

Certified, Filed and or Recorded on
March 20, 2018 3:42 PMBENTON COUNTY MINNESOTA
CHERYL L. KANTOR
COUNTY RECORDERBy: BS

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BENTON COUNTY ORDINANCE NO. 462

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

WHEREAS, on February 20, 2018, Notice of Public Hearing and intent to amend Benton County Ordinance was published in the official newspapers of the county; and,

WHEREAS, on March 8, 2018, the Benton County Planning Commission held a public hearing; and,

WHEREAS, on March 20, 2018 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:

11.3 Planning Commission

11.3.1 There is hereby created the Benton County Planning Commission.

11.3.2 Membership

The Planning Commission shall be composed of eight (8) voting members, one of whom may be a member of the Benton County Board of Commissioners. Each member shall be appointed by the County Board.

There shall be one member that resides in Commissioner District 5; one member that resides in Commissioner District 4; one member that resides in Commissioner District 3; two members that reside in Commissioner District 2; and two members that reside in Commissioner District 1; and, one member from the county at large if a Benton County Commissioner chooses not to serve on the Planning Commission. If there is not a resident of a Commissioner District willing to serve on the Planning Commission, then a resident of Benton County that does not live in the Commissioner District may be appointed to serve on the Planning Commission.

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

(Ord. 278 adopted 04/15/97) (Ord. #441, adopted 06/15/10)

11.3.3 Term of Office

Commission members shall serve three-year staggered terms. Members may serve a maximum of three consecutive three-year terms. Appointment to the planning commission shall be made at the January meeting of the county board, or as soon thereafter as it is practicable.

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
(Ord. 278 adopted 04/15/97) (Ord. #441, adopted 06/15/10)

11.3.5 Removal

Any member of the planning commission may be removed from the commission by majority vote of the County Board for failing to attend three consecutive meetings or five meetings within a calendar year, or for conduct or activity detrimental to or in conflict with the ends and purposes of County planning and zoning. Before removal, such commission member shall be given written notice by the County Board, and an opportunity to be heard by the County Board. An excused absence for just cause will not be counted when making the above determination.

11.3.6 Vacancy

Any vacancy on the planning commission shall be filled in the same manner as above provided for appointments. Such an appointment shall be limited to the unexpired term of the vacancy.

11.3.7 Officers

The planning commission shall elect a chairman, a vice-chairman from among its members. (Ord. #441, adopted 06/15/10)

11.3.8 Conflict of Interest

Any planning commission member who has a conflict of interest on any issue before the commission shall not be allowed to participate as a commission member on such issue. Any question of whether the particular issue involves a conflict of

interest sufficient to disqualify a commission member from acting thereon, shall be decided by majority vote of all commission members present except the member who is being challenged.

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.

11.3.10 Compensation

Except as hereinafter provided, the members and ex-officio members of the planning commission may receive a per diem and mileage as determined by separate action of the County Board. No member or ex-officio member who receives compensation or mileage from a government unit, including the County, for attending the planning commission meetings shall be entitled to additional mileage or per diem.

11.4 Board of Adjustment

11.4.1 There is hereby created the Benton County Board of Adjustment.

11.4.2 The Board of Adjustment shall consist of five members representing each of the five commissioner districts and shall be appointed by the Board of County Commissioners. The five members shall reside in the respective Commissioner District he or she represents. At least one member shall be a resident of the unincorporated portion of the county. One member of the Board of Adjustment shall also be a voting member of the planning commission. No elected county officer, nor any employee of the county, shall serve as a member of the Board of

Adjustment. If there is not a resident of a Commissioner District willing to serve on the Board of Adjustment, then a resident of Benton County that does not live in the Commissioner District may be appointed to serve on the Board of Adjustment.

11.4.3 The members of the Board of Adjustment shall be paid a per diem and their mileage in an amount to be determined by separate action of the County Board.

11.4.4 Except for the representative of the planning commission and the first Board of Adjustment, the members shall serve three year terms. The terms of office shall be staggered terms. On the first Board of Adjustment, except for the representative of the Planning Commission, two members shall serve for three years, one member shall serve for two years, and one member shall serve a one year term. The terms of office of the first board shall be determined by said members by lot. The representative of the Planning Commission shall always serve a one year term. The members shall serve until their successors are appointed and have qualified for the office. The members shall be appointed at the January meeting of the Board of Commissioners, or as soon thereafter as practicable. The interim between the appointment of the members of the first Board of Adjustment and the next January shall be in addition to the aforesaid term of office. Members may serve a maximum of three consecutive three-year terms. The County Board of Commissioners shall fill vacancies with new members who shall serve for the unexpired terms. All members shall serve at the pleasure of the County Board of Commissioners.

11.4.5 The Board of Adjustment shall elect a chairman and a vice chairman from among its members and shall appoint a secretary who need not be a member of the Board. It shall adopt rules for the transaction of its business and such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The Board shall provide for a record of its proceedings which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order.

11.4.6 The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify.

11.4.7 Appeals. An aggrieved party may appeal to the Board of Adjustment from any order, requirement, decision, or determination made by any administrative official charged with enforcing this Ordinance. Actions of the Planning Commission and the County Board shall not be appealable to the Board of Adjustment.

The appeal shall be taken by filing written notice thereof with the zoning administrator not more than thirty (30) days after the order, requirement, decision or determination appealed from.

The notice of appeal shall be in writing and shall specify the grounds thereof.

The filing fee established by the County Board shall be paid to the zoning administrator at the time of filing the notice of appeal as a condition of perfecting the appeal.

11.4.8 The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control, including restrictions placed on non-conformities. Application for a variance shall be made to the Board of Adjustment on forms provided by the zoning administrator by filing such application and paying the filing fee with the zoning administrator. The Board of Adjustment shall fix a reasonable time for the hearing on the application and give notice thereof as required by law.

11.4.9 A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance, shall be filed for record with the county recorder or the registrar of titles. The order issued by the Board of Adjustment shall include the legal description of the property involved. The zoning administrator shall be responsible for meeting the requirements of this subdivision. The zoning administrator shall be responsible for giving written notice of the decision or order of the Board of Adjustment to the proper parties having matters before the Board of Adjustment.

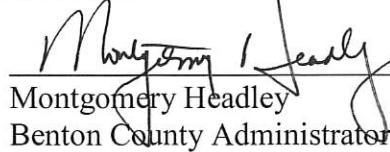
11.4.10 The Board of Adjustment shall have such other powers and duties as are assigned to it by law.

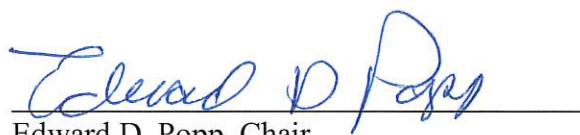
11.4.11 Separate written findings of fact shall be made by the Board of Adjustment for each variance granted or denied and for each appellate decision made.

Approved and adopted by the Benton County Board of Commissioners this 20th day of March 2018.

This ordinance shall be effective upon publication.

ATTEST:


Montgomery Headley
Benton County Administrator


Edward D. Popp, Chair
Benton County Board of Commissioners