

**10.0 SUBDIVISION REGULATIONS**

**10.1 Statutory Authority and Purpose**

10.1.1 This Ordinance is adopted pursuant to the authorization and policies contained in Minn. Stat. Ch. 394; Minn. Stat. Ch. 505; Minn. Stat. Ch. 508; and Minn. Stat. Ch. 326B, as may be amended.

10.1.2 All subdivisions of land submitted for approval shall comply, in all respects, with the regulations set forth herein. It is the purpose of these regulations to:

- (A) Facilitate the proper subdivision of land within Benton County.
- (B) Provide for the health and safety of residents by requiring necessary services; such as properly designed streets and adequate sewage and water service.
- (C) Establishing reasonable design standards and procedures for subdivisions and to insure proper legal descriptions and monumenting of land within the County.
- (D) Maintain and enhance the built and natural environment.
- (E) Place the cost of improvements upon those benefiting from their construction.
- (F) Secure the rights of the public with respect to public lands and waters.
- (G) Safeguarding ground water supplies and preventing pollution in order to preserve the value of land.
- (H) Encourage the wise use and management of natural resources throughout the County, including preventing erosion and providing for adequate drainage and storm water retention.

(Ord. #398, adopted 05/08/06)

**10.2 Policy**

10.2.1 The uncontrolled development and subdivision of property in Benton County, Minnesota impacts the public health safety and general welfare not only by contributing to pollution of ground and surface waters, but the loss of

agriculturally important land. Therefore, it is in the best interest of the public health, safety and welfare to provide for the wise subdivision of property in Benton County.

- 10.2.2 Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to the public health, safety and welfare. Land shall not be subdivided unless proper provisions have been made for drainage, water, wastewater, transportation facilities and any other necessary capital improvement.
- 10.2.3 Each lot created through the subdivision shall be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall consider susceptibility to flooding, existence of wetlands, soils and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near shore aquatic conditions, important fish and wildlife habitat, native plant communities and rare species, significant historical sites or any other feature of the natural land whereby an impact thereto is likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the County.
- 10.2.4 Building site, for the purpose of this section, shall mean the required amount of contiguous acreage containing non-hydric soils and void of wetlands, hydric vegetation, floodways, bluffs, right-of-way and restrictive easements. The site shall be capable of supporting 2 standard individual septic systems, unless the subdivision is to be connected to a central sewer system.
- 10.2.5 The existing and proposed public improvements shall conform to and properly relate to the County Comprehensive Plan. It is intended that this Ordinance shall supplement the standards and provisions contained in the Benton County Development Code and Benton County Comprehensive Plan.

(Ord. #398, adopted 05/08/06)

### **10.3 Compliance**

- 10.3.1 The subdivision of all land within Benton County shall be subject to the provisions of this Ordinance.
- 10.3.2 No permit shall be issued for any use or structure on any parcel of land which was illegally subdivided after August 1, 1978, until the appropriate corrective action has been completed. (Ord. #440, adopted 10/20/09)

- 10.3.3 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 subsection 10.4.3. 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 either subsection 10.4.3 or Section 10.5 below.
- 10.3.4 To correct an illegal subdivision the corrective action will require the property owner to follow the current requirements for subdivision.

#### **10.4 Administrative Land Splits**

- 10.4.1 The conveyance of certain parcels of land may be split administratively in any zoning district if the requirements of this section are met. The Department of Development Director shall have the authority to approve administrative land splits. An administrative land split for subsection 10.4.2 through 10.4.5 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 subsection 10.4.3 if it had an existing dwelling constructed prior to August 1, 1978. Subdivisions deemed too complicated by the Department of Development Director may be required to be platted.
- 10.4.2 Non-Building Subdivisions
- Land, 10 acres or greater and the residual tract is at least 10 acres or greater that is being split and sold for non-building purposes, may be allowed if:
- (A) The area of land subdivided and sold is not intended to be used to construct a structure or create a new tract of land containing an existing structure.

- (B) A deed restriction which shall state that the conveyance is for purposes other than to create a building site unless otherwise provided for in this Ordinance.
- (C) State Law requires that with the creation of any new or residual lot, said lot is capable of supporting 2 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.
- (D) Parcels that are 10 acres or more will remain restricted until such time the provisions of subsection 10.4.3 are met; or successor ordinance.
- (E) 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.
- (F) Parcels that are under 10 acres will remain restricted unless platted pursuant to Sections 10.5, 10.7 or 10.8.

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

#### 10.4.3 Building Sites on parcels 10 Acres or greater

Creation of a parcel 10 acres or greater for building site development. 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. In addition to the requirements in subsection 10.4.6(A)(1) through (4) the survey shall include the following:

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

- (A) Existing structures and at the discretion of the Department of Development Director impervious surface calculations may be required.
- (B) The location(s) of any animal feedlot within 660 feet of the survey boundary.
- (C) If determined necessary by the Department of Development Director, a copy of a wetland delineation report of delineated wetland boundaries for all wetlands that are on the parcel being split off.

- (D) Floodway, flood fringe and/or general floodplain district boundary
- (E) Shoreland district boundary.
- (F) Soil boring tests shall be required if on-site sewage treatment systems are to be used. Sites must be verified by Department of Development staff. See Section 9.22.
- (G) The minimum principal building setbacks and resulting building lines.
- (H) The location of ingress and egress to and from the proposed subdivision, including prior approval from the proper road authority (City, State, County, Township).

#### 10.4.4 Boundary Line Correction.

The conveyance is, in the opinion of the Department of Development Director, solely for the purpose of correcting a boundary line due to encroachments, to eliminate boundary line disputes or correct an occupation line, or to resolve conflict or inconsistencies in legal descriptions. Applications shall include documentation from a land surveyor, title company, attorney, or court of competent jurisdiction detailing the facts of why the boundary line correction is warranted. The correction of more than one boundary line may require the boundaries lines to be corrected through the platting process. Deeds shall be recorded as described in subsection 10.4.6(G) & (I).

#### 10.4.5 Parcel Combination.

- (A) The combination of 2 or more parcels that are described separately by metes and bounds shall require the recording of a deed that describes all parcels as one with a new legal description. There is no application necessary to combine parcels. Deeds of attachment are not sufficient. Deeds shall be recorded as described in subsection 10.4.6(G) & (I). This process shall not apply to platted lots.
- (B) The addition or subtraction of land to/from abutting parcels may be permitted under the condition that each parcel remains a minimum of 10 acres. If a parcel is reduced to less than 10 acres, it shall be subject to the simple plat process

#### 10.4.6 Requirements. An administrative subdivision shall be considered by the following procedure:

- (A) The application shall be accompanied with a certificate of survey in a PDF format, prepared by a Licensed Land Surveyor. The survey shall include the following information:
  - (1) Legal description of each parcel;
  - (2) Parcel area;
  - (3) Site improvements, including structures, and
  - (4) Distances from structures to property lines.
- (B) The Department of Development Director shall review the proposed subdivision for compliance with all applicable ordinances.
- (C) The Department of Development Director shall notify the applicant whether the subdivision is approved or denied. If denied, the Department of Development Director shall provide written reasons for the decision.
- (D) Any deed restrictions required herein shall be recorded in the Office of the County Recorder and/or Registrar of Titles.
- (E) Incomplete applications for an Administration Subdivision are valid for 6 months. Administrative Subdivisions shall be considered null and void 1 year after approval if it has not been recorded, unless otherwise approved by the Department of Development Director.
- (F) Written approval from the road authority is required to be recorded with the subdivision documents for subdivisions that are being reviewed pursuant to Section 10.4.3.
- (G) New legal descriptions shall be created for each new parcel or adjusted parcel. Deeds with the new legal descriptions shall be exchanged between the parties and provided to the Department of Development Director. The certified survey must be attached to each deed for recording. The deeds must be recorded within 1 year. Failure to record the deeds will result in nullification of the administrative subdivision.
- (H) The lots or parcels to be divided and/or combined must be in the same school district or taxing jurisdiction.
- (I) In the event that a parcel cannot be described in whole, the following statement shall be added to the deed:

*The property described herein shall be considered one contiguous parcel or tract of land in respect to all matters related to land use and zoning as they may apply. This contiguous parcel or tract of land shall not be combined with other parcels or tracts of land, or subdivided further unless allowed by the applicable County Ordinances.*

## **10.5 Simple Plat**

10.5.1 A plat containing no more than 1 lot intended for building on; or a plat that only adjusts existing parcels may follow the simple plat process. A simple plat may not result in the creation of new roads. Unless specifically allowed as an administrative subdivision in Section 10.4, any subdivision of land regulated by this Ordinance shall only be approved as a simple, minor or major subdivision plat. In addition, only the following subdivisions of land may be approved as a simple plat:

- (A) The combination of platted lots if deemed appropriate by the Department of Development; and
- (B) In the opinion of the Department of Development Director, a subdivision of land that is too complex to be approved as an Administrative Subdivision.
- (C) Parcels created pursuant to Section 10.4 that are less than 10 acres.
- (D) Boundary Line Adjustments for the sake of deeding a portion of land from one parcel to another that is not consistent with Section 10.4.4 or Section 10.4.5.

### 10.5.2 Preliminary Simple Plat Approval

The owner or subdivider shall file an application for preliminary simple plat approval with the Department of Development Director that shall follow the criteria outlined in Section 10.9 through subsection 10.10.3, subsection 10.10.5(A)(1-12), subsection 10.11.4, and subsection 10.11.8:

- (A) A completed application form and title examination as outlined in subsection 10.13.5(D).
- (B) A copy of the plat in PDF format, plus any paper copies requested by the Department of Development Director. At a minimum, the application shall contain the information required in Section 10.9, subsections 10.10.1

through 10.10.3, subsection 10.10.5(A)(1-12), subsection 10.11.4, and subsection 10.11.8.

- (C) It is preferred that the preliminary plat be submitted in the Benton County Coordinate System.
- (D) The application shall be accompanied by all fees established pursuant to the most current Benton County Fee Schedule.
- (E) At the discretion of the Department of Development Director, the preliminary plat may be waived for the combination of platted lots.

10.5.3 Pursuant to Minn. Stat. § 505.03, subd. 1, as may be amended, a public hearing pursuant to Minn. Stat. Ch. 394, as may be amended will not be required for Simple Plats unless required by the Department of Development Director. The Department of Development Director shall approve the preliminary simple plat upon successful submission of the items outlined above. A final simple plat shall be submitted in accordance with subsection 10.5.4 upon approval of the preliminary simple plat.

#### 10.5.4 Final Simple Plat Approval Process

A final simple plat shall be considered in accordance with the following procedure:

- (A) The final simple plat shall have incorporated all changes or modifications recommended by the Department of Development Director, the County Engineer, the County Surveyor and County Attorney. In all other respects, the final plat shall conform to the preliminary plat.
- (B) The final plat shall be in the form and with the content prescribed in *the "Manual of Guidelines for Platting in Minnesota"*, as may be amended; and Minn. Stat. Ch. 505, as may be amended.
- (C) The final plat shall have certification blocks for all individuals and officials concerned with the recording of the plat. The following certification blocks shall be provided in accordance with the Manual of Guidelines for Platting in Minnesota. Examples of the signature blocks for the County Engineer and County Attorney can be found in subsection 10.14.2(C).

- (1) Surveyor



- (2) Delegated County Official
  - (3) County Surveyor
  - (4) County Engineer
  - (5) County Attorney
  - (6) County Auditor/Treasurer
  - (7) County Recorder or Register
- (D) In addition to the requirements of Minn. Stat. Ch. 505, as may be amended, the subdivider shall submit a copy of the plat in a PDF format.
- (E) The final plat shall be considered a complete application when the Department of Development Director has determined that all requirements have been met.
- (F) Any deed restrictions shall be submitted with the final plat.
- (G) The Benton County Surveyor shall have approved the final plat as in conformance with Minn. Stat. Ch. 505, as may be amended, specifically Minn. Stat. § 505.021, subd. 11, as may be amended, all plats prepared for recording in accordance with this section are subject to approval by the county surveyor in accordance with Minn. Stat. § 389.09, subd. 1, as may be amended, and/or as authorized by their respective county board of commissioners
- (H) If a final plat is approved by the Department of Development Director, the subdivider shall record it within the Office of the County Recorder and/or Registrar of Titles within 1 year after the date of approval otherwise the approval of the final plat shall become null and void.
- (I) A deed with the legal description for the residual parcel shall be filed with the final plat.
- (J) A certificate of survey will be required for the residual parcel.
- (K) The lots or parcels may not be subdivided further for at least 2 years under the simple plat process.

**10.6**      **Subdivision Plats**

## 10.6.1      General Provisions

## (A)      Pre-Application Meeting

- (1)      Prior to the preparation of a preliminary plat, the subdividers or owners and their land surveyor shall meet with the Department of Development Director and staff to determine the type of Subdivision Plat based upon the number of lots and the desired style of development. At this meeting the subdivider will be made aware of all applicable ordinances, statutes, regulations, regulators, and procedures.

## (B)      Park Commission Review

- (1)      Each Plat intended for residential purposes shall be reviewed by the Department of Development for compliance with the Park Dedication requirements of this Ordinance.

## (C)      Platting Committee Review

- (1)      All preliminary subdivision plats shall be reviewed by the County Platting Committee. The Platting Committee reviews plats for compliance with all County standards, policies and Ordinances. Comments from the Platting Committee shall be forwarded to the Planning Commission and the County Board.

## (D)      Requirement (Ord. #440, adopted 10/20/09)

- (1)      Any subdivision not meeting the requirements of Sections 10.4 and 10.5 shall meet the requirements for platting under Sections 10.7 through 10.15.

**10.7**      **Minor Subdivision Plat**

10.7.1      The subdivision of land by plat into 2 to 6 lots in the R-1, R-2, R-3, R-S, B-1, B-2, I-1, I-2 Districts or 2 to 9 lots in the A or R-A Districts meeting the requirements set forth within this Section. (Ord. #422, adopted 02/19/08)

## (A)      Standard Development Type- Preliminary Plat

- (1) After the pre-application meeting, the subdivider or owners shall file with the Department of Development Director 1 paper copy and 1 PDF copy of a preliminary plat and pay a fee pursuant to the most current Benton County Fee Schedule.
  - (2) Within 45 days after the preliminary plat has been filed with the Department of Development Director and after reports and certifications have been received as requested, the County Planning Commission shall hold a public hearing on the preliminary plat after notice of the time and place thereof has been published as required by Minn. Stat. § 394.26, as may be amended. This shall constitute the public hearing on the plat as required by state law.
  - (3) It shall be the responsibility of the applicant to obtain all information, statutes, rules, and regulations pertaining to the land proposed to be subdivided. Commission decisions will be based on submissions according to these rules, but shall not be limited to this information in their decision process.
- (B) Cluster Development Type - Preliminary Plat
- (1) Cluster Developments shall follow the same provisions noted in subsection 10.7.2 for submission of the preliminary plat. However the preliminary plat shall be based upon the Cluster Development Concept Plan that was approved by the Planning Commission by Conditional Use Permit and reflect all conditions of said CUP.

#### 10.7.2 Approval of Minor Preliminary Plats

- (A) The County Planning Commission shall approve, deny, or table the application request, together with a statement of findings and suggested changes. The Planning Commission may require, as a condition of approval, such changes or revisions as are deemed necessary for the health, safety, general welfare, and convenience of the people of the County. If the Planning Commission does not approve the preliminary plat or places conditions on the preliminary plat that are not acceptable to the subdivider, the County Board may, upon request of the subdivider at a public meeting consider holding a separate public hearing on the preliminary plat.

- (B) Approval of a preliminary plat is an acceptance of the general layout as submitted, and indicates that the subdivider may proceed toward final plat approval in accordance with the terms and provisions of this Ordinance. However, approval of the preliminary plat in no way assures approval of the final plat.
- (C) Preliminary plat approval by the Planning Commission shall be considered null and void if the final plat is not submitted for County Board approval within 1 year. The County Board may grant an extension in the case of a phased development in which only part of the preliminary plat is submitted for final approval. The developer shall request an extension at the same time that the first phase is submitted for final plat approval. When an extension is granted by the Board, the final plat for all subsequent phases shall be subject to the official controls in effect at the time of final plat approval. (Ord. #373, adopted 02/17/04)
- (D) During the intervening time between approval of the preliminary plat and the approval of the final plat, the subdivider shall submit engineering plans and specifications for all required improvements and any other documents necessary for recording of the plat. (Ord. #398 adopted 05/08/06)

## **10.8 Major Subdivision Plat**

10.8.1 The subdivision of land by plat into 7 or more lots in the R-1, R-2, R-3, R-S, B-1, B-2, I-1, I-2 Districts or 10 or more lots in the A or R-A Districts meeting the requirements set forth within this Section. (Ord. #422, adopted 02/19/08) (Ord. #431, adopted 10/07/08)

- (A) Standard Development Type- Preliminary Plat
  - (1) After the pre-application meeting, the subdivider or owners shall file with the Department of Development Director 1 paper copy and 1 PDF copy of a preliminary plat and pay a fee pursuant to the most current Benton County Fee Schedule.
  - (2) Within 45 days after the plat has been filed with the Department of Development Director and after reports and certifications have been received as requested, the County Planning Commission shall hold a public hearing on the preliminary plat after notice of the time and place thereof has been published as required by Minn. Stat. § 394.26, as may be amended. This shall constitute the public

hearing on the plat as required by state law. Within 30 days of the date of the public hearing, the Planning Commission shall make its report to the County Board.

- (3) It shall be the responsibility of the applicant to obtain all information, statutes, rules, and regulations pertaining to the land proposed to be subdivided. Board and Commission decisions will be based on submissions according to these rules, but shall not be limited to this information in their decision process.
- (B) Planned Unit Development Type - Preliminary Plat
- (1) Planned Unit Developments shall follow the same provisions noted in subsection 10.8.2 for submission of the preliminary plat. However the preliminary plat shall be based upon specific requirements established within the PUD Zoning District.

#### 10.8.2 Approval of Major Preliminary Plats

- (A) The County Planning Commission and the Department of Development Director shall forward to the County Board a written recommendation to approve, deny, or table the application request, together with a statement of findings and suggested changes. The County Board may require, as a condition of approval, such changes or revisions as are deemed necessary for the health, safety, general welfare, and convenience of the people of the County.
- (B) Approval of a preliminary plat is an acceptance of the general layout as submitted, and indicates that the subdivider may proceed toward final plat approval in accordance with the terms and provisions of this Ordinance. However, approval of the preliminary plat in no way assures approval of the final plat.
- (C) Preliminary plat approval by the County Board shall be considered null and void if the final plat is not submitted for approval within 1 year. The County Board may grant an extension to preliminary plat approval subject to a request by the developer being submitted prior to the 1 year deadline. When an extension is granted by the Board, the final plat shall be subject to the official controls in effect at the time of final plat approval. (Ord. #373, adopted 2/17/04)

- (D) During the intervening time between approval of the preliminary plat and the approval of the final plat, the subdivider shall submit engineering plans and specifications for all required improvements. (Ord. #398, adopted 05/08/06)

**10.9 State and Special District Considerations**

10.9.1 If any of the following circumstances exist, it shall be the responsibility of any unit of government involved to refer the preliminary plat to appropriate special districts or state agencies affected and involved:

- (A) Items of regional or state significance; such as, regional parks, state highways, sewer extensions, or similar matters.
- (B) Pollution (air, water, ground).
- (C) Airports, mass transit, schools, major employment centers, or similar considerations.
- (D) Flooding, shoreland, streams, wetlands, watershed problems, or similar considerations. (Ord. #398, adopted 05/08/06)

**10.10 Necessary Data for Preliminary Plat**

10.10.1 Benton County's data requirements for preliminary plats are as follows in this section. In addition to the data prescribed by the laws of the State of Minnesota, the preliminary plat shall include the following information.

10.10.2 Identification And Description

- (A) Proposed name of subdivision, pre-approved by the County Recorder's Office, which shall not duplicate or be similar in pronunciation or spelling to the name of any plat heretofore recorded in the County, such as:

ANDERSON'S ADDITION	ANDERSENS' ADDITION
FISHER ADDITION	FISCHER ADDITION
HAYS ADDITION	HAYES ADDITION

- (B) General location by section, township, range, along with specific location by lot and block, aliquot part or metes and bounds description.

- (C) Vicinity map indicating the location of the property being platted, including area within a 1 mile radius of the plat.
- (D) Names, addresses, and phone numbers of the recorded owner and any person having contractual interest in the land.
- (E) Surveyor's name, address, phone number and license number.
- (F) Date of land survey.
- (G) Graphic scale not less than one inch to one hundred feet (1" = 100').
- (H) North direction indicator.
- (I) Controlling monuments used to determine the specific legal description.

#### 10.10.3 Existing Conditions To Be Shown

- (A) The preliminary plat shall include information on the following conditions within the plat and extending to a distance of one hundred feet (1" = 100') beyond the boundaries of the proposed plat.
  - (1) All affected lots, tracts or parcels (lots) shall be subject to the plat as either a lot or outlot with the boundary lines of proposed subdivision depicted. However, the residual lot if 20 acres or larger may be depicted by a certificate of survey or be platted. If the residual parcel is intended as a building site soil borings shall be provided. (Ord. #403, adopted 09/05/06)
  - (2) Existing zoning classification(s) for land within and abutting the proposed subdivision. Zoning or rezoning of property is a separate process (see Section 11.9).
  - (3) Existing streets, including:
    - (a) Names
    - (b) Location
    - (c) Right-of-way width
    - (d) Type of surface

- (4) Boundary lines of adjoining unsubdivided or subdivided land identified by name and ownership.
- (5) Location of Railroads.
- (6) Location and type of electric power lines.
- (7) Location of gas and oil pipe lines.
- (8) Parks and other public lands.
- (9) Permanent buildings and structures.
- (10) Corporate boundaries.
- (11) School District boundary lines.
- (12) Section lines.
- (13) Existing individual sewage treatment systems, watermains, and the approximate location of existing water services including wells.
- (14) Topographic data, including vertical contour intervals of 2 feet, water courses, marshes, rock outcrops, and other significant features. Where necessary, USGS data or MNTPOPO (LiDAR) can be used for topographic mapping. The plat shall include placement and exact elevation of benchmark in relation to sea level.
- (15) Plats that include land abutting lakes or streams shall denote the 100 - year flood elevation on the face of the plat using numerical figures, provided this information is available from the Division of Waters of the Department of Natural Resources or from the U.S. Army Corps of Engineers.
- (16) Flood Plain, Floodway, and Flood Fringe areas as determined by the most recent Federal Insurance Administration's Flood Insurance Study for Benton County, must be clearly labeled on the plat.

See:

- (a) Flood Insurance Study for Benton County
- (b) Flood Boundary and Floodway Maps



## (c) Flood Insurance Rate Maps

- (17) Wetland Delineation – Level 2 (Excluding outlots and residual lots 10 acres or greater). Other level may be appropriate if approved by the Department of Development staff. If no wetlands are present within the platted area, a letter stating such must be submitted from a certified delineator.

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

## (18) Shoreland overlay district

- (a) Show shoreland district boundary, if any portion of the plat is located in the shoreland.
- (b) Show ordinary high water level and highest known water level.
- (c) Show the toe and top of any bluffs within the plat boundaries.
- (19) Show tree lines and areas of vegetation. The Planning Commission may require a tree survey, prepared by the developer, identifying tree coverage in the proposed subdivision in terms of type and extent of potential destruction when more than 50 percent of established trees are to be removed. The provision applies to major subdivisions only.
- (20) Additional information may be required as a prerequisite for approval.

## 10.10.4 Subdivision Design Features

- (A) Layout of proposed streets indicating the right-of-way widths, centerline gradients, and typical cross sections.
- (B) The name of any street heretofore used in the county or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used. Final determination of street names must be approved by the Department of Development Director.
- (C) Location and widths of proposed alleys and pedestrian ways.

- (D) Areas, other than streets, alleys, pedestrian ways, and utility easements, intended to be dedicated or reserved for public use; including the size of such area or areas in acres.
- (E) Layout, numbers, and preliminary dimensions of lots and blocks.
- (F) When lots are located on a curve, the width of the lot at the building setback line shall be indicated.
- (G) Park dedication areas.
- (H) Urban Overlay Plat (Ghost Plat).

The County may require, at its option, any subdivision within an Urban Growth or Urban Transition Area to provide an urban overlay plat. The overlay plat shall show in concept the following:

- (1) How the land within the subdivision will be subdivided into urban lots in the future.
- (2) The layout of future streets or extensions.
- (3) Easements for the extension of municipal sewer and water, and drainage and utility easements.

(Ord. #308, adopted 11/04/99)

#### 10.10.5 Other Information

- (A) The following information shall be submitted with the preliminary plat.
  - (1) Approximate overall acreage of the subdivision plan.
  - (2) Approximate individual lot size and acreage.
  - (3) Approximate acreage of developer's concept plan.
  - (4) Soil boring tests shall be required if on-site sewage treatment systems are to be used. See Section 9.22 (Ord. #407, adopted 11/14/06). The location of the verified soil boring shall be identified on the preliminary plat.
  - (5) Proposed easements for utilities, drainage and storm water management.

- (6) Existing public service corporation easements pursuant to Minn. Stat. Ch. 301B, as may be amended, and any other easement impacting the subject property. If an existing public service easement pursuant to Minn. Stat. §301B.03, as may be amended, or any other easement is not definitely and specifically described, a condition of final plat approval will be that the public service corporation or easement holder records a revised easement document that definitely and specifically describes the easement.
- (7) The minimum principal building setbacks resulting in building lines.
- (8) Proposed lot and block number.
- (9) Statement of the proposed use of lots, including type of residential buildings, number of proposed dwelling units, and type of business or industry.
- (10) Statement indicating the effect of the proposed development on traffic, fire hazards, and congestion of population.
- (11) A preliminary grading plan including phasing of grading and proposed grade elevations at 2 foot intervals shown as solid lines. A plan for soil erosion and sediment control both during and after construction. This plan shall include gradients of waterways, design of velocity and erosion control measures, and landscaping of the erosion and sediment control systems. All revegetation measures proposed for the tract including seed and mulch types and application rates. The plan shall conform to all standards found in subsection 10.11.7. (Ord. #398, adopted 05/08/06)
- (12) Drainage plan indicating surface water flow including the design and capacity of water control systems. Refer to standards as described in subsection 10.11.7. Location of existing and proposed stormwater facilities, ponds, swales and drainage channels within 150 feet of the tract or proposed to serve the tract. All existing and proposed pipe grades, rim and invert elevations, and normal and high water elevations must be shown on the plan. (Ord. #398, adopted 05/08/06)
- (13) Where the subdivider owns property adjacent to the property proposed for subdivision, the subdivider may be required to submit

a concept plan for the remainder of the property indicating the relationship between the proposed subdivision and any future subdivision. In any event, all subdivisions shall be shown to relate well with existing or potential adjacent subdivisions.

- (14) Such other information as may be requested by the County Planning Commission.

**10.11 Subdivision Design Standards**

10.11.1 General Requirements

- (A) The Planning Commission, in its review of the preliminary plat, shall take into consideration the requirements of the community and the best use of the land being subdivided.
- (B) The arrangement, character, extent, width, and location of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Wherever possible and necessary, the arrangement of streets in new subdivisions shall provide for the continuation of existing streets into adjoining areas. Also, where adjoining unsubdivided areas may be subdivided, the arrangement of streets in new subdivisions shall provide for proper street projection into adjoining areas by carrying such streets to the boundaries of new subdivisions at appropriate locations.

10.11.2 Streets

(A) Widths

Street right-of-way widths from centerline shall conform to the following minimum dimensions (refer to the most current Functional Classification Map issued by the Minnesota Department of Transportation):

Type of Street	Right-of-Way Width from Centerline
Principal Arterial	75 ft
Minor Arterial	60 ft
Collectors	60 ft
Local	55 ft

The road authority shall have the discretion to increase or reduce the required right-of-way width from centerline when deemed appropriate.

(Ord. #398, adopted 05/08/06)

(B) Street Intersections

- (1) Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of 2 streets be less than 70 degrees.
- (2) Intersections having more than 4 corners shall be prohibited.
- (3) Adequate land for future intersection and interchange construction needs shall be dedicated.

(C) Tangents

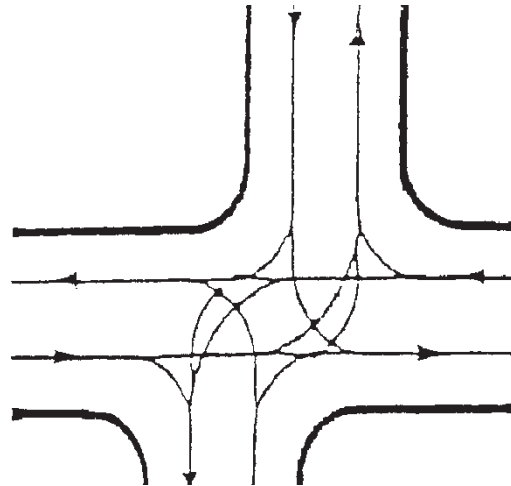
- (1) A tangent (a straight line of travel) of at least 300 feet shall be provided between curves on arterial and collector streets.
- (2) Local streets within residential subdivisions are exempt from this provision.

(D) Street Deflections (a bend in the road)

- (1) When connecting streets deflecting from each other by more than 5 degrees, such streets shall be connected by a curve with a radius (measured from the centerline) of not less than 500 feet for arterials, 300 feet for collectors, and 100 feet for all other streets.
- (2) Consideration shall be given to design speed requirements (30 MPH MnDOT STDS).

(E) Street Jogs

Street jogs with centerline offsets of less than 150 feet are prohibited on local streets.



*Example of a Jog Intersection*

(F) Centerline Gradients

For drainage purposes, all centerline gradients shall be a minimum of 0.5 percent, but shall not exceed the following:

- (1) Arterials and Collector Streets.....5 percent
- (2) Minor Streets and Marginal Access Streets.....8 percent

(G) Temporary Accesses

- (1) When platting small tracts of land fronting on arterial streets or county roads where there is no convenient access to existing entrances, and where access from such a plat is closer than 1/4 mile from an existing access point, a temporary entrance permit may be granted by the appropriate agency.
- (2) Provision shall be made in such plats for the connection of roads to neighboring land.
- (3) As the neighboring land is platted and developed, and access at a preferred location becomes possible, such temporary entrance permits shall become void.

(H) Hardship to Owners of Adjoining Property

The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(I) Access to Arterial Streets: Shall be processed through the appropriate road authority.

(J) Local Streets

Local streets shall be designed to discourage through traffic use.

(K) Cul-de-sacs

(1) The length of cul-de-sacs shall be at the discretion of the County Engineer for county and private roads or the proper road authority for other roads

(2) Minimum outside radius of the surface area of the turnaround shall be 46 feet. Minimum radius of right-of-way shall be 60 feet.

(L) Street Stubs

(1) Street stubs (temporary dead ends without turn-around) are prohibited except where it is practical to require the dedication of the other half when the adjoining property is subdivided; in which case, the dedication of a street stub may be permitted.

(2) The probable time that might elapse before the remainder is dedicated will be considered in this decision.

(3) In no case shall a street stub exceed 660 feet in length.

(4) Temporary construction may be required to allow for vehicular turn-around.

### 10.11.3 Blocks

(A) The length, width, and acreage of blocks shall be sufficient to provide for convenient access, circulation, control, and safety of street design.

(B) Blocks designed to be longer than 1300 feet or shorter than 300 feet must be approved by the Department of Development Director and County Engineer.

- (C) Exceptions may be warranted for the purpose of fostering design originality, provided such exceptions do not violate sound planning principles.
- (D) Pedestrian ways may be required on blocks longer than 900 feet or in other areas to provide access to schools, parks, and similar destinations. Pedestrian ways shall be at least 10 feet wide and shall be located so as to minimize intersections with streets.

#### 10.11.4 Lots

(A) Size:

- (1) Lot dimensions shall comply with minimum lot areas as specified in the zoning district.
- (2) Lots designed as a part of an approved Interim Use Permit for a second dwelling shall be allowed to subdivide the approved design per current subdivision standards.

(B) Side Lot Lines:

Side lines of lots shall be substantially at right angles to straight, radial, or curved street lines.

(C) Natural Features:

- (1) When subdividing land, due regard shall be shown for trees, wetlands, steep slopes, water courses, historic natural features, or similar conditions.
- (2) Plans shall be adjusted to preserve those items which will add safety, stability, and attractiveness to the proposed development.

(D) Drainage

Lots shall be graded to provide drainage away from buildings.

(E) Outlots

- (1) All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels unless the owner can show plans for



the future use of such remnants wherein they shall be platted as outlots.

- (2) Outlots shall be set aside solely for non-building purposes.
  - (a) No Benton County Land Use Permits shall be issued for structures on outlots.
  - (b) Outlots may be eliminated through re-subdivision approved by the County.
- (F) Through Lots
  - (1) Through lots (lots with frontage on 2 parallel streets) and lots with reverse frontage are not permitted, except, where such lots back on an arterial or collector street.
  - (2) In which case, such lots shall have an additional depth of at least 10 feet to allow for screen planting along the back lot line.

#### 10.11.5 Sewage Treatment

- (A) Any proposed plat that includes 7 or more lots in the R-2, R-3 or R-S District may be required by the County to install a centralized sewer, installed at the developers own cost. A centralized sewer may be appropriate for smaller lots, when the expansion of municipal services is expected in the next 10 years or for other reasons deemed appropriate by the County.
- (B) Per subsection 7.14.8.(F)(4) and Minn. R. 6120.3800, as may be amended; Multiple Unit Developments (MUD) in Shoreland Districts shall require a central sewer system meeting the requirements of Section 9.22.

(Ord. #398, adopted 05/08/06)

#### 10.11.6 Tree Removal and Conservation of Vegetation

All subdivisions shall be planned, designed, constructed, and maintained so existing healthy trees and native vegetation are preserved to the maximum extent feasible; including adequate protection during construction.

#### 10.11.7 Drainage, Erosion and Sediment Control

The following guidelines shall be applied in the subdivision and construction of land areas that are expected to disturb 1 acre or more. In addition, Minnesota Pollution Control Agency requirements shall be adhered to (Section 7.14 may also apply):

- (A) Development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.
- (B) A storm water management plan for the construction and completed phases shall be developed and implemented for the project. All plans shall be developed and implemented in accordance with all guidelines, specifications, or recommendations in the guidance document, Protecting Water Quality In Urban Areas: Best Management Practices for Minnesota, published by the Minnesota Pollution Control Agency, Division of Water Quality.
- (C) Storm water shall be treated before being discharged to water bodies, streams, ponds, wetlands, ditch systems, water courses, flood plains, agricultural drainage systems or other natural or man-made water bodies or conveyances. A detention pond, infiltration/filtration basin, or infiltration/filtration trench shall be used for storm water treatment. For treatment of storm water from 5 residential units or less, the developer may use filter strips or vegetated swales to treat storm water, if permitted by the Benton County Engineer or the appropriate MS4 authority.
  - (1) All storm water treatment methods must be constructed in accordance with all specifications, guidelines, or recommendations in the guidance document: Protecting Water Quality In Urban Areas: Best Management Practices in Minnesota, published by the Minnesota Pollution Control Agency, Water Quality Division.
- (D) No existing ditch, stream, drain or drainage canal shall be deepened, widened, rerouted, or filled unless permitted by applicable Minnesota Statutes or Rules.
- (E) When topsoil is removed, exposure shall be for the shortest reasonable period of time.
  - (1) Sufficient topsoil shall be set aside for respreading over the developed area.

- (2) The soil shall be restored to a depth of at least 4 inches and shall be equal to or better than the quality of the soil prior to development.
- (F) Land shall be developed in increments of workable size so that adequate erosion and siltation controls can be provided as construction progresses. As a general requirement, the smallest practical area of land shall be exposed to the elements at any one period of time.

#### 10.11.8 Easements

- (A) All easements shall be dedicated by appropriate language on the plat as required by Minn. Stat. § 505.02, subd. 2, as may be amended.
- (B) All easements required for public purposes shall be provided at locations approved by the governing body. Said easements may be for utilities, drainage, flood plain protection, lakeshore access, walking trails, etc. All easements, other than utility and drainage easements, must be transferred and recorded at the office of the County Recorder prior to final plat approval. At the discretion of the Department of Development Director, there may be circumstances that warrant recording of such documents after the final plat is recorded. Such documents would be required to be submitted in conjunction with the final plat for recording. No final plat shall be approved that may for any reason be detrimental to local, county, or regional utility plans.
- (C) Oversizing of utilities to provide future service for more intense development of the land, or to provide future service to other areas, may be required.
- (D) Utilities
  - (1) Easements at least 10 feet wide where utilities may be reasonably anticipated. If necessary, the Planning Commission or County Board may require easements of greater width.
  - (2) Easements shall have continuity of alignment from block to block.
- (E) Drainage:
  - (1) Easements shall be provided along each side of the centerline of any water course or drainage channel to a width sufficient to

provide proper maintenance and protection, and to provide for storm water runoff.

- (2) Where necessary, drainage easements corresponding with lot lines shall be provided.
- (3) When Drainage and Utility Easements run together, they shall be designate as Drainage and Utility Easements.
- (4) At a minimum, a 10 foot Drainage and Utility Easement shall be provided adjacent to road right-of-way.

## **10.12 Improvements Required**

### 10.12.1 Improvements Listed and Described

- (A) Improvements shall be required to be installed by the developer unless otherwise specified by the County and in accordance with Section 10.13, to prevent burdening the public with the costs of a private development.
- (B) If improvements are required, installation of those improvements shall be made a condition of approval of the preliminary plat.
  - (1) All improvements will need to be installed to the satisfaction of the County or appropriate jurisdiction or an Improvement Installation Agreement by and between the County and the developer and property owner executed prior to approval of the final plat.
  - (2) Prior to the approval of a final plat, the subdivider shall have agreed in the manner set forth below to install in conformity with construction plans approved by the County Engineer or the engineer of the appropriate road authority, and in conformity with all applicable standards and ordinances, any specified improvements on the site:
    - (a) Monuments

Plat monuments shall be placed in accordance with Minn. Stat. § 505.021, as may be amended.
    - (b) Streets

The right-of-way dedicated in the plat shall be in compliance with standards set forth in subsection 10.11.2 and 10.11.7. The right-of-way shall be improved to include a roadway surface and drainage system in accordance with the standards specified by the appropriate road authority.

(c) Paving

- (i) The Planning Commission may, at its discretion, and with consultation with the County Engineer, require that private streets and alleys, and roads under the County's authority, be improved with a concrete or bituminous surface.
- (ii) Paving shall be required if central sewer and water services are provided.
  - a. If central sewer and water services will not be provided for 10 or more years, paving may be required.
  - b. If central sewer and water services are to be required within 10 years, paving may not be required until after the central sewer and water services are installed.
  - c. The County may require a cash deposit to be used for paving the County streets after central sewer and water services are provided. Streets to be paved shall be surfaced for 7 ton axle weight capacity.
  - d. Township roads are subject to township road construction standards.

(d) Concrete Curb and Gutter

Concrete curb and gutter may be required for private paved streets and roads under the County's authority.

(e) Street Lighting

Lighting of a type approved by the appropriate road authority may be required at all intersections within the subdivision.

(f) Sewer Mains and Service Connections

- (i) The County may require that sanitary sewer mains and service connections be installed to serve all lots within the subdivision, and that such mains be connected to a public sewer system when available.
- (ii) If a subdivision cannot be connected immediately to a trunk line of a public system but, in the opinion of the County Board and County Engineer, a trunk line will be extended to serve the area within 5 years through a public disposal system, the County may require that sewer mains and service connections be installed within the subdivision and the entire system connected to a temporary, package sewage treatment plant.
- (iii) In areas not served by a sanitary sewer system, individual sewage treatment systems shall be provided for each lot.
  - a. Individual sewage treatment systems shall be so located as to permit easy and the least expensive connection to the sewer when it becomes available and usable.
  - b. Where individual sewage treatment systems are installed, the subdivider shall provide underground plumbing extending 3 feet beyond the footing and shall be temporarily plugged.
  - c. The area around the stack shall be scored so the septic tank line can be disconnected and connection can be made with the public sanitary sewer system.
  - d. When an individual sewage treatment system is used and the septic tank is placed on a side other than where the public sewer would

connect, it is required that a capped sewage disposal line extend from the point of ground entrance at the basement or house to a point 5 feet beyond and to the side from which the future sewer connection will be made. Inside the basement, the elbow shall be set up to be easily reversed for connection to the capped line.

- (iv) There shall be no overflow outlets from septic tanks or seepage pits allowing effluent to flow to any waterway, drainage way, or roadside ditch.

- (g) Drainage

Drainage systems are required and must comply with subsections 10.11.7 and 10.11.8.

- (h) Street Signs

Street signs of standard design approved by the appropriate road authority shall be installed at each street intersection.

- (i) Public Utilities

Whenever possible, utilities should be buried.

- (j) Public Ways dedicated by plat

- (i) Public ways dedicated by plat are the jurisdiction of the township unless otherwise identified on the plat. The developer/landowner must provide a statement from the township with road authority that states the township will open and maintain the dedicated public way.

## 10.12.2 Park Land Dedication

(Ord. #373, adopted 02/17/04)

- (A) All residential plats, with the exception of simple plats, including plats associated with planned unit developments, shall be subject to the park dedication requirements of this section. In all new subdivision plats, up to

10 percent of the gross area shall be set aside and dedicated by fee title or easement to Benton County for public recreation space.

(B) Definitions

The following terms, as used in this Ordinance, shall have the following meaning:

- (1) **Gross Area:** Gross area shall include all land in the proposed subdivisions, including, but not limited to land designated as outlots, roads and rights of way, drainage and utility easement, and designated wetlands.
- (2) **Public Recreation Space:** An area dedicated to the public for recreational purposes and transferred by recorded deed to the County of Benton. Public recreation space shall not include those areas dedicated for streets, rights of way, easements, wetland preservation, drainage ponds and other non-recreational purposes.
- (3) **Median Undeveloped Lot Value:** The estimated median market value, as calculated by the County Assessor, of lots within the subdivision, immediately after final plat approval.

(C) Dedication Determination Procedure

The amount and location of lands to be dedicated shall be determined in the following manner:

- (1) Prior to the public hearing on the preliminary plat, the Department of Development shall review the plat and formulate a written recommendation that will be forwarded to the Board of Commissioners if there is potential park land or trail easement that meets the criteria established below.
- (2) The amount and location of lands to be donated for park purposes shall be consistent with the standards set forth in Minn. Stat. § 394.25, subd. 7, as may be amended.
- (3) The determination shall be made by the County Board at a regular meeting prior to the public hearing on the preliminary plat.



- (4) In lieu of land dedication, the Board and Department of Development Director may require a financial contribution pursuant to subsection 10.12.2(G).
- (D) Lands to be dedicated to Benton County as public recreational space shall meet at least one of the following criteria:
- (1) The land is adjacent to existing public land used for recreational purposes consistent with the County's recreational needs.
  - (2) The land would extend an existing or proposed trail system.
  - (3) The land is of sufficient size and appropriate nature to maintain a recreational area.
  - (4) The soils should be suitable for construction of active recreation facilities (picnic shelters, playground equipment, etc.).
  - (5) The proposed park should be located in an area that is readily accessible by the road system, can support adequate park space, and can serve both the subdivision and other county citizens using the park system.
  - (6) Provide an opportunity for habitat restoration to support a natural resource based park system.
- (E) In addition to the above criteria, land dedicated shall as much as possible extend and protect sensitive areas, including but not limited to: historically significant sites, environmentally sensitive areas, or unique natural resources or features. The land dedicated shall minimize the number of small, fragmented parks in the County.
- (F) The County Board shall refuse any proposed park land dedication that fails to meet the above criteria.
- (G) The County Board may in its discretion, accept a per lot cash fee in lieu of land, or accept a combination of cash and land contributions. The fee may be up to 10 percent of the median undeveloped lot value, as of the date of final plat approval, as determined by the Benton County Assessor. At a minimum, the fee shall be in accordance with the most current Benton County Fee Schedule.

- (H) At the time of final plat approval, the developer shall remit all dedication fees required by the Board of Commissioners.
- (I) At least 75 percent of the funds obtained by the County pursuant to this section must be used for the acquisition or development of parks and trails in the Township or city where collected, unless the township board or city council agrees to allow the County to use the funds outside their township or city in a manner consistent with the Comprehensive Plan. The remaining funds may only be used by the County for trail connectivity and accessibility purposes. The County will report annually to cities and townships where funds were collected and expended in the past year. (Ord. #407, adopted 11/14/06)

### **10.13 Payment for Installation of Improvements**

#### 10.13.1 Generally

- (A) The required improvements to be furnished and installed by the subdivider, which are listed and described above, are to be furnished and installed at the sole expense of the subdivider and at no expense to the public; provided, however, that in the case of an improvement, the cost of which would, by general policy of the governing body, be assessed only in part to the improved property and the remaining cost paid out of general tax levy, the County Board may make provisions for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the County.
- (B) If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, the County Board may make provisions for causing a portion of the cost of the improvement representing the benefit of such lands to be assessed against the same; in such case the subdivider will be required only to pay for such portions of the whole cost of said improvements as will represent the benefit to the property within the subdivision.

#### 10.13.2 Required Improvements Agreement

- (A) Prior to the installation of any required improvements by the County and prior to the approval of the final plat, the subdivider shall enter into a contract in writing with the County requiring the subdivider to furnish and construct said improvements at the subdivider's sole cost in accordance

with the plans and specifications and usual contract conditions all approved by the County Board, which shall include provisions for the supervision of details of construction by the Department of Development Director, and grant to the Department of Development Director the authority to correlate the work to be done under said contract by any subcontractor authorized to proceed there under, and with any other work being done or contracted by the County in the vicinity. This agreement will require the subdivider to provide a financial guarantee; in the form of an escrow deposit, a letter of credit, or a performance bond. If specific terms and/or conditions are required by the county, such terms and/or conditions shall be attached to this guarantee instrument.

- (B) If the required improvements are not completed within the time specified, all amounts held under the guarantee instrument shall be turned over to the County and will be applied to the cost of providing the improvements. Any balance remaining after the installation of said improvements shall be returned to the owner or subdivider.

### 10.13.3 Financial Guarantee

The contract shall require the subdivider to furnish a financial guarantee in one of the following forms:

- (A) An escrow deposit shall be made with the County, guaranteeing that all improvements required under subsection 10.12.1 shall be constructed as provided in the Improvements Agreement.
  - (1) The amount of the deposit shall be equal to 1-1/4 times the total cost of all improvements that have not been constructed prior to the approval of the final plat, plus the costs of inspections by the County, as determined by the Department of Development Director.
  - (2) The County shall be entitled to reimburse itself out of said deposit for any costs and expenses incurred to complete such work in case of default by the subdivider under the Improvements Agreement, and for any damages sustained by the County on account of any breach thereof.
  - (3) Upon completion of the work and termination of any liabilities of the County or the subdivider under said agreement, the balance

remaining of said deposit, plus any and all accrued interest, shall be refunded to the subdivider.

- (B) Performance Bond, Irrevocable Letter of Credit or Escrow Agreement:
- (1) In lieu of making an escrow deposit above described, and if the County Board so agrees, the subdivider may furnish the County with a public contract of performance bond, in the form prescribed by statute, or an irrevocable letter of credit, with corporate surety in a penal sum equal to 1-1/4 times the total cost of improvements, as estimated by the Department of Development Director, including cost of inspection of all improvements to be furnished and installed by the subdivider pursuant to the contract and which have not been completed prior to approval of the final plat.
  - (2) The bond, letter of credit, or escrow agreement shall be approved by the County Attorney and filed with the Auditor.
  - (3) The bond, letter of credit, or escrow agreement shall incorporate by reference the terms of the agreement entered into pursuant to subsection 10.12.1.
- (C) Any financial surety arrangement shall be approved by the County Attorney's Office as to form and issuing bank. The issuing bank must be an FDIC insured bank. The issuing bank must be available in its entirety to fulfill the obligations of Developer under the Agreement. Any letter of credit to the County shall contain language requiring its automatic renewal prior to December 31 of each calendar year, unless cancellation of the letter of credit is specifically approved in writing by the County.

#### 10.13.4 Construction Plans

- (A) Construction plans for the required County improvements, conforming in all respects to County standards and the applicable ordinances, shall be prepared at the subdivider's expense by a professional engineer registered in the State of Minnesota; said plans shall contain the engineer's seal.
- (B) The plans, together with a list of construction materials, shall be submitted to the County Engineer for approval.

- (C) Tracings of the plans approved by the County, plus 2 prints, shall be filed with the Department of Development Director.

#### 10.13.5 Final Plat

- (A) The owners or subdividers shall file 1 paper copy and 1 PDF copy of the final plat with the Department of Development Director. If this is not done within 1 year of preliminary plat approval, the preliminary plat shall be considered void unless extension is requested as a part of a phased development. (Ord. #373, adopted 02/17/04)
- (B) The final plat shall have incorporated all changes recommended by the Department of Development Director, the County Engineer, the County Planning Commission, County Surveyor, County Attorney and County Board as conditions to approval of the preliminary plat, but in all other respects it shall conform to the preliminary plat as approved. It may constitute only that portion of the approved preliminary plat which the subdivider proposed to record and develop at that time, provided that such portion conforms with all requirements of this Ordinance.
- (C) At the time of submission of the final plat, the subdivider or owner shall prepare a map indicating all existing and proposed permanent easements and private roads.
- (D) Title Examination
  - (1) At the time of submission of the final plat, the applicant shall also submit a title opinion by a practicing attorney-at-law based upon an examination of an abstract of the records of the County Recorder or the Registrar of Titles for the lands included within the plat and an updated abstract for abstract property, and showing the title to be in the name of the owner or subdivider. The date of continuation of the abstract examined, or the date of the examination of the records, shall be within 30 days of submission of the final plat to the Department of Development.
  - (2) In the alternative, a title commitment will be accepted if it includes the following items:
    - (a) Review of property ownership for a 40 year period from the date of the title commitment and the last transfer of ownership before the commencement of that 40 year period;

- (b) All easements, encumbrances, right of way identified back to the original grant of land;
  - (c) Evaluation of the adjoining properties to identify any potential gap, overlap or quiet title matters; and,
  - (d) Identification of any issue that may be a cloud on the title.
  - (e) A statement must be included in the title commitment that states that a-d has been provided.
- (3) If documents are recorded that impact the subject property after the title opinion and abstract, or title commitment as identified in subsection 10.13.5(D)(2) are submitted to the County, then the title opinion and abstract or title commitment will need to be updated prior to approval of the final plat and signature of the County Attorney's Office.

(Ord. #422, adopted 02/19/08)

(E) Public Hearing Process for Final Plats

- (1) For a Minor Subdivision Plat the Department of Development Director shall submit the required documents and approval by the Planning Commission to the County Board within 30 days of the date of submission of the final plat and the County Board shall act on the final plat within 60 days of submission of the plat.
- (2) If a Minor Subdivision Final Plat incorporates all of the following it shall be exempt from the public hearing process for the final plat approval:
  - (a) All changes recommended by the Department of Development Director, the County Engineer regarding roads, the County Planning Commission, County Surveyor, County Attorney and County Board as conditions to approval of the preliminary plat, but in all other respects it shall conform to the preliminary plat as approved, and
  - (b) Consist of 2 or fewer lots in the R-1, R-2, R-3, R-S, B-1, B-2, I-1, I-2 Districts or 2 or fewer lots in the A or R-A Districts, and

- (c) Does not require the construction and/or improvement of a public road or public sewer,  
  
(Ord. #451, adopted 05/21/13)
- (3) For a Major Subdivision Plat the Department of Development Director shall refer the final plat to the Planning Commission for its review and report. The report by these agencies and persons shall be submitted to the County Board within 30 days of the date of submission of the final plat and the County Board shall act on the final plat within 60 days of submission of the plat.
- (F) Upon approval of the final plat by the County Board, the subdivider shall record the plat with the County Recorder as provided for by that office within year of the approval unless there are changes in statutes or ordinances affecting the plat.
  - (1) The County Board may grant an extension to recording the final plat approval subject to a request by the developer being submitted prior to the 1 year deadline.
  - (2) Otherwise, the approval of the final plat shall be considered void.
  - (3) The subdivider shall, within 30 days of submittal for recording, furnish the County with an updated abstract, 2 black line prints and a reproducible print of the final plat showing evidence of the recording.
  - (4) 1 print shall be labeled with "OFFICIAL PLAT" and all other prints shall be labeled with "copy."(Ord. #398, adopted 05/08/06)

## **10.14      Data for Final Plat**

### **10.14.1      General**

- (A) The plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall comply with the provisions of Minnesota Statutes and this Ordinance.
- (B) As required by Minn. Stat. § 505.021, subd. 11, as may be amended, all plats prepared for recording in accordance with this section are subject to approval by the county surveyor in accordance with Minn. Stat. § 389.09,

subd. 1, as may be amended, and/or as authorized by their respective county board of commissioners.

#### 10.14.2 Certifications

(A) Form for approval by signature of individuals and officials concerned with the recording of the plat.

(1) The owner or subdivider shown in the title examination shall be the owner of record of the platted lands on the date of recording of the plat with the County Recorder or Registrar of Titles.

(2) Execution by all owners of any interest in the land, including any holders of a mortgage therein of the certificate required by Minnesota Statutes, and which certificate shall include an accurate legal description of any area to be dedicated for public use, and shall include a dedication to the County of sufficient easements to accommodate utility services in such form as shall be approved by the County Attorney.

(Ord. #398, adopted 05/08/06) (Ord. #410, adopted 04/17/07)

(B) Signature blocks shall be provided in accordance with the Manual of Guidelines for Platting in Minnesota, as amended from time to time, for the following:

(1) All owners of any interest in the land

(2) Mortgage holders must either submit consent to plat or sign the plat

(3) Land Surveyor

(4) Township

(5) Board of Commissioners

(6) County Surveyor

(7) County Engineer (required as shown below)

(8) County Attorney (required as shown below)

(9) County Auditor/Treasurer



- (10) County Recorder
- (11) Registrar of Titles, if property is in the Torrens System
- (C) Signature block templates:
  - (1) TEMPLATE – County Engineer:
 

This plat was recommended for approval this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed \_\_\_\_\_, County Engineer, Benton County, MN

- (2) TEMPLATE – County Attorney
 

I hereby approve this plat as to form and execution. Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed \_\_\_\_\_ . County Attorney, Benton County, MN

**10.15 Modifications, Exceptions, and Variances**

10.15.1 Variances

- (A) In any particular case where the subdivider can show by reason of exceptional topography, or any other physical condition, that strict compliance with the requirements of the development code would cause exceptional and undue hardship, the Planning Commission may recommend variations from the requirements of this Ordinance and refer the matter to the Board of Adjustment.
- (B) Any modifications thus recommended shall be entered in the minutes of the Planning Commission, as shall the reasons which justify the modifications.