

Certified, Filed and or Recorded on
June 16, 2010 AT 01:20PM

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

BENTON COUNTY ORDINANCE NO. 441

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

WHEREAS, on May 25 and 26, 2010, Notice of Public Hearing and intent to amend Benton County Ordinance was published in the official newspapers of the county; and,

WHEREAS, on June 10, 2010, the Benton County Planning Commission held a public hearing; and,

WHEREAS, on June 15, 2010, 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:

Modify the Development Code as follows:

Section 3 Definitions

Add to Section 3: the terms below shall have the following meanings and will be added alphabetically to Section 3 of the Development Code:

Interim Use: A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Outlot: A lot remnant or parcel of land left over after platting, which is intended as open space or other future use.

Section 4 General Provisions

Insert as shown below

4.2.1(3) last paragraph

For lots subject to subpart a-e when evaluating all variances, zoning and building permit applications, interim or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage

DOD
no fee

treatment and water supply capabilities, and other conservation-designed actions.

Section 5 Compliance

Insert as shown below

5.2 Applications for conditional use permits, interim use permits, variances and rezonings will not be accepted from anyone who is not an owner of land for which the application is made.

5.4.1 Any use not specifically listed as a permitted, accessory, interim or conditional use in a zoning district shall be prohibited within that district. Amendments to the code may be proposed and initiated pursuant to Section 11.8. (Ordinance #249 adopted 03-21-95)

Section 7 Zoning Districts

Amend as follows:

Section 7.1 Agricultural District

Delete these uses Temporary Housing, Second Dwelling & Mining Operations from Sections 7.1.21, 7.1.22 and 7.1.23 respectively and add those uses to Section 7.1.24 Interim Uses.

Section 7.2 Rural Agricultural (RA) Districts:

Delete these uses Mining Operations, Temporary Housing & Second Dwelling from Sections 7.2.22, 7.2.25 and 7.2.26 respectively and add to uses to Section 7.2.27 Interim Uses.

Section 7.2A Rural Service (RS) District:

Delete these uses Caretakers Residence, Temporary Housing & Second Dwelling from Sections 7.2A.20, 7.2A.21 and 7.2A.22 respectively and add those uses to Section 7.2A.23 Interim Uses.

Section 7.6 Business (B):

Delete Single family dwelling for caretakers Residence from Sections 7.6.2 and add the following Section 7.6.21 Interim Uses: Caretaker Residence

Section 7.6A Business Enterprise (B-2) Districts

Delete Single family dwelling for caretakers Residence from Sections 7.6A.3 and add the following Section 7.6A.31 Interim Uses: Caretaker Residence

Section 7.7 Light Industrial (I-1) District:

Delete these uses Mining Operations and Single family dwelling for caretakers Residence from Sections 7.7.2 and add the following Section 7.7.21 Interim Uses: Mining Operations and Caretaker Residence.

Section 7.8 Heavy Industrial (I-2) District

Delete these uses Mining Operations and Single family dwelling for caretakers Residence from Sections 7.8.2 and add the following Section 7.8.21 Interim Uses: Mining Operations and Caretaker Residence.

Section 9

OPERATING PERMITS Section 9.6.8 B2 (g)

Amend to read as follows:

- f. Demonstrate compliance with Minn. R. 7080.2350 (Type IV Systems).
- g. The test from the effluent (before discharge into the soil treatment system) as determined by the County in the operating permit.

Section 11 Administration Amend as follows:

11.3 Planning Commission

11.3.2 Membership Amend the last paragraph of section 11.3.2 to read as follows:

Each County Commissioner shall recommend a nominee for Planning Commissioner membership.

Modify to read as follows:

11.3.4 Ex-officio Members

The following are appointed as non-voting ex-officio members of the Planning Commission:

- The Department of Development Staff.
- A member of the Soil and Water Conservation District staff.

Modify to read as follows:

11.3.7 Officers

The planning commission shall elect a chairman and vice-chairman from among its members.

Add as shown

11.3.9 Powers and Duties

The planning commission shall have the powers and duties established by law, and in addition thereto, the following:

1. To conduct public hearings concerning the issuance of conditional use permits, interim use permits and the application of this Ordinance pertaining to subdivisions.
2. To conduct such other public hearings as required by law for the administration of this Ordinance except those which are assigned to the Board of Adjustment and County Board.
3. To finally approve all conditional use permits, interim use permits and order the issuance thereof.
4. To review and report to the County Board on plans for subdivision of land.

Separate written findings of fact shall be made by the planning commission for each conditional use and interim use permit granted or denied.

Modify Section 11.6.3 to read as follows:

11.6.3 Interim Uses

A) Criteria for Interim Use

No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:

1. The interim use conforms to the zoning regulations of the County;
2. There will be no additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future.
3. The interim use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
4. The interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
5. The interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
6. The interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district.
7. The interim use is consistent with the Comprehensive Plan of the County.
8. The interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.
9. The interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including that adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance.

B. Conditions

1. The use shall be limited to a specific time or event as identified by the Planning Commission.
2. Any interim use may be terminated by a change in zoning regulations.

3. As a condition of approval of the IUP, the Planning Commission may require an additional annual inspection fee as adopted by the Board.
4. Any use permitted under the terms of any Interim Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith. If the applicant does not abide by the conditions set forth in the permit, the County has the right to either revoke the permit or hold another hearing to investigate and set additional conditions.

C. Termination

An Interim Use shall terminate on the happening of any of the following events, whichever comes first:

1. The date or event stated in the permit.
2. Upon violation of conditions under which the permit was issued.
3. Upon change in the County's zoning regulations where the use no longer permitted.
4. The IUP shall expire if the approved use is inactive for one year or longer as determined by the Department of Development and/or tax records indicating the use was inactive.
5. Granted IUPs shall become void if the applicant does not proceed substantially on the work within one year of the date the permit is granted. 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. The Planning Commission may at their discretion grant an extension of not more than one year in order to establish the use.

D. Process of Approval

1. A complete IUP application shall comply with the criteria below:
An application for an Interim Use Permit shall be filed with the Department of Development on a form prescribed by the Department. The applicant shall provide the following written information in order for an IUP application to be complete:
 - a. A complete IUP application form signed and dated by the applicant and property owner(s) and pay all applicable fees.
 - b. Written description of the proposed activities.
 - c. Description of equipment and vehicles to be used for the activity.
 - d. Days and hours of operation
 - e. Number of employees using the property, including sub-contractors (full-time and part-time)

- f. Site plan, including:
 1. A survey, aerial photograph or site plan showing all existing and proposed buildings, well, septic system (or other restroom facilities), outside storage area(s), and driveway access(s).
 2. Existing and proposed screening.
 - g. A Certificate of Septic Compliance in shoreland or a compliance inspection if in non-shoreland.
 - h. Written description of any maintenance to take place on-site, including how hazardous materials will be stored and disposed of;
 - i. Any additional information required by the Department of Development specific to the IUP request
2. Complete applications shall be reviewed by the Benton County Department of Development in accordance with Mn Statute 15.99 as amended.
 3. The petitioner or their representative shall appear before the Planning Commission in order to present evidence concerning the proposed interim use.
 4. After a public hearing has been held, the Planning Commission shall approve, deny, or continue an IUP request, with written findings in support of their decision.
 5. An amended interim use permit application **shall** be administered in a manner similar to that required for a new interim use permit. The fee shall be as set by separate action of the County Board. Amended interim use permits may include requests for changes in conditions and as otherwise described in this Ordinance.
 6. No application for an interim use permit shall be resubmitted for a period of six months from the date of said order of denial.
 7. If a time limit or period review is included as a condition by which a interim use permit is granted, the interim use permit may be reviewed at a public hearing with notice of said hearing published at least ten days prior to review; it shall be the responsibility of the Department of Development to schedule such public hearings. A public hearing for annual review of interim use permits may be granted at the discretion of the Benton County Planning Commission.
 8. Any use permitted under the terms of any Interim Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith. If the applicant does not abide by the conditions set forth in the permit, the County has the right to either revoke the permit or hold another hearing to investigate and set additional conditions.
 9. The applicant shall pay all IUP and recording fees as determined by the County Board. As a condition of approval of the IUP, the Planning Commission may

require an additional annual inspection fee as adopted by the County Board. The annual inspection fee shall cover the cost of County Staff or their agent to inspect the property as required within the IUP's conditions of approval.

10. Granted interim use permits shall become void if applicant does not proceed substantially on the work within one year of the date the permit is granted. 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 extension of not more than one year may be granted by the Planning Commission at their discretion.

Approved and adopted by the Benton County Board of Commissioners this 15th day of June in the year of 2010.

Upon enactment, this ordinance shall be effective upon publication as provided by law.



Earl Bukowski, Chair
Benton County Board of Commissioners

ATTEST:


Montgomery Headley
Benton County Administrator