

ORDINANCE NUMBER 257

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 Ordinance Number 196 (Benton County Flood Plain Management Ordinance of 1990), and any other ordinance, if any, amending Ordinance Number 196, and

WHEREAS, on February 21, 1995, Notice of Public Hearings to Consider Amending the 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 March 9, 1995, the planning commission held a public hearing thereon and recommended to the Benton County Board of Commissioners that several of the proposed amendments be approved; and

WHEREAS, on March 21, 1995, the Board of County Commissioners held a public hearing thereon and on November 7, 1995 approved the following proposed amendments,

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

ARTICLE I

Amend Section 8.3 of Ordinance Number 196 (Benton County Flood Plain Management Ordinance of 1990) to read as follows:

8.3 On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and b) New or replacement on-site sewage treatment systems must be

designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with Section 9.6 of the Benton County Development Code shall be determined to be in compliance with this Section.

ARTICLE II

Amend Section 7S5.21(A) of Ordinance Number 185 (Benton County Development Code) to read as follows:

7S5.21 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:

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

Setbacks*

Classes of Public Waters	Structures		Sewage Treatment System
	Unsewered	Sewered	
<u>Lakes</u>			
Natural Environment	150	150	150
Recreational Development	100	75	100
<u>Rivers</u>			
Forested and Transition	150	150	150
Agriculture, Urban, and Tributary	100	50	75

*One water-oriented accessory structure designed in accordance with section 7S5.22 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

ARTICLE III

Amend Sections 9.6 and 9.6.1 of Ordinance Number 185 (Benton

County Development Code) to read as follows:

9.6 Individual Sewage Treatment Standards

9.6.1 Licensing

- A. No person, firm or corporation shall engage in the business of installing and constructing individual sewage treatment systems within the County of Benton without first obtaining a license to carry on such occupation from the County Board, and procuring and posting with the Zoning Administrator a bond in the amount of \$10,000.00 in favor of the County and the public, conditioned upon the faithful performance of contracts and compliance with this Ordinance. Such license shall be revoked by the Board for cause. Any installation, construction, alteration or repair of an individual sewage treatment system by a licensee in violation of the provisions of Section 9.6 of this Ordinance, or refusal on the part of a licensee to correct such defective work performed by such licensee, shall be cause for revocation of or refusal to renew a license.

Before any license issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing to show cause why such license should not be revoked or refused. Notice of the time, place and purpose of such hearing shall be in writing. Application for such license shall be made annually on a form furnished by the County Board.

Effective April 1, 1993, any person engaging in the business of constructing and installing individual sewage treatment systems must be certified as an individual sewage treatment system installer by the Minnesota Pollution Control Agency.

ARTICLE IV

Add Sections 9.6.1(B. and C.) to Ordinance Number 185

(Benton County Development Code) to read as follows:

- B. Certified person at work site. An individual with a Minnesota Pollution Control Agency Installer Certificate must be on the individual treatment system construction site at all times work is being performed on the individual treatment system. Said individual must possess proof of certification on his or her person.
- C. An individual who constructs an individual sewage treatment system on land that is owned or leased by the individual and functions solely as the individual's dwelling or seasonal dwelling, and who consults a

Minnesota Pollution Control Agency (MPCA) certified site evaluator/designer before beginning construction, is exempt from Section 9.6.1(B).

ARTICLE V

Amend Sections 9.6.2(A. and D.) of Ordinance Number 185

(Benton County Development Code) to read as follows:

9.6.2 Permits

- A. No person, firm or corporation shall install, alter, repair, or extend any individual sewage treatment system in the county without first obtaining a permit therefor from the Board or its authorized representative for the specific installation, alteration, repair, or extension; and, at the time of applying for said permit, shall pay a nonrefundable fee established by the County Board. Such permits shall be valid for a period of one year from date of issue.
- D. No permit authorizing the construction of an individual sewage treatment system shall be issued until the applicant provides the Zoning Administrator with the results of a soil percolation test and an individual sewage treatment system design for the specific building site performed by a MPCA certified individual sewage treatment system designer. Persons, firms or corporations that engage in the business of installing and constructing, or contracting with others to install, individual sewage treatment systems, shall submit percolation test results and individual sewage treatment system designs performed by a MPCA certified individual sewage treatment system designer for the specific building site.

ARTICLE VI

Amend Section 9.6.3(3. and 5.) of Ordinance Number 185

(Benton County Development Code) to read as follows:

- (3) No unpolluted water or stormwater shall be discharged to individual on-site sewage treatment systems.
- (5) It shall be unlawful to discharge the following wastes to an individual on-site sewage treatment system:
- (a) Liquids, solids, gases, or other substances which singly, or by interaction with other wastes, may cause fire or explosion or cause of injury to the treatment system.

- (b) Solid or viscous substances which may cause obstruction to the flow.
- (c) Wastewater having a pH of less than 5.0, or greater than 9.5, or having any other corrosive or caustic property capable of causing damage to the facility or a hazard to the community.
- (d) Wastewater containing toxic pollutants, as defined in section 307(a) of the Water Pollution Control Act and Minn. Stat. 115.01, subd. 14.
- (e) Wastewater having a temperature greater than 150 degrees F.
- (f) Wastewater containing high concentrations of fats, wax, grease.
- (g) Commercial food wastes.
- (h) Wastewater containing inert suspended solids.

ARTICLE VII

Add Section 9.6.4 to Ordinance Number 185 (Benton County Development Code) as follows, and renumber existing Sections 9.6.4 through 9.6.8 to follow in sequence:

9.6.4 Flood Plain Areas:

- A. When individual treatment systems are installed in the 100-year flood plain as established by the Federal Emergency Management Agency, National Flood Insurance Program, Flood Insurance Rate Maps, the following minimum construction standards are required in addition to the other requirements of this Ordinance:
 1. When no information or records establishing the elevation of the ten-year flood are readily available from the Minnesota Department of Natural Resources or U.S. Army Corps of Engineers, a pressure distribution mound septic system shall be installed. The minimum elevation of the mound shall be such that the elevation of the bottom of the rock layer shall be at least eighteen (18) inches above the existing site grade.
 2. When the top of the sewage tank is inundated, the dwelling must cease discharging sewage into it. This may be accomplished by either temporarily

evacuating the structure until the system again becomes functional, or by diverting the sewage into a holding tank sized and installed according to the requirements below.

3. The building sewer shall be designed to prevent backflow of liquid into the building when the system is inundated. If a holding tank is utilized, the building sewer shall be designed to permit rapid diversion of sewage into the holding tank when the system is inundated.
4. If a holding tank is utilized for a dwelling, its liquid capacity shall be equal to 100 gallons times the number of bedrooms times the number of days between the ten-year stage on the rising limb of the regional flood hydrograph and the ten-year stage on the falling limb of the hydrograph, or 1,500 gallons, whichever is greater. For other establishments, storage equal to at least five times the estimated daily flow must be provided.
5. Whenever the water level has reached a stage above the top of the sewage tank, the tank shall be pumped to remove all solids and liquids after the flood has receded before use of the system is resumed.
6. When fill is needed to raise the elevation of the soil treatment area, a mound system shall be used with the following additional requirement: The elevation of the mound shall be such that the elevation of the bottom of the rock layer shall be at least one-half foot above the ten-year flood elevation. Inspection wells shall not be installed unless the top of the mound is above the elevation of the regional flood.
7. The soil treatment area shall be a trench system with at least 12 inches of drainfield rock below the distribution pipe. There shall be no pipe or other installed opening between the drainfield rock and the soil surface.
8. The trench system shall be located on the highest feasible area of the lot and shall have location preference over all other improvements except the water supply well. The bottom of the trench shall be at least as high as the elevation of the ten year flood. The sewage tank may be located so as to provide gravity flow to the soil treatment area.
9. If a pumping station is used to move effluent from the sewage tank to the drain field, provisions

shall be made to prevent the pump from operating when inundated with flood waters.

ARTICLE VIII

Amend TABLE 2 of Section 9.6.6 (existing Section 9.6.5) of Ordinance Number 185 (Benton County Development Code) to read as follows:

9.6.6 Drainfield (Treatment System) Standards

(1) Location of Drainfields

- (a) Construction of drainfields shall not be allowed on soils with a percolation rate slower than sixty (60) minutes per inch.
- (b) Bed construction shall be limited to areas having natural slopes of less than six (6) percent.
- (c) All soil treatment systems other than seepage pits shall be set back the following distances from the features given below:

TABLE 2

<u>Feature</u>	<u>Setback distance in feet</u>
Water supply well less than 50 feet deep and not encountering at least ten feet of impervious material	100
Any other water supply well or buried water suction pipe (note some lending institutions may require a greater setback)	50
Buried pipe distributing water under pressure	10
Building	20
Property lines	10
Natural Environment Lakes & Streams	150
Recreational Development Lakes	100
General Development Lakes & Streams	75
Wild River	200
Transitional/Forested Rivers	150

Scenic River	100
Agricultural/Urban & Tributary Rivers	75
Recreational River	75
Designated Tributaries of Wild, Scenic & Recreational Rivers	75
Bluffs	30
Road Right-of-Way	5

ARTICLE IX

Amend Section 9.6.6(2), items l., n. and o. (existing Section 9.6.5(2)) of Ordinance Number 185 (Benton County Development Code) to read as follows:

- l. The filter material shall be covered with a permeable synthetic fabric (geotextile) of two ounces per square yard or greater or equivalent.
- n. The minimum depth of cover over the distribution pipes shall be at least eight (8) inches.
- o. The maximum depth of cover over the distribution pipes shall be no more than thirty-six (36) inches and preferably twenty-four (24) inches (two (2) inches of rock and thirty-four (34) inches of soil).

ARTICLE X

Amend Section 9.6.8 (existing Section 9.6.7) of Ordinance Number 185 (Benton County Development Code) to read as follows:

9.6.8 Nonconforming and Substandard Systems

A. Nonconforming Systems

A nonconforming system is a system that is polluting surface or ground waters or one that has failed. All sanitary facilities inconsistent with Section 9.6 of this Ordinance shall be brought into conformity or discontinued within 60 days after notification by the County Zoning Administrator or his designated appointee.

A failed or failing system is any system that discharges untreated or partially treated sewage to the ground surface, surface water, or groundwater. Seepage pits, cesspools, drywells, leaching pits, systems with less

than four feet of unsaturated soil beneath the system bottom, systems causing sewage backups into a dwelling or other establishment, and systems which adversely impact drinking water wells shall be considered failing systems. Failing systems shall be considered nonconforming and shall be upgraded, replaced or repaired in compliance with this chapter.

Conforming systems are any system or systems which are not failing and were constructed in compliance with all applicable standards in effect at the time of installation.

All nonconforming systems shall also be subject to the following conditions:

1. No such system shall be expanded or enlarged except in conformity with the provisions of this Ordinance.
2. If such system is discontinued for twelve (12) consecutive months, any future use of the system shall conform to this Ordinance.

B. Substandard System

A substandard system is a system that is not designed or constructed according to present standards, but which is functioning in a sanitary manner. Violations of the setback from the ordinary high water mark only, will not cause a system to be substandard. Substandard individual treatment systems shall be allowed to continue, however, any alteration or addition to a substandard system which will increase the substandard dimensions shall not be allowed.

Substandard systems that are not nonconforming shall be allowed to continue, except in the following circumstances:

1. A substandard sewage system must be upgraded and placed in conformity with the provisions of this ordinance at any time a permit or variance is required for any improvement to a dwelling unit.
2. Substandard systems must be upgraded and placed in conformity with the provisions of this ordinance at any time repairs, other than normal pumping and maintenance, are performed on the system.

C. Community Education

1. In an effort to identify and upgrade individual on-site wastewater treatment systems that are

nonconforming, Benton County will establish a public education program. The program's focus will center on an educational brochure on septic systems. The brochure will provide information on system maintenance, criteria to help the owner determine whether they have a conforming system and whether the system is functioning properly, encouragement to upgrade nonconforming systems, and an offer for county staff to inspect the owner's system as staff workloads permit.

2. In conjunction with the direct mail education program, Benton County will periodically disseminate information on upgrading nonconforming individual on-site wastewater treatment systems to the media, lake associations and area conservation groups.
3. Benton County staff will, as workloads permit, undertake a systematic review of existing records to determine which systems, in its jurisdiction, are nonconforming and require reconstruction. The owners of these systems will be contacted and asked to upgrade their treatment systems.

ARTICLE XI

Amend Section 9.6.9 (existing Section 9.6.8) of Ordinance Number 185 (Benton County Development Code) to read as follows:

9.6.9 Enforcement

- A. Each system for which a permit is required must be inspected by the County Zoning Administrator or his designee before the system is covered. It is the responsibility of the permit holder or landowner to notify the County Zoning Administrator or his designee that the system is ready for inspection. Failure to comply with said requirement shall be a misdemeanor.

The County Zoning Administrator or his designee shall visually inspect the system within two business days from the time the permit holder or landowner gives notice of readiness.

Any licensed sewage disposal system installer who covers a system without complying with the above inspection requirement shall be subject to forfeiture of his license. Failure to comply with said requirement shall be a misdemeanor.

APPROVED AND ADOPTED by the County Board of Commissioners this
7th day of November, 1995.

[Signature]

Duane Walter, Chairman
Benton County Board of Commissioners

ATTEST:
[Signature]

Curtis Nordling, Clerk

ATTEST:
[Signature]

Elmer V. Warolin - Clerk

231601

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

Nov 9 3 59 PM '95

ALICE G. ENGELMEYER
COUNTY RECORDER

BY *[Signature]* DEPUTY

Re-Recording

THIS ORDINANCE IS BEING RE-RECORDED BECAUSE ELMER V. WAROLIN WAS
THE CLERK OF RECORD IN ABSENCE OF THE COUNTY AUDITOR CURTIS NORDLING.

RE-RECORDING

231663

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

Nov 15 3 15 PM '95

ALICE G. ENGELMEYER
COUNTY RECORDER

BY *[Signature]* DEPUTY