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State of Minnesota
County of Benton

Ordinance Number 268

DEPT. OF PUBLIC SAFETY
BENTON COUNTY, MN
CERTIFIED TO BE FILED
AND/OR RECORDED ON

Nov 7 4 26 PM '96

Benton County Individual Sewage
Treatment System Loan Program

ALICE R. B. JOHNSON
COUNTY CLERK

BY At DEPUTY

WHEREAS, the Benton County Board of Commissioners, on its motion, instituted proceedings to adopt the following Ordinance; and

WHEREAS, the County Board of Commissioners finds that a need exists to improve the quality of existing residential sewage treatment systems that fail to meet the current standards promulgated by both the State and Benton County codes; and

WHEREAS, the County Board of Commissioners finds that there is a need to provide financial assistance to qualified private property owners to assist them in achieving this goal; and

WHEREAS, Minnesota Statutes Section 115.57 (1996) enables counties to participate in an Individual Sewage Treatment System Loan Program in cooperation with the State of Minnesota; and

WHEREAS, the Benton County Board of Commissioners wishes to participate in said program, and has taken actions in furtherance of securing funds for said purpose; and

WHEREAS, the Board of Commissioners finds that the implementation of an Individual Sewage Treatment System Loan Program would promote the health and welfare of the citizens of Benton County by preventing, reducing and eliminating water pollution; and

WHEREAS, on October 8, 1996, the Notice of Public Hearing and Intent to Enact a Benton County Ordinance was published in the official newspaper; and

WHEREAS, on November 5, 1996, the Board of County Commissioners held a public hearing thereon and, on that date, approved the proposed Ordinance;

NOW, pursuant to authority vested by Minnesota Statutes Section 115.57, Subd. 3, the Benton County Board of Commissioners ordains:

**BENTON COUNTY INDIVIDUAL
SEWAGE TREATMENT SYSTEM (ISTS)
LOAN PROGRAM**

SECTION 1 - PURPOSE

1.1 This Ordinance establishes guidelines and procedures for administration of the Benton County ISTS Program.

SECTION 2 - DEFINITIONS

ISTS - Individual Sewage Treatment System

2.1 ISTS Loan

"ISTS Loan" or "Loan" means the commitment of funds on behalf of recipients for the purpose of making eligible improvements to eligible properties as described in this Ordinance.

2.2 Recipient

"Recipient" means an individual or household meeting the requirements of this Ordinance who applies for and receives a loan.

2.3 Loan Package

The "Loan Package" consists of a loan application and all other information required by the Department of Trade & Economic Development and Benton County.

2.4 Resident

"Resident" means a person, other than a renter, owning eligible property (as defined in § 3.4) for

at least 30 days.

2.5 Benton County Department of Development (BCDD)

Benton County Department of Development (BCDD) is the Administrative Agency responsible for Individual Sewage Treatment System loan funds.

2.6 Property

A tract of land located in Benton County, MN that is eligible for funding pursuant to § 3.4 of this Ordinance and has been improved to any extent by funds loaned or secured pursuant to this Ordinance.

2.7 Individual Sewage Treatment System Site Evaluation

A review of the property as specified in Minnesota Rules Part 7080.0110.

2.8 Proceed to Work Order

A document issued by the BCDD to a loan recipient after all requirements of this Ordinance have been met by the Recipient authorizing the Recipient to proceed with the ISTS construction.

SECTION 3 - ELIGIBILITY

3.1 Conflict of Interest -- No Benton County employee, or agent of the County or other agency who exercises policy, decision making or responsibilities in implementing the Individual Sewage Treatment System Program will be eligible for program benefits, directly or indirectly.

3.2 The BCDD must obtain the following information from

the Recorder's Office regarding each property for which a loan application is made:

The full names of all owners of record, including first name, last name, middle name, or initial and any additional names which may appear in the records, such as maiden names.

A determination of the system under which the property is recorded - either Torrens or Abstract.

3.3 All applicants for ISTS Loans must possess a qualifying interest in the property consisting of one of the following:

- 1) a valid life estate. Such life estate must be recorded and must appear in the records of the County, or
- 2) an interest in the fee title. Such interest may be subject to mortgage; or
- 3) an interest as a purchaser in a contract of deed with respect to the structure being improved.

All individuals having an ownership interest in such structure must join in the loan application.

3.4 Eligibility of the Property

To be eligible, the property to be improved

- 1) must conform to all applicable zoning ordinances and possess all appropriate use permits.
- 2) must be used primarily for residential purposes.

- 3) must be a dwelling unit, consisting 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.
- 4) must lie outside cities that have a municipal sewer system; and
- 5) must be within Benton County, Minnesota

3.5

Eligible Improvements

Loan proceeds may only be used for one or more of the following activities:

1. Replacement of an existing failing, non-conforming, or substandard Individual Sewage Treatment System and necessary piping building outside the dwelling unit.
2. Design of new system.
3. In-place abandonment of existing failed, non-conforming or substandard systems. Any contractor performing such work must be a MPCA-certified septic system pumper.
4. Construction costs of new system designed and installed pursuant to the standards of the Benton County Development Code.
5. Easements for cluster systems.
6. Land purchase for drainfields.

3.6

Ineligible Improvements

The following improvements are not eligible for ISTS Loans:

1. ISTS for a new dwelling unit
2. Loans may not be used to facilitate new building construction. As used in this subdivision, "facilitate new building construction" includes increasing capacity of an individual sewage treatment system beyond what is reasonably required to serve existing buildings and lots.

3.7 CONTRACTOR REQUIREMENTS: Any contractor designing or installing improvements funded pursuant to this Ordinance, must be appropriately licensed by the Minnesota Pollution Control Agency.

3.8 APPLICABILITY OF CODES: ISTS improvement must be made in compliance with the Minnesota Rules, Chapter 7080 and the Benton County Development Code (Ordinance 185).

3.9 REFINANCING: No improvements are eligible if begun before the issuance of a Proceed to Work Order by BCDD, except that the fee for the site evaluation can be reimbursed if this person receives a loan under this program. However, the total loan cannot exceed \$10,000.00. No loan funds, in whole or in part, shall be used for the purposes of refinancing or paying off an existing indebtedness.

3.10 SALE: The Recipient shall notify the county immediately upon the sale, transfer, or conveyance of the property.

SECTION 4 - RESPONSIBILITIES OF ADMINISTERING ENTITIES

4.1 Outreach and Public Information

The BCDD will be primarily responsible for the promotion of the loan program at the local level. The BCDD will exercise care in avoiding any advertising or outreach methods which may be deemed to systematically exclude potentially eligible applicants. Access to program materials may not be denied to any person for any reason.

4.2 Application Selection and Approval

Benton County's ability to loan money pursuant to this Ordinance is subject to availability of funds. The Benton County Board, in its discretion, may limit to any extent it deems appropriate, the amount of available ISTS Loan funds in the event funds are not available from the Minnesota Department of Trade and Economic Development.

The BCDD will consider the following factors in the selection of qualified applicants:

1. Applications will be accepted throughout the entire length of the program or until funds are expended or encumbered.

2. Applications will be rated on a first come, first serve basis per date of completed application.
3. No eligible applicant shall be selected or rejected on the basis of the applicant's race, color, sex, sexual orientation, national origin, handicap, religion or familial status.
4. The requirements of Section 3 - ELIGIBILITY, of this Ordinance.

Letters of rejection will be issued to applicants who are not selected stating the reason for rejection.

4.3 Appeals of eligibility determinations made by the BCDD can be made to the Benton County Board of Commissioners. The appeal must be in writing and no later than 30 calendar days after the date of the rejection letter.

4.4 Benton County will work with all applicants to resolve complaints.

4.5 Inspection of Properties

The BCDD shall be responsible for carrying out a minimum of two inspections of each approved property.

A. One inspection shall be accomplished during construction to assure that construction is being performed according to specifications

and in a satisfactory manner.

B. After all work is finished, the second inspection shall take place to determine that all work has been completed in a satisfactory manner and in compliance with Minnesota Rules, Chapter 7080.

4.6 Preparation of Individual Sewage Treatment System Site Evaluation

Benton County shall require the completion of an Individual Sewage Treatment System site evaluation as specified in MN Rules Part 7080.0110 before any loan is made. The site evaluation must be completed by an individual septic system designer licensed by the Minnesota Pollution Control Agency. Applicants must submit a site evaluation and written plans to the BCDD within 180 days of the date an application is submitted. If a site evaluation is not received within this time, the application will not be considered for eligibility.

4.7 Preparation of Work Write-ups and Project Bids

Benton County requires the submission of a minimum of two bids for the authorized improvements by an applicant. Applicants are encouraged to use minority contractors.

4.8 Preparation of Loans

The BCDD shall be responsible for the completion of

all program documents. The BCDD will provide any necessary assistance to applicants in the preparation of any program forms which are necessary for packaging the loans.

4.9

Fund Disbursement

Partial disbursement of funds may be authorized by BCDD after:

1. an interim inspection is conducted;
2. determines that the specific work for which payment is requested has been completed in a satisfactory manner;
3. Lien Waiver have been submitted;
4. Loan documents have been executed by applicant.

SECTION 5 - CONTENTS FILE

The BCDD shall keep the following Minnesota Department of Trade and Economic Development required items in the Loan File.

1. Homeowner Application for loan
2. Privacy Act Release Form
3. Property Title Verification
4. Site Evaluation and Work Write-up/
Specifications
5. Contractor General Requirements Letter
6. Bid Results
7. Contractor "Unsuccessful Bid" Letter
8. Repayment Agreement

9. Contractor Notice to Proceed
10. Change Orders
11. Lien Waiver

Original documents will be retained by the BCDD.

SECTION 6 - LOAN

6.1 Terms of the loan -

1. Interest on the unpaid balance as set by Resolution of the Benton County Board.
2. Up to 5 years for repayment.
3. Balance to be paid off at time of sale if property is sold before end of 5 year term.
4. Principal and interest payments will be collected on property taxes unless prepaid each year to the Benton County Treasurer before December 1st.
5. The county may loan up to \$10,000.00 for each qualified property, which may include site evaluation, engineering, compliance inspection fees, installation, etc.
6. Assessments. An amount loaned pursuant to this Ordinance, including accruing interest, shall be a lien against the real property for which the improvement was made and shall be assessed against the property or properties benefited unless the amount is prepaid. An amount loaned pursuant to this Ordinance and

assessed against the property shall be a priority lien only against subsequent liens. Upon issuing a loan, Benton County shall provide the property owner a notice that states the following information:

1. The amount to be specially assessed against the property;
2. The right of the property owner to prepay the entire assessment;
3. The public official to whom prepayment must be made;
4. The time within which prepayment must be made without the assessment of interest;
5. The rate of interest to be accrued if the assessment is not prepaid within the required time period.
6. The period of the assessment.
7. Property owners have the right to prepay the assessment.

SECTION 7 - AMENDMENT

Disbursement of Loan monies and administration of the ISTS Program shall conform to the terms of the Minnesota Department of Trade and Economic Development Septic System Replacement Project Loan Agreement executed by Benton County on September 17, 1996.

SECTION 8 - EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication.

ORDAINED AND ADOPTED by the Benton County Board of Commissioners this 5th day of November, 1996.

COUNTY OF BENTON

By

Duane Grandy
Duane Grandy, Chairman
Benton County Board of Commissioners

ATTEST:

Curtis Hocking

Clerk,
Benton County Board of Commissioners
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