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## 8.0 Performance Standards

The guiding of land development into a compatible relationship of uses depends upon the maintenance of certain standards. In the various Use Districts, the permitted, accessory and conditional uses shall conform to the following standards.

### 8.1 Nuisance Standards

#### 8.1.1 Noise

Any use established shall be so operated that no undue noise resulting from said use is perceptible beyond the boundaries of the property on which such use is located. This standard shall not apply to incidental traffic, parking, loading, construction, farming or maintenance operations.

#### 8.1.2 Vibration

Any use creating periodic earth-shaking vibration shall be prohibited if undue vibrations are perceptible beyond the boundaries of the property on which the use is located. The standard shall not apply to vibrations created during the process of construction.

#### 8.1.3 Glare and Heat

Any use producing intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located.

#### 8.1.4 Smoke and Particulate Matter

Any use established, enlarged or remodeled after the effective date of this Ordinance shall be so operated as to meet the minimum requirements of the Minnesota Pollution Control Agency for the emission of smoke or particulate matter.

#### 8.1.5 Toxic or Noxious Matter

Any use shall not discharge into the atmosphere, water or subsoil, any toxic or noxious matter.

## **8.2 Storage Standards in Residential Districts**

In residential districts, except for parcels larger than 40 acres actually being used for horticulture or general farming, all materials, equipment, and other items, shall be stored within a building or completely screened from adjoining properties and public roads, except for the following: (1) laundry drying, (2) recreational equipment, (3) construction and landscaping materials and equipment currently being used for construction on the premises, (4) agricultural equipment and materials if these are used or intended for use on the premises, (5) off street parking, except as otherwise regulated herein, and (6) boats and house trailers, less than 20 feet in length, if stored in the rear yard not less than 10 feet distance from any property line. In Residential Districts, wood piles are permitted provided they are neatly stacked, a maximum of 8 feet in height and do not take up more than 10% of the total open area of a yard. (Ord. #192 adopted 8/1/89)

### **8.2.1 Bulk Storage (liquid)**

All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshall and Minnesota Department of Agriculture's offices and have documents from those offices stating that the use is in compliance. Fuel tanks may be permitted as an accessory use only and shall be subject to setback regulations. All existing, above-ground liquid storage tanks which have a capacity in excess of 2,000 gallons, shall comply with the requirements of Minnesota State Fire Marshall's office within 12 months following enactment of this Ordinance.

## **8.3 Visual Standards**

### **8.3.1 Screening**

Where any business or industrial use is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator. The screening required herein shall consist of fence, trees, or shrubs. Plans for such screening shall be approved by the Planning Commission before it is erected.

8.3.2

Residential Fences

(Ord. #407 adopted 11/14/06)

Fences located in a residential district, rural service district or cluster lot may be located on any lot line to a height of 4 feet and a fence up to 6 feet in height may be erected behind the nearest front corner of the principal building.

Fences between 4 feet and 6 feet in height may be allowed as a conditional use in front yards in a residential district, rural service district or cluster lot.

Should the rear lot line be common with the side lot line of an abutting lot, that portion of the rear lot line equal to the required front yard of the abutting lot shall not be fenced to a height of more than 4 feet.

Fences erected from the building line to the ordinary high water level shall not exceed a height of 4 feet and have at least 90 percent of the surface uniformly open and unobstructed unless the lot abuts a public park or public access.

8.3.3

Business and Industrial Fences

Fences may be located on a lot line to a height of 6 feet. Fences over 6 feet in height may be permitted subject to the provision of engineered plans in accordance with the State Building Code. (Ord. #407 adopted 11/14/06)

8.3.4

Access Driveways

- (a) The distance from a driveway to the intersection of two streets shall not be less than 20 feet measured along the street curb line; provided, however, that if in the opinion of the Engineer, present or future traffic conditions warrant greater distances, such greater distances shall be required subject to approval by the Road Authority. The distance from a driveway to the intersection of two thoroughfares shall be no less than 100 feet.
- (b) The minimum distance between driveways shall be 25 feet; provided, however, that if in the opinion of the Engineer, present or future traffic conditions warrant greater distances, such greater distances shall be required subject to approval by the Road Authority.
- (c) The driveway angle to the street shall be 90 degrees unless otherwise recommended by the Engineer and approved by the Road Authority.

- (d) Access driveways for other than single family dwellings, shall be 30 feet wide measured along the property line between the curb faces of the driveway, unless otherwise recommended by the Engineer and approved by the Road Authority.
- (e) Access driveways for single family dwellings shall be not less than 12 feet, nor more than 24 feet, wide measured along the property line, except as provided for in the lot access requirement provisions of Sections 7.1 and 7.2, unless otherwise recommended by the Engineer and approved by the County Board.  
(Ord. #308 adopted 11/4/99) (Ord. #407 adopted 11/14/06)

## **8.4 Hazardous Elements Standards**

### **8.4.1 Explosives**

Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than 400 feet from any residence. This section shall not apply to the storage or usage of liquid petroleum or natural gas for normal residential or business purposes.

### **8.4.2 Radiation Emission**

All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.

## **8.5 Solid Waste Disposal**

All disposal of solid waste shall be in accordance with the Benton County Solid Waste Ordinance #162 as amended from time to time.

8.5.1 In all districts, all waste material, debris, refuse, or garbage shall be kept in a safe and appropriate manner designed for the proper management of each waste type. The owner of vacant land shall be responsible for keeping such land free of refuse. (Ord. #334, adopted 8/21/01)

8.5.2 All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a special use permit, or otherwise permitted by provisions of this Ordinance, shall be considered as refuse.

8.5.3 The storage of more than 50 waste tires is prohibited unless permitted as a tire collector or exempt according to the Solid Waste Ordinance. Tire collectors shall be permitted as a conditional use as specified within a

zoning district. All waste tires shall be stored indoors or in a manner which will not create a nuisance, blight, health hazard or fire hazard (i.e. tarped.) (Ord. 447, adopted 12/20/11)

## **8.6 Incinerators**

The installation of incinerators, their use and design, shall be in conformity to the regulations and standards adopted by the Minnesota Pollution Control Agency and Benton County.

## **8.7 Unlicensed Motor Vehicle Storage**

(Ord. #282, adopted 3/17/98)

The storage of unlicensed motor vehicles for personal use shall be subject to the following regulations:

### **8.7.1 Residential Districts**

In areas zoned R-1, R-2, R-3 or R-S, no unlicensed motor vehicles may be stored unless completely enclosed within a structure.

### **8.7.2 Agricultural Districts**

- (a) In areas zoned A or R-A the storage of up to three (3) unlicensed motor vehicles shall be a permitted use.
- (b) In agriculturally zoned area, the storage of more than three (3) vehicles shall be permitted if the following criteria are met:
  - 1. If all the unlicensed motor vehicles on the property are within a fully enclosed structure, there shall be no limit to the number of unlicensed vehicles stored on the property; or,
  - 2. Up to twenty-five (25) unlicensed motor vehicles may be stored within an area that is totally encircled by an opaque wall or opaque privacy fence of not less than six (6) feet in height. Property owners who store unlicensed motor vehicles pursuant to this paragraph must first obtain a land use permit authorizing storage within a fenced area. Applicants must state the number of vehicles to be stored. Land use permits issued pursuant to this section shall be valid for two years from the date of issuance.

8.7.3 Commercial Storage Not Allowed

No storage of motor vehicles for commercial purposes, such as sale, repair or salvage shall be allowed in any zoning district, except for permitted, conditional or accessory uses specifically authorized by the Benton County Development Code. Commercial uses are subject to the regulations of the pertinent zoning districts.

8.8 Accessory Uses Prohibited (Ord. #308 adopted 11/4/99)

No mobile or manufactured home, camper, travel trailer, recreational vehicle, bus, or similar structure shall be used as an accessory structure, out building or for storage purposes in any district.

8.9 Right to Farm (Ord. #308 adoption 11/4/99) (Ord. #407 adopted 11/14/06)

A. Farmers have a right to farm even if development is taking place around them. If the farm was in operation before the complaining person moved to the area, the complaining person shall be deemed to have "come to the nuisance." An agricultural operation is not and shall not be considered a private or public nuisance by Benton County if the operation:

- a. Is located in an agriculturally zoned area;
- b. Complies with the provisions of all applicable federal, state, or county laws, regulations, rules, and ordinances and any permits issued for the agricultural operation; and
- c. Operates according to generally accepted agricultural practices.

B. Farmers shall have the right to farm without unreasonable restrictions, regulations, or harassment. Complaints against the operations of farms shall be considered to be unwarranted and frivolous as long as the farming activities are being conducted according to generally accepted agricultural standards.

These farming activities shall include, but not be limited to:

- a. The right to operate equipment in the fields, on the roads, or on any farm or homestead property, at any time and on any day of the week.
- b. Farming activities that generate noise and dust. This can be caused in a variety of ways including fieldwork, caring for livestock, harvest, or care and maintenance of the farm.

- c. The generation of odor from livestock, manure, fertilizer, feed, and farm-related other sources.

C. All farming operations that lawfully exist in Benton County shall be protected by this Ordinance

8.9.1 Nuisance. An agricultural operation conducted or maintained on agricultural land shall not be or become a nuisance, public or private, if the operation was not a nuisance when it began. This provision shall not apply:

- a. To a condition or injury that results from the negligent or improper operation of an agricultural operation or from operations conducted and maintained in a manner that is contrary to commonly accepted agricultural practices;
- b. When an agricultural operation causes injury or direct threat of injury to health or safety of any person;
- c. When an agricultural operation causes the pollution of, or change in the condition of, waters of the State or the water flow of water on the lands of any person; or
- d. When an agricultural operation causes the obstruction of free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, street or highway.

8.9.2 The provisions of this section do not apply:

- 1. To an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the pollution Control Agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more,
- 2. To any prosecution for the crime of public nuisance as provided in Minnesota Statutes Sect. 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance, or
- 3. To any enforcement action brought by Benton County related to other sections of the Development Code.

**8.10 Private Swimming Pools** (Ord. #350, adopted 09/17/02)  
(Ord. #440, adopted 10/20/09)

- 8.10.1 Fencing for outdoor pools regardless of size shall be provided as required by the Minnesota State Building Code.
- 8.10.2 Pools with a capacity of 5,000 gallons or greater shall require a land use permit.
- 8.10.3 The pool shall meet all structure setback requirements of the specified zoning district.

**8.11 Animal Unit Density Requirement** (Ord. #431, adopted 10/7/08)

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 (Ord. #449, adopted 11/20/12)

Less than 1 acres	Cats and dogs and other domestic animals customarily kept as household pets
1-1.99 acres	Cats and dogs and other domestic animals customarily kept as household pets; and 10 chickens (no roosters) as long as they are within a confined area.
2-4.99 acres	1 animal unit and cats and dogs and other domestic animals customarily kept as household pets; and 10 chickens (no roosters) as long as they are within a

confined area. Up to 10 chickens shall not be counted towards the overall animal unit density.

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 pet and 10 chickens (no roosters) as long as they are within a confined area. Up to 10 chickens shall not be counted towards the overall animal unit density.

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”