

ORDINANCE NUMBER 244

BENTON COUNTY, MINNESOTA

WHEREAS, the Benton County Planning Commission on its own motion instituted proceedings to amend Ordinance Number 185 (Benton County Development Code), and any other ordinance, if any, amending Ordinance Number 185, and

WHEREAS, on August 23, 1994, Notice of Public Hearings and Intent to Amend Benton County Development Code was published in the official newspaper and mailed to the governing bodies of all towns and municipalities located within Benton County; and

WHEREAS, on September 8, 1994, the planning commission held a public hearing thereon and recommended to the Benton County Board of Commissioners that said amendments be approved; and

WHEREAS, on September 20, 1994, the Board of County Commissioners held a public hearing thereon and approved the proposed amendments,

NOW, THEREFORE, THE BENTON COUNTY BOARD OF COMMISSIONERS ORDAINS:

That the current subdivision regulations contained in Sections 10.0 through 10.9 of the Development Code be deleted and replaced with the following text:

225101

OFFICE OF
BENTON COUNTY RECORDER
BENTON COUNTY, MN
CERTIFIED TO BE FILED
AND/OR RECORDED ON

SEP 20 3 37 PM '94

ALICE G. KRUGLINDER
COUNTY RECORDER

BY af DEPUTY

10.0.0 Subdivision Requirements

10.1.0 Purpose

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:

- (1) Encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction.
- (2) Maintain and enhance the built and natural environment.
- (3) Provide for the health and safety of residents by requiring necessary services; such as properly designed streets and adequate sewage and water service.
- (4) Place the cost of improvements upon those benefiting from their construction.
- (5) Secure the rights of the public with respect to public lands and waters.
- (6) Assist subdivision applicants with appropriate information and requirements to efficiently accomplish the applicant's purpose.
- (7) Assist applicants in the determination of compliance with local, state, and federal regulations.

10.1.1 Definitions

- A. For the purpose of this section, "applicant" means any person or business entity applying to subdivide land pursuant to this section.
- B. 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 five years from the date of the application.
- C. 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.

- D. Drainage Plan: An indication of surface water flow and water control systems, including the capacity of said systems.
- E. 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.
- F. 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.
- G. Storm Water: any water collected, directed or diverted, that puddles, flows, or ponds on the soil surface; from natural or man-made sources or conveyances.
- H. Treatment: the removal or reduction of pollutants, pathogens and sediments from storm water.
- I. 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.

10.2.0 Procedure

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

10.2.1 Pre-Application Meeting

Prior to the preparation of a preliminary plat, the subdividers or owners shall meet with the Benton County Planning & Zoning Administrator and staff in order to be made aware of all applicable ordinances, statutes, regulations, regulators, and procedures. At this time or at subsequent meetings, the subdivider shall submit a Concept Plan of the proposed subdivision and preliminary proposals for the provision of water, waste treatment, and roads. Subdividers are urged to avail themselves of the advice and assistance of the Planning & Zoning Administrator and staff in order to save time and effort, and to facilitate the approval of the preliminary plat.

10.2.2 Preliminary Plat

- (1) After the pre-application meeting, the subdivider or owners shall file with the Planning & Zoning Administrator five copies of a preliminary plat and pay a fee as set by separate action of the County Board.
- (2) Within forty-five (45) days after the plat has been filed with the Planning & Zoning Administrator 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 M.S. 394.26. This shall constitute the public hearing on the plat as required by state law. Within thirty (30) days of the date of the public hearing, the Planning Commission shall make its report to the County Board.
- (3) The County Board shall act to approve or disapprove. If the Board disapproves the preliminary plat, the grounds for disapproval shall be set forth in the minutes of the Board meeting and reported to the owners or subdividers.
- (4) 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.

10.3.0 Necessary Data for Preliminary Plat

Benton County's data requirements for preliminary plats mirror the guidelines established by the Minnesota Society of Professional Surveyors as detailed in their Plat Manual of Minimum Guidelines, Third Edition, 1987. In addition to the data prescribed by the laws of the State of Minnesota, the preliminary plat shall include the following information.

10.3.1 Identification and Description

- (1) Proposed name of subdivision, preapproved 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
FISHER ADDITION
HAYS ADDITION

ANDERSENS' ADDITION
FISCHER ADDITION
HAYES ADDITION

- (2) Location by section, township, range, and by metes and bounds description, listing compass directions, angles and distances of boundaries.
- (3) Vicinity map indicating the location of the property being platted, including area within a one (1) mile radius of the plat.
- (4) Names, addresses, and phone numbers of the recorded owner and any person having contractual interest in the land.
- (5) Surveyor's name, address, phone number and registration certificate number.
- (6) Date of land survey.
- (7) Graphic scale not less than one (1) inch to one hundred (100) feet.
- (8) North direction indicator.

10.3.2

Existing Conditions

The preliminary plat shall include information on the following conditions within the plat and extending to a distance of one hundred fifty (150) feet beyond the boundaries of the proposed plat.

- (1) Boundary lines of proposed subdivision.
- (2) Existing zoning classification(s) for land within and abutting the proposed subdivision. Zoning or rezoning of property is a separate process (see section 11.8.0 of this Ordinance).
- (3) Approximate overall acreage of the subdivision plan.
- (4) Approximate individual lot size and acreage.
- (5) Approximate acreage of developer's concept plan.
- (6) Existing streets, including:
 - (a) Names
 - (b) Location
 - (c) Right-of-way width
 - (d) Type of surface

- (7) Boundary lines of adjoining unsubdivided or subdivided land identified by name and ownership, including all contiguous land owned or controlled by the subdivider.
- (8) Location of Railroads.
- (9) Location and type of electric power lines.
- (10) Location of gas and oil pipe lines.
- (11) Parks and other public lands.
- (12) Permanent buildings and structures.
- (13) Corporate boundaries.
- (14) School District boundary lines.
- (15) Section lines.
- (16) Individual sewage treatment systems, watermains, and the approximate location of existing water services.
- (17) Topographic data, including vertical contour intervals of two (2) feet, water courses, marshes, rock outcrops, and other significant features. Where feasible, USGS data shall be used for topographic mapping. The plat shall include placement and exact elevation of benchmark in relation to sea level.
- (18) Plats that include land abutting lakes or streams shall denote the one hundred (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.
- (19) 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 Flood Insurance Study for Benton County
Flood Boundary and Floodway Maps
Flood Insurance Rate Maps

- (20) Indicate location of wetlands.

- (21) Tree survey, prepared by the developer, identifying tree coverage in the proposed subdivision in terms of type and extent of potential destruction.
- (22) Additional information may be required as a prerequisite for approval.

10.3.3 Subdivision Design Features

- (1) Layout of proposed streets indicating the right-of-way widths, centerline gradients, and typical cross sections.
- (2) 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 Benton County Emergency Management Director.
- (3) Location and widths of proposed alleys and pedestrian ways.
- (4) 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.
- (5) Layout, numbers, and preliminary dimensions of lots and blocks.
- (6) When lots are located on a curve, the width of the lot at the building setback line shall be indicated.
- (7) Park dedication areas.

10.3.4 Other Information

The following information shall be submitted with the preliminary plat.

- (1) Statement of the proposed use of lots, including type of residential buildings, number of proposed dwelling units, and type of business or industry.
- (2) Statement indicating the effect of the proposed development on traffic, fire hazards, and congestion of population.

- (3) 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. The plan shall conform to all standards found in Section 10.4.7.
- (4) Downstream Drainage: The subdivision's effect on existing downstream drainage facilities outside the area of the subdivision shall be studied by a qualified engineer, and the conclusions of this study shall be reviewed by the County Engineer. When it is anticipated that the additional runoff will overload an existing downstream drainage facility during a ten (10) year storm of one hour duration, approval of the subdivision shall be withheld until adequate provision has been made for the additional run-off. To minimize conflict, appropriate stormwater management practices as described in Section 10.4.7 shall be observed when designing and constructing new subdivisions.
- (5) Drainage plan indicating surface water flow including the design and capacity of water control systems. Refer to standards as described in Section 10.4.7.
- (6) Where the subdivider owns property adjacent to the property proposed for subdivision, the subdivider shall 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.
- (7) A central water and sewer system feasibility study shall be completed by a registered civil engineer. Where a central sewer system is not feasible, a qualified engineer will report on the feasibility of individual sewage treatment systems, and will include soil borings and percolation tests to verify conclusions (see Environmental Officer).
- (8) Soil percolation and boring tests shall be required if on-site sewage treatment systems are to be used. See Section 9.6.0.
- (9) Such other information as may be requested by the County Planning Commission.

10.4.0 Subdivision Design Standards

10.4.1 General Requirements

- (1) 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.
- (2) The arrangement, character, extent, width, and location of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Wherever possible and necessary, the arrangement of streets in new subdivisions shall provide for the continuation of existing streets 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.

10.4.2 Streets

- (1) Widths: Street right-of-way widths shall conform to the following minimum dimensions (see Benton County ROAD CLASSIFICATIONS MAP on page 115 of this Ordinance):

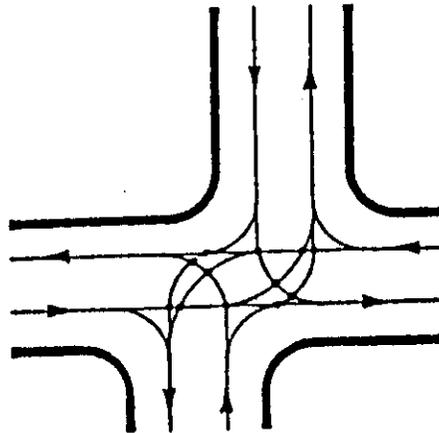
<u>Type of Street</u>	<u>Right-of-Way Width</u>	
	<u>Urban Design</u>	<u>Rural Design</u>
Major Arterial.....	150 ft.	300 ft.
Minor Arterial.....	70 ft.	150 ft.
Collectors.....	70 ft.	110 ft.
Local.....	66 ft.	100 ft.

- (2) Street Intersections: Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two streets be less than 70 degrees. Intersections having more than four corners shall be prohibited. Adequate land for future intersection and interchange construction needs shall be dedicated.
- (3) Tangents: A tangent (a straight line of travel) of at least three hundred (300) feet shall be provided

between curves on arterial and collector streets. Local streets within residential subdivisions are exempt from this provision.

- (4) Street Deflections (a bend in the road): When connecting streets deflecting from each other by more than five (5) degrees, such streets shall be connected by a curve with a radius (measured from the centerline) of not less than five hundred (500) feet for arterials, three hundred (300) feet for collectors, and one hundred (100) feet for all other streets. Consideration shall be given to design speed requirements (30 MPH MnDOT STDS).
- (5) Street Jogs: Street jogs with centerline offsets of less than 150 feet are prohibited on local streets.

Example of a Jog Intersection



- (6) Centerline Gradients: For drainage purposes, all centerline gradients shall be a minimum of 0.5 percent, but shall not exceed the following:

Arterials and Collector Streets.....	5 percent
Minor Streets and Marginal	
Access Streets.....	8 percent

- (7) Temporary Accesses: 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. Provision shall be made in such plats for the connection of roads to neighboring land. As the neighboring land is platted and developed, and access at a preferred location becomes possible, such temporary entrance permits shall become void.

- (8) 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.
- (9) Access to Arterial Streets: When a proposed plat is adjacent to a limited access highway (arterial), no direct vehicular or pedestrian access shall be permitted to such highways from individual lots. As a general requirement, access arterials shall be at intervals of not less than 1/4 mile and shall utilize existing and established cross roads where possible.
- (10) Local Streets: Local streets shall be designed to discourage through traffic use.
- (11) Cul-de-sacs: The maximum length of a street terminating in a turnaround shall be 990 feet (straight design) measured from the centerline of the street of origin to the end of the right-of-way. All other designs shall be subject to individual design approval. Minimum radius of turnaround shall be 60 feet (Urban Section) and 80 feet (Rural Section).
- (12) Street Stubs: 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. The probable time that might elapse before the remainder is dedicated will be considered in this decision. In no case shall a street stub exceed 660 feet in length. Temporary construction may be required to allow for vehicular turn-around.

10.4.3 Blocks

The length, width, and acreage of blocks shall be sufficient to provide for convenient access, circulation, control, and safety of street design. Blocks designed to be longer than 1300 feet or shorter than 300 feet must be approved by the County Planning & Zoning Administrator and Highway Engineer. Exceptions may be warranted for the purpose of fostering design originality, provided such exceptions do not violate sound planning principles. Pedestrian ways may be required on blocks longer than 900 feet or in other areas to provide access to schools, parks, and similar destinations. Pedestrian ways shall

be at least ten (10) feet wide and shall be located so as to minimize intersections with streets.

10.4.4 Lots

- (1) Size: Lot dimensions shall comply with minimum lot areas as specified in the zoning ordinance.
- (2) Side Lot Lines: Side lines of lots shall be substantially at right angles to straight, radial, or curved street lines.
- (3) Natural Features: When subdividing land, due regard shall be shown for trees, wetlands, steep slopes, water courses, historic natural features, or similar conditions. Plans shall be adjusted to preserve those items which will add safety, stability, and attractiveness to the proposed development.
- (4) Drainage: Lots shall be graded to provide drainage away from buildings.
- (5) Lot Remnants: Lot remnants (or outlots) are prohibited except where such lots are designated for a specific purpose, provided with a zoning classification, and made accessible to the public way.
- (6) Through Lots: Through lots (lots with frontage on two parallel streets) and lots with reverse frontage are not permitted, except, where such lots back on an arterial or collector street. In which case, such lots shall have an additional depth of at least ten (10) feet to allow for screen planting along the back lot line.

10.4.5 Sewage Treatment

See section 9.6.0 of the Benton County Development Code, entitled Sewage Disposal Standards.

10.4.6 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. Existing native vegetation shall not be disturbed, injured, or removed prior to receiving all necessary approvals.

10.4.7 Drainage, Erosion and Sediment Control

The following guidelines shall be applied in the subdivision and construction of land areas (Section 7S1.0 of the Shoreland Ordinance may also apply):

- (1) Development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.
- (2) 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.
- (3) 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 basin, or infiltration trench shall be used for storm water treatment. For treatment of storm water from five residential units or less, the developer may use filter strips or vegetated swales to treat storm water, if permitted by the Benton County Planning & Zoning Administrator.

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.

- (4) No existing ditch, stream, drain or drainage canal shall be deepened, widened, rerouted, or filled unless permitted by applicable Minnesota Statutes or Rules.
- (5) When topsoil is removed, exposure shall be for the shortest reasonable period of time.
 - (a) Sufficient topsoil shall be set aside for respreading over the developed area.

(b) The soil shall be restored to a depth of at least four (4) inches and shall be equal to or better than the quality of the soil prior to development.

(6) 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.

10.4.8 Easements

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

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 plat approval. No plat shall be approved that may for any reason be detrimental to local, county, or regional utility plans.

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

(1) Utilities: Easements at least twenty (20) feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary. Easements shall have continuity of alignment from block to block.

(2) Drainage: Easements shall be provided along each side of the centerline of any water course or drainage channel to a width sufficient to provide proper maintenance and protection, and to provide for storm water runoff from a ten year storm of one hour duration. Where necessary, drainage easements corresponding with lot lines shall be provided. Drainage easements shall not be less than twenty (20) feet in width.

10.5.0 Approval of Preliminary Plat

The County Planning Commission and the County Planning & Zoning Administrator 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.

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.

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

10.6.0 Improvements Required

10.6.1 Improvements Listed and Described

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

- (1) Monuments: Monuments of a permanent character, as required by Section 505.02, M.S.A., shall be placed at each corner or angle on the outside boundary of the subdivision, and pipes or steel rods shall be placed at each corner of each lot and on each intersection of street centerline.
- (2) Streets: The right-of-way of each street and alley dedicated in the plat shall be improved to include a roadway surface and drainage system in compliance with applicable county and township standards.
- (3) Paving: The Planning Commission may, at its discretion, require that all streets and alleys be improved with a concrete or bituminous surface. Paving shall be required if central sewer and water services are provided. If central sewer and water services will not be provided for ten (10) or more years, paving may be required. If central sewer and water services are to be required within ten (10) years, paving may not be required until after

the central sewer and water services are installed. The County may require a cash deposit to be used for paving the streets after central sewer and water services are provided. Streets to be paved shall be surfaced for five-ton axle weight capacity.

- (4) Concrete Curb and Gutter: Concrete curb and gutter may be required for all paved streets.
- (5) Park Dedication: An area of public open space equal to 7% of the gross area subdivided shall be dedicated for public recreation space, not including dedications for streets, alleys, easements, or other public use. Such area must be approved as suitable and needed for the public health, safety, convenience, and general welfare. When, in the opinion of the Benton County Board of Commissioners, the subdivision is too small for practical dedication or no land within the proposed subdivision is suitable, or if no need for land dedication is perceived, the subdivider shall pay a fee equal to the greater of \$50 per lot created or 7% of the subdivided land value (assessed valuation) prior to subdivision.
- (6) Street Lighting: Lighting of a type approved by the County may be required at all intersections within the subdivision.
- (7) Sewer Mains and Service Connections: 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. 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 five 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.

In areas not served by a sanitary sewer system, individual sewage treatment systems shall be provided for each lot. 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. Where individual sewage treatment systems are installed, the

subdivider shall provide underground plumbing extending three (3) feet beyond the footing and shall be temporarily plugged. 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.

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 five (5) feet beyond and to the side from which the future sewer connection will be made. Inside the basement, the elbow shall be set up to be easily reversed for connection to the capped line.

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

The subdivider or owner shall provide soil borings and percolation tests so that the proper sewage treatment system design may be determined. Standards for the installation of home sewer systems can be found in section 9.6 of this Ordinance.

- (9) Drainage: Drainage systems are required and must comply with sections 10.4.7 and 10.4.8 of this Ordinance.
- (10) Street Signs: Street signs of standard design approved by the County shall be installed at each street intersection.
- (11) Public Utilities: When carried on overhead poles, utility lines for telephone and electrical service shall be placed in rear line easements. Whenever possible, utilities should be buried.

10.7.0 Payment for Installation of Improvements

The required improvements to be furnished and installed by the subdivider, which are listed and described above, are to be furnished and installed at the sole expense of the subdivider and at no expense to the public; provided, however, that in the case of an improvement, the cost of which would, by general policy of the governing body, be assessed only in part to the improved property and the

remaining cost paid out of general tax levy, the County Board may make provision for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the County. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, the County Board may make provision for causing a portion of the cost of the improvement representing the benefit of such lands to be assessed against the same; 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.

10.7.1 Required Improvements Agreement

Prior to the installation of any required improvements 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 County Planning & Zoning Administrator, and grant to the Administrator the authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder, and with any other work being done or contracted by the County in the vicinity. 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.

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.

10.7.2 Financial Guarantee

The contract shall require the subdivider to furnish a financial guarantee in one of the following forms:

- (1) An escrow deposit shall be made with the County, guaranteeing that all improvements required under section 10.7.1 shall be constructed as provided in

the Improvements Agreement. 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 County Planning & Zoning Administrator. 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. 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.

- (2) Performance Bond or Irrevocable Letter of Credit: 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 Planning & Zoning Administrator, including cost of inspection of all improvements to be furnished and installed by the subdivider pursuant to the contract and which have not been completed prior to approval of the final plat. The bond shall be approved by the County Attorney and filed with the Auditor. The escrow agreement or letter of credit shall incorporate by reference the terms of the agreement entered into pursuant to Section 10.7.1.

10.7.3 Construction Plans

Construction plans for the required 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. The plans, together with a list of construction materials, shall be submitted to the Planning & Zoning Administrator for approval. Tracings of the plans approved by the County, plus two prints, shall be filed with the Planning & Zoning Administrator.

10.7.4 Final Plat

- (1) The owners or subdividers shall file five (5) copies of the final plat with the Planning & Zoning Administrator. If this is not done within ninety (90) days of preliminary plat approval, the preliminary plat shall be considered void unless for good cause an extension is requested in writing by the subdivider and granted by the Planning & Zoning Administrator.
- (2) The final plat shall have incorporated all changes recommended by the County Planning & Zoning Administrator, the County Engineer regarding roads, the County Planning Commission, and County Board as conditions to approval of the preliminary plat, but in all other respects it shall conform to the preliminary plat as approved. It may constitute only that portion of the approved preliminary plat which the subdivider proposed to record and develop at that time, provided that such portion conforms with all requirements of this Ordinance.
- (3) 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.

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 showing the title to be in the name of the owner or subdivider. The date of continuation of the abstract examined, or the date of the examination of the records, shall be within thirty (30) days prior to the date the final plat is filed with the County Auditor. The owner or subdivider shown in the title opinion shall be the owner of record of the platted lands on the date of recording of the plat with the County Recorder or Registrar of Titles. Execution by all owners of any interest in the land, including any holders of a mortgage therein of the certificate required by Minnesota Statutes, and which certificate shall include an accurate legal description of any area to be dedicated for public use, and shall include a dedication to the County of sufficient easements to accommodate utility services in such form as shall be approved by the County Attorney.

- (4) The County Planning & Zoning Administrator shall refer two copies of 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 thirty (30) days of the date of submission of the final plat and the County Board shall act on the final plat within sixty (60) days of submission of the plat.
- (5) 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 sixty (60) days after the approval. Otherwise, the approval of the final plat shall be considered void. The subdivider shall, within thirty (30) days of recording, furnish the County with three black line prints and a reproducible print of the final plat showing evidence of the recording.

10.8.0 Data for Final Plat

10.8.1 General

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

10.8.2 Certifications

Form for approval by signature of individuals and officials concerned with the recording of the plat.

(a) In witness whereof said _____
 have hereunto set our hands this ____ day of
 _____, 19____, and in witness whereof said
 _____ have hereunto set our hands this
 ____ day of _____, 19____.

(b) I hereby certify that I have surveyed and platted the property described on this plat as _____, that this plat is a correct representation of the survey, that all distances are correctly shown on the plat in feet and hundredths of a foot, that all monuments have been correctly placed in the ground as shown, that the outside boundary lines are correctly designated on the plat, and that there are no wetlands or public highways to be designated other than as shown.

Signature of Land Surveyor

Minnesota Registration Number _____

(c) Approved by the Planning Commission of the County of Benton, Minnesota, at a regular meeting thereof, on the ____ day of _____, 19____.

Signed _____
Chairperson

Signed _____
Secretary

(d) Be it known that on the ____ day of _____, 19____, the Board of County Commissioners of Benton County, Minnesota, did duly approve this plat of _____ and that, as per 505.03 Subd. 2, this plat has been submitted to and written comments and recommendations have been received from the Commissioner of Transportation.

Signed _____
Chairperson

Attest _____ Auditor

(e) We do hereby certify that on the ____ day of _____, 19____, the Board of Supervisors for _____ Township, Benton County, Minnesota, approved this plat.

Signed _____
Chairperson

(f) I hereby approve this plat as to form and execution.

Dated this ____ day of _____, 19____.

Signed _____

County Attorney, Benton County, MN

(g) No delinquent taxes and transfer entered this ____ day of _____, 19____.

Signed _____

County Auditor, Benton County, MN

Signed _____

Deputy

(h) I hereby certify that taxes in year ____ on land herein described are paid, this ____ day of _____, 19____.

Signed _____

County Treasurer, Benton County, MN

(i) Document Number _____

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

Signed _____

County Recorder, Benton County, MN

(j) If property being platted is in the Torrens Systems, use the following:

Document Number _____

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

Signed _____

Registrar of Titles, Benton County, MN

10.9.0 Modifications, Exceptions, and Variances

10.9.1 Variances

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. Any modifications thus recommended shall be entered in the minutes of the Planning Commission, as shall the reasons which justify the modifications.

10.9.2 State and Special District Considerations

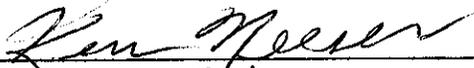
If any of the following circumstances exist, it shall be the responsibility of any unit of government involved to refer the preliminary plat to appropriate special districts or state agencies affected and involved:

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

10.9.3 Land Division

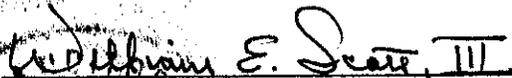
In any case where the division of a parcel of land into two or more parcels for the purpose of transfer of ownership or building development does not come within the definition of subdivision as defined by this Ordinance, a description of such land division shall be filed with the County Planning & Zoning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

APPROVED AND ADOPTED by the County Board of Commissioners this
20th day of September, 1994.



Ken Neeser, Chairman
Benton County Board of Commissioners

ATTEST:



William E. Scott, III, Clerk

