

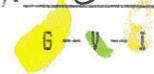
5-23

396903

Certified, Filed and or Recorded on  
May 23, 2013 9:55 AM

BENTON COUNTY MINNESOTA  
MARILYN J NOVAK  
COUNTY RECORDER

By: CK



## DOCUMENT COVER SHEET

Document Name:           **ORDINANCE NO. 452**

**Benton County of**

**The Public**

Document Date:           **05/21/13**

This cover sheet is being attached to this document to provide room for recording information and is considered part of this document

*Benton County Dept of Dev  
Foley  
no fee*

**BENTON COUNTY ORDINANCE NO. 452**

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

WHEREAS, on April 23, 2013 and April 24, 2013, Notice of Public Hearing and intent to amend Benton County Ordinance was published in the official newspapers of the county; and,

WHEREAS, on May 9th, the Benton County Planning Commission held a public hearing; and,

WHEREAS, on May 21, 2013 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 the following be amended to read as:

**10.6      Administrative Land Splits**

The conveyance of certain parcels of land may be split administratively in any zoning district if the requirements of this section are met. The Director shall have the authority to approve administrative land splits. An administrative land split for items A-E below shall only be approved if the conveyance does not require creation or altering of any public road right-of-way and any parcel created by the land split is in compliance with the minimum standards and residential density of the district in which it is located. The land split shall not result in a lot, parcel, site, division or building which does not meet the minimum requirements of the Development Code for setbacks, size requirements and/or access. An administrative corrective action shall be approved in accordance with item d below and Section 6.1.2.

A. Mortgages

Subdivision for the purpose of securing a mortgage may be allowed provided that a Deed Restriction accompanies the mortgage stating that both tracts (mortgage and residual) are restricted so that neither tract can be conveyed separately unless platted. The lots shall be considered as a single lot for zoning purposes. A survey of the lots shall not be required. (Ord. #411, adopted 5/15/07)

B. Agricultural or recreational splits

Land that is being split and sold for agricultural or recreational purposes 20 acres or greater and the residual tract is at least 20 acres or greater may be allowed if the intended purpose of the conveyance is stated in a deed restriction and that the conveyance is not intended as a building site. State Law requires that with the creation of any new or residual lot, said lot is capable of supporting two Type 1 sewage treatment systems. If the intent of the land split is not for the creation of a building site then sewerability would not be required. If the tract contains less than 40 acres but is 35 acres or greater and is described by the rectangular survey system as a quarter, quarter section, in common ownership, the tract shall be considered eligible for an equal split of the parcel. (Ord. #440, adopted 10/20/09)

C. Parcels 20 Acres or greater

Creation of parcel 20 acres or greater for building site development may only be allowed if there are soil borings identifying the location for two Type 1 sewage treatment sites, that the building site is at least 2 acres of contiguous upland and can meet the provisions of the wetland conservation act and the residual tract is at least 20 acres or greater and either has a septic system or soil borings identifying the location for two Type 1 systems. If the tract contains less than 40 acres but is 35 acres or greater and is described by the rectangular survey system as a quarter, quarter section, in common ownership, the tract shall be considered eligible for an equal split of the parcel. (Ord. #440, adopted 10/20/09)

D. Corrective Action

(Ord. #431, adopted 10/7/08)

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.

E. Farmstead Split

Existing Farmstead Residences, as of July 9, 2013 as defined within Section 3.0, may be split from the existing farm through the administrative land split process if located within an Agricultural District "A" and Rural Agricultural District "R-A". State Law requires that with the creation of any new or residual lot, said lot is capable of supporting two Type 1 sewage treatment systems. If the intent of the land split is not for the creation of a building site then sewerability would

not be required, however a deed restriction stating that the conveyance is not intended as a building site shall be required.

#### 10.6.1 Administrative Land Split Procedures

(Ord #440, adopted 10/20/09)

The following documents (A-E) shall be provided as a part of the Administrative Land Split procedure. Failure to provide the necessary documents will result in the inability to create a legal subdivision according to this Ordinance.

- A. Administrative Land Split Application
- B. Three paper copies and one digital copy of a certificate of survey signed by a registered land surveyor for the land being conveyed.
  - 1. A certificate of survey for all affected lots, tracts or parcels (lots) that shall include a legal description of each parcel;
  - 2. The parcel area;
  - 3. Any existing site improvements within 100 feet of the property lines; and
  - 4. Distances from buildings to property lines.
- C. When applicable, a deed restriction, recorded with the appropriate language approved by the Director prior to the conveyance of the lot, tract or parcel.
- D. Evidence of ownership or a legal interest in the property. That may include the deed of ownership or a title opinion by a practicing attorney at law.
- E. Written approval for public road access for each parcel from the appropriate road authority. (Township, County, State).

Upon submittal of all required documents, the Director of Development shall review the proposed subdivision for compliance with all applicable ordinances. If the Administrative Land Split is compliant it shall be recorded in the Office of the Recorder. If the Administrative Land Split is not compliant all documents shall be returned and the reasons for non-compliance shall be stated in writing to the applicant. (Ord. #398 adopted 5/8/06) (Ord. #407 adopted 11/14/06)

#### 10.6.2 Administrative Corrective Action

(Ord. #407 adopted 11/14/06) (Ord. #440, adopted 10/20/09)

The following documents (A-C) shall be submitted as a part of the Administrative Corrective Action procedure. Failure to provide the necessary documents will result in the inability to create a legal subdivision according to this Ordinance.

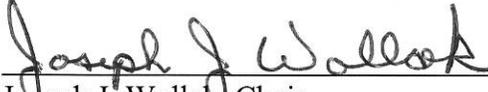
- A. Administrative Corrective Action Application.
- B. Three paper copies and one digital copy, if available, of a certificate of survey signed by a registered land surveyor for the land being conveyed.
  - 1. A certificate of survey for all affected lots, tracts or parcels that shall include a legal description of each parcel;
  - 2. The parcel area;
  - 3. Any existing site improvements within 100 feet of the property lines; and
  - 4. Distances from buildings to property lines.
- C. Evidence of ownership or a legal interest in the property. That may include the deed of ownership or a title opinion by a practicing attorney at law.

## 10.6.3 Farmstead Split

(Ord. #452 adopted 6/21/13)

The following documents (A-H) shall be submitted as a part of the Farmstead Split procedure. Failure to provide the necessary documents will result in the inability to create a legal subdivision according to this Ordinance.

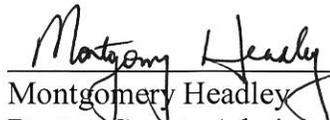
- A. Farmstead Split Application.
- B. Three paper copies and one digital copy, if available, of a certificate of survey signed by a registered land surveyor for the land being conveyed.
  - 1. A certificate of survey for all affected lots, tracts or parcels that shall include a legal description of each parcel;
  - 2. The parcel area;
  - 3. Any existing site improvements within 100 feet of the property lines;
- C. Distances from buildings to property lines;
- D. Updated abstract and title opinion; and
- E. Wetland delineation for Farmstead Residence lot.
- F. Evidence of ownership or a legal interest in the property. That may include the deed of ownership or a title opinion by a practicing attorney at law.
- G. When applicable, a deed restriction, recorded with the appropriate language approved by the Director prior to the conveyance of the lot, tract or parcel.
- H. Written approval for public road access for each parcel from the appropriate road authority. (Township, County, State).



Joseph J. Wollak, Chair

Benton County Board of Commissioners

ATTEST:




---

Montgomery Headley  
Benton County Administrator