

- 3.60B Feedlot, Non-Feedlot Residence: Any dwelling that is not located on the same farmstead as the feedlot.
- 3.60C Feedlot, Tier 1: An area or building, as described in section 3.60, intended and designed for the feeding, breeding, raising or holding of between 50 to 999 animal units or 10-999 animal units in a shoreland area.
- 3.60D Feedlot, Tier II: An area or building, as described in section 3.60, intended and designed for the feeding, breeding, raising or holding of between 1,000 and 2,500 animal units.
- 3.74A Human Care Facilities: A facility that provides care and living facilities for elderly or disabled individuals.
- 3.159.1 Saw Mill: a facility that process trees and forest products into lumber or other by-products.
- 3.179A Stable: the boarding or breeding of horses for sale or compensation that exceeds the number of horses permitted as an accessory use.

That the following definitions be amended in Section 3 to read as follows.

- 3.3B Agriculture: The production, storage, keeping, harvesting, grading, packaging, processing, boarding, or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to forages and sod crop; grains and seed crop; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of these animals; bees; fur animals; trees and forest products with the exception of sawmills; fruits and vegetables of all kinds; or land devoted to a soil conservation or forestry management program.
- 3.60 Feedlot: a fenced land area or building or combination of fenced land areas and buildings intended for the confined feeding, breeding, raising or holding of at least fifty animal units or ten animal units if in a shoreland area and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these rules, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be feedlots.

A feedlot does not cease to be a feedlot merely because confined feeding, breeding, raising or holding of animals is not actually taking place at a given time, however, such areas, buildings or combinations which have not been used for confined breeding, raising or holding of animals for a ten-year period shall not be considered a feedlot until such use resumes. A written statement provided by the landowner

may remove the status of an unused feedlot, regardless of when the feedlot was last used and permit a residence to be located within 660 feet of the unused feedlot.

- 3.78 Intensive Livestock Farming: the feeding, breeding, raising or holding of animals in feedlots when the ratio of animal units to tillable cropland acres owned or leased by the feedlot operator exceeds 3:1.
- 3.81 kennel: The boarding and/or breeding of dogs, cats or other domestic animal offered for sale or other compensation that exceeds 5 animals over 4 months of age.
- 3.187C Subdivision, Major: Subdivision of seven or more lots in the R-1, R-2, R-3, R-S, B, B-2, I-1, I-2 Districts or 10 or more lots in the A or R-A Districts created through the platting process.
- 3.187D Subdivision, Minor: Subdivision of six or fewer lots in the R-1, R-2, R-3, R-S, B, B-2, I-1, I-2 Districts or 9 or fewer lots in the A or R-A Districts created through the platting process.

That the following portions of Section 4 be amended to read as follows:

- 4.1.3 The provisions of this Ordinance shall apply to all land within the County which is not within the boundaries of an incorporated city or a part of an annexation or joint powers agreement.
- 4.2.1 Any use or structure existing on March 28, 1979, or legally permitted thereafter that because of a change in the ordinance became nonconforming, other than a use specified in Section 4.2.3, may continue until its normal expiration.
- (1) A nonconformity may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless the nonconformity or occupancy is discontinued for a period of more than one year; or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. However, if the nonconformity is residential real estate the nonconforming use may be replaced but not expanded if destroyed by fire or other peril if a building permit has been applied for within 180 days of when the property is damaged. In this case reasonable conditions may be imposed upon a building permit in order to mitigate any newly created impact on adjacent property.
- 4.2.2 Any structure which will, under this Ordinance, become nonconforming, but for which a land use permit has been lawfully granted or existed on March 28, 1979, shall be considered a nonconforming structure.
- 4.3.3 The Director of Development may, upon application, grant a temporary permit for the use of a temporary residential structure in conjunction with a home construction

project that a duly authorized and valid land use permit has been issued prior to the application for said temporary permit.

- 4.3.5 The term of said temporary permit shall not exceed six months or upon completion of construction of the residential home in question, whichever comes first. A deed restriction shall be recorded by the land owner prior to issuance of the land use permit acknowledging the requirement for removal of the structure.

That Section 5.3.1 be deleted.

That Section 6.4.1(b) be deleted.

That the following portions of Section 6 be amended to read as follows.

- 6.1.1 No land division or split shall be made which results in one or more substandard sized lots, parcels or tracts of land in the zoning district in which the land is situated. No use shall be established or maintained on a lot, parcel, or tract of land which is substandard in size for the zoning district in which it is located, except as hereinafter provided. In addition to other remedies under the law and this Ordinance, no permit shall be issued for any use or structure on any parcel of land which was illegally subdivided. Existing lots, tracts or parcels of land that were illegally subdivided prior to January 2006 and have a permitted existing dwelling shall be allowed to have permits issued to said property subject to the landowner completing an Administrative Corrective Action on said lot, tract or parcel regardless of the lots size or dimension.

- 6.1.5 There shall be no more than one residential dwelling on a lot unless otherwise permitted by the Development Code.

6.5 Residential Density calculation in the Agricultural and Rural Agricultural District

- a. The number of single family dwellings allowed shall be calculated as follows for standard subdivisions in Agricultural District (A):
1. The total acreage of the tract within a quarter, quarter section shall be calculated subtracting any acreage deed restricted for density. The tract acreage shall include areas located in easements and land previously or proposed to be dedicated for right-of-way, if the right-of-way was a part of the original tract. If the tract contains less than 40 acres but is described by the rectangular survey system as a quarter, quarter section, in common ownership, the tract shall be considered eligible for up to 4 dwelling units per quarter, quarter section.
 2. Ten acres shall be subtracted from this total for each existing dwelling unit (not to include temporary farm dwellings or temporary dwelling for supportive care).

3. The result from 1 and 2 above shall be divided by ten acres. This shall be the maximum number of dwelling units allowed on the entire tract.
4. The transfer of dwelling units from one quarter, quarter section to another quarter, quarter section within the tract may be allowed by Conditional Use, provided that the density to be transferred is buildable and not created by wetland mitigation. The transfer may allow up to 8 units in the quarter, quarter section provided that the necessary deed restriction is recorded within said tract.
5. Each new dwelling unit shall be retained on a separate lot and meet the minimum lot requirements of the Agricultural District.

That Sections 7.1.11 and 7.2.10 Permitted Accessory Uses be amended to add the following use: "Animal units on lots less than 20 acres as regulated in accordance with Section 8.11"

That Sections 7.2A.11, 7.3.1A, 7.4.1A, 7.5.1A Permitted Accessory Uses be amended to add the following use: "Animal units in accordance with Section 8.11"

That "Animal Boarding" be deleted as a Conditional Use from the following: Sections 7.1.23, 7.2.22, 7.21.20, 7.6.2, 7.6A.3.

That "Kennel", "Saw Mills", "Stables" be added as Conditional Uses in Sections 7.1.23 and 7.2.22.

That "Feedlot, Tier II in accordance with Section 9.14" be added as a Conditional Use in Section 7.2.22.

That Sections 7.1.10 and 7.2.10 Permitted Uses "Feedlot, Tier 1 in accordance with Section 9.11 and 9.14" be modified to read "Feedlot, Tier 1 in accordance with Section 9.14"

That Sections 7.1.10 and 7.2.10 Permitted Uses: "Farming, general and dairy, providing animal unit density is not greater than three (3) units per acre" be modified to read "Farming, general and dairy, providing animal unit density is not greater than three units per acre for lots 20 acres and greater"

That Section 7.1.23 Conditional Use "Feedlot, Tier II in accordance with Sections 9.11 and 9.14" be modified to read "Feedlot, Tier II in accordance with Sections 9.14."

That "(See Section 7S5.1 for additional shoreland requirements)" be added to at the end of Section 7.1.30 (c)2.

That "(c) Such dwellings shall be placed on permanent foundations" be deleted from Sections 7.3.1, 7.4.1, 7.5.1.

That Sections 7.2A.30 A(a)3; 7.2A.30 A(b)3; 7.3.3 (i); 7.4.3 (i); 7.5.3 (i) be added and state "See Sect. 7S5.1 for additional shoreland requirements"

That Section 7.4.4 be deleted.

That Section 7.5.4 be amended to replace "Planning Commission" with "Department of Development".

That Section 7.6.1 Permitted Uses be modified to change "Field Crops" to "Agricultural - Field crops"

That "Animal Hospital", "Kennel", "Non-Residential Program Facility", "Stable" be added as Conditional Uses to Sections 7.6.2 and 7.6A.3

That Sections 7.6.2 and 7.6A.3 Conditional Uses be modified to change "Human and animal care facilities" to Human Care Facilities"

That Section 7.6A.3 Conditional Uses delete "Agriculture-general farming"

That Sections 7.6.2, 7.7.2 and 7.8.2 Conditional Uses be amended to change "Motor fuel stations* *See Section 9.8" with "Motor fuel stations and truck stops in accordance with Sect. 9.8."

Amend Section 7.6A.3 Conditional Uses to add "Motor fuel stations and truck stops in accordance with Sect. 9.8"

That the following be added in Section 8:

"8.11 Animal Unit Density Requirement

The following animal density shall apply in the Agricultural and Rural Agricultural districts unless approved for animal boarding.

| | |
|-------------------|---|
| Less than 2 acres | 0.5 animal units; and cats and dogs and other domestic animals customarily kept as household pets |
| 2-4.99 acres | 1.5 animal units; and cats and dogs and other domestic animals customarily kept as household pets |
| 5-10 acres | 1.5 AU plus 0.5 animal unit for each additional acre owned above 5 acres max of 4 animal units; and cats and dogs and other domestic animals customarily kept as household pets |
| 10.1-19.99 acres | 4 AU plus 0.5 animal unit for every acre above 10 acres maximum of 9 animal units; and cats and dogs and other domestic animals customarily kept as household pets |

The following animal density shall apply in the Residential and Rural Service District

| | |
|-------------------|--|
| Less than 2 acres | Cats and dogs and other domestic animals customarily kept as household pets |
| 2-4.99 acres | 1 animal unit and cats and dogs and other domestic animals customarily kept as household pets |
| 5-10 acres | 1.0 animal unit plus 0.25 animal unit for each additional acre owned above 5 acres max of 2.25 animal units; and cats and dogs and other domestic animals customarily kept as household pets |
| 10.1-19.99 acres | 2.25 animal unit plus 0.5 animal unit for every acre above 10 acres maximum of 7.25 animal units; and cats and dogs and other domestic animals customarily kept as household pets” |

That Section 9.11 be deleted in its entirety.

That Section 9.14.1 be deleted.

That Sections 9.14.2-9.14.6 be renumbered and amended to read as follows:

9.14.1 Permitted Uses

Tier I feedlots shall be a permitted use in areas zoned A or R-A, subject to the restrictions set forth in Section 9.14.3.

9.14.2 Conditional Uses

- A. Tier II feedlots shall be conditional uses in areas zoned A and R-A. Conditional use permits for feedlots may only be granted if the following requirements are met:
 - 1. The applicant must obtain a valid MPCA certificate of compliance, as defined in Minnesota Rules Part 7020.0300, pertaining to the feedlot site.
 - 2. The feedlot must be located in compliance with the minimum setbacks and minimum parcel size restrictions described in Section 9.14.3.
 - 3. The feedlot must meet the criteria of Section 11.6.

- B. Livestock waste storage facilities shall be conditional uses in areas zoned A or R-A unless the proposed waste storage facility is covered by a building and has been specifically permitted by the Minnesota Pollution Control Agency (MPCA). If the livestock waste storage facility is covered by a building and has been approved by MPCA a conditional use shall not be required. Conditional use permits for waste storage facilities may only be granted if the following requirements are met:

1. The applicant must have obtained a valid MPCA feedlot permit.
2. The waste storage facility must comply with all applicable state requirements for soil, water and air pollution.
3. The facility shall not be located within 660 feet of any non-feedlot residence at which the storage facility is located.
4. The facility must be at least 200 feet from a road right-of-way.

9.14.3 Minimum Setbacks and Parcel Size

| Number of Animal Units (au) Permitted: | Tier I | Tier II |
|---|-------------------------------------|------------------|
| | 50-999 au 10-999 au in shoreland | 1,000 – 2,500 au |
| Non-Feedlot Residence | 660 feet | 660 feet |
| Centerline of Road | 100 feet | 100 feet |
| Incorporated City with a Population over 500 | 660 feet | 660 feet |
| Lake | 1000 feet | 1000 feet |
| River, Creek, Stream or Water course | 300 feet | 300 feet |
| Property Line | 80 feet | 80 feet |
| Existing Feedlot | 660 feet | 660 feet |
| Minimum Contiguous Parcel | 35 acres | 75 acres |

- 9.14.4 A. Feedlot Expansion A land use permit or conditional use permit obtained for a Tier I or Tier II Feedlot shall authorize the feedlot owner/operator to maintain any number of animal units within the allowable range for that tier. The number of animal units contained in the feedlot must not exceed the maximum allowed in the permitted tier. If the number of animal units contained in the feedlot at any time exceeds, or is anticipated to exceed, the number allowed in the permitted tier, the property owner must obtain a new or amended conditional use permit for the appropriate higher tier.
- B. Notwithstanding Section 4.2, any otherwise lawful feedlot which is rendered nonconforming solely by expansion or extension of a municipal boundary may be expanded, provided that the expansion shall not encroach upon the affected municipality to any greater extent than the preexisting feedlot, and provided that the feedlot owner has obtained an appropriate land use permit or conditional use permit, as required by Section 9.14.

9.14.5 Residential Setbacks

Non-feedlot residences must meet the minimum setbacks from a feedlot set forth in Section 9.14.3. However, a feedlot or non-feedlot residence that was previously permitted to be within 660 feet of one another shall be permitted to expand or enlarged provided that the expansion does not encroach closer to the other to any greater extent than the existing residence or feedlot.

That a new Section 9.14.6 be added to read as follows:

9.14.6 Permits

All proposed feedlots shall require a separate permit to be submitted to the Department of Development for review. The following information shall be submitted as part of this permit:

- A. A complete land use permit with a map or aerial photo indicating dimensions of feedlot and showing all existing homes, buildings, lakes, ponds, water courses, wetlands, dry-runs, rock outcroppings, roads, wells, and general contour and north arrow.
- B. A copy of approval from the Pollution Control Agency to operate a feedlot.
- C. No feedlot shall be located within the Flood Plain.

That the following portion of Section 10 be amended to read as follows:

10.5.1 BLA Procedures

The following information shall be provided as a part of the BLA procedure:

- C. The boundary line adjustment shall not:
 - 1. Create any additional lot, tract, parcel or division;
 - 2. Result in a lot, parcel, site or division which does not meet the minimum requirements of the Development Code for setbacks, lot size requirements and access;
 - 3. Increase the non-conforming aspects of an existing nonconforming lot;
 - 4. Replat, amend, alter or vacate a plat.
 - 5. Result in a lot being less than 20 acres in size, unless the original lot was less than 20 acres and the proposed lots are equal in size or within 10% of the pre-adjustment size.

10.6 Administrative Land Splits

D. Corrective Action

Existing, lots, tracts or parcels of land that were illegally subdivided prior to January 1, 2006 and have an existing dwelling constructed prior to August 1, 1978 or permitted by the Department of Development may be permitted to continue as a dwelling site regardless of the lots size and dimensions subject to meeting the requirements of Section 10.6.2. Illegally subdivided lots prior to January 1, 2006, without an existing dwelling constructed prior to August 1, 1978 or permitted by the Department of Development shall be permitted to be created as a building site subject to meeting the applicable standards of the Zoning District and Sect. 10.6 (b), (c), or 10.7.

10.10.3 Subdivision Design Features

- (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 Director of Development.

10.8 Major Subdivision Plat

The subdivision of land by plat into more than six lots in the R-1, R-2, R-3, R-S, B, B-2, I-1, I-2 Districts or more than 9 lots in the A or R-A Districts meeting the requirements set forth in Section 10.8 of this Ordinance.

That the following portion be amended in Section 11 to read as follows:

11.5.1 Criteria for Granting Variances

- (1) The proposed use is not prohibited in the zoning district in which the subject property is located.
- (2) The variance must be in harmony with the general purposes and intent of this ordinance.
- (3) The terms of the variance must be consistent with the comprehensive plan.
- (4) The landowner must show that the variance is necessary to alleviate practical difficulties or particular hardship in the way of carrying out the strict letter of the ordinance.

"Hardship" as used in connection with the granting of a use variance means:

- a. The property in question cannot be put to a reasonable use if used under the conditions allowed by this ordinance;
- b. The plight of the landowner is due to circumstances unique to the property, not created by the landowner;
- c. The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this ordinance.

"Practical Difficulty" as used in connection with the granting of an area variance means:

- a. How substantial the variation is in relation to the requirement;
- b. The effect the variance would have on government services;
- c. Whether the variance will effect a substantial change in character of the neighborhood or will be a substantial detriment to neighboring properties;
- d. Whether the practical difficulty can be alleviated by a feasible method other than a variance, (economic considerations play a role in the analysis under this factor);
- e. How the practical difficulty occurred, including whether the landowner created the need for the variance; and
- f. Whether, in light of all of the above factors, allowing the variance will serve the interest of justice.

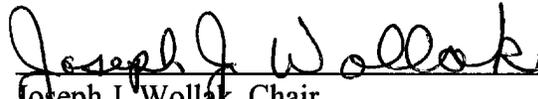
11.5.2 Procedure

- (1) The person applying for a variance shall fill out and submit to the Department of Development a variance application which shall include a statement of the difficulties or particular hardships claimed, along with the filing fee.
- (2) The Department of Development shall refer the application to the Board of Adjustment for review.

- (3) The Board of Adjustment shall hold a public hearing on the proposal in accordance with Minn, Stat. §15.99. Notice of the time, place and purpose of the public hearing shall be as provided by Minn. Stat. §394.26.
- (4) The petitioner or his representative shall appear before the Board of Adjustment in order to present evidence concerning the proposed variance.
- (5) The Board of Adjustment may impose conditions on the granting of variances to insure compliance and to protect adjacent properties and the public interest.
- (6) No resubmission of application for six months will be allowed without new evidence.
- (7) Granted variances become void if applicant does not proceed substantially on the work one year. To proceed substantially means to make visible improvement to the property and to have had applied to the property at least 40% of the man hours which it is reasonably estimated will be necessary for completion of the project. One or more extensions of not more than six months each may be granted by the Board of Adjustment for good cause.
- (8) Applications for variances will not be accepted from anyone who is not an owner of land for which the application is made.

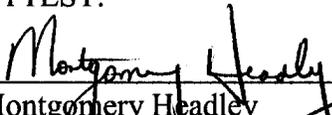
Approved and adopted by the Benton County Board of Commissioners this 7th day of October in the year of 2008.

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