

RESOLUTION
ZONING SUBDIVISION AMENDMENT
BENSON COUNTY NORTH DAKOTA

WHEREAS Chapter 11-33, and other appropriate statutes of the North Dakota Century Code, empowers this County to enact or amend zoning and subdivision regulations, and to provide their administrations, enforcement, and amendment, and

WHEREAS The Benson County Board of Commissioners deems it necessary for the purpose of promoting the health, safety, morals and general welfare of the County to enact such regulations or amendment, and

WHEREAS the Board of County Commissioners, pursuant to the appropriate provisions of the North Dakota Century code has appointed a Zoning Board to recommend the appropriate regulations and boundaries thereto, and

WHEREAS the Zoning Board has determined the county can be divided into districts and has prepared regulations pertaining to such districts in accordance with a Comprehensive plan and designed to regulate the location and type of subdivisions in the county; to secure safety and panic from fire and other dangers; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision for transportation, water, sewage, schools, parks and other public requirements, and

WHEREAS The Zoning Board has given reasonable consideration, among other things, to the character of the districts and there peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the County, and

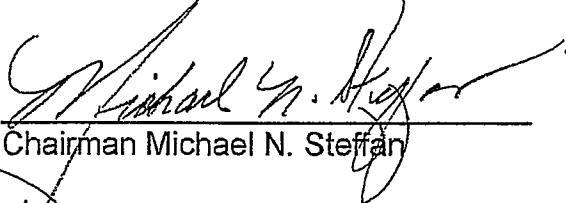
WHEREAS The Zoning Board has made a preliminary report and held public hearings thereon and submitted its final report to the Benson County Board of Commissioners, and

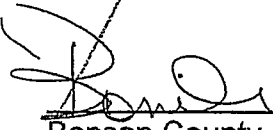
WHEREAS The Zoning Board has given due public notices of hearings relating to zoning districts, regulations and restrictions and has held such public hearing, and

WHEREAS All requirements of Chapter 11-33 of the North Dakota Century Code with regard to the preparation and amendments of the report of the Zoning Board, acting as the zoning board, and the subsequent action of the Board of County Commissioners have been met;

NOW, THEREFORE, BE IT RESOLVED by the Benson County Board of Commissioners, Benson County, North Dakota that the said report be hereby adopted, excepting therefrom the use of land, or buildings for farming, or any of the normal incidents of farming, and thereby adopting subdivision regulations which are now to be known as Zoning Regulations for Subdivisions in Benson County North Dakota.

BENSON COUNTY BOARD OF COMMISSIONERS, BENSON COUNTY

Signed:  4-1-08
Chairman Michael N. Steffan

Attested:  4-1-08
Benson County Auditor Bonnie Erickson

BENSON COUNTY SUBDIVISION REGULATIONS

Benson County North Dakota

ARTICLE I. TITLE, PURPOSE AND ADOPTION

Section 1. Name and Citation of Titles

These regulations shall be known, referred to, and cited as "The Residential Subdivision Regulations" of Benson County, North Dakota. The

Section 2. Purpose

The purpose of these regulations is to insure the orderly development of Benson County, by providing proper arrangement of streets and to the master plan; and to provide for adequate and convenient open spaces for traffic, utilities, access of fire fighting apparatus, recreation, light and air; to avoid congestion of population and for easements for building set-back lines or for public utilities.

Section 3. Adoption

The Benson County Zoning Board has adopted these Land Subdivision Regulations for the purposes stated herein, in accordance with the laws of the State of North Dakota.

ARTICLE II. REGULATION OF SUBDIVISIONS AND SALES OF PROPERTY

Section 1. Regulation

From and after the adoption of these regulations, and filing of a certified copy of the master street plan of Benson County, in the Offices of the Benson County Records Office, Benson County, in accordance with Chapter 40-48 of the North Dakota Century Code. No plat of a subdivision of land within said Benson County as "subject" to subdivision regulations of Benson County, shall be filed, or recorded until it shall have been approved by the Zoning Board of Benson County, and such approval entered in writing on the plat by the Chairman and Secretary of said Planning-Zoning Commission.

ARTICLE III PROCEDURES.

For the purpose of this ordinance, the County of Benson has set forth the following procedures, requirements and standards, for the division of land and subdivision approval.

Section 1. Procedures for Subdivision Approval

1. Pre-application procedure

a. Prior to the filing of an application for approval of a preliminary plat, the subdivision shall consult the County Auditor for advice and assistance in reviewing the procedures and requirements of their regulation and other ordinances, and any data or plans which may affect the proposed development.

b. This step does not require formal application fee or filing of a plat.

2. Plat, when required.

a. It shall be unlawful for the owner, agent or other having control of any land within Benson County to subdivide or cause to be layed out any such land into lots, blocks, streets, avenues, alleys, public ways or grounds, unless by subdivision plat and in accordance with these regulations and the Benson County Land Use Plan. No building permit shall be issued and no building shall be erected on any subdivided lot or tract of land without the street giving access thereto having first been accepted by the County's governing body.

3. Preliminary plat procedure.

a. Prior to submitting a final plat for approval, the subdivider shall prepare a preliminary plat of the proposed subdivision and construction plans for improvement adequate to determine that sewer, water and street improvements which conform with the requirements set forth in this ordinance. The subdivider shall file with the County Auditor an application in writing seeking the approval of said plat, accompanied by three copies of the plat. Said application shall be submitted at least one (1) week prior to a regularly scheduled meeting of the county Zoning Board and pay the requisite fee.

b. The preliminary plat shall include a site map of the entire area owned or controlled by the subdivider within and area including a ¼ mile circumference

surrounding the portion thereof proposed for development. The County Auditor will check the preliminary plat to insure that it conforms to the adopted land use plan, ordinances, and requirement set forth in this ordinance.

c. The Benson County Planning Commission upon receipt of the recommendations and advice of the County Auditor, Road Superintendent, States Attorney, and affected Township Board, shall approve, approve with modifications, or disapprove the preliminary plat within thirty (30) days of receipt of the plat.

4. Final Plat Procedure

a. If the preliminary plat has been approved or conditionally approved, the subdivider shall submit to the County Planning Commission, three copies of the final plat or a certified survey map prepared by a registered land surveyor or engineer.

b. All improvements required by this regulation shall be made or guaranteed in a manner acceptable to the Benson County Board of Commissioners.

c. The Benson County Planning Commission shall hold a public hearing before action on the plat is taken in accordance with the North Dakota Century Code.

d. After the final plat meets the requirements of this code and has been submitted within three months of the approval date of the preliminary plat and the conditions have been met, the Benson County Commissioners shall approve the final plat of the subdivision.

Section 2. Plat and Data Submission Requirements

1. Preliminary plat

a. The preliminary plat shall be based on a survey and shall be submitted in three copies at a scale of two hundred (200) feet or less to one inch and show correctly on its face the following:

1. The proposed name of the subdivision, which shall not duplicated or closely approximate the name of any other subdivision in the nearby community or area.

2. An accurate description of the property involved according to the real estate records of the county.
3. The names and addresses of the owners of record, the subdivider, and registered surveyor who prepared the plat.
4. The names of adjoining subdivisions and the names of record owners of adjoining parcels of unplatted land.
5. The boundary lines, accurate in scale, of the tract to be subdivided, including boundary lines of the proposed subdivision.
6. Existing sewers, water mains, culverts and other underground structures within the tract of land and immediately adjacent thereto with pipe sizes and grade indicated.
7. The location, widths, and names of all existing or platted streets or other public ways and easements within or immediately adjacent to the tract of land, corporate limits, section and quarter section lines, and other important features such as existing permanent buildings, water courses, railroad lines, etc.
8. The layout, proposed named and widths of proposed streets, alleys, and easements, the location and approximate sizes of proposed water basins, culverts and other drainage structures, the layout, numbers and approximate dimensions of proposed lots.
9. Proposed front yard set-back and other set-back lines.
10. The width and approximate dimensions of all land intended to be dedicated or reserved for public use, or to be reserved in the deeds for the common use of property owners in the subdivision, with the purpose, conditions, or limitations of such dedication or reservation indicated.
11. Copies of any proposed restrictions. Any subdivision consisting of 6 or more residential units, must include covenants or restrictions governing those residential units within the subdivision.
12. A notation stating "Preliminary Plat – Not For Record".

2. Final Plat

- a. The final plat of the proposed subdivision shall be prepared by a registered surveyor or engineer and shall conform to the requirement of the preliminary plat and any additions attached thereto by the Benson County Planning Commission.

Section 3 Design Standards

1. Streets – All streets, roads, and the maintenance of all streets and roads within a subdivision shall remain the property and the responsibility of the subdivision, the subdivider, and/or its governing board.
 - a. The arrangements, classification intent, width, grade and location of all streets shall conform to the adopted county land use plan and shall be designed in relation to existing and planned streets, topographic conditions, public convenience and safety, and the proposed uses of the land to be served by such streets.
 - b. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas.
 - c. Minor streets should be so laid out that their use by through traffic will be discouraged.
 - d. Dead-end streets shall not be permitted without a suitable turn-around with a diameter of no less than 75 feet.
 - e. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Benson County Planning Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.
 - f. All standards for roadway and right of way construction in a proposed subdivision will be reviewed by the County Road Superintendent. Any such standards should be obtained from the County Road Superintendent and filed prior to the submission of a proposed subdivision plan. The Benson County Water Resource Board will review any and all subdivision plans to insure that no adverse impact to drainage by subdivision construction occurs. Preliminary

plans for a subdivision must be reviewed by the Water Board prior to submission to the Benson County Zoning Board.

2. Utility Easements

a. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and for such purposes shall be at least ten (10) feet wide.

3. Drainage Way Easements

a. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, as will be adequate for the purpose. Parallel streets or parking may be required in connection therewith.

4. Blocks

a. The length, width, and shape of blocks shall be suited to the planned use of land, zoning requirements, convenient access, control, and safety of street traffic.

5. Lots

a. The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated.

b. The subdividing of land shall provide each lot with access to a public street.

c. The minimum set back distance of any structure from any lot line or property line shall be 10 feet. The minimum set back of any structure from any road shall be 20 feet.

d. The minimum lot size at an elevation above 1460 MSL (N.A.V.D. 1929) shall be 20,000 sq. feet.

e. The minimum square feet for a residential structure built above 1460 MSL shall be 900 sq. feet (footprint) for all stick construction.

f. Side lot lines shall be approximately at right angles to the right-of-way of the street on which the lot fronts.

Section 4 Required Improvements

1. Survey Monuments

a. Monuments shall be placed at all block corners, angle points, points of curves in streets, lot corners and at the intermediate points as required by the Benson County Planning Commission and noted on plat plan.

2. Water Lines

a. The subdivider shall provide sanitary potable water to each lot within the subdivision, in adequate sustainable quantities.

3. Sewage System

a. The subdivider shall install or require installation of adequate sanitary sewage facilities so as to provide service to each lot within the subdivision. The sewage system must meet the approval of the County Board of Commissioners and the North Dakota Department of Health.

4. Electrical Utilities

The subdivider shall provide electricity hookup/connectivity to each lot.

5. Installation of Improvements

a. The improvements specified herein shall be installed and approval of the final plat shall be given only after the work has been completed or there shall have been filed with the County of Benson one of the following:

1. A duly completed and executed survey bond in the amount sufficient to complete the work with surety satisfaction to the County of Benson.
2. Other arrangements satisfactory to the County of Benson to complete the work.

Section 5 Definitions

The following definitions represent the meanings of terms as they are used in these regulations.

1. **Comprehensive Plan.** The Comprehensive Plan, or any portion thereof, made and adopted by the Planning Commission in accordance with the laws of the State of North Dakota indicating the general and specific locations recommended for streets, parks, public buildings, zoning districts, and all other public improvements.

2. **Easement.** A grant by the property owner of the use of a strip of land by the public, or a public agency or utility for a specific purpose or purposes.

3. **Final Subdivision Plat.** The final plan of the plat, subdivision or dedication prepared for filing or recording in conformance with these regulations.
4. **Improvements.** Street grading and surfacing, with or without curbs and gutters, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, and street trees or other such installations as designed by the Planning Commission.
5. **Lot.** A measure portion of a subdivision, or other parcel of land intended as a unit for transfer of ownership or for development.
6. **Master Plan.** See Comprehensive Plan.
7. **Planning Commission.** The Planning Commission of Benson County.
8. **Preliminary Subdivision Plat.** The preliminary plan of the subdivision prepared in accordance with the requirements of these regulations.
9. **Street.** The term includes streets, highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements and right-of-way and other ways.
10. **Street, Major.** A street or highway used primarily for fast or high volume of traffic, including expressways, freeways, boulevards, and arterial streets.
11. **Subdivider.** Any person, group, corporation, or other entity, or any agency thereof, dividing or proposing to divide land so as to constitute a subdivision.
12. **Subdivision.** The division of a tract or parcel of land into lots for the purpose, whether immediate or future, of sale or of building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights-of-way, whether public or private, for access to or from such lots, and the creation of new or enlarged parks, playgrounds, plazas or open spaces. "Subdivision" includes the re-subdivision of one or more lots in a subdivision made and recorded prior to or after the date these regulations are adopted. **However, the division of land for agricultural purposes into parcels of five or more acres, not involving any new street or easement of access, shall be exempted from these regulations.**

13. **Area Zoned as R-1** – Single family dwelling house of a permanent structure and/or construction. A single family dwelling house must be a permanent structure and of permanent construction.

CERTIFICATE OF ADOPTION BY ZONING BOARD
BENSON COUNTY, NORTH DAKOTA

THIS DOCUMENT adopted by the Benson County Zoning Board, and recommended to the Benson County Board of Commissioners as the official subdivision regulations amending those original zoning regulations and subdivision regulations adopted on the 1st day of April, 2008, by the said Board of Commissioners. The purpose being specifically for protecting and guiding the county's physical development; to promote the general health and welfare; to secure; safety from fire and other dangers; to protect the tax base; to encourage a distribution of population and utilization of land which will facilitate economic growth of the community and to make recommendations providing for adequate transportation, roads, water supply, drainage, sanitation, recreation, and/or other public requirements. Also, all maps, charts, or other descriptive matter accompanying this document and all other matters intended to or from the whole, or part hereof, are hereby made a part of this document the same as if set forth herein.

ADOPTED THIS 27th DAY OF March, A.D.,
2008, BY THE BENSON COUNTY ZONING
BOARD AND RECOMMENDED TO THE BENSON
COUNTY BOARD OF COMMISSIONERS, BENSON
COUNTY, NORTH DAKOTA, FOR ADOPTION.

Signed: Burt Cox
Chairman, Benson County
Zoning Board

Attested: Bonnie Erickson
Bonnie Erickson, Benson County
Zoning Board