

BENTON COUNTY, MINNESOTA

ORDINANCE NO. 1

An Ordinance to regulate uses of land on an interim basis to protect the public health, safety and general welfare as an emergency measure.

WHEREAS, the Board of Commissioners of Benton County, Minnesota, has heretofore resolved its intent to engage in county planning and zoning and has declared its intent to proceed under the County Planning Act, Minnesota Statutes Annotated, Sections 394.21 to 394.37, et seq., (as amended by Laws 1963, C 692; 1965, C 678) and

WHEREAS, the Benton County Board of Commissioners have heretofore appointed a planning advisory commission, composed of eleven members, who has recommended that the County Board of Commissioners adopt an interim zoning ordinance, and

WHEREAS, the county is conducting, or in good faith intends to conduct, studies and has held a hearing, for the purpose of considering a comprehensive plan and/or official controls for the County,

NOW, THEREFORE, the Board of Commissioners of the County of Benton, State of Minnesota, ordains:

SECTION 1. Purposes and Intent

This interim Ordinance is enacted for the following purposes: To promote and protect the public health, safety and general welfare of the County of Benton, and as an emergency measure to classify and regulate uses and related matters during the period of preparation and adoption of a comprehensive plan and/or official controls.

SECTION 2. Title

This Ordinance shall be known as the "Benton County Interim Zoning Ordinance."

### SECTION 3. Scope: Interpretation

#### Subdivision 1. Scope.

From and after the effective date of this Ordinance, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to or relocated, and every use within a building or use accessory thereto in the County of Benton, except incorporated cities and villages, shall be in conformity with the provisions of this Ordinance. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued or changed subject to the special regulations herein provided with respect to nonconforming properties or uses.

#### Subdivision 2. Interpretation.

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

### SECTION 4. Classification of Uses.

During this interim period of study (pursuant to Section 394.34, Chapter 394, M.S.A.), specific zoning districts have not yet been established. However, the County must have the opportunity to determine the impact each proposed use will have on nearby land.

For the purposes of this Ordinance, Benton County is hereby divided into two classes of uses, designated as follows:

1. Permitted Uses - Without special restriction.
2. Conditional Uses - With restrictions as determined in each case.

SECTION 5. Permitted Uses, Conditional Uses and Standards

Subdivision 1. Permitted Uses.

Within Benton County, no building or land shall be used except for one or more of the following permitted uses:

1. Agriculture, farming and truck gardening.
2. Single family dwellings.
3. Public administration buildings, police and fire stations and other public service buildings, except those customarily considered industrial in use.
4. Public educational institutions or private educational institutions having an equivalent curriculum.
5. Parks and recreational areas owned or operated by governmental agencies.
6. Churches.
7. Railroad rights-of-way, but not including railroad yards and railroad buildings.
8. Accessory uses customarily incidental to the principal use.

Subdivision 2. Conditional Uses.

Within Benton County, all uses except permitted uses shall be required to obtain a Conditional Use Permit as set forth in Section 6 and approved by the Board of County Commissioners.

SECTION 6. Conditional Use Permit

Subdivision 1. Application.

All uses other than permitted uses shall be required to obtain a Conditional Use Permit approved by the Board of County Commissioners. An application for a Conditional Use Permit shall be filed with the Secretary of the County Planning Advisory Commission on forms prescribed by said Commission. The application shall be accompanied by such building plans, site plans, maps, charts, permit fees and other materials as may be prescribed by the County Planning Advisory Commission.

Subdivision 2. Procedure.

1. Notification and Public Hearing.

Upon receipt of the application, permit fee, if any, and other prescribed materials, the County Planning Advisory Commission may in its discretion set a time and place for public hearing upon the application. Said public hearing shall be held before the County Planning Advisory Commission after ten (10) days public notice of said hearing. Publication of the proposed application in a newspaper within the county at least once shall constitute public notice. All property owners within Three Hundred (300) feet and municipalities within Two (2) miles (of the area included in the <sup>application</sup> ~~population~~) shall also be properly notified.

2. Approval, Disapproval.

The County Planning Commission shall make its decision upon the application and forward its recommendations to the Board of County Commissioners. In reporting its recommendations to the Board of County Commissioners, the County Planning Commission shall report its findings with respect thereto and all facts in connection therewith, and may designate conditions and require guarantee deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of County Commissioners shall make a decision upon the application for a Conditional Use Permit.

Subdivision 3. Findings.

The County Planning Commission shall not recommend the approval of a Conditional Use Permit unless it finds that the establishment, maintenance or conducting of the use for which a use permit is sought will not under the circumstances of the particular case be detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the area adjacent to such use, or to the public welfare, or injurious to property or improvements in the area adjacent to such use.

Subdivision 4. Compliance.

Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.

SECTION 7. Amendments

This Ordinance may be amended whenever the public necessity and convenience and the general welfare require such amendment.

SECTION 8. VIOLATIONS AND PENALTIES

Subdivision 1. Violations and Penalties.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists enforcement of any of the provisions of this Ordinance, shall, upon conviction, be fined not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Subdivision 2. Enforcing.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the County Attorney, upon direction of the County Board of Commissioners, may initiate any proper action or proceedings in the name of Benton County to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violations to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

SECTION 9. Validity

Subdivision 1. Validity.

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 10. Effective Dates

Subdivision 1. This Ordinance shall be effective immediately upon its passage, filing in the office of the Register of Deeds in and for Benton County, and publication in a newspaper within the county.

Subdivision 2. This Ordinance shall continue in effect until the Benton County Board of Commissioners has established its comprehensive plan, zoning ordinance and/or official controls, such time not to exceed one year from the effective date hereof, or as additionally renewed as allowed by law.

Approved by: BENTON COUNTY BOARD OF COUNTY COMMISSIONERS

Passed and approved this 26<sup>th</sup> day of July, 1966.

Leo J. Bawley  
Chairman

Attest: Augustine Achula Jr.  
Auditor

Recommended by: THE COUNTY PLANNING COMMISSION

Date: July 21, 1966

Jerome Lubbenius  
Vice Chairman