



Incorporated Areas with a Map Number of 27009CINDOA and all Flood Insurance Rate Map panels therein indicated on the Flood Insurance Rate Map Index for Benton County, Minnesota and Incorporated Areas that apply to the unincorporated areas of Benton County, Minnesota; all of the aforementioned documents being dated August 16, 2011 and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Office of the County Auditor and the Zoning Administrator. These requirements were adopted by reference by Ordinances #131 and #185 (Sections 7.9 of the Development Code) shall continue in force and effect.

**Amend Section 2.4.2 3<sup>rd</sup> Sentence to read as follows:**

All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data.

And **add** of Adjustment to the last sentence after "Board".

**Amend Section 2.5 last sentence to read as follows:** Sections 7.9 of Ordinance #185 shall continue to be effective.

**Amend Section 2.8 Definitions as follows:**

**Renumber this section to read 2.8.1-26** consecutively for each definition alphabetically.

**Add the following definitions:**

2.8.1 Accessory Building: a subordinate building excluding storage structures or portion of the principal building, the use of which is incidental to that of the dominant use of the principal building or land.

2.8.5 Development Code- means the Benton County Development Code, Ordinance 185 as amended from time to time.

2.8.13 Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

2.8.14 Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

2.8.18 Recreational Vehicle - a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

2.8.21 Storage Structure: Any building having a roof which may provide shelter or enclosure of movable personal goods but not to include livestock or persons.

2.8.22 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 smaller than or equal to 120 square feet, improved driveways, sidewalks, or slabs.

2.8.23 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred, as determined by the County Assessor.

2.8.24 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement as determined by the County Assessor. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

2.8.26 Zoning Administrator- shall mean the Benton County Department of Development Director.

**Amend the following definitions:**

2.8.3 Basement **Insert-** four after the word "all".

2.8.4 Conditional Use **Insert** /Interim between "Conditional" and "Use".

2.8.8 Flood Fringe **Add** – Minnesota and Incorporated Areas. after "Benton County,"

2.8.19 Regional Flood **Insert,** 1 percent annual chance of flood after "base flood"

2.8.25 Variance **Amend** to read as follows: Variance -means any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause a practical difficulty.

**Section 3**

**Amend** Section 3.1 to read as follows:

3.1.1 Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 2.2. For lakes, wetlands and other basins, the Floodway District shall include those areas designated as Zone AE (that do not have a floodway designated) and Zone A on the Flood Insurance Rate Map panels adopted in Section 2.2 that are below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3.1.2 Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe, which shall include the areas shown on the Flood Insurance Rate Map, adopted in Section 2.2, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe District shall include those areas designated as Zone AE (that do not have a floodway designated) and Zone A on the Flood Insurance Rate Map panels adopted in Section 2.2 that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3.1.3 General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A and Zone AE (without a floodway) on the Flood Insurance Rate Map adopted in Section 2.2, which are not subject to criteria in 3.1.1 and 3.1.2 above.

Section 3.2 Compliance first sentence **insert** constructed before “located”. **Delete** subordinate lettering a-c and **replace** with subordinate numbering 3.2.1-3.2.3.

3.2.1 **Replace** “travel trailer and travel” with recreational.

3.2.2 **Insert** normal maintenance and repair, after “structural alterations”.

#### Section 4

4.1.2 **delete** all uses and replace with This section reserved for future use.

4.3 Conditional Uses **add** /Interim between “Conditional” and “Use” and in 4.3.1, 4.3.5 and 4.3.7 **delete** all uses and replace with “This section reserved for future use.” 4.3.6 **remove** “Placement of fill”.

4.4 Standards for Floodway Conditional Uses: **add** /Interim between “Conditional” and “Uses” **add** /Interim between each reference to “Conditional Use” from 4.4.1-4.4.4.

4.4.5 Accessory Structures **add** /Storage between Accessory and Structure and **amend** to read as follows:

4.4.5 Accessory/Storage Structures:

(a) Accessory/Storage structures shall not be designed or used for human habitation.

(b) Accessory/storage structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

(1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory/storage structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code (Section 1335). As an alternative, an accessory/storage structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed

accessory structures must meet the following additional standards:

- (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
- (2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
- (3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

4.4.6(b) **delete** sentence "Storage of other materials..." and **replace** with This section reserved for future use.

4.4.7 **amend** "105" to 103G.

## Section 5

Section 5.1 **Insert** the following as the second sentence. If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. Last sentence **delete** "Permitted and Conditional".

5.2.1 **Replace** existing language with Elevating on fill is a Conditional/Interim Use regulated under Section 5.3.

5.2.2 **modify** "accessory" to read accessory/storage

5.2.3 **delete** language after "Conditional Use".

**Amend** 5.3 Conditional Use to read as follows:

5.3 Conditional/Interim Uses:

5.3.1 Any structure that is not elevated on fill or flood proofed in accordance with Section 5.2.2 or any use of land that does not comply with the standards in Section 5.2.3-5.2.4 shall only be allowable as a Conditional/Interim Use. An application for a Conditional/Interim Use shall be subject to the standards and criteria and evaluation procedures specified in Sections 5.4-5.5 and 10.4 of this Ordinance.

5.3.2 All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be at the base flood elevation or higher and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

5.4 Standards for Flood Fringe Conditional Uses: **add** /Interim between “Conditional” and “Uses”.

5.4.1 **replace** subordinate letters a-c with numbers 1-3 within the paragraph.

5.4.1(1-2) to be **replaced** as letters (a-b)

5.4.1(b)(1-2) to read as follows:

(1) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

(2) That the enclosed area will be designed of flood resistant materials in accordance FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

5.4.2 Basements **amend** reference to 2.8.3

5.4.3 **amend** to read as follows:

5.4.3 All areas of non residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

5.4.5 (b) **amend** “Planning Commission” to read County Board or delegated party.

5.5.1 **Amend** first sentence to read as follows: All new principal structures must have vehicular access at or above an elevation not more than 6 inches below the base flood elevation.

5.5.2 **Delete** everything after the first sentence.

5.5.3 **Remove** reference to deleted section 5.5.2.

5.5.4 **Amend** last sentence to read as follows: These standards shall be certified by a qualified engineer at the expense of the landowner prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

5.5.6 **Replace** “travel trailers and travel” with recreational.

**Section 6**

6.1.2 **add** and 6.3 behind “6.2” in first sentence.

6.2 **add** for Streams Located after “determinations”.

6.2.1 **add** or other approval after “Permit” in first sentence and **add** , or delegate, after “Zoning Administrator” also in the first sentence.

6.2.2 **add** and Code 44 of Federal Regulations Part 65 after “Parts 6120.6200”.

6.2.2 (c) **amend** 0.5 foot to read .5’

**Add Section 6.3 (1-3)**

6.3 Procedures for determining 1% annual chance flood elevations (100-YR flood elevations) for lakes located in Zone A:

6.3.1 Upon receipt of an application for a permit or other approval within a Zone A, the Zoning Administrator will use the 1% annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the 1% annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Zoning Administrator for the determination for the 1% annual chance flood elevation in accordance with approved FEMA methods.

6.3.2 The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the 1% annual chance flood elevation (100-year flood elevation). Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.

6.3.3 Once the 1% annual chance flood elevation (100-year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of Section 4.0 and 5.0 of this Ordinance.

**Section 7**

7.1 Third sentence after “building site” **replace** with the following: not more than 6 inches below the base flood elevation. Last sentence **correct spelling** of labeled.

7.2 **add** and 6.3 after “6.2” first sentence.

**Section 8**

8.1 **replace** “Corps of Engineers Flood Proofing Regulations” with State Building Code

8.3 **amend** subordinate lettering a-b with numbering 1-2.

## Section 9

**Replace** throughout this section – “travel trailers and travel” with recreational

9.2 first sentence **add** , or successor Ordinance after “#185”. Last sentence **replace** “Planning Commission” with Governing body or delegated party.

9.3.1 **add** (d) There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

9.3.2 **replace** “Travel” with Recreational

9.3.2(a) **add** , or successor Ordinance and **delete** “.91” after 3.

9.3.3 first sentence **add** exceeding \$500 for after “vehicle” and **add** Section 6.0 to last sentence.

9.3.4 (b) first sentence **insert** /interim after “Conditional” and **add** and shall demonstrate the provisions of Section 9.3.1 (a) and (b) of this Ordinance will be met. to the end of the third sentence

## Section 10

**Replace** throughout this section – “Conditional Use” with Conditional/Interim Use

10.1 first sentence **Add** or other official after “A Zoning Administrator”.

10.2.1 **Amend** to read as follows:

10.2.1 Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; Prior to the change or extension of a nonconforming use; and prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

10.2.3 to read as follows: State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional/Interim Use Permit or Variance, the Zoning Administrator shall determine that the applicant has contacted the State and Federal Government regarding State and Federal Permits.

10.2.4 and 10.2.5 **replace** “certificate” with notice

10.2.7 **replace** “First” with Lowest

10.2.8 **add** the following subsection:

10.2.8 Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural

Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

10.2.9 **add** the following subsection:

10.2.9 Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

10.3.2 **add** the following sentence to the end of the paragraph. Appeals must be submitted as an application to the Board of Adjustment for consideration.

10.3.3 **replace** this section to read as follows:

Variances. The Board may authorize upon application in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances as provided for in Minnesota Statutes 394 and the Development Code Section 11.5 as amended from time to time. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(a) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(b) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the County, and Minnesota Statutes 394 which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

10.3.4 **replace** “fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law” with follow the requirements of MN Statute 15.99 or successor statute.

10.3.5 **delete** the first sentence and **replace** “In passing upon an appeal,” with The Board Of Adjustment.

10.3.6 **replace** “may be made as specified in Statutes 394.27, Subd. 9” with shall be taken in accordance with Minnesota law.

10.3.7 **replace** subordinate lettering a-b with numbering 1-2

10.4.2 **add** as the first sentence The Planning Commission shall arrive at a decision on a conditional/ interim use in accordance with MN Statute 15.99. Third sentence **delete** “punishable under” and **replace** with and shall be subject to those remedies and penalties specified in.

10.4.4 **replace** second sentence to read as follows: In approving Conditional/Interim Use applications, the Planning Commission shall evaluate the conditional/interim use applications in accordance with Minn. Stat. Ch. 394, Development Code Section 11.6 et. seq., consider all relevant factors specified in other sections of this Ordinance, and consider the following factors:

(d and h) **correct spellings** of susceptibility, compatibility, and foreseeable.

10.4.5 **replace** to read as follows: Time for Acting on Application. The Planning Commission shall act on an application in accordance to MN Statute 15.99.

## Section 11

11.1 **add or amendment** after “passage” in the first sentence and **add** Historic structures, as defined in Section 2.8.23(b) of this Ordinance, shall be subject to the provisions of Sections 11.1.1 – 11.1.5 of this Ordinance as the last sentence.

11.1.1 **replace** to read as follows: No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity except as permitted by this Ordinance and the Development Code.

11.1.2 **amend** to read as follows: 11.1.2 Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in 11.1.3 and 11.1.6 below.

11.1.3 **replace** with the following: The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure as indicated in the records of the County Assessor unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and the reasonable cost placed on manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 4.0, 5.0 or 6.0 of this Ordinance for new structures depending upon whether the structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

11.1.5 **replace** with the following: If any nonconforming use or structure is substantially damaged, as defined in Section 2.8.23 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 4.0, 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

11.1.6 **add subsection** If a substantial improvement occurs, as defined in Section 2.8.24 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 4.0, 5.0 or 6.0 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

**Section 12**

12.1 **add** /Interim after “Conditional”

12.2.1 **delete** last sentence of paragraph.

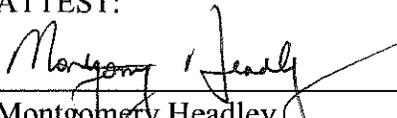
12.2.4 **delete** last sentence of paragraph.

Approved and adopted by the Benton County Board of Commissioners this 2<sup>nd</sup> day of August in the year of 2011.

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

  
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Spencer Buerkle, Chair  
Benton County Board of Commissioners

ATTEST:

  
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Montgomery Headley  
Benton County Administrator