

CHAPTER I – GENERAL PROVISIONS

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§1.1 – TITLE

This Ordinance shall be known as the "Planning and Development Ordinance of Benton County, Arkansas" and shall be referred to herein as "this Ordinance."

§1.2 – JURISDICTION AND AUTHORITY

The provisions of this Ordinance shall apply to all land and structures within the unincorporated areas of Benton County, as they now or may hereafter exist. Single family and agricultural land use is granted as a right and all other land use shall be reviewed as conditional uses. Land use compatibility shall be one of the major criteria.

This Ordinance is adopted under the authority conferred to Benton County by the General Assembly of the State of Arkansas Act 422 of 1977 for the control of land development in the unincorporated areas of the County.

This Ordinance shall be observed through denial of the issuance of building permit and use permits in the unincorporated areas. It shall be unlawful to erect, construct, reconstruct, alter, maintain, or use any land, building, or structure in violation of this Ordinance.

§1.3 – EFFECTIVE DATE AND TRANSITIONAL RULES

This Ordinance including the appendices attached herewith shall be effective after a public hearing, adoption by the Quorum Court of Benton County, Arkansas, and publication or posting as provided by State law.

After the effective date, it shall be unlawful to erect, construct, reconstruct, alter, maintain, or use any land, building, or structure in violation of this Ordinance. Only the applications that have been received by Planning staff and have a staff report and recommendation of the Planning Board may be allowed to proceed without strict adherence to this Ordinance. All other proposals for improvement including division and development of land shall be required to comply with this Ordinance.

If the Planning Board fails to initiate deliberation on any such improvement or acquisition within thirty (30) days after receipt thereof and to furnish in writing its report and recommendations upon a proposal

within sixty (60) days thereafter, the applicant may proceed without the report and recommendation.

§1.4 – PURPOSE AND INTENT

The purpose of this Ordinance is to guide and accomplish coordinated, efficient, and economic development in the County and seek to best promote the health, safety, convenience, prosperity, and welfare of the people of the County.

This Ordinance with the accompanying maps, charts, appendices, and descriptive matter, make recommendations, among other things, as to:

- i. The conservation of natural resources;
- ii. The protection of areas of environmental concerns;
- iii. The development of land subject to flooding;
- iv. The provision of adequate recreation, education, and community facilities, including water, sewer, solid waste, and drainage improvements;
- v. The development of transportation facilities, housing development, and redevelopment;
- vi. The consideration of school district boundaries; and
- vii. Other matters which are logically related to or form an integral part of a long-term plan for orderly development and redevelopment of the County.

Areas of critical environmental concern include, among other things, aquifers and aquifer recharge areas, soils poorly suited to development, floodplains, wetlands, prime agricultural and forestlands, the natural habitat of rare or endangered species, areas with unique ecosystems, or areas recommended for protection in the Arkansas Natural Areas Plan.

This Ordinance intends to implement the County’s development policies by establishing regulations controlling the development and division of land and establishes land use compatibility through a comprehensive set of procedures, minimum standards, and acceptable criteria for development consistent with the Benton County Land Use Guide as outlined below:

- i. Retain the agricultural nature and rural residential character of the County while recognizing the need for industrial land uses, principally where adequate utilities, roads, and other infrastructure exists or will exist. This will allow for future industrial, commercial and rural residential land usage that will minimize incompatibility with agricultural, residential, and other interests.
- ii. Commercial development must be weighed according to its impact on agricultural and residential areas.
- iii. Ensure protection of the County’s natural environment, floodplains, watershed, and natural resources and features.
- iv. Adequate roads and other infrastructure should be considered in the development process.

- v. Establish a minimum lot size of one (1) acre.
- vi. Ensure that all County plans are consistent, to the extent possible, with state plans and other related regional, County, and municipal plans in order to avoid inconvenience and economic waste, and to assure a coordinated and harmonious development of the County, region, and State.

This Ordinance establishes standards of development in the County and provides a comprehensive development framework to implement land use considerations desired by County leaders and citizens. The aim is to retain the agricultural nature and rural character of the County while allowing for compatible residential, industrial, and commercial development.

General Goals

1. To protect and provide for safe drinking water sources, including Beaver Lake, for the public health, safety, and general welfare of Benton County, Arkansas.
2. To provide for adequate light, air, privacy, to secure safety from fire, flood, and other hazard, and to prevent overcrowding of the land and excessive congestion of population.
3. To protect the character and the social and economic stability of all parts of Benton County and to encourage orderly and beneficial development of the community through appropriate growth management tools assuring the timing and sequencing of development and related infrastructure to avoid costly infrastructure extensions.
4. To assure proper urban and rural development form and open space separation of urban areas, to protect environmentally critical areas and areas premature for development. Protect agricultural lands and uses as a valuable resource.
5. To protect and conserve the value of land throughout Benton County and the value of buildings and improvements upon the land, to minimize the conflicts among the uses of land and buildings, and to encourage compatible mixed uses as appropriate.
6. To ensure that special developments, such as, telecommunication facilities, alternative energy facilities shall be designed in a manner that minimizes conflict with the surrounding development. This may be achieved by ensuring compliance with criteria for location of the facility to minimize potential safety hazards, measures for appropriate landscaping, fencing or buffering on-site.

A. Agricultural and Rural Goals

While agricultural land uses are generally exempt from these regulations, Benton County seeks to protect and preserve, to the extent feasible and practicable, the agricultural and rural character of the County for successive generations to use and enjoy.

B. Residential Development Goals

1. To ensure development of residential areas to achieve a safe living environment that aims to preserve the natural beauty and topography of Benton County and retains the agricultural character and rural nature of the County.

2. To protect residential areas from incompatible adjacent land uses.
3. To ensure that land is subdivided only when subdivision is necessary to provide for uses of land which are in the public interest.

C. Commercial and Industrial Development Goals

1. To discourage the indiscriminate mixing of commercial development into residential and agricultural areas and encourage development with adequate infrastructure provision.
2. To encourage commercial and industrial land development so that employment opportunities are available for Benton County residents, provided that adequate infrastructure exists for such development.
3. To discourage commercial and industrial development from areas where inadequate or substandard infrastructure exists or where it is unreasonable to expect such infrastructure may be logically and efficiently extended.

D. Goals Regarding Infrastructure Including Transportation, Public Facilities and Services

1. To establish an effective transportation system throughout the County that ensures adequate access to commercial areas including provision for emergency and other services, adequate provision of parking based on anticipated traffic and discourages through traffic in public assembly and recreational areas, residential and agricultural areas.
2. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout Benton County, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.
3. To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed development and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services through requiring the developer to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development.
4. To prevent the pollution of air, water, and soil; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout Benton County in order to preserve the integrity, stability, and beauty of the community and the value of the land.
5. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public requirements and facilities.

6. To adequately regulate and maintain the sanitary and sewage collection as well as treatment systems to ensure that they are safe and non-polluting. Establish and implement policies for adequate operation, upkeep and care of decentralized systems.
7. To establish stormwater pollution prevention, grading and erosion control Best Management Practices (BMP).

E. Planning and Design Standard Goals

1. To ensure compatible and complementary land uses, site layout, and orientation and provision of adequate utilities and services.
2. To establish reasonable standards of design and procedures for development, subdivisions and re-subdivisions (replats) in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.
3. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in these regulations.
4. To regulate the subdividing of land within the County so that new additions will be well integrated with the character, infrastructure, and services of the County and will contribute to an attractive, stable, and wholesome community Environment.

§1.5 – PLANNING BOUNDARY AND REVIEW COORDINATION

A. Planning Boundary – In accordance with amendments to the Arkansas Code § 14-56-413- Territorial jurisdiction the following criteria applies:

1. Cities now having eight thousand (8,000) population or more shall have the authority to administer and enforce planning and Ordinances outside their corporate limits as follows:
 - i. For cities of eight thousand (8,000) to sixty thousand (60,000) population, the jurisdictional area will be one (1) mile beyond the corporate limits;
 - ii. For cities of sixty thousand (60,000) to one hundred fifty thousand (150,000) population, the jurisdictional area will be two (2) miles beyond the corporate limits; and
 - iii. For cities of one hundred fifty thousand (150,000) population and over, the jurisdictional area will be three (3) miles beyond the corporate limits.
 - iv. Upon July 3, 1989, no city with a population in excess of one hundred fifty thousand (150,000) persons shall exercise any zoning authority outside the boundaries of the County wherein it is located without the approval of the quorum court of the County wherein the city is not located and the approval of the governing bodies of all other cities having zoning authority over the area.

2. Cities having a population of eight thousand (8,000) persons or less:
 - i. Shall have a jurisdictional area that does not exceed one (1) mile beyond the corporate limits; and;
 - ii. Shall not exercise any zoning authority outside the corporate limits.
3. Cities now having an eight thousand (8,000) population or more and situated on a navigable stream may administer and enforce zoning Ordinances outside their corporate limits but may not exceed the one (1) mile territorial limits.
4. The city populations will be based on the most recent federal decennial census.
5. The planning commission shall designate the area within the territorial jurisdiction for which it will prepare plans, Ordinances, and regulations.
6. A description of the boundaries of the area shall be filed with the city clerk and with the County recorder.

B. **Procedure for Review Coordination** – In accordance with A.C.A § 14-17-208(i) - unincorporated areas adjoining the corporate limits of a municipality in which the authority to control the subdivision of land is vested and is being exercised in accordance with and under the provisions of A.C.A §§ 14-56-401- 14-56-408 and 14-56-410, 14-56-425, or any amendments thereto or thereof, or other acts of a similar nature enacted by the General Assembly, the municipal authority shall have subdivision jurisdiction, but shall transmit copies of proposed plats for the areas to the County Planning Board for review and comment, which shall be made to the municipal authority within sixty (60) days from the time it is received by the County Planning Board unless further time is allowed by the municipal authority.

§1.6 – INTERPRETATION AND SEPARABILITY

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This Ordinance shall be construed broadly to promote the purposes and goals for which they are adopted.
- B. **Separability:** If any part or provision of this Ordinance or the application of this Ordinance to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the judgment and shall not affect or impair the validity of the remainder of this Ordinance or the application of them to other persons or circumstances.

§1.7 - RESERVED