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May 08, 2008 AT 11:33AM

Signed: BW  
MARILYN J NOVAK G V I  
BENTON COUNTY MINNESOTA  
MARILYN J NOVAK  
COUNTY RECORDER

**BENTON COUNTY ORDINANCE NO. 427**

WHEREAS, the Benton County Department of Development instituted proceedings to amend the Benton County Ordinance 185; and,

WHEREAS, on April 8, 2008 and April 9, 2008, Notice of Public Hearing and intent to amend Benton County Ordinance was published in the official newspapers of the county; and,

WHEREAS, on May 1, 2008, the Benton County Planning Commission held a public hearing; and,

WHEREAS, on May 6, 2008, the Benton County Board of Commissioners held a public hearing and approved the proposed ordinance amendment; and,

NOW PURSUANT TO THE AUTHORITY VESTED BY MINNESOTA STATUTES SECTION 394.25, THE BENTON COUNTY BOARD OF COMMISSIONERS ORDAINS: that Section 6.2 of the Benton County Ordinance 185 shall be replaced in its entirety with the following:

6.2 Storage and Accessory Buildings and Structures:

6.2.1 A land use permit is not required for any storage or accessory building or structure less than or equal to 120 square feet, however all applicable setbacks shall be met.

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6.2.2 Residential district accessory buildings (R-1, R-2, R-3, R-S) shall be based on the size of the residential district lot, see chart below:

Lot Size * (in Acres)	Maximum Accessory Building size	Maximum Building Height
0-0.49	864 Square feet	15 feet
0.5-1	1,000 Square feet	20 feet
1.1-2.49	1,400 Square feet	25 feet
2.50-4.99	1,800 Square feet	35 feet
5.0-9.9	2,500 Square feet	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.

6.2.3 Storage buildings and accessory buildings shall be based on the size of the agricultural district lot (A or R-A), see chart below:

Lot Size* (in Acres)	Maximum Accessory Building size**	Maximum Building Height**
0-0.49	864 Square feet	15 feet
0.5-1.0	1,000 Square feet	20 feet
1.1-1.99	1,400 Square feet	25 feet
2.0-4.99	2,000 Square feet	35 feet
5.0-9.9	5,000 Square feet	40 feet or 35 feet in shoreland
10 or greater	Unlimited	Unlimited or 35 in shoreland

\* Only land above the Ordinary High Water level shall be used to calculate lot size.

\*\* Storage buildings size and height may be further limited by the Planning Commission.

All storage and accessory buildings and structures will be subject to the following standards:

6.2.4 On residential district lots less than 10 acres there shall be no more than one accessory building larger than 864 square feet.

6.2.5 On agricultural district lots less than five acres there shall be no more than one storage building or accessory building larger than 864 square feet.

6.2.6 In a residential district the accessory building shall be constructed with a design that conforms to the architecture of the principal structure.

- 6.2.7 No residential accessory buildings in a residential district shall be located nearer the front lot line than the principal building on that lot. However, accessory buildings on lots with a shoreline may be placed with a setback two times the required setback from the waterbody regardless of the location of the principal structure.
- 6.2.8 No accessory buildings or structure in a cluster development shall be located nearer the front lot line than the principal building on that lot
- 6.2.9 Storage buildings may be permitted with a conditional use and subject to the requirements of Section 6.2.14. The Planning Commission may be more restrictive than the maximum height and size permitted by Section 6.2.3 above.
- 6.2.10 No accessory building or use shall be constructed or developed on a residential district lot prior to the time of obtaining a land use permit for the principal building to which it is accessory, 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 accessory building.
- 6.2.11 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 one acre or less in size or less than two acres in the shoreland.
- 6.2.12 Notwithstanding item 6.2.10 above, a residential garage (see section 3.70) 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 garage is obtained.
- 6.2.13 A conditional use permit for a residential garage may only be issued if and when the Planning Commission finds:
- a. The residential garage shall conform to all of the requirements of Section 6.2 and 11.6.
  - b. That the residential garage will not be used for commercial purposes, except as otherwise allowed with a home occupation or home extended business.
  - c. That the residential garage shall not be used for temporary or permanent residence.
  - d. That the residential garage 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 residential garage will be placed.

6.2.14 A conditional use permit for a storage building in an agricultural or rural agricultural district on less than 10 acres may only be issued if and when the Planning Commission finds:

- a. The storage building conforms to all of the requirements of Section 6.2 and 11.6 of the Development Code.
- b. That the storage building will not be used for commercial purposes.
- c. That the storage building will not be used for temporary or permanent residence.
- 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 9.6 for new construction.

Sections 3.3B2 shall be added and Sections 3.94 and 3.183 shall be revised to read as follows:

3.3B2 Agricultural Building: A building used solely for agricultural uses or storage of agricultural products or machinery and on a parcel 10 acres or larger.

3.94 Lot, Residential: a lot in a Residential District (R-1, R-2, R-3, or R-S).

3.183 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 less than or equal to 120 square feet, improved driveways, sidewalks, or slabs.

Sections 7.1.10 and 7.2.10 shall be amended to add the following:

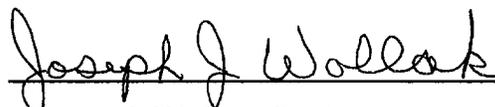
"Storage building as a principal use on a lot 10 acres or more"

Sections 7.1.23 and 7.2.22 shall be amended to read as follows:

"Storage buildings as a principal use on a lot less than 10 acres."

Approved and adopted by the Benton County Board of Commissioners this 6th day of May in the year of 2008.

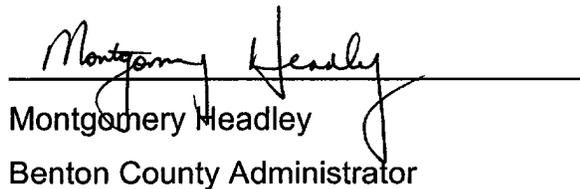
Upon enactment, this ordinance shall be effective upon the date of its publication as provided by law.



Joseph J. Wollak, Chair

Benton County Board of Commissioners

ATTEST:



Montgomery Headley  
Benton County Administrator