Department with the septic permit application for review and approval.
- (3) The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required.
- (4) The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.
- (5) The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

(Ord. #436, adopted 04/07/09)

(B) Required Contents of a Management Plan.

Management plans shall include:

- (1) Signature of the designer and owner detailing that the plan has been reviewed and understood by both parties.
- (2) Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
- (3) Monitoring requirements;
- (4) Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
- (5) Statement that the owner is required to notify the Department when the management plan requirements are not being met;
- (6) Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.
- (7) Require pumping the septic tank(s) at least once every 3 years and retention of receipts to demonstrate compliance.

(C) Requirements for Systems not Operated under a Management Plan



- (1) SSTS that are not operated under a management plan or operating permit must inspect treatment tanks and remove solids at least every 3 years and retain the receipts to demonstrate compliance.

#### 9.22.10 Soil Verification

##### (A) Soil Borings

- (1) Prior to approval of an administrative land split or final plat the Department of Development shall verify the soil borings submitted are compliant with Minn. R. Chs. 7080 through 7083, as may be amended, or compliant with subsection 9.22.3(E)(2) General Requirements for Local Alternative Septic Systems.
- (2) Prior to issuance of the certificate of compliance for a new or replacement SSTS the County shall verify the soil borings submitted are compliant with Minn. R. Chs 7080 through 7083, as may be amended, or with Local Alternative Septic System Requirements.

##### (B) Dispute Resolution

- (1) In the event of a dispute between two designers on whether the soil or design meets the minimum requirements of the Ordinance the County shall review the site, upon request, and make the final determination.
- (2) In the event that a designer and the County have a dispute related to the design or soils meeting the minimum requirements of the Ordinance the County shall meet with the designer on-site to review the soils and design. If the dispute is unresolved the County and designer shall request a mutually agreeable licensed and septic certified soil scientist to review the site or agree upon a representative(s) from extension or MPCA in the SSTS program. The applicant shall provide a deposit in an amount to be determined by the County to cover the cost of the soil scientist and County review. Both parties shall agree in writing that the soil scientist findings shall be final. If the scientist determines the County correctly interpreted the soils the deposit will be retained and used to pay the scientist and County, with any extra money refunded to the applicant. If the soil scientist determines the

designer was correct the deposit shall be refunded and the County will pay for the cost of the soil scientist review. If soils are reviewed with the soil scientist that was not previously reviewed by the County the County shall retain the deposit. All reviews with the soil scientist shall be conducted in a pit that is a minimum of 4 feet by 4 feet with a depth of at least 3 feet below the bottom of the proposed system or until bedrock or the water table, whichever is less.

#### 9.22.11 Compliance Inspections Conducted by the County

- (A) Department Responsibility. The Department shall inspect all newly constructed SSTS in Benton County. All inspection requests shall conform to the following:
- (1) All required permit fees shall be paid for prior to issuing the permit or certificate of compliance;
  - (2) The installation and construction of the SSTS shall be in accordance with the permit requirements and application design.
  - (3) The applicant shall notify the Department prior to the completion and covering of the SSTS for an inspection. If any SSTS component is covered before being inspected and approved by the Department, it shall be uncovered upon the direction of the Department;
  - (4) It shall be the duty of the permittee to notify the Department on the workday preceding the day inspection is desired;
  - (5) Proposals to alter the permitted construction shall be reviewed by a designer and the proposed change shall be approved by the Department prior to construction.
  - (6) Inspections shall be conducted at least once during the construction of the SSTS at such time as to assure that the system has been constructed per permit requirements.
  - (7) A designated certified professional shall be on site during the SSTS compliance inspection by the Department.
  - (8) The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system.

(B) As-Builts Requirements.

If the applicant provides proper notice as described above and the Department does not appear for an inspection within 24 hours after the set time, the applicant may complete the installation. The applicant shall then file a signed as-built packet provided by the Department. The as-built packet shall be submitted to the Department within 5 business days of the date of the SSTS installation. The as-built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects. The Certificate of Compliance shall not be released until the as-built packet is submitted.

(C) New Construction or Replacement SSTS

- (1) Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minn. R. Chs. 7080 through 7083, as may be amended. SSTS found to be an imminent threat to public health or safety must be repaired or replaced within 120 days. SSTS that are determined to have operation or monitoring deficiencies must within 30 days be maintained, monitored or otherwise managed according to the operating permit or management plan. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
- (2) The certificate of compliance must include a certified statement by qualified employee who conducted the inspection that the SSTS is or is not in compliance with the Ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those Ordinance provisions with which the SSTS does not comply.
- (3) No SSTS shall be placed into operation until a valid certificate of compliance has been issued.

(D) SSTS Inspection Reports

A certificate of compliance or notice of noncompliance shall be prepared by the Department following all SSTS inspections or from the review of submitted as-built plans.

- (1) A certificate of compliance or notice of noncompliance shall include a signed statement by the Department identifying the type of SSTS inspected and whether the SSTS is in compliance with Minn. R. 7080.1500, as may be amended.
- (2) A copy of the certificate of Compliance or notice of noncompliance shall be provided to the property owner within 15 days of the compliance inspection and a copy kept on file in the Department.
- (3) A certificate of compliance for a new SSTS is valid for 5 years from the date of issuance unless the Department finds evidence of an imminent threat to public health or safety.
- (4) The plumbing code shall be administered by the local building code official as it relates to the hook-up of the dwelling to the septic tank or system. Verification that the septic system hook-up is compliant with the plumbing code shall be provided by the building official prior to issuance of a certificate of compliance.
- (5) Electrical Inspections if needed shall be administered by the state electrical inspector as it relates to electrical connections to the septic system. Verification that the electrical work associated with the septic system is compliant with the electrical code shall be provided by the state inspector prior to the issuance of a certificate of compliance.

(E) Failing Systems

The County shall inspect an existing SSTS if there is evidence of a failing system. The County shall issue a notice of noncompliance if the County witnesses evidence of the failing system. The system shall be upgraded in accordance with subsection 9.22.13.

9.22.12 Compliance Inspection Conducted by a Private Inspector

(A) Criteria for Systems Constructed Before April 1, 1996.

SSTS built before April 1, 1996, must have at least 2 feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock. If the SSTS is located within an area designated as shoreland, wellhead protection or serves a food, beverage or lodging

establishment the system shall be required to meet the requirements of subsection 9.22.12(B).

- (B) Criteria for Systems Constructed After March 31, 1996, or in a Designated Area.

SSTS built after March 31, 1996, with the exception of a Type IV or Type V system, shall have a 3 foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. SSTS located in the shoreland, wellhead protection or serving a food, beverage, or lodging establishment regardless of the year constructed shall have a 3-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand may be considered compliant under this Ordinance if the inspector states there is evidence of settling, measurement or interpretation of the restrictive layer. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

- (C) Type IV and Type V systems shall be reviewed and shall meet the requirements of Minn. R. Ch. 7080, as may be amended, to determine compliance of the system.

- (D) Compliance Inspection Requirements

- (1) Compliance inspections shall be required when any of the following conditions occur:
- (a) When a construction permit is required to repair, modify, or upgrade an existing system;
  - (b) Anytime there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
  - (c) Anytime there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
  - (d) Submission of a variance application for an affected parcel;

- (e) Submission of a conditional/interim use permit for an affected parcel;
  - (f) Submission of a land use permit in which a dwelling or other establishment is removed and a new dwelling or other establishment is proposed;
  - (g) At any time as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
- (2) Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by the Minnesota Pollution Control Agency. The following conditions must be assessed, or verified:
  - (a) Water tightness assessment of all treatment tanks including a leakage report;
  - (b) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical separation verification report unless the vertical separation has been verified by the County or another independent designer/inspector.
  - (c) Compliance with the management plan or operating permit if applicable.
- (3) The entire system is to be evaluated for its compliance status. In evaluating the vertical separation of a soil treatment system found to be in compliance, the compliance inspector shall provide:
  - (a) The elevation of the bottom of the rock bed;
  - (b) The elevation of the depth to the restricting layer, if applicable, measured outside of the soil treatment system in an area of similar soil; and
  - (c) A detailed sketch drawn to scale or dimension showing the location of the SSTS, the soil boring(s), and the bottom of the rock bed in relation to a referenced benchmark.

(E) Certificate of Compliance for Shoreland Areas.

A certificate of compliance on the affected property shall be provided to the Department as part of an application request in the shoreland for a:

- (1) Land Use Permit;
- (2) Variance, unless a variance is needed for the septic system or a new dwelling is proposed and the existing system will be required to be upgraded or replaced in which case a compliance inspection will be adequate;
- (3) Conditional/Interim Use Permit

(F) Point of Sale Certification

- (1) No owner or other person acting with legal authority on behalf of an owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure is required to have an individual sewage treatment system is located, shall convey to another party said tract of land, unless all of the following requirements are met:
  - (a) The seller shall provide a compliance inspection or a Benton County sewage treatment system inspection to the buyer at or before the closing date. The compliance inspection shall be submitted to the County with the property transfer. If the seller does not provide the compliance inspection the buyer shall be responsible for providing the compliance inspection to the County within 30 days of the property transaction. A valid compliance inspection is an inspection conducted by an MPCA Designated licensed and certified professional, which is 3 years old or less indicating that the system is in compliance or is out of compliance. A valid Benton County sewage treatment system inspection is an inspection issued by the Department that is 5 years old or less. A compliance inspection shall not be valid if the Department finds evidence of an imminent health threat to public health and safety.
  - (b) A Benton County sewage treatment system property transfer form shall be signed by both the buyer(s) and seller(s) and filed with the Benton County Auditor at the time of sale or transfer of the property.

- (c) Failure to submit a compliance inspection for a property transfer shall result in all future permits for the site to be denied until a completed compliance inspection form has been submitted.

(2) Exemptions.

A compliance inspection or a Benton County sewage treatment system inspection is not required to be filed with the Auditor's office at the time of sale or transfer of property if any of the following conditions exist:

- (a) The property to be transferred has no structures usable for human habitations;
- (b) The property to be transferred has no buildings with plumbing fixtures;
- (c) A public sewer system, a community sewer system or a central sewer system services the dwelling(s) on the property to be transferred;
- (d) The sale of land is exempt from the requirements that a certificate of real estate value (CRV) be filed with the County Auditor's office as described in Minn. Stat. §272.115, subd. 1, as may be amended; or
- (e) The sale or transfer completes a contract for deed or purchase agreement entered into prior to June 18, 2002. This subsection applies only to the original vendor and vendee on such a contract.
- (f) The transfer is a foreclosure or tax forfeiture.

(3) Winter Transfers.

If the sale or transfer of property occurs during the winter months of November 15th through April 15th, the buyer shall complete the compliance inspection, if necessary, by the following June 1st. The buyer shall ultimately be held responsible by the County if the septic system is noncompliant and not brought into compliance



within the timeframe provided by the Department or if a compliance inspection has not been completed.

(G) Inspection Forms.

Upon completion of a compliance inspection of an existing SSTS, the inspector shall submit a certificate of compliance or a notice of noncompliance to the Department and the property owner within 15 days of the date of the compliance inspection. In completing the PCA compliance inspection form for existing sewage treatment systems, the compliance inspector shall complete the entire form, including, but not limited to the following information:

- (1) The parcel identification number of the property;
- (2) The reason why the compliance inspection is being performed; and
- (3) If necessary, the soil boring information which includes the depth of each horizon, the Munsell soil color and the texture of the soil.
- (4) If any of the above required information is not provided, the compliance inspection report will be considered incomplete.

9.22.13 Notice of Noncompliance

If an existing SSTS is found to be out of compliance with this Ordinance, the property owner shall complete the following requirements, as applicable:

- (A) The owner of property on which a septic system is found to be out of compliance shall within 30 days after receipt of a notice of noncompliance submit a completed SSTS design using Department application forms and obtain a sewage treatment system permit from the Department.
- (B) An SSTS that is determined to be noncompliant shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 12 months of receipt of a notice of noncompliance, unless it is considered an imminent threat to public health or safety.
- (C) An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minn. R. 7080.1500, subp. 4(A), as may be amended, shall be upgraded, repaired, replaced or abandoned by the

owner in accordance with the provisions of this Ordinance within 120 days of receipt of a notice of noncompliance.

- (D) An owner/operator with an SSTS found to be out of compliance with its operating permit, management plan or monitoring plan shall bring the system into compliance with the plan within 30 days of the notice of noncompliance.

#### 9.22.14 Abandonment Certification

- (A) Purpose. The purpose of the system abandonment certification is to ensure that a treatment system no longer in service is abandoned in a manner that protects public health, safety and water quality.
- (B) Abandonment Requirements
  - (1) Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.
  - (2) Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.
  - (3) An owner of an SSTS must abandon all components of the discontinued treatment system within 30 days of discontinuance.
  - (4) Abandonment shall be completed in accordance with Minn. R. 7080.2500, as may be amended.
  - (5) A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
    - (a) Owner's name and contact information
    - (b) Property address
    - (c) System construction permit and operating permit

- (d) The reason(s) for abandonment
- (e) A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals, and receipts to document proper disposal.

(C) Abandonment Certificate.

Upon receipt of an abandonment report and determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Department shall issue an abandonment certificate. If the abandonment is not completed according the requirements of this Ordinance the County shall notify the owner of the SSTS of the deficiencies, which shall be corrected within 30 days of the notice.

9.22.15 Variances

(A) Variance Requests

A property owner may request a variance pursuant to county policies and procedures as stated in Section 11.5. Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected state agency pursuant to the requirements of the state agency.

(Ord. #436, adopted 04/07/09)

(B) Board of Adjustment Authority

The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, ordinary high water level, rights-of-way, structures, or buildings. The Board of Adjustment may also grant variances to permit a Type II-V system for new construction or creation of a new lot. Variance requests to deviate from the design flow determination procedures in Minn. R. 7081.0110, as may be amended, must be approved by Minnesota Pollution Control Agency if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day or to provisions in Minn. R. 7080.2150, subp. 2, and Minn. R. 7081.0080, subp. 2 through subp. 5, as may be amended, regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the

required 3 feet of unsaturated soil material (except as provided in Minn. R. 7080.1500, subp. 4(D), as may be amended) Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

#### 9.22.16 Enforcement

##### (A) Cause to Issue a Notice of Violation

Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Law. Each day that a violation exists shall constitute a separate offense. In the event of a violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this item, "property" does not include a residence or private building. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense.

(Ord. #436, adopted 04/07/09)

##### (B) Notice of Violation

The Department shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:

- (1) A statement documenting the findings of fact determined through observations, inspections, or investigations;
- (2) A list of specific violation(s) of this Ordinance;
- (3) Specific requirements for correction or removal of the specified violation(s);

- (4) A mandatory time schedule for correction, removal and compliance with this Ordinance.

(C) Cease and Desist Orders

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County Ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

(D) Costs and Reimbursements

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover the costs including, attorney fees, incurred in removal or abatement in a civil action, or at the discretion of the County Board, the cost of an enforcement action under this Ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor may extend the cost as assessed and charged on the tax roll against said real property.

- (E) This Ordinance may also be enforced in accordance with Minn. Stat. §394.37, as may be amended, and Section 11.11 of this Ordinance.

**9.23 Wind Energy Conversion Systems (WECS)**

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

**9.23.1 Purpose**

- (A) The purpose of this section is established to regulate the installation and operation of Wind Energy Conversion Systems (WECS) not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plant Siting Act, (Minn. Stat. Ch. 216E, as may be amended)
- (B) In order to ensure adequate wind access, the County does encourage the use of private easements and restrictive covenants as a means to protect wind access.

### 9.23.2 Applications

Land use and building permits shall be required for all WECS. Micro-WECS shall require a building permit and possible land use permit. Conditional use, land use and building permits shall be required for commercial WECS.

- (A) The land use permit application for all WECS shall include the following information:
- (1) A completed land use permit in accordance with Section 11.8.
  - (2) A description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
  - (3) Engineer's certification per subsection 9.23.6.
  - (4) Letter of approval from the Benton County Sheriff stating that the proposed WECS would not interfere with the public communication systems.
  - (5) Decommissioning plan in accordance with subsection 9.23.7.
  - (6) Completed building permit.
  - (7) Additional information as required by the Building Inspector or Department of Development.
- (B) The application for Commercial WECS shall include:
- (1) A completed conditional use permit in accordance with Section 11.6.
  - (2) The latitude and longitude of individual wind turbines.
  - (3) A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the proposed WECS.

- (4) Location of wetlands, scenic, and natural areas, including bluffs, within 1,320 feet of the proposed WECS.
  - (5) An acoustical analysis.
  - (6) FAA permit application if 200 feet or taller.
  - (7) Location of all known communications towers within 5 miles of the proposed WECS.
  - (8) Decommissioning plan in accordance with subsection 9.23.7.
  - (9) Letter of approval from the Benton County Sheriff stating that the proposed WECS would not interfere with public communication systems.
  - (10) Completed land use and building permit.
  - (11) Additional information as required by the Building Inspector or Department of Development.
- (C) Applications for a micro-WECS shall include:
- (1) Engineer's certification and additional information as required by the building inspector.
  - (2) Completed land use permit if not located on an existing structure.
- (D) Application for WECS meteorological tower shall include:
- (1) A USGS topographical map, or map with similar data, of the property and surrounding area
  - (2) Location of all known communications towers within 5 miles of the proposed tower.
  - (3) Decommissioning plan. The WECS tower shall be limited to 4 years as a permitted use. If additional time is required the meteorological tower shall be a conditional use.
  - (4) Letter of approval from the Benton County Sheriff stating that the proposed tower would not interfere with public communication systems

- (5) Completed land use and building permit.
- (6) Additional information as required by the Building Inspector or Department of Development.

#### 9.23.3 Exception

WECS that are by nature ornamental, rather than functional, shall be exempt from this Ordinance if the total height is less than 25 feet and not located within a required setback for an accessory building.

#### 9.23.4 Setbacks and Lot Size

- (A) Non-Commercial WECS shall be setback a minimum of 1.1 times the height of the WECS to the property line and right-of-way or road setback if greater and be located on a minimum lot size of 2 acres.
- (B) Meteorological towers shall be setback 1.1 times the times the height of the tower to the property lines and right-of-way or road setback if greater and be located on a minimum lot size of 20 acres.
- (C) Micro-WECS may be placed on any existing structure but shall not be located within a required setback. Micro-WECS that are not placed on an existing structure shall be placed 1.1 times the total height of the Micro-WECS to the property line and right-of-way road setback if greater but shall not be located within a front yard setback or the required setback for an accessory building.
- (D) Commercial WECS setbacks
  - (1) Right-of-way and property line: 1.25 times the height of the WECS or road setback if greater.
  - (2) Type III, IV and V wetlands: 600 feet
  - (3) Public conservation land managed as grassland: 600 feet
  - (4) County Park: 1,000 feet
  - (5) Protected River or Stream: 300 feet
  - (6) Lake: 1,000 feet



- (7) Commercial WECS: 1,320 feet (excludes WECS that are part of the same application)
- (8) Located on a minimum lot size of 20 acres

#### 9.23.5 Standards

##### (A) Total height.

- (1) Non-Commercial WECS total height shall be 150 feet.
- (2) Total height of a meteorological tower shall be 200 feet.
- (3) Commercial WECS total height shall be subject to the Planning Commission approval with the conditional use permit.

##### (B) Color and Finish.

- (1) All WECS shall be white, grey or another non-obtrusive color.
- (2) Blades may be black in order to facilitate deicing.
- (3) Finishes shall be matte or non-reflective.
- (4) Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

##### (C) Lighting.

- (1) Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations.
- (2) Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds.
- (3) Red pulsating incandescent lights should be avoided.
- (4) Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

##### (D) Design.

All wind turbines, which are part of a commercial WECS, shall be installed with a tubular, monopole type tower.

(E) Signage.

- (1) All signage on site shall comply with Section 8.1.
- (2) Only the manufacturers or owner's company name and/or logo may be placed upon the compartment containing the electrical generator of the WECS.

(F) Feeder Lines.

- (1) All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a WECS shall be buried where reasonably feasible.
- (2) Feeder lines installed as part of a WECS shall not be considered an essential service.

(G) Orderly Development.

Upon issuance of a conditional use permit, all Commercial WECS shall notify the Environmental Quality Board Power Plant Siting Act program staff of the project location and details on the survey form specified by the Environmental Quality Board.

(H) Noise.

All WECS shall comply with Minn. R. Ch. 7030, as may be amended, governing noise.

(I) Electrical codes and standards.

All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

(J) Federal Aviation Administration.

All WECS shall comply with FAA standards and permits.

(K) Uniform Building Code.

All WECS shall comply with the Uniform Building Code adopted by the State of Minnesota as amended and the National Electric Code as amended.

(L) Interference.

- (1) All WECS shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any WECS.
- (2) Non-Commercial WECS shall notify all communication tower operators within 1 mile of the proposed WECS location upon application to the County for permits.
- (3) Commercial WECS shall notify all communication tower operators within 5 miles of the proposed WECS location upon application to the county for permits.
- (4) No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions.

(M) Maintenance.

- (1) All WECS shall have routine maintenance as recommended by the manufacturer and at a minimum of once every 3 years.
- (2) A copy of the maintenance report shall be provided to the Department of Development upon written request.

9.23.6 Safety Design Standards

(A) Engineering Certification.

- (1) All WECS, Equipment shall conform to applicable industry standards for wind turbines design and related standards adopted by the American Standards Institute (ANSI) and a copy of an engineer's certification shall accompany the application.
- (2) A professional engineer registered in the State of Minnesota shall certify that the design, construction and operation of the tower and foundation are compatible with and appropriate for the turbine to be installed, given the local soil and climate conditions.

## (B) Clearance.

Rotor blades or airfoils must maintain at least 12 feet of clearance between their lowest point and the ground.

## (C) Warnings.

- (1) All WECS to be installed shall be equipped with redundant braking systems, including aerodynamic, variable pitch over speed controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode, whereby they are engaged in case of a loss of load on the generator. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- (2) The WECS shall be guarded against unauthorized climbing. The first 12 feet of the tower shall be unclimbable by design or be enclosed by a 6 foot high, unclimbable fence with a secured access.
- (3) A WECS shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other state or federal authority for a WECS. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
- (4) For all commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable location.
- (5) For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground. Visible fencing shall be installed around anchor points of guy wires.

## 9.23.7 Decommissioning.

- (A) The owner of the WECS that is to be dismantled must accomplish such act within 45 days after 1 year of discontinued use/operation or the County is empowered to dismantle such WECS and assess the costs against the property.

- (B) Each commercial WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use.
- (C) The cost estimates shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning.
- (D) The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities.
- (E) The decommissioning plan shall include: removal of the structure and debris to a depth of 4 feet and restoration of the vegetation consistent with the surrounding vegetation.

## **9.24 Auction Business**

(Ord. #483, adopted 02/15/22)

9.24.1 Auction business, where allowed in this Ordinance, shall be subject to the following standards:

- (A) The Applicant shall demonstrate adequate on-site parking and restroom facilities.
- (B) Goods to be auctioned may be displayed outside in a secured area two (2) weeks prior to the auction and must be removed from outside within two (2) weeks after the auction unless otherwise required by the IUP.
- (C) There shall be no auctioning of livestock
- (D) The applicant shall obtain written permission or and access permit, where required, from the responsible road authority for such use at the proposed location.
- (E) All signage shall comply with Section 8.1 of the Zoning Ordinance.

## **9.25 Temporary Sales / Transient Merchant Stands**

(Ord. #483, adopted 02/15/22)

9.25.1 Temporary Sales / Transient Merchant Stands, where allowed in this Ordinance, shall be subject to the following standards:

- (A) Required to obtain a Transient Merchant / Peddlers license through the County Auditor's office prior to conducting business per Minn. Stat. § 329.11.
- (B) Shall be located at an existing business site, or within an existing parking lot.
- (C) Shall have adequate access to and from a maintained public roadway.
- (D) Limited to a total of 14 days calendar per year.
- (E) Sales stands shall be located outside of the right-of-way and so as not to impede the sight line of traffic.
- (F) Hours of operation are limited to from dawn to dusk.
- (G) No overnight occupancy.

**9.26 Retreat Center**

(Ord. #491, adopted 02/20/2024)

9.26.1 Retreat Center, where allowed in the Ordinance, shall be subject to the following standards:

- (A) When lodging is provided, kitchen and dining facilities shall be located in a single centrally located building or buildings.
- (B) The center may not be utilized by the general public for meals or overnight accommodations.
- (C) A temporary lodging stay shall not exceed two weeks.
- (D) The owner, operator or director must reside on the property.
- (E) Adequate off-street parking for employees and customers shall be provided on site and shall meet parking standards of Section 8.2.
- (F) Applicable State and Federal licenses must be obtained prior to operation of the Retreat Center, to include food, beverage and lodging licenses. A copy of the license(s) shall be provided to the Planning and Zoning Office.

- (G) Proof of sufficient sanitary facilities and waste disposal shall be provided through the submittal of documentation from a septic designer or other qualified individual as determined by the Zoning Administrator.
- (H) Any outdoor lighting shall be arranged so as to reflect the light away from adjoining property and right-of-way.
- (I) All structures, including temporary structures, shall meet the minimum setback requirements of the district in which it is located.
- (J) Amplified noises shall be limited to 8 A.M. to 10 P.M.

## **9.27 Cannabis Businesses and Hemp Businesses**

(Ord. #497, adopted 12/17/24)

- 9.27.1 Administration: The operation of a cannabis business shall be in accordance with Benton County Ordinance #496 Regulating Cannabis and Lower Potency Hemp Edible Businesses, as amended from time to time. Words and phrases contained in Minnesota Statute, Chapter 342, and the rules promulgated pursuant to any of these acts, are incorporated into this Section by reference and shall have the same meaning in this ordinance. If there is a conflict between a word and phrase in this Ordinance Section and Minnesota Statute, Chapter 342, and the rules promulgated pursuant to any of these acts, the Minnesota Statute, Chapter 342, and the rules promulgated pursuant to any of these acts will govern.
- 9.27.2 Registration: All cannabis businesses required to be registered by Benton County Ordinance #496 shall be registered in accord with that ordinance and meet the requirements of that ordinance, in addition to following the requirements of this section.
- 9.27.3 Licenses and Endorsements: Cannabis businesses shall provide a copy of all approved licenses and endorsements issued by Office of Cannabis Management.
- 9.27.4 Setback Requirements:
  - (A) Retail: The operation of a retail cannabis business shall be prohibited within the distance identified in Benton County Ordinance #496, as amended from time to time.

(B) Cannabis Testing, Cultivation and Manufacturing:

- (1) The operation of a cannabis business shall be prohibited within the distance identified in Benton County Ordinance #496, as amended from time to time.
- (2) 660 feet from a dwelling or other cannabis testing, cultivation, or manufacturing facility. The setback shall be measured in a straight line from the closest point of the cannabis testing, cultivation or manufacturing facility to the closest point of the residential dwelling or other cannabis testing, cultivation, or manufacturing facility. (Ord. #499, adopted 03/18/2025)

9.27.5 Hours of Operation:

- (A) The retail component of any cannabis business shall be limited to the hours outlined in Benton County Ordinance #496.
- (B) All other cannabis businesses shall state their hours of operation within the application.

9.27.6 Performance Standards: Cannabis Businesses are subject to Section 8 Performance Standards.

9.27.7 Screening:

- (A) Outdoor and mixed light facility cultivation areas must be securely surrounded by fencing and locked gates on the entire perimeter, to prevent access to the area by unauthorized persons. Fencing and all gates must be secure, at least 6 feet high and obscure, or have a cover that obscures, the fenced area from being readily viewed from outside of the fenced area. Such fencing must be commercial or security grade, not agricultural or residential grade, and topped with a three-strand barbed wire extender arm angled away from the site at a minimum of 25 degrees to prevent access to the cultivation area by unauthorized persons. When required by statute, evidence of approval from OCM must be provided that the fencing meets their requirements.
- (B) See Section 8.6 Visual Standards for additional standards that shall be adhered to.



- (C) Additional standards may be required by the Planning Commission based on the proposed location of the cannabis business.

9.27.8 Odor: All indoor or mixed light cultivation, manufacturing, processing or production operations shall be equipped with odor control filtration and ventilation system(s) to control odors, humidity, and mold.

- (A) The facility shall be equipped with a proper ventilation system that filters out the odor of cannabis so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of the premises.
- (B) Ventilation & Filtration: Facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. Such systems shall include the following features:
  - (1) Installation and maintenance of activated carbon filters on all exhaust outlets to the building exterior;
  - (2) Location of exhaust outlets a minimum of 10 feet from the property line and 10 feet above finished grade; and
  - (3) Maintenance of negative air pressure within the facility; or
  - (4) An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Minnesota, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

9.27.9 Security: A cannabis business shall maintain compliance with security requirements established by the Office of Cannabis Management and with its approved security plan.

9.27.10 Lighting:

- (A) A cannabis business must maintain all lighting in good working order inside and outside of a cannabis business premises and temporary cannabis event. Lighting must deter nuisance and criminal activity by allowing observers to see, and cameras to record any activity within a radius of at least 20 feet around all entrances and exits. Exterior lighting must make efforts to not disturb surrounding businesses or neighbors by

adjusting the lumens or radius of lighting to only illuminate the necessary areas outlined in these rules. Any deficient or inoperable lighting must be repaired within 48 hours of detection.

- (B) Should a business choose to use grow lights outdoors, the lights shall not be illuminated from 7:00 p.m. to 7:00 a.m.
- (C) Structures used for mixed-light cultivation and nurseries shall be shielded (e.g., with tarps) so that no light escapes between sunset and sunrise.
- (D) Any security lighting for commercial cannabis activities shall be shielded and angled in such a way as to prevent light from spilling outside of the boundaries of the parcel(s) or premises or directly focusing on any surrounding uses.

9.27.11 Wastewater: The business shall dispose of wastewater in accordance with all local, state and federal regulations. The business shall submit a water and septic plan approved by the appropriate authority shall be provided to the County.

9.27.12 Solid Waste: Shall be stored and disposed of in accordance with all local, state and federal regulations, to include compliance with Benton County Development Code Section 8.8 and Solid Waste Ordinance No. 471, as amended from time to time.

9.27.13 Parking: Shall meet the standards of Section 8.2. Additional parking conditions may be required by the Planning Commission based on the proposed location of the cannabis business.

9.27.14 Termination: For uses permitted through an Interim Use Permit (IUP), said permit shall be valid until any of the following events occur:

- (A) Change of ownership,
- (B) Change of OCM license holder,
- (C) Revoked,
- (D) Expires, or
- (E) Otherwise terminated earlier.

**9.28        Campgrounds and Resorts**

(Ord. #500, adopted 05/20/2025)

**9.28.1        General Provisions:**

- (A)    A campground or resort located within a Shoreland and/or Floodplain District shall follow the process Multiple Unit Development process and criteria outlined in Section 7.14.8 of the Benton County Development Code and Benton County Ordinance 196, in addition to the requirements in this section. Where there are conflicting requirements, the stricter of the standards shall apply.
- (B)    Licensing: The campground/resort owner/operator shall obtain a primary or annual license from the Minnesota Department of Health, "MDH," in compliance with Minnesota Statutes, prior to recording of the CUP and shall submit a copy of the license to the County. The CUP shall have a condition that requires a valid license from MDH. Failure to maintain a valid license from MDH will result in revocation of the CUP.
- (C)    Seasonal Use: The campground shall be seasonal and shall not be in use from November 1st through April 1st. Campgrounds shall comply with all local, state, and federal rules and regulations.
- (D)    Ready to move: All livable structures within a floodplain district (i.e. RV's, park trailers, etc.) must be road ready, licensed (if applicable) and able to operate on their own power or towed on public roads in a legal manner.
- (E)    Related Facilities: Campgrounds and resorts may include associated facilities including, but not limited to, restaurants, recreational facilities, event centers by obtaining the appropriate Conditional or Interim Use Permits for those uses

**9.28.2        Site Plan / Design Criteria:**

- (A)    Grading and Drainage Plan: Campgrounds shall have a Grading and Drainage Plan approved by a licensed engineer.
- (B)    Site Survey: The lot must be surveyed. The site survey shall show locations of property boundaries, surface water features, wetlands, existing and proposed structures, camping sites, recreational vehicle sites and other facilities, land alterations, sewage treatment and water supply

systems (where public systems will not be provided), and topographic contours at 10-foot intervals or less.

- (C) Setbacks: Structures and campsites shall meet the primary structure setbacks outlined within the zoning district in which it is located.
- (D) Camp site minimums:
  - (1) Each RV site shall be a minimum of 16' in width and 70' in depth (minimum area of 2,000 sq ft per RV site) to accommodate an RV and secondary vehicle.
  - (2) Each tent site shall be a minimum of 10' wide and 30' in depth and accommodate the structure and one parking space.
- (E) Accessory Structures: Limited to 1 per site no larger than 150sf.
- (F) Parking Spaces: Refer to Section 8.2 of the Development Code.
- (G) Screening: structures, parking areas and other facilities shall be treated to reduce visibility as viewed from public waters, adjacent shoreland and surrounding residences by vegetation, topography, increased setbacks, color or other means acceptable to the County, assuming summer, leaf-on conditions.
- (H) Sewage Disposal, Toilets and Shower Facilities: On site toilets, bathing, and laundry facilities shall comply with Benton County ordinances, state rules and statutes.
- (I) Code Compliance: All structures intended to be occupied by guests, the public or employees, must be constructed to meet building code.
- (J) Severe Weather Shelter: Campgrounds shall have an adequately sized severe weather shelter(s) on site, as approved by the Building Official. Temporary campgrounds established as emergency housing in a disaster area as declared by the Governor or President of the United States may be exempt unless its use exceeds a period of 18 months.

#### 9.28.3 Site Operations / Development Organization and Functioning:

- (A) Operational Plan: The campground owner/operator shall provide an operational plan, to be approved by the Planning Commission. In addition to addressing the provisions listed in this section, the operational plan

shall include the calendar months of the year which the campground will operate, the maximum number of camping sites including the type of site (i.e. primitive tent camping, RV full hook-ups, etc.). Operational plan shall include maintenance and management of the facility, to include interior roadways, water, septic, bathroom and laundry facilities, storm shelters and evacuation plans.

- (B) **Overnight Guests:** All overnight guests of the campground shall register their names, permanent address(s), make and model of vehicle(s), and license plate number(s). The campground owner/operator shall retain this registration log for at least one-year and shall be made available to law enforcement officials upon request.
- (C) **Caretaker / Attendant:** Campgrounds shall provide a caretaker or attendant who shall maintain all facilities in a clean, orderly and sanitary condition. The caretaker or attendant shall be readily available at all times in case of an emergency.
- (D) **Refuse and Garbage:** The storage, collection, and disposal of refuse and garbage in a recreational campground or resort shall be so conducted as to not create a health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. In recreational camping areas, garbage and refuse containers shall be provided on the ratio of at least one for every four sites. Refuse and garbage collection shall be made at least twice each week and more often when necessary to prevent nuisance conditions.
- (E) **Evacuation Plan:** Campgrounds shall provide an evacuation plan in case of severe weather, flood, fire, or other disaster, as approved by the Benton County Emergency Management Director, and shall be provided to campers at the time of registration.
- (F) **Emergency Vehicles:** The Campground owner shall maintain streets and roadways in the campground to permit passage of emergency vehicles and reverse maneuvering of recreational vehicles.
- (G) **Pets:** No domestic animals or pets of occupants of the campground may run at large or be a public nuisance.

**10.0 SUBDIVISION REGULATIONS****10.1 Statutory Authority and Purpose**

10.1.1 This Ordinance is adopted pursuant to the authorization and policies contained in Minn. Stat. Ch. 394; Minn. Stat. Ch. 505; Minn. Stat. Ch. 508; and Minn. Stat. Ch. 326B, as may be amended.

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

- (A) Facilitate the proper subdivision of land within Benton County.
- (B) Provide for the health and safety of residents by requiring necessary services; such as properly designed streets and adequate sewage and water service.
- (C) Establishing reasonable design standards and procedures for subdivisions and to insure proper legal descriptions and monumenting of land within the County.
- (D) Maintain and enhance the built and natural environment.
- (E) Place the cost of improvements upon those benefiting from their construction.
- (F) Secure the rights of the public with respect to public lands and waters.
- (G) Safeguarding ground water supplies and preventing pollution in order to preserve the value of land.
- (H) Encourage the wise use and management of natural resources throughout the County, including preventing erosion and providing for adequate drainage and storm water retention.

(Ord. #398, adopted 05/08/06)

**10.2 Policy**

10.2.1 The uncontrolled development and subdivision of property in Benton County, Minnesota impacts the public health safety and general welfare not only by contributing to pollution of ground and surface waters, but the loss of agriculturally important land. Therefore, it is in the best interest of the public

health, safety and welfare to provide for the wise subdivision of property in Benton County.

- 10.2.2 Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to the public health, safety and welfare. Land shall not be subdivided unless proper provisions have been made for drainage, water, wastewater, transportation facilities and any other necessary capital improvement.
- 10.2.3 Each lot created through the subdivision shall be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall consider susceptibility to flooding, existence of wetlands, soils and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near shore aquatic conditions, important fish and wildlife habitat, native plant communities and rare species, significant historical sites or any other feature of the natural land whereby an impact thereto is likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the County.
- 10.2.4 Building site, for the purpose of this section, shall mean the required amount of contiguous acreage containing non-hydric soils and void of wetlands, hydric vegetation, floodways, bluffs, right-of-way and restrictive easements. The site shall be capable of supporting 2 standard individual septic systems, unless the subdivision is to be connected to a central sewer system.
- 10.2.5 The existing and proposed public improvements shall conform to and properly relate to the County Comprehensive Plan. It is intended that this Ordinance shall supplement the standards and provisions contained in the Benton County Development Code and Benton County Comprehensive Plan.

(Ord. #398, adopted 05/08/06)

### **10.3 Compliance**

- 10.3.1 The subdivision of all land within Benton County shall be subject to the provisions of this Ordinance.
- 10.3.2 No permit shall be issued for any use or structure on any parcel of land which was illegally subdivided after August 1, 1978, until the appropriate corrective action has been completed. (Ord. #440, adopted 10/20/09)

- 10.3.3 Existing lots, tracts or parcels of land that were illegally subdivided prior to January 1, 2006 and have an existing dwelling constructed prior to August 1, 1978 or permitted by the Department of Development may be permitted to continue as a dwelling site regardless of the lots size and dimensions subject to meeting the requirements of subsection 10.4.3. Illegally subdivided lots prior to January 1, 2006, without an existing dwelling constructed prior to August 1, 1978 or permitted by the Department of Development shall be permitted to be created as a building site subject to meeting the applicable standards of the Zoning District and either subsection 10.4.3 or Section 10.5 below.
- 10.3.4 To correct an illegal subdivision the corrective action will require the property owner to follow the current requirements for subdivision.

#### **10.4 Administrative Land Splits**

- 10.4.1 The conveyance of certain parcels of land may be split administratively in any zoning district if the requirements of this section are met. The Department of Development Director shall have the authority to approve administrative land splits. An administrative land split for subsection 10.4.2 through 10.4.5 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 subsection 10.4.3 if it had an existing dwelling constructed prior to August 1, 1978. Subdivisions deemed too complicated by the Department of Development Director may be required to be platted.
- 10.4.2 Non-Building Subdivisions
- Land, 10 acres or greater and the residual tract is at least 10 acres or greater that is being split and sold for non-building purposes, may be allowed if:
- (A) The area of land subdivided and sold is not intended to be used to construct a structure or create a new tract of land containing an existing structure.



- (B) A deed restriction which shall state that the conveyance is for purposes other than to create a building site unless otherwise provided for in this Ordinance.
- (C) State Law requires that with the creation of any new or residual lot, said lot is capable of supporting 2 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.
- (D) Parcels that are 10 acres or more will remain restricted until such time the provisions of subsection 10.4.3 are met; or successor ordinance.
- (E) If the tract contains less than 40 acres but is 35 acres or greater and is described by the rectangular survey system as a quarter, quarter section, in common ownership, the tract shall be considered eligible for an equal split of the parcel.
- (F) Parcels that are under 10 acres will remain restricted unless platted pursuant to Sections 10.5, 10.7 or 10.8.

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

#### 10.4.3 Building Sites on parcels 10 Acres or greater

Creation of a parcel 10 acres or greater for building site development. If the tract contains less than 40 acres but is 35 acres or greater and is described by the rectangular survey system as a quarter, quarter section, in common ownership, the tract shall be considered eligible for an equal split of the parcel. In addition to the requirements in subsection 10.4.6(A)(1) through (4) the survey shall include the following:

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

- (A) Existing structures and at the discretion of the Department of Development Director impervious surface calculations may be required.
- (B) The location(s) of any animal feedlot within 660 feet of the survey boundary.
- (C) If determined necessary by the Department of Development Director, a copy of a wetland delineation report of delineated wetland boundaries for all wetlands that are on the parcel being split off.

- (D) Floodway, flood fringe and/or general floodplain district boundary
- (E) Shoreland district boundary.
- (F) Soil boring tests shall be required if on-site sewage treatment systems are to be used. Sites must be verified by Department of Development staff. See Section 9.22.
- (G) The minimum principal building setbacks and resulting building lines.
- (H) The location of ingress and egress to and from the proposed subdivision, including prior approval from the proper road authority (City, State, County, Township).

#### 10.4.4 Boundary Line Correction.

The conveyance is, in the opinion of the Department of Development Director, solely for the purpose of correcting a boundary line due to encroachments, to eliminate boundary line disputes or correct an occupation line, or to resolve conflict or inconsistencies in legal descriptions. Applications shall include documentation from a land surveyor, title company, attorney, or court of competent jurisdiction detailing the facts of why the boundary line correction is warranted. The correction of more than one boundary line may require the boundaries lines to be corrected through the platting process. Deeds shall be recorded as described in subsection 10.4.6(G) & (I).

#### 10.4.5 Parcel Combination.

- (A) The combination of 2 or more parcels that are described separately by metes and bounds shall require the recording of a deed that describes all parcels as one with a new legal description. There is no application necessary to combine parcels. Deeds of attachment are not sufficient. Deeds shall be recorded as described in subsection 10.4.6(G) & (I). This process shall not apply to platted lots.
- (B) The addition or subtraction of land to/from abutting parcels may be permitted under the condition that each parcel remains a minimum of 10 acres. If a parcel is reduced to less than 10 acres, it shall be subject to the simple plat process

#### 10.4.6 Requirements. An administrative subdivision shall be considered by the following procedure:

- (A) The application shall be accompanied with a certificate of survey in a PDF format, prepared by a Licensed Land Surveyor. The survey shall include the following information:
  - (1) Legal description of each parcel;
  - (2) Parcel area;
  - (3) Site improvements, including structures, and
  - (4) Distances from structures to property lines.
- (B) The Department of Development Director shall review the proposed subdivision for compliance with all applicable ordinances.
- (C) The Department of Development Director shall notify the applicant whether the subdivision is approved or denied. If denied, the Department of Development Director shall provide written reasons for the decision.
- (D) Any deed restrictions required herein shall be recorded in the Office of the County Recorder and/or Registrar of Titles.
- (E) Incomplete applications for an Administration Subdivision are valid for 6 months. Administrative Subdivisions shall be considered null and void 1 year after approval if it has not been recorded, unless otherwise approved by the Department of Development Director.
- (F) Written approval from the road authority is required to be recorded with the subdivision documents for subdivisions that are being reviewed pursuant to Section 10.4.3.
- (G) New legal descriptions shall be created for each new parcel or adjusted parcel. Deeds with the new legal descriptions shall be exchanged between the parties and provided to the Department of Development Director. The certified survey must be attached to each deed for recording. The deeds must be recorded within 1 year. Failure to record the deeds will result in nullification of the administrative subdivision.
- (H) The lots or parcels to be divided and/or combined must be in the same school district or taxing jurisdiction.
- (I) In the event that a parcel cannot be described in whole, the following statement shall be added to the deed:

*The property described herein shall be considered one contiguous parcel or tract of land in respect to all matters related to land use and zoning as they may apply. This contiguous parcel or tract of land shall not be combined with other parcels or tracts of land, or subdivided further unless allowed by the applicable County Ordinances.*

## **10.5        Simple Plat**

10.5.1        A plat containing no more than 1 lot intended for building on; or a plat that only adjusts existing parcels may follow the simple plat process. A simple plat may not result in the creation of new roads. Unless specifically allowed as an administrative subdivision in Section 10.4, any subdivision of land regulated by this Ordinance shall only be approved as a simple, minor or major subdivision plat. In addition, only the following subdivisions of land may be approved as a simple plat:

- (A)        The combination of platted lots if deemed appropriate by the Department of Development; and
- (B)        In the opinion of the Department of Development Director, a subdivision of land that is too complex to be approved as an Administrative Subdivision.
- (C)        Parcels created pursuant to Section 10.4 that are less than 10 acres.
- (D)        Boundary Line Adjustments for the sake of deeding a portion of land from one parcel to another that is not consistent with Section 10.4.4 or Section 10.4.5.

### **10.5.2        Preliminary Simple Plat Approval**

The owner or subdivider shall file an application for preliminary simple plat approval with the Department of Development Director that shall follow the criteria outlined in Section 10.9 through subsection 10.10.3, subsection 10.10.5(A)(1-12), subsection 10.11.4, and subsection 10.11.8:

- (A)        A completed application form and title examination as outlined in subsection 10.13.5(D).
- (B)        A copy of the plat in PDF format, plus any paper copies requested by the Department of Development Director. At a minimum, the application shall contain the information required in Section 10.9, subsections 10.10.1

through 10.10.3, subsection 10.10.5(A)(1-12), subsection 10.11.4, and subsection 10.11.8.

- (C) It is preferred that the preliminary plat be submitted in the Benton County Coordinate System.
- (D) The application shall be accompanied by all fees established pursuant to the most current Benton County Fee Schedule.
- (E) At the discretion of the Department of Development Director, the preliminary plat may be waived for the combination of platted lots.

10.5.3 Pursuant to Minn. Stat. § 505.03, subd. 1, as may be amended, a public hearing pursuant to Minn. Stat. Ch. 394, as may be amended will not be required for Simple Plats unless required by the Department of Development Director. The Department of Development Director shall approve the preliminary simple plat upon successful submission of the items outlined above. A final simple plat shall be submitted in accordance with subsection 10.5.4 upon approval of the preliminary simple plat.

#### 10.5.4 Final Simple Plat Approval Process

A final simple plat shall be considered in accordance with the following procedure:

- (A) The final simple plat shall have incorporated all changes or modifications recommended by the Department of Development Director, the County Engineer, the County Surveyor and County Attorney. In all other respects, the final plat shall conform to the preliminary plat.
- (B) The final plat shall be in the form and with the content prescribed in *the "Manual of Guidelines for Platting in Minnesota"*, as may be amended; and Minn. Stat. Ch. 505, as may be amended.
- (C) The final plat shall have certification blocks for all individuals and officials concerned with the recording of the plat. The following certification blocks shall be provided in accordance with the Manual of Guidelines for Platting in Minnesota. Examples of the signature blocks for the County Engineer and County Attorney can be found in subsection 10.14.2(C).

- (1) Surveyor

- (2) Delegated County Official
  - (3) County Surveyor
  - (4) County Engineer
  - (5) County Attorney
  - (6) County Auditor/Treasurer
  - (7) County Recorder or Register
- (D) In addition to the requirements of Minn. Stat. Ch. 505, as may be amended, the subdivider shall submit a copy of the plat in a PDF format.
- (E) The final plat shall be considered a complete application when the Department of Development Director has determined that all requirements have been met.
- (F) Any deed restrictions shall be submitted with the final plat.
- (G) The Benton County Surveyor shall have approved the final plat as in conformance with Minn. Stat. Ch. 505, as may be amended, specifically Minn. Stat. § 505.021, subd. 11, as may be amended, all plats prepared for recording in accordance with this section are subject to approval by the county surveyor in accordance with Minn. Stat. § 389.09, subd. 1, as may be amended, and/or as authorized by their respective county board of commissioners
- (H) If a final plat is approved by the Department of Development Director, the subdivider shall record it within the Office of the County Recorder and/or Registrar of Titles within 1 year after the date of approval otherwise the approval of the final plat shall become null and void.
- (I) A deed with the legal description for the residual parcel shall be filed with the final plat.
- (J) A certificate of survey will be required for the residual parcel.
- (K) The lots or parcels may not be subdivided further for at least 2 years under the simple plat process.

**10.6        Subdivision Plats****10.6.1        General Provisions****(A)        Pre-Application Meeting**

- (1)        Prior to the preparation of a preliminary plat, the subdividers or owners and their land surveyor shall meet with the Department of Development Director and staff to determine the type of Subdivision Plat based upon the number of lots and the desired style of development. At this meeting the subdivider will be made aware of all applicable ordinances, statutes, regulations, regulators, and procedures.

**(B)        Park Commission Review**

- (1)        Each Plat intended for residential purposes shall be reviewed by the Department of Development for compliance with the Park Dedication requirements of this Ordinance.

**(C)        Platting Committee Review**

- (1)        All preliminary subdivision plats shall be reviewed by the County Platting Committee. The Platting Committee reviews plats for compliance with all County standards, policies and Ordinances. Comments from the Platting Committee shall be forwarded to the Planning Commission and the County Board.

**(D)        Requirement (Ord. #440, adopted 10/20/09)**

- (1)        Any subdivision not meeting the requirements of Sections 10.4 and 10.5 shall meet the requirements for platting under Sections 10.7 through 10.15.

**10.7        Minor Subdivision Plat****10.7.1        The subdivision of land by plat into 2 to 6 lots in the R-1, R-2, R-3, R-S, B-1, B-2, I-1, I-2 Districts or 2 to 9 lots in the A or R-A Districts meeting the requirements set forth within this Section. (Ord. #422, adopted 02/19/08)****(A)        Standard Development Type- Preliminary Plat**

- (1) After the pre-application meeting, the subdivider or owners shall file with the Department of Development Director 1 paper copy and 1 PDF copy of a preliminary plat and pay a fee pursuant to the most current Benton County Fee Schedule.
- (2) Within 45 days after the preliminary plat has been filed with the Department of Development Director 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 as required by Minn. Stat. § 394.26, as may be amended. This shall constitute the public hearing on the plat as required by state law.
- (3) It shall be the responsibility of the applicant to obtain all information, statutes, rules, and regulations pertaining to the land proposed to be subdivided. Commission decisions will be based on submissions according to these rules, but shall not be limited to this information in their decision process.

(B) Cluster Development Type - Preliminary Plat

- (1) Cluster Developments shall follow the same provisions noted in subsection 10.7.2 for submission of the preliminary plat. However the preliminary plat shall be based upon the Cluster Development Concept Plan that was approved by the Planning Commission by Conditional Use Permit and reflect all conditions of said CUP.

10.7.2 Approval of Minor Preliminary Plats

- (A) The County Planning Commission shall approve, deny, or table the application request, together with a statement of findings and suggested changes. The Planning Commission may require, as a condition of approval, such changes or revisions as are deemed necessary for the health, safety, general welfare, and convenience of the people of the County. If the Planning Commission does not approve the preliminary plat or places conditions on the preliminary plat that are not acceptable to the subdivider, the County Board may, upon request of the subdivider at a public meeting consider holding a separate public hearing on the preliminary plat.



- (B) Approval of a preliminary plat is an acceptance of the general layout as submitted, and indicates that the subdivider may proceed toward final plat approval in accordance with the terms and provisions of this Ordinance. However, approval of the preliminary plat in no way assures approval of the final plat.
- (C) Preliminary plat approval by the Planning Commission shall be considered null and void if the final plat is not submitted for County Board approval within 1 year. The County Board may grant an extension in the case of a phased development in which only part of the preliminary plat is submitted for final approval. The developer shall request an extension at the same time that the first phase is submitted for final plat approval. When an extension is granted by the Board, the final plat for all subsequent phases shall be subject to the official controls in effect at the time of final plat approval. (Ord. #373, adopted 02/17/04)
- (D) During the intervening time between approval of the preliminary plat and the approval of the final plat, the subdivider shall submit engineering plans and specifications for all required improvements and any other documents necessary for recording of the plat. (Ord. #398 adopted 05/08/06)

## **10.8      Major Subdivision Plat**

10.8.1      The subdivision of land by plat into 7 or more lots in the R-1, R-2, R-3, R-S, B-1, B-2, I-1, I-2 Districts or 10 or more lots in the A or R-A Districts meeting the requirements set forth within this Section. (Ord. #422, adopted 02/19/08) (Ord. #431, adopted 10/07/08)

- (A)      Standard Development Type- Preliminary Plat
  - (1)      After the pre-application meeting, the subdivider or owners shall file with the Department of Development Director 1 paper copy and 1 PDF copy of a preliminary plat and pay a fee pursuant to the most current Benton County Fee Schedule.
  - (2)      Within 45 days after the plat has been filed with the Department of Development Director 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 as required by Minn. Stat. § 394.26, as may be amended. This shall constitute the public

hearing on the plat as required by state law. Within 30 days of the date of the public hearing, the Planning Commission shall make its report to the County Board.

- (3) It shall be the responsibility of the applicant to obtain all information, statutes, rules, and regulations pertaining to the land proposed to be subdivided. Board and Commission decisions will be based on submissions according to these rules, but shall not be limited to this information in their decision process.

(B) Planned Unit Development Type - Preliminary Plat

- (1) Planned Unit Developments shall follow the same provisions noted in subsection 10.8.2 for submission of the preliminary plat. However the preliminary plat shall be based upon specific requirements established within the PUD Zoning District.

10.8.2 Approval of Major Preliminary Plats

- (A) The County Planning Commission and the Department of Development Director shall forward to the County Board a written recommendation to approve, deny, or table the application request, together with a statement of findings and suggested changes. The County Board may require, as a condition of approval, such changes or revisions as are deemed necessary for the health, safety, general welfare, and convenience of the people of the County.
- (B) Approval of a preliminary plat is an acceptance of the general layout as submitted, and indicates that the subdivider may proceed toward final plat approval in accordance with the terms and provisions of this Ordinance. However, approval of the preliminary plat in no way assures approval of the final plat.
- (C) Preliminary plat approval by the County Board shall be considered null and void if the final plat is not submitted for approval within 1 year. The County Board may grant an extension to preliminary plat approval subject to a request by the developer being submitted prior to the 1 year deadline. When an extension is granted by the Board, the final plat shall be subject to the official controls in effect at the time of final plat approval. (Ord. #373, adopted 2/17/04)

- (D) During the intervening time between approval of the preliminary plat and the approval of the final plat, the subdivider shall submit engineering plans and specifications for all required improvements. (Ord. #398, adopted 05/08/06)

## **10.9 State and Special District Considerations**

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

- (A) Items of regional or state significance; such as, regional parks, state highways, sewer extensions, or similar matters.
- (B) Pollution (air, water, ground).
- (C) Airports, mass transit, schools, major employment centers, or similar considerations.
- (D) Flooding, shoreland, streams, wetlands, watershed problems, or similar considerations. (Ord. #398, adopted 05/08/06)

## **10.10 Necessary Data for Preliminary Plat**

10.10.1 Benton County's data requirements for preliminary plats are as follows in this section. In addition to the data prescribed by the laws of the State of Minnesota, the preliminary plat shall include the following information.

10.10.2 Identification And Description

- (A) Proposed name of subdivision, pre-approved by the County Recorder's Office, which shall not duplicate or be similar in pronunciation or spelling to the name of any plat heretofore recorded in the County, such as:

ANDERSON'S ADDITION

ANDERSENS' ADDITION

FISHER ADDITION

FISCHER ADDITION

HAYS ADDITION

HAYES ADDITION

- (B) General location by section, township, range, along with specific location by lot and block, aliquot part or metes and bounds description.

- (C) Vicinity map indicating the location of the property being platted, including area within a 1 mile radius of the plat.
- (D) Names, addresses, and phone numbers of the recorded owner and any person having contractual interest in the land.
- (E) Surveyor's name, address, phone number and license number.
- (F) Date of land survey.
- (G) Graphic scale not less than one inch to one hundred feet (1" = 100').
- (H) North direction indicator.
- (I) Controlling monuments used to determine the specific legal description.

#### 10.10.3 Existing Conditions To Be Shown

- (A) The preliminary plat shall include information on the following conditions within the plat and extending to a distance of one hundred feet (1" = 100') beyond the boundaries of the proposed plat.
  - (1) All affected lots, tracts or parcels (lots) shall be subject to the plat as either a lot or outlot with the boundary lines of proposed subdivision depicted. However, the residual lot if 10 acres or larger may be depicted by a certificate of survey or be platted. If the residual parcel is intended as a building site soil borings shall be provided. (Ord. #403, adopted 09/05/06) (Ord. #481, adopted 05/18/2021)
  - (2) Existing zoning classification(s) for land within and abutting the proposed subdivision. Zoning or rezoning of property is a separate process (see Section 11.9).
  - (3) Existing streets, including:
    - (a) Names
    - (b) Location
    - (c) Right-of-way width
    - (d) Type of surface

- (4) Boundary lines of adjoining unsubdivided or subdivided land identified by name and ownership.
- (5) Location of Railroads.
- (6) Location and type of electric power lines.
- (7) Location of gas and oil pipe lines.
- (8) Parks and other public lands.
- (9) Permanent buildings and structures.
- (10) Corporate boundaries.
- (11) School District boundary lines.
- (12) Section lines.
- (13) Existing individual sewage treatment systems, watermains, and the approximate location of existing water services including wells.
- (14) Topographic data, including vertical contour intervals of 2 feet, water courses, marshes, rock outcrops, and other significant features. Where necessary, USGS data or MNTPO (LiDAR) can be used for topographic mapping. The plat shall include placement and exact elevation of benchmark in relation to sea level.
- (15) Plats that include land abutting lakes or streams shall denote the 100 - year flood elevation on the face of the plat using numerical figures, provided this information is available from the Division of Waters of the Department of Natural Resources or from the U.S. Army Corps of Engineers.
- (16) Flood Plain, Floodway, and Flood Fringe areas as determined by the most recent Federal Insurance Administration's Flood Insurance Study for Benton County, must be clearly labeled on the plat.

See:

- (a) Flood Insurance Study for Benton County
- (b) Flood Boundary and Floodway Maps

## (c) Flood Insurance Rate Maps

- (17) Wetland Delineation – Level 2 (Excluding outlots and residual lots 10 acres or greater). Other level may be appropriate if approved by the Department of Development staff. If no wetlands are present within the platted area, a letter stating such must be submitted from a certified delineator.

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

## (18) Shoreland overlay district

- (a) Show shoreland district boundary, if any portion of the plat is located in the shoreland.
  - (b) Show ordinary high water level and highest known water level.
  - (c) Show the toe and top of any bluffs within the plat boundaries.
- (19) Show tree lines and areas of vegetation. The Planning Commission may require a tree survey, prepared by the developer, identifying tree coverage in the proposed subdivision in terms of type and extent of potential destruction when more than 50 percent of established trees are to be removed. The provision applies to major subdivisions only.
- (20) Additional information may be required as a prerequisite for approval.

## 10.10.4 Subdivision Design Features

- (A) Layout of proposed streets indicating the right-of-way widths, centerline gradients, and typical cross sections.
- (B) 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. Final determination of street names must be approved by the Department of Development Director.
- (C) Location and widths of proposed alleys and pedestrian ways.

- (D) 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.
- (E) Layout, numbers, and preliminary dimensions of lots and blocks.
- (F) When lots are located on a curve, the width of the lot at the building setback line shall be indicated.
- (G) Park dedication areas.
- (H) Urban Overlay Plat (Ghost Plat).

The County may require, at its option, any subdivision within an Urban Growth or Urban Transition Area to provide an urban overlay plat. The overlay plat shall show in concept the following:

- (1) How the land within the subdivision will be subdivided into urban lots in the future.
- (2) The layout of future streets or extensions.
- (3) Easements for the extension of municipal sewer and water, and drainage and utility easements.

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

#### 10.10.5 Other Information

- (A) The following information shall be submitted with the preliminary plat.
  - (1) Approximate overall acreage of the subdivision plan.
  - (2) Approximate individual lot size and acreage.
  - (3) Approximate acreage of developer's concept plan.
  - (4) Soil boring tests shall be required if on-site sewage treatment systems are to be used. See Section 9.22 (Ord. #407, adopted 11/14/06). The location of the verified soil boring shall be identified on the preliminary plat.
  - (5) Proposed easements for utilities, drainage and storm water management.

- (6) Existing public service corporation easements pursuant to Minn. Stat. Ch. 301B, as may be amended, and any other easement impacting the subject property. If an existing public service easement pursuant to Minn. Stat. §301B.03, as may be amended, or any other easement is not definitely and specifically described, a condition of final plat approval will be that the public service corporation or easement holder records a revised easement document that definitely and specifically describes the easement.
- (7) The minimum principal building setbacks resulting in building lines.
- (8) Proposed lot and block number.
- (9) Statement of the proposed use of lots, including type of residential buildings, number of proposed dwelling units, and type of business or industry.
- (10) Statement indicating the effect of the proposed development on traffic, fire hazards, and congestion of population.
- (11) A preliminary grading plan including phasing of grading and proposed grade elevations at 2 foot intervals shown as solid lines. A plan for soil erosion and sediment control both during and after construction. This plan shall include gradients of waterways, design of velocity and erosion control measures, and landscaping of the erosion and sediment control systems. All revegetation measures proposed for the tract including seed and mulch types and application rates. The plan shall conform to all standards found in subsection 10.11.7. (Ord. #398, adopted 05/08/06)
- (12) Drainage plan indicating surface water flow including the design and capacity of water control systems. Refer to standards as described in subsection 10.11.7. Location of existing and proposed stormwater facilities, ponds, swales and drainage channels within 150 feet of the tract or proposed to serve the tract. All existing and proposed pipe grades, rim and invert elevations, and normal and high water elevations must be shown on the plan. (Ord. #398, adopted 05/08/06)
- (13) Where the subdivider owns property adjacent to the property proposed for subdivision, the subdivider may be required to submit



a concept plan for the remainder of the property indicating the relationship between the proposed subdivision and any future subdivision. In any event, all subdivisions shall be shown to relate well with existing or potential adjacent subdivisions.

- (14) Such other information as may be requested by the County Planning Commission.

## **10.11 Subdivision Design Standards**

### **10.11.1 General Requirements**

- (A) The Planning Commission, in its review of the preliminary plat, shall take into consideration the requirements of the community and the best use of the land being subdivided.
- (B) 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 into adjoining areas. Also, where adjoining unsubdivided areas may be subdivided, the arrangement of streets in new subdivisions shall provide for proper street projection into adjoining areas by carrying such streets to the boundaries of new subdivisions at appropriate locations.

### **10.11.2 Streets**

#### **(A) Widths**

Street right-of-way widths from centerline shall conform to the following minimum dimensions (refer to the most current Functional Classification Map issued by the Minnesota Department of Transportation):

Type of Street	Right-of-Way Width from Centerline
Principal Arterial	75 ft
Minor Arterial	60 ft
Collectors	60 ft
Local	55 ft

The road authority shall have the discretion to increase or reduce the required right-of-way width from centerline when deemed appropriate.

(Ord. #398, adopted 05/08/06)

(B) Street Intersections

- (1) Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of 2 streets be less than 70 degrees.
- (2) Intersections having more than 4 corners shall be prohibited.
- (3) Adequate land for future intersection and interchange construction needs shall be dedicated.

(C) Tangents

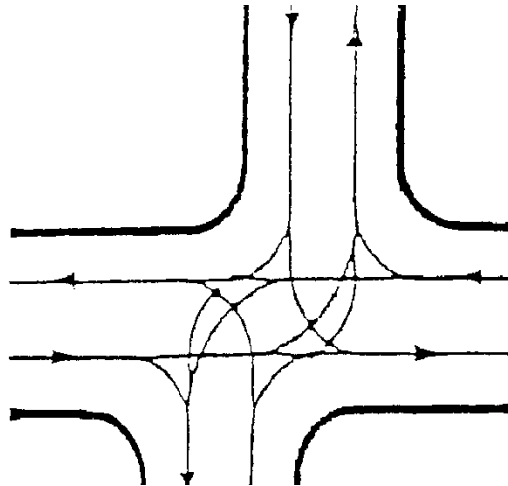
- (1) A tangent (a straight line of travel) of at least 300 feet shall be provided between curves on arterial and collector streets.
- (2) Local streets within residential subdivisions are exempt from this provision.

(D) Street Deflections (a bend in the road)

- (1) When connecting streets deflecting from each other by more than 5 degrees, such streets shall be connected by a curve with a radius (measured from the centerline) of not less than 500 feet for arterials, 300 feet for collectors, and 100 feet for all other streets.
- (2) Consideration shall be given to design speed requirements (30 MPH MnDOT STDS).

(E) Street Jogs

Street jogs with centerline offsets of less than 150 feet are prohibited on local streets.



*Example of a Jog Intersection*

(F) Centerline Gradients

For drainage purposes, all centerline gradients shall be a minimum of 0.5 percent, but shall not exceed the following:

- (1) Arterials and Collector Streets.....5 percent
- (2) Minor Streets and Marginal Access Streets.....8 percent

(G) Temporary Accesses

- (1) When platting small tracts of land fronting on arterial streets or county roads where there is no convenient access to existing entrances, and where access from such a plat is closer than 1/4 mile from an existing access point, a temporary entrance permit may be granted by the appropriate agency.
- (2) Provision shall be made in such plats for the connection of roads to neighboring land.
- (3) As the neighboring land is platted and developed, and access at a preferred location becomes possible, such temporary entrance permits shall become void.

(H) 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.

- (I) Access to Arterial Streets: Shall be processed through the appropriate road authority.

- (J) Local Streets

Local streets shall be designed to discourage through traffic use.

- (K) Cul-de-sacs

- (1) The length of cul-de-sacs shall be at the discretion of the County Engineer for county and private roads or the proper road authority for other roads
- (2) Minimum outside radius of the surface area of the turnaround shall be 46 feet. Minimum radius of right-of-way shall be 60 feet.

- (L) Street Stubs

- (1) Street stubs (temporary dead ends without turn-around) are prohibited except where it is practical to require the dedication of the other half when the adjoining property is subdivided; in which case, the dedication of a street stub may be permitted.
- (2) The probable time that might elapse before the remainder is dedicated will be considered in this decision.
- (3) In no case shall a street stub exceed 660 feet in length.
- (4) Temporary construction may be required to allow for vehicular turn-around.

#### 10.11.3 Blocks

- (A) The length, width, and acreage of blocks shall be sufficient to provide for convenient access, circulation, control, and safety of street design.
- (B) Blocks designed to be longer than 1300 feet or shorter than 300 feet must be approved by the Department of Development Director and County Engineer.

- (C) Exceptions may be warranted for the purpose of fostering design originality, provided such exceptions do not violate sound planning principles.
- (D) Pedestrian ways may be required on blocks longer than 900 feet or in other areas to provide access to schools, parks, and similar destinations. Pedestrian ways shall be at least 10 feet wide and shall be located so as to minimize intersections with streets.

#### 10.11.4 Lots

(A) Size:

- (1) Lot dimensions shall comply with minimum lot areas as specified in the zoning district.
- (2) Lots designed as a part of an approved Interim Use Permit for a second dwelling shall be allowed to subdivide the approved design per current subdivision standards.

(B) Side Lot Lines:

Side lines of lots shall be substantially at right angles to straight, radial, or curved street lines.

(C) Natural Features:

- (1) When subdividing land, due regard shall be shown for trees, wetlands, steep slopes, water courses, historic natural features, or similar conditions.
- (2) Plans shall be adjusted to preserve those items which will add safety, stability, and attractiveness to the proposed development.

(D) Drainage

Lots shall be graded to provide drainage away from buildings.

(E) Outlots

- (1) 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 unusable parcels unless the owner can show plans for

the future use of such remnants wherein they shall be platted as outlots.

(2) Outlots shall be set aside solely for non-building purposes.

(a) No Benton County Land Use Permits shall be issued for structures on outlots.

(b) Outlots may be eliminated through re-subdivision approved by the County.

(F) Through Lots

(1) Through lots (lots with frontage on 2 parallel streets) and lots with reverse frontage are not permitted, except, where such lots back on an arterial or collector street.

(2) In which case, such lots shall have an additional depth of at least 10 feet to allow for screen planting along the back lot line.

#### 10.11.5 Sewage Treatment

(A) Any proposed plat that includes 7 or more lots in the R-2, R-3 or R-S District may be required by the County to install a centralized sewer, installed at the developers own cost. A centralized sewer may be appropriate for smaller lots, when the expansion of municipal services is expected in the next 10 years or for other reasons deemed appropriate by the County.

(B) Per subsection 7.14.8.(F)(4) and Minn. R. 6120.3800, as may be amended; Multiple Unit Developments (MUD) in Shoreland Districts shall require a central sewer system meeting the requirements of Section 9.22.

(Ord. #398, adopted 05/08/06)

#### 10.11.6 Tree Removal and Conservation of Vegetation

All subdivisions shall be planned, designed, constructed, and maintained so existing healthy trees and native vegetation are preserved to the maximum extent feasible; including adequate protection during construction.

#### 10.11.7 Drainage, Erosion and Sediment Control

The following guidelines shall be applied in the subdivision and construction of land areas that are expected to disturb 1 acre or more. In addition, Minnesota Pollution Control Agency requirements shall be adhered to (Section 7.14 may also apply):

- (A) Development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.
- (B) A storm water management plan for the construction and completed phases shall be developed and implemented for the project. All plans shall be developed and implemented in accordance with all guidelines, specifications, or recommendations in the guidance document, Protecting Water Quality In Urban Areas: Best Management Practices for Minnesota, published by the Minnesota Pollution Control Agency, Division of Water Quality.
- (C) Storm water shall be treated before being discharged to water bodies, streams, ponds, wetlands, ditch systems, water courses, flood plains, agricultural drainage systems or other natural or man-made water bodies or conveyances. A detention pond, infiltration/filtration basin, or infiltration/filtration trench shall be used for storm water treatment. For treatment of storm water from 5 residential units or less, the developer may use filter strips or vegetated swales to treat storm water, if permitted by the Benton County Engineer or the appropriate MS4 authority.
  - (1) All storm water treatment methods must be constructed in accordance with all specifications, guidelines, or recommendations in the guidance document: Protecting Water Quality In Urban Areas: Best Management Practices in Minnesota, published by the Minnesota Pollution Control Agency, Water Quality Division.
- (D) No existing ditch, stream, drain or drainage canal shall be deepened, widened, rerouted, or filled unless permitted by applicable Minnesota Statutes or Rules.
- (E) When topsoil is removed, exposure shall be for the shortest reasonable period of time.
  - (1) Sufficient topsoil shall be set aside for respreading over the developed area.

- (2) The soil shall be restored to a depth of at least 4 inches and shall be equal to or better than the quality of the soil prior to development.
- (F) Land shall be developed in increments of workable size so that adequate erosion and siltation controls can be provided as construction progresses. As a general requirement, the smallest practical area of land shall be exposed to the elements at any one period of time.

#### 10.11.8 Easements

- (A) All easements shall be dedicated by appropriate language on the plat as required by Minn. Stat. § 505.02, subd. 2, as may be amended.
- (B) All easements required for public purposes shall be provided at locations approved by the governing body. Said easements may be for utilities, drainage, flood plain protection, lakeshore access, walking trails, etc. All easements, other than utility and drainage easements, must be transferred and recorded at the office of the County Recorder prior to final plat approval. At the discretion of the Department of Development Director, there may be circumstances that warrant recording of such documents after the final plat is recorded. Such documents would be required to be submitted in conjunction with the final plat for recording. No final plat shall be approved that may for any reason be detrimental to local, county, or regional utility plans.
- (C) 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.
- (D) Utilities
  - (1) Easements at least 10 feet wide where utilities may be reasonably anticipated. If necessary, the Planning Commission or County Board may require easements of greater width.
  - (2) Easements shall have continuity of alignment from block to block.
- (E) Drainage:
  - (1) Easements shall be provided along each side of the centerline of any water course or drainage channel to a width sufficient to



provide proper maintenance and protection, and to provide for storm water runoff.

- (2) Where necessary, drainage easements corresponding with lot lines shall be provided.
- (3) When Drainage and Utility Easements run together, they shall be designate as Drainage and Utility Easements.
- (4) At a minimum, a 10 foot Drainage and Utility Easement shall be provided adjacent to road right-of-way. The County Engineer may allow for a lesser width on a case-by-case basis. (Ord. #483, adopted 02/15/22)

## **10.12 Improvements Required**

### **10.12.1 Improvements Listed and Described**

- (A) Improvements shall be required to be installed by the developer unless otherwise specified by the County and in accordance with Section 10.13, to prevent burdening the public with the costs of a private development.
- (B) If improvements are required, installation of those improvements shall be made a condition of approval of the preliminary plat.
  - (1) All improvements will need to be installed to the satisfaction of the County or appropriate jurisdiction or an Improvement Installation Agreement by and between the County and the developer and property owner executed prior to approval of the final plat.
  - (2) 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 or the engineer of the appropriate road authority, and in conformity with all applicable standards and ordinances, any specified improvements on the site:
    - (a) **Monuments**

Plat monuments shall be placed in accordance with Minn. Stat. § 505.021, as may be amended.
    - (b) **Streets**

The right-of-way dedicated in the plat shall be in compliance with standards set forth in subsection 10.11.2 and 10.11.7. The right-of-way shall be improved to include a roadway surface and drainage system in accordance with the standards specified by the appropriate road authority.

(c) Paving

- (i) The Planning Commission may, at its discretion, and with consultation with the County Engineer, require that private streets and alleys, and roads under the County's authority, be improved with a concrete or bituminous surface.
- (ii) Paving shall be required if central sewer and water services are provided.
  - a. If central sewer and water services will not be provided for 10 or more years, paving may be required.
  - b. If central sewer and water services are to be required within 10 years, paving may not be required until after the central sewer and water services are installed.
  - c. The County may require a cash deposit to be used for paving the County streets after central sewer and water services are provided. Streets to be paved shall be surfaced for 7 ton axle weight capacity.
  - d. Township roads are subject to township road construction standards.

(d) Concrete Curb and Gutter

Concrete curb and gutter may be required for private paved streets and roads under the County's authority.

(e) Street Lighting

Lighting of a type approved by the appropriate road authority may be required at all intersections within the subdivision.

(f) Sewer Mains and Service Connections

- (i) The County may require that sanitary sewer mains and service connections be installed to serve all lots within the subdivision, and that such mains be connected to a public sewer system when available.
- (ii) If a subdivision cannot be connected immediately to a trunk line of a public system but, in the opinion of the County Board and County Engineer, a trunk line will be extended to serve the area within 5 years through a public 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.
- (iii) In areas not served by a sanitary sewer system, individual sewage treatment systems shall be provided for each lot.
  - a. Individual sewage treatment systems shall be so located as to permit easy and the least expensive connection to the sewer when it becomes available and usable.
  - b. Where individual sewage treatment systems are installed, the subdivider shall provide underground plumbing extending 3 feet beyond the footing and shall be temporarily plugged.
  - c. The area around the stack shall be scored so the septic tank line can be disconnected and connection can be made with the public sanitary sewer system.
  - d. When an individual sewage treatment system is used and the septic tank is placed on a side other than where the public sewer would

connect, it is required that a capped sewage disposal line extend from the point of ground entrance at the basement or house to a point 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.

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

- (g) Drainage

Drainage systems are required and must comply with subsections 10.11.7 and 10.11.8.

- (h) Street Signs

Street signs of standard design approved by the appropriate road authority shall be installed at each street intersection.

- (i) Public Utilities

Whenever possible, utilities should be buried.

- (j) Public Ways dedicated by plat

- (i) Public ways dedicated by plat are the jurisdiction of the township unless otherwise identified on the plat. The developer/landowner must provide a statement from the township with road authority that states the township will open and maintain the dedicated public way.

## 10.12.2 Park Land Dedication

(Ord. #373, adopted 02/17/04)

- (A) All residential plats, with the exception of simple plats, including plats associated with planned unit developments, shall be subject to the park dedication requirements of this section. In all new subdivision plats, up to

10 percent of the gross area shall be set aside and dedicated by fee title or easement to Benton County for public recreation space.

(B) Definitions

The following terms, as used in this Ordinance, shall have the following meaning:

- (1) Gross Area: Gross area shall include all land in the proposed subdivisions, including, but not limited to land designated as outlots, roads and rights of way, drainage and utility easement, and designated wetlands.
- (2) Public Recreation Space: An area dedicated to the public for recreational purposes and transferred by recorded deed to the County of Benton. Public recreation space shall not include those areas dedicated for streets, rights of way, easements, wetland preservation, drainage ponds and other non-recreational purposes.
- (3) Median Undeveloped Lot Value: The estimated median market value, as calculated by the County Assessor, of lots within the subdivision, immediately after final plat approval.

(C) Dedication Determination Procedure

The amount and location of lands to be dedicated shall be determined in the following manner:

- (1) Prior to the public hearing on the preliminary plat, the Department of Development shall review the plat and formulate a written recommendation that will be forwarded to the Board of Commissioners if there is potential park land or trail easement that meets the criteria established below.
- (2) The amount and location of lands to be donated for park purposes shall be consistent with the standards set forth in Minn. Stat. § 394.25, subd. 7, as may be amended.
- (3) The determination shall be made by the County Board at a regular meeting prior to the public hearing on the preliminary plat.

- (4) In lieu of land dedication, the Board and Department of Development Director may require a financial contribution pursuant to subsection 10.12.2(G).
- (D) Lands to be dedicated to Benton County as public recreational space shall meet at least one of the following criteria:
  - (1) The land is adjacent to existing public land used for recreational purposes consistent with the County's recreational needs.
  - (2) The land would extend an existing or proposed trail system.
  - (3) The land is of sufficient size and appropriate nature to maintain a recreational area.
  - (4) The soils should be suitable for construction of active recreation facilities (picnic shelters, playground equipment, etc.).
  - (5) The proposed park should be located in an area that is readily accessible by the road system, can support adequate park space, and can serve both the subdivision and other county citizens using the park system.
  - (6) Provide an opportunity for habitat restoration to support a natural resource based park system.
- (E) In addition to the above criteria, land dedicated shall as much as possible extend and protect sensitive areas, including but not limited to: historically significant sites, environmentally sensitive areas, or unique natural resources or features. The land dedicated shall minimize the number of small, fragmented parks in the County.
- (F) The County Board shall refuse any proposed park land dedication that fails to meet the above criteria.
- (G) The County Board may in its discretion, accept a per lot cash fee in lieu of land, or accept a combination of cash and land contributions. The fee may be up to 10 percent of the median undeveloped lot value, as of the date of final plat approval, as determined by the Benton County Assessor. At a minimum, the fee shall be in accordance with the most current Benton County Fee Schedule.

- (H) At the time of final plat approval, the developer shall remit all dedication fees required by the Board of Commissioners.
- (I) At least 75 percent of the funds obtained by the County pursuant to this section must be used for the acquisition or development of parks and trails in the Township or city where collected, unless the township board or city council agrees to allow the County to use the funds outside their township or city in a manner consistent with the Comprehensive Plan. The remaining funds may only be used by the County for trail connectivity and accessibility purposes. The County will report annually to cities and townships where funds were collected and expended in the past year.  
(Ord. #407, adopted 11/14/06)

## **10.13        Payment for Installation of Improvements**

### **10.13.1      Generally**

- (A) 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 provisions for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the County.
- (B) 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 provisions for causing a portion of the cost of the improvement representing the benefit of such lands to be assessed against the same; 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.

### **10.13.2      Required Improvements Agreement**

- (A) Prior to the installation of any required improvements by the County and prior to the 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 the subdivider's sole cost in accordance

with the plans and specifications and usual contract conditions all approved by the County Board, which shall include provisions for the supervision of details of construction by the Department of Development Director, and grant to the Department of Development Director the authority to correlate the work to be done under said contract by any subcontractor authorized to proceed there under, and with any other work being done or contracted by the County in the vicinity. This agreement will require the subdivider to provide a financial guarantee; in the form of an escrow deposit, a letter of credit, or a performance bond. If specific terms and/or conditions are required by the county, such terms and/or conditions shall be attached to this guarantee instrument.

- (B) If the required improvements are not completed within the time specified, all amounts held under the guarantee instrument shall be turned over to the County and will be applied to the cost of providing the improvements. Any balance remaining after the installation of said improvements shall be returned to the owner or subdivider.

#### 10.13.3 Financial Guarantee

The contract shall require the subdivider to furnish a financial guarantee in one of the following forms:

- (A) An escrow deposit shall be made with the County, guaranteeing that all improvements required under subsection 10.12.1 shall be constructed as provided in the Improvements Agreement.
  - (1) The amount of the deposit shall be equal to 1-1/4 times the total cost of all improvements that have not been constructed prior to the approval of the final plat, plus the costs of inspections by the County, as determined by the Department of Development Director.
  - (2) The County shall be entitled to reimburse itself out of said deposit for any costs and expenses incurred to complete such work in case of default by the subdivider under the Improvements Agreement, and for any damages sustained by the County on account of any breach thereof.
  - (3) Upon completion of the work and termination of any liabilities of the County or the subdivider under said agreement, the balance



remaining of said deposit, plus any and all accrued interest, shall be refunded to the subdivider.

(B) Performance Bond, Irrevocable Letter of Credit or Escrow Agreement:

- (1) 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, or an irrevocable letter of credit, with corporate surety in a penal sum equal to 1-1/4 times the total cost of improvements, as estimated by the Department of Development Director, 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.
- (2) The bond, letter of credit, or escrow agreement shall be approved by the County Attorney and filed with the Auditor.
- (3) The bond, letter of credit, or escrow agreement shall incorporate by reference the terms of the agreement entered into pursuant to subsection 10.12.1.

- (C) Any financial surety arrangement shall be approved by the County Attorney's Office as to form and issuing bank. The issuing bank must be an FDIC insured bank. The issuing bank must be available in its entirety to fulfill the obligations of Developer under the Agreement. Any letter of credit to the County shall contain language requiring its automatic renewal prior to December 31 of each calendar year, unless cancellation of the letter of credit is specifically approved in writing by the County.

10.13.4 Construction Plans

- (A) Construction plans for the required County improvements, conforming in all respects to County standards and the applicable ordinances, shall be prepared at the subdivider's expense by a professional engineer registered in the State of Minnesota; said plans shall contain the engineer's seal.
- (B) The plans, together with a list of construction materials, shall be submitted to the County Engineer for approval.

- (C) Tracings of the plans approved by the County, plus 2 prints, shall be filed with the Department of Development Director.

#### 10.13.5 Final Plat

- (A) The owners or subdividers shall file 1 paper copy and 1 PDF copy of the final plat with the Department of Development Director. If this is not done within 1 year of preliminary plat approval, the preliminary plat shall be considered void unless extension is requested as a part of a phased development. (Ord. #373, adopted 02/17/04)
- (B) The final plat shall have incorporated all changes recommended by the Department of Development Director, the County Engineer, the County Planning Commission, County Surveyor, County Attorney 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 portion conforms with all requirements of this Ordinance.
- (C) At the time of submission of the final plat, the subdivider or owner shall prepare a map indicating all existing and proposed permanent easements and private roads.
- (D) Title Examination
  - (1) At the time of submission of the final plat, the applicant shall also submit 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 an updated abstract for abstract property, 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 30 days of submission of the final plat to the Department of Development.
  - (2) In the alternative, a title commitment will be accepted if it includes the following items:
    - (a) Review of property ownership for a 40 year period from the date of the title commitment and the last transfer of ownership before the commencement of that 40 year period;

- (b) All easements, encumbrances, right of way identified back to the original grant of land;
  - (c) Evaluation of the adjoining properties to identify any potential gap, overlap or quiet title matters; and,
  - (d) Identification of any issue that may be a cloud on the title.
  - (e) A statement must be included in the title commitment that states that a-d has been provided.
- (3) If documents are recorded that impact the subject property after the title opinion and abstract, or title commitment as identified in subsection 10.13.5(D)(2) are submitted to the County, then the title opinion and abstract or title commitment will need to be updated prior to approval of the final plat and signature of the County Attorney's Office.

(Ord. #422, adopted 02/19/08)

(E) Public Hearing Process for Final Plats

- (1) For a Minor Subdivision Plat the Department of Development Director shall submit the required documents and approval by the Planning Commission to the County Board within 30 days of the date of submission of the final plat and the County Board shall act on the final plat within 60 days of submission of the plat.
- (2) If a Minor Subdivision Final Plat incorporates all of the following it shall be exempt from the public hearing process for the final plat approval:
  - (a) All changes recommended by the Department of Development Director, the County Engineer regarding roads, the County Planning Commission, County Surveyor, County Attorney 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, and
  - (b) Consist of 2 or fewer lots in the R-1, R-2, R-3, R-S, B-1, B-2, I-1, I-2 Districts or 2 or fewer lots in the A or R-A Districts, and

- (c) Does not require the construction and/or improvement of a public road or public sewer,  
  
(Ord. #451, adopted 05/21/13)
- (3) For a Major Subdivision Plat the Department of Development Director shall refer the final plat to the Planning Commission for its review and report. The report by these agencies and persons shall be submitted to the County Board within 30 days of the date of submission of the final plat and the County Board shall act on the final plat within 60 days of submission of the plat.
- (F) Upon approval of the final plat by the County Board, the subdivider shall record the plat with the County Recorder as provided for by that office within year of the approval unless there are changes in statutes or ordinances affecting the plat.
  - (1) The County Board may grant an extension to recording the final plat approval subject to a request by the developer being submitted prior to the 1 year deadline.
  - (2) Otherwise, the approval of the final plat shall be considered void.
  - (3) The subdivider shall, within 30 days of submittal for recording, furnish the County with an updated abstract, 2 black line prints and a reproducible print of the final plat showing evidence of the recording.
  - (4) 1 print shall be labeled with "OFFICIAL PLAT" and all other prints shall be labeled with "copy." (Ord. #398, adopted 05/08/06)

## **10.14      Data for Final Plat**

### **10.14.1      General**

- (A) 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 Statutes and this Ordinance.
- (B) As required by Minn. Stat. § 505.021, subd. 11, as may be amended, all plats prepared for recording in accordance with this section are subject to approval by the county surveyor in accordance with Minn. Stat. § 389.09,

subd. 1, as may be amended, and/or as authorized by their respective county board of commissioners.

#### 10.14.2 Certifications

(A) Form for approval by signature of individuals and officials concerned with the recording of the plat.

- (1) The owner or subdivider shown in the title examination 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.
- (2) 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 accommodate utility services in such form as shall be approved by the County Attorney.

(Ord. #398, adopted 05/08/06) (Ord. #410, adopted 04/17/07)

(B) Signature blocks shall be provided in accordance with the Manual of Guidelines for Platting in Minnesota, as amended from time to time, for the following:

- (1) All owners of any interest in the land
- (2) Mortgage holders must either submit consent to plat or sign the plat
- (3) Land Surveyor
- (4) Township
- (5) Board of Commissioners
- (6) County Surveyor
- (7) County Engineer (required as shown below)
- (8) County Attorney (required as shown below)
- (9) County Auditor/Treasurer

- (10) County Recorder
- (11) Registrar of Titles, if property is in the Torrens System
- (C) Signature block templates:
  - (1) TEMPLATE – County Engineer:

This plat was recommended for approval this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed \_\_\_\_\_, County Engineer, Benton County, MN
  - (2) TEMPLATE – County Attorney

I hereby approve this plat as to form and execution. Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed \_\_\_\_\_, County Attorney, Benton County, MN

## **10.15 Modifications, Exceptions, and Variances**

### **10.15.1 Variances**

- (A) In any particular case where the subdivider can show by reason of exceptional topography, or any other physical condition, that strict compliance with the requirements of the development code would cause exceptional and undue hardship, the Planning Commission may recommend variations from the requirements of this Ordinance and refer the matter to the Board of Adjustment.
- (B) Any modifications thus recommended shall be entered in the minutes of the Planning Commission, as shall the reasons which justify the modifications.

**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 applications for conditional use permits, and forward to the county planning commission and the county board applications for 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.

#### 11.2.2 County Recorder

- (A) The County Recorder shall provide to the Department of Development Director, within 30 days of the date of filing, copies of all instruments filed with the Recorder which convey real estate.
- (B) The Department of Development Director shall review all conveyances to determine their compliance with the Development Code.

### 11.3 **Planning Commission**

#### 11.3.1 There is hereby created the Benton County Planning Commission.

#### 11.3.2 Membership

- (A) The Planning Commission shall be composed of 8 voting members, 1 of whom may be a member of the Benton County Board of Commissioners. Each member shall be appointed by the County Board.
- (B) There shall be 1 member that resides in Commissioner District 5; 1 member that resides in Commissioner District 4; 1 member that resides in Commissioner District 3; 2 members that reside in Commissioner District 2; and 2 members that reside in Commissioner District 1; and, 1 member from the county at large if a Benton County Commissioner chooses not to serve on the Planning Commission. If there is not a resident of a Commissioner District willing to serve on the Planning Commission, then a resident of Benton County that does not live in the Commissioner District may be appointed to serve on the Planning Commission.
- (C) Each County Commissioner shall recommend a nominee for Planning Commissioner membership.

#### 11.3.3 Term of Office

- (A) Commission members shall serve 3-year staggered terms.
- (B) Members may serve a maximum of 3 consecutive 3-year terms.
- (C) 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:

- (A) The Department of Development Staff.
- (B) A member of the Soil and Water Conservation District staff.

#### 11.3.5 Removal

- (A) Any member of the planning commission may be removed from the commission by majority vote of the County Board for failing to attend 3 consecutive meetings or 5 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.
- (B) Before removal, such commission member shall be given written notice by the County Board, and an opportunity to be heard by the County Board.
- (C) 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 from among its members.

#### 11.3.8 Conflict of Interest

- (A) 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.
- (B) 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

- (A) 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, interim 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 make the final decision to approve or deny all conditional use permits, interim use permits, and order the issuance thereof.
  - (4) To review and report to the County Board on plans for subdivision of land.
- (B) Separate written findings of fact shall be made by the planning commission for each conditional use and interim use permit granted or denied.

#### 11.3.10 Compensation

- (A) 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.
- (B) 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 5 members representing each of the 5 commissioner districts and shall be appointed by the Board of County Commissioners.

- (A) The 5 members shall reside in the respective Commissioner District he or she represents.
- (B) At least 1 member shall be a resident of the unincorporated portion of the county.
- (C) 1 member of the Board of Adjustment shall also be a voting member of the planning commission.
- (D) No elected county officer, nor any employee of the county, shall serve as a member of the Board of Adjustment.
- (E) If there is not a resident of a Commissioner District willing to serve on the Board of Adjustment, then a resident of Benton County that does not live in the Commissioner District may be appointed to serve on 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 3 year terms.

- (A) The terms of office shall be staggered terms.
- (B) On the first Board of Adjustment, except for the representative of the Planning Commission, 2 members shall serve for 3 years, 1 member shall serve for 2 years, and 1 member shall serve a 1 year term.
- (C) 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 1 year term.
- (D) The members shall serve until their successors are appointed and have qualified for the office.
- (E) The members shall be appointed at the January meeting of the Board of Commissioners, or as soon thereafter as practicable.
- (F) 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.

- (G) Members may serve a maximum of 3 consecutive 3-year terms.
- (H) The County Board of Commissioners shall fill vacancies with new members who shall serve for the unexpired terms.
- (I) 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.

- (A) 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.
- (B) 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.

- (A) 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.
- (B) The appeal shall be taken by filing written notice thereof with the Department of Development Director not more than 30 days after the order, requirement, decision or determination appealed from.
- (C) The notice of appeal shall be in writing and shall specify the grounds thereof.
- (D) The filing fee established by the County Board shall be paid to the Department of Development Director 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 Benton County Department of Development by filing such application and paying the filing fee with the Benton County Department of Development. 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.
- (A) The order issued by the Board of Adjustment shall include the legal description of the property involved.
- (B) The Department of Development Director shall be responsible for meeting the requirements of this subdivision.
- 11.4.10 The Department of Development Director 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.
- 11.4.11 The Board of Adjustment shall have such other powers and duties as are assigned to it by law.
- 11.4.12 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**

- (A) The proposed use is not prohibited in the zoning district in which the subject property is located.
- (B) The variance must be in harmony with the general purposes and intent of this Ordinance.
- (C) The terms of the variance must be consistent with the comprehensive plan.

- (D) The landowner must show that the variance is necessary to alleviate the practical difficulties in complying with the official control.

"Practical Difficulty" as used in connection with the granting of a variance means:

- (1) The property owner proposes to use the property in a reasonable manner not permitted by an official control;
- (2) The plight of the landowner is due to circumstances unique to the property, not created by the landowner;
- (3) The variance, if granted, will not alter the essential character of the locality;
- (4) The need for the variance involves more than economic considerations.

#### 11.5.2 Procedure

- (A) The person applying for a variance shall fill out and submit to the Department of Development a variance application which shall include a statement of the difficulties or particular hardships claimed, along with the filing fee.
- (B) The Department of Development shall refer the application to the Board of Adjustment for review.
- (C) The Board of Adjustment shall hold a public hearing on the proposal in accordance with Minn. Stat. §15.99, as may be amended. Notice of the time, place and purpose of the public hearing shall be as provided by Minn. Stat. §394.26, as may be amended.
- (D) The petitioner or his representative shall appear before the Board of Adjustment in order to present evidence concerning the proposed variance.
- (E) The Board of Adjustment may impose conditions on the granting of variances to insure compliance and to protect adjacent properties and the public interest.
- (F) No resubmission of application for 6 months will be allowed without new evidence.

- (G) Granted variances become void if applicant does not proceed substantially on the work 1 year. To proceed substantially means to make visible improvement to the property and to have had applied to the property at least 40 percent of the man hours which it is reasonably estimated will be necessary for completion of the project. 1 or more extensions of not more than 6 months each may be granted by the Board of Adjustment for good cause.
- (H) Applications for variances will not be accepted from anyone who is not an owner of land for which the application is made.

## **11.6 Conditional Use Permits**

### **11.6.1 Criteria for Granting Conditional Use Permits**

- (A) 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 and water bodies.
- (B) Among other things, the Planning Commission shall make the following findings where applicable:
  - (1) Will the use 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) Is the use 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) Does the structure and site have an appearance that will not have an adverse effect upon adjacent properties?
  - (4) Is the use, in the opinion of the Planning Commission, reasonably related to the existing land use?
  - (5) Is the use 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) Is the use in conflict with the Land Use Plan of the county?

- (7) Will the use cause traffic hazards or congestion?
- (8) Will the use violate the wetland provisions of Minn. Stat. Ch. 103G, as may be amended?

#### 11.6.2 Conditions

- (A) 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.
- (B) 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.
- (C) 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 Department of Development Director 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.

#### 11.6.3 Procedure



- (A) Applications for conditional use permits will not be accepted from anyone who is not an owner of land for which the application is made.
- (B) The person applying for a conditional use permit shall fill out and submit to the Benton County Department of Development a conditional use application form and filing fee.
- (C) The Department of Development Director shall refer the application to the Planning Commission for review.
- (D) The Planning Commission shall hold a public hearing on the proposal within 90 days of the submission of an application to the Planning and Zoning Office. Notice of the public hearing shall be as provided by Minn. Stat. §394.26, as may be amended. (Ord. #247, adopted 12/20/94)
- (E) The petitioner or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use.
- (F) 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.
- (G) 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.
- (H) No application for a conditional use permit shall be resubmitted for a period of 6 months from the date of said order of denial.
- (I) 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 10 days prior to review; it shall be the responsibility of the Department of Development Director 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.

- (J) Granted conditional use permits shall become void if applicant does not proceed substantially on the work within 1 year of the date the permit is granted. To proceed substantially means to make visible improvement to the property and to have had applied to the property at least 40 percent of the man hours which it is reasonably estimated will be necessary for completion of the project. 1 extension of not more than 1 year may be granted by the Planning Commission at their discretion.
- (K) If the land use does not conform to the conditions of the permit, the conditional use permit may be revoked.

## **11.7 Interim Uses**

### **11.7.1 Criteria for Interim Use**

- (A) No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:
  - (1) The interim use conforms to the zoning regulations of the County.
  - (2) There will be no additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future.
  - (3) The interim 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.
  - (4) The interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
  - (5) The interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
  - (6) The interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district.
  - (7) The interim use is consistent with the Comprehensive Plan of the County.

- (8) The interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.
- (9) The interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including that adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance.

#### 11.7.2 Conditions

- (A) The use shall be limited to a specific time or event as identified by the Planning Commission.
- (B) Any interim use may be terminated by a change in zoning regulations.
- (C) As a condition of approval of the IUP, the Planning Commission may require an additional annual inspection fee as adopted by the Board.
- (D) Any use permitted under the terms of any Interim Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith. If the applicant does not abide by the conditions set forth in the permit, the County has the right to either revoke the permit or hold another hearing to investigate and set additional conditions.

#### 11.7.3 Termination

- (A) An Interim Use shall terminate on the happening of any of the following events, whichever comes first:
  - (1) The date or event stated in the permit.
  - (2) Upon violation of conditions under which the permit was issued.
  - (3) Upon change in the County's zoning regulations where the use no longer permitted.
  - (4) The IUP shall expire if the approved use is inactive for 1 year or longer as determined by the Department of Development and/or tax records indicating the use was inactive.

- (5) Granted IUPs shall become void if the applicant does not proceed substantially on the work within 1 year of the date the permit is granted. To proceed substantially means to make visible improvement to the property and to have had applied to the property at least 40 percent of the man hours which it is reasonably estimated will be necessary for completion of the project. 1 extension of not more than 1 year may be granted by the Planning Commission at their discretion.

#### 11.7.4 Process of Approval

- (A) A complete IUP application shall comply with the criteria below:

- (1) An application for an Interim Use Permit shall be filed with the Department of Development on a form prescribed by the Department. The applicant shall provide the following written information in order for an IUP application to be complete:
  - (a) A complete IUP application form signed and dated by the applicant and property owner(s) and pay all applicable fees.
  - (b) Written description of the proposed activities.
  - (c) Description of equipment and vehicles to be used for the activity.
  - (d) Days and hours of operation.
  - (e) Number of employees using the property, including sub-contractors (full-time and part-time).
  - (f) Site plan, including:
    - (i) A survey, aerial photograph or site plan showing all existing and proposed buildings, well, septic system (or other restroom facilities), outside storage area(s), and driveway access(s).
    - (ii) Existing and proposed screening.
  - (g) A Certificate of Septic Compliance in shoreland or a compliance inspection if in non-shoreland.

- (h) Written description of any maintenance to take place on-site, including how hazardous materials will be stored and disposed of.
  - (i) Any additional information required by the Department of Development specific to the IUP request.
- (2) Complete applications shall be reviewed by the Benton County Department of Development in accordance with Minn. Stat. § 15.99, as may be amended.
- (3) The petitioner or their representative shall appear before the Planning Commission in order to present evidence concerning the proposed interim use.
- (4) After a public hearing has been held, the Planning Commission shall approve, deny, or continue an IUP request, with written findings in support of their decision.
- (5) An amended interim use permit application shall be administered in a manner similar to that required for a new interim use permit. The fee shall be as set by separate action of the County Board. Amended interim use permits may include requests for changes in conditions and as otherwise described in this Ordinance.
- (6) No application for an interim use permit shall be resubmitted for a period of 6 months from the date of said order of denial.
- (7) If a time limit or period review is included as a condition by which an interim use permit is granted, the interim use permit may be reviewed at a public hearing with notice of said hearing published at least 10 days prior to review; it shall be the responsibility of the Department of Development to schedule such public hearings. A public hearing for annual review of interim use permits may be granted at the discretion of the Benton County Planning Commission.
- (8) Any use permitted under the terms of any Interim Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith. If the applicant does not abide by the conditions set forth in the

permit, the County has the right to either revoke the permit or hold another hearing to investigate and set additional conditions.

- (9) The applicant shall pay all IUP and recording fees as determined by the County Board. As a condition of approval of the IUP, the Planning Commission may require an additional annual inspection fee as adopted by the County Board. The annual inspection fee shall cover the cost of County Staff or their agent to inspect the property as required within the IUP's conditions of approval.
- (10) Granted interim use permits shall become void if applicant does not proceed substantially on the work within 1 year of the date the permit is granted. To proceed substantially means to make visible improvement to the property and to have had applied to the property at least 40 percent of the man hours which it is reasonably estimated will be necessary for completion of the project. 1 extension of not more than 1 year may be granted by the Planning Commission at their discretion.

## **11.8 Land Use Permits**

- 11.8.1 Each application for a land use permit 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.
  - (A) The application for land use permit shall contain such other information as may be deemed necessary by the Department of Development Director for the proper enforcement of the ordinance.
  - (B) The Department of Development Director shall issue the land use permit only after determining that the application complies with the terms of this Ordinance.
- 11.8.2 No land use 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.
- 11.8.3 The Department of Development Director 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.

- 11.8.4 The work for which a land use permit is issued shall commence within 1 year after the date thereof. The work shall be completed within 1 year unless an application for an extension has been submitted to and approved by the Department of Development Director.

## **11.9 Zoning Amendments**

### **11.9.1 Procedure**

- (A) 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 Department of Development Director with a filing fee.
- (B) Written notice of public hearings on proposed amendments shall be sent to the governing bodies of all towns and municipalities located within the county. Written notice of public hearings regarding the application of official controls to specific properties, including but not limited to conditional uses, variances, zoning regulations, and subdivision regulations, shall be sent to property owners as follows:
  - (1) In the case of variances, to owners of record within 500 feet of the affected property.
  - (2) In the case of conditional uses, to owners of record within one-quarter mile of the affected property or to the 10 properties nearest to the affected property, whichever would provide notice to the greatest number of owners.
  - (3) In the case of all other official controls, including but not limited to zoning regulations and subdivision regulations, to owners of record within one-half mile of the affected property.
  - (4) Written notice shall also be given to the affected board of town supervisors, and the municipal council of any municipality within 2 miles of the affected property.

- (C) Public hearings on the rezoning application shall be held by the Planning Commission and the County Board within 60 days after the request for the zoning amendment has been received or as allowed by law.
  - (1) Notice of said hearings shall be published in the official newspaper designated by the County Board at least 10 days prior to the hearing.
  - (2) The Planning Commission shall recommend to the County Board to approve, deny, or approve of a modified version of the proposed amendment. The County Board shall consider the recommendation of the Planning Commission at the next regular meeting of the Benton County Board following the Planning Commission's public hearing. The County Board shall approve, deny, or approve a modified version of the proposed amendment.
- (D) 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 1-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.
- (E) Applications for rezoning will not be accepted from anyone who is not an owner of land for which the application is made.

## **11.10 Fees**

- 11.10.1 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 Department of Development Director 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.
- 11.10.2 Any person doing any work or instituting any action requiring a variance, a permit or license under the terms of this Development Code which was commenced before the permit or license was granted shall be in violation of the Development Code and shall pay an additional fee as set by a separate action of the County Board.



- 11.10.3 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.
- 11.10.4 Municipal corporations and governmental agencies shall be exempt from the fee requirements as prescribed by this Ordinance.
- 11.11 Violations and Penalties**
- 11.11.1 Violations of this Ordinance, including violations of conditions established in connection with the grants of variances, conditional use permits and land use permits, shall be a misdemeanor. Each day that the violation is permitted to exist shall constitute a separate offense.
- 11.11.2 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.
- 11.11.3 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**

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

- 12.1.1 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.
- 12.1.2 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 Appendices**

- 12.2.1 The appendices to this Ordinance are intended to be a list of small tracts of land classified for land use by separate ordinances. Said tracts are too small to appear separately on the county land use map, but have been described by metes and bounds description.
- 12.2.2 The following ordinances are hereby incorporated into and made a part of the designated appendices of this Ordinance:

Ordinance Number	Appendix
102	I
115	I
119	I
121	I
122	I
126	I
132	I
137	I
139	I
140	I
142	I
144	III
145	I
149	II
155	I

156	II
157	II
160	I
164	III
166	IV
169	I
173	III
175	II
182	IV

### 12.3 **Repealer**

12.3.1 The following ordinances are hereby repealed:

111, 113, 116, 117, 118, 124, 125, 127, 128, 129, 131, 134, 138, 141, Articles II-V of 143, 147, 148, 150, 152, 153, 154, 158, 159, 161, Articles II and III of 163, 165, 167, 172, 174, 176, 184, and 185.

12.3.2 Effect of Repealer

- (A) The repeal of any ordinance shall not affect any right accrued, any duty imposed, any penalty incurred, or any proceeding commenced, under or by virtue of the ordinance repealed.
- (B) Any criminal action, civil suit, action or proceeding pending to enforce any right or obligation under the authority of the ordinance repealed shall and may be proceeded with and concluded under the ordinances in existence when the suit, action or proceeding was instituted, notwithstanding the repeal of such ordinances; or the same may be proceeded with and concluded under the provisions of the new Ordinance.