ORDINANCE #24

H H ENACTED Ш K THE BOARD $_{ m F}$ SUPERVISORS OF. BENTON COUNTY

 α

ordinance, adop and Ordinance # Preservation or pursuant to the Supervisors by Benton Renton County, Iowa Agricultural Land Preservation adopted and enacted on May 6, 1986, is hereby repealed nce #24 titled "Benton County, Iowa, Agricultural Land on ordinance" is adopted in lieu thereof, and adopted the authority conferred on the Benton County Board of s by the CODE OF IOWA.

THEREFORE IT SUPERVISORS F ASIS HEREBY S FOLLOWS: ORDAINED ВУ THE BENTON COUNTY BOARD

888 158

ARTICLE

GENERAL

Including: Title Interpretation of Land Preservation Title, on of Purpose and Objectives, Authority, Jurisdict Standards, Special Exemptions, Relationship and Use Plan, and Iowa Open Meetings Law. to

SECTION TITLE

This Ordinance referred to a Agricultural Ordinance". Ordinance rred to as ce shall as the Land P "Benton County, Iowa, Preservation Ordinance and may unty, Iow = 9 ed and "the

SECTION \sim

and Use Com subsequent adopted May 6, 1986 specifically permitted 335, County Zoning and and Use Commission, Co Benton Ordinance County May amendments. lay 6, 1986 ۔ سر Ŋ adopted Preservation Code and 352 nd authorized 52 County Land of Iowa, 1993 in accordance on and Use 93 in Chapters
Preservation and with Plan, any and Ø Ŋ

sp 19 ÖŎ 3: E Ordinance : ific object: is : intended es of Sect φ' and ion 33 3 . r. gne 5, Cod to n O mee of t the Iowa

To To preserve the availability
consider the protection c
water erosion;
encourage efficient urban
lessen congestion in the
secure safety from fire, 1 lity of a 0.83 H agr ricultural from wind land,

To To urban n the s e street flood,] development patto street or highway lood, panic, and panic,

welfare

To

lation; resource: W

To To energy of and

Provide adequate light and air;
To provide adequate light and air;
To prevent the overcrowding of land;
To avoid undue concentrations of populat
To promote the conservation of energy re
To promote reasonable access to solar en
To facilitate the adequate provision of
transportation, water, sewerage, sche
and other public requirements schools parks

This spect Ordinance ific purpo Ñ ი ე S intended and of Section designed 352.1, Coo Co to de mee of it the Iowa,

means provide γď Loc citizens agricultur loc .and а 1 may government prote 0 0 the

from nonagricultural development pressures

To Lai preserve or C ve the availability and use agricultural production; 0f agricultural

Iowa, for resident recreational, and land To provide and related natural for idential, cand other the orderly commercial, in purposes; esu and industrial development Benton County, 0f

To preserve private property rights;

county includ lakes and the recreational resourc rces and fragile ecosystems of including forests, wetlands, ri and their shorelines, aquifers, ect significant and fragile areas; natural and of, rivers the prairies, stori state streams and and

energy promote resources the efficient use and conservat noi 0

To : promote bitat; a and the creation and maintenance 0f ٧, ldli fe

To water consider erosion. the protection of soil from wind and

thi Ord areas shall be conserved for fiber and livestock, thus a of agriculture as the major Benton County, Iowa. act governments Land Preserv emphasizes dinance, civities Preservation Benton accomplished are encouraged, so that land instaction of food, livestock, thus assuring the preservation livestock, thus assuring the economy of the s h T County Ain which plished through a process that e participation of citizens a or the creation of the Benton cion Plan and Policies, the addounty Agricultural Land Prese which substantial agricultur cal Land Preservat ial agricultural that land inside t the adoption of Benton County preservation of and local ion

Agricultural Area (District) of Section 5,2..., Agricultural Area (District) of Section 5,2..., of Iowa, 1993. Therefore, the following incentives for agricultural land preservation, Sections 352.10, 352.11, 352.12 and Section 6B.3, Subsection 6, Code of Iowa, 1993, shall apply to farms and farm operations, located within such district: Furthermore, this Ordinance is intended and specific use restrictions of Area (District) of Section 35 and des igned

- area, on landowne service such as sewer, water, lights or f drainage shall not impose benefit special assessments on land used agricultural production within an on the basis of frontage, acreage, the impose public benefit assessments or assessments. A political subdivision benefitted district providing public such as sewer, water, lights or for no drainage shall not impose benefit assessments. imposed prior Limitation benefit owner 9 cior to the formation of unless the service is on the same basis as assessments g power 0f 20 acreage, or special certain al assessments were of the agricultural s provided to the others having the public primarily for agricultural or value, un assessments assessments non-farm special n or a services agencie for nn area 11ess 20 Ø to æ
- shall apply to a far agricultural area f exclusion of land withan by withdrawal located to be a O.f. activities Nuisance operation nuisance μ an agricultural area shall not be found isance regardless of the established date on or expansion of the agricultural of the farm or farm operation. This y to a farm operation conducted within area for six years following the of land within an agricultural area other thdrawal as provided in Section 350. 0 f an restr operation t be found ished date other an О Н

the apply: Code О Њ Iowa, 1993 The following exceptions

- the result of a f in violation of a or state ~ 20 r state This do Lation of a federal statute or regulation te statute or rule.

 does not apply if apply nuisance which μ.
- from farm the operation. negligent ope oly if the nuisance results operation of the farm or
- of a person to recover damages for an in damage sustained by the person because pollution or change in condition of the person a stream, the overflowing of the peland, or excessive soil erosion onto a person's land, unless the injury or dacaused by an act of God. property before t arising This does not This does not affect the from from injury or caused by the creation apply to actions y or damage to the farm or a pof the of the agricultural area. It the or defeat the right or damages for an injury or the person because of the in condition of the waters to a person or a farm operation 9 proceedings o another damage is person's

shall pay incurred b based on a claim of nuisance arising from a factor unless the person proceeds with media as provided in Chapter 654B of the Code of Iov 1993. If a defendant is a prevailing party in action or proceeding based on a claim of nuisa and arising from a farm operation conducted on land within an agricultural area, the plaintif that the person by the claim i court an agricultural ourt costs and r S L defendant, i is frivolous. oring an action or nuisance arising ltural area, the plaintiff and reasonable attorney fees lant, if the court determines proceeding om a farm n mediation nuisance Iowa, an farm

- Water priority. In the application for a permit to divert, store, or withdraw water and in the allocation of available water resources under a water permit system, the Department of Natural Resources shall give priority to the use of water resources by a farm or farm operations, exclusive of irrigation, located in an agricultural area over all other uses except the competing uses of water for ordinary household purposes. or or i permi wate: for e of
- agency, or clear contain farms or not than pur by capricious, area. contain standards which are less restrictive for farms or farm operations inside an agricultural area than for farms or farm operations outside such an area. A rule containing such a discrimination shall not for the fact of such discrimination alone be found or held to be unreasonable, arbitrary, capricious, beyond the authority delegated to the agency, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion. found restr State regulation. In order to accomplish poses set forth in Section 352.1, a rule add a state agency after July 1, 1982, which we strict or regulate farms or farm operations itain standards which are less restrictive intain standards which are less restrictive in for farm operations inside an agricultural and for farms or farm operations outside such an information of farms or farm operations. rule adopted which would may
- Application for condemmation to be paid by the state and the lis within an agricultural area a Chapter 352, a statement discloss that land is classified as Class under the United States Departme Soil Conservation Service Land (Classification System contained Handbook Number 210, 1961 edition classified, stating that the Classified, stating that the Classified is classified. sought internal easonably necessary frimprovement for which condemnation. Il contained in as Class I of Department ce Land Capa l area as provided disclosing whether sections I or Class edition Class I or C. for the work condemnation Capability and, the Agriculture and, if so 0 Class II lan Agriculture damages are condemned 0 fi in ΙŢ any land Off.

resources Chapters 3 have Benton County, Iowa, Board of Supervisors sle the authority to regulate for the orderly development of land and related natural ources in accordance with the provisions of pters 335 and 352, Code of Iowa, 1993. shall use

SECTION 4. JURISDICTION

JURISDICTION

The authority to regulate for the ordering the authority to regulate for the ordering the condition of land and related natural resources shall be exercised to all land within Benton County, and outside of the corporate limits of any

SECTION U INTERPRETATION OF STANDARDS

control or regulation. regulations or ordinances, curordinance shall control. Reg provision of this Ordinance, in violation of any state or control or environmental prot In their interpretations and application provisions of this Ordinance shall be hominimum requirements. Where this Ordina a greater restriction than is imposed or other provisions of law or by other rule regulations or ordinances, the provision of the provision of the provision or ordinances, the provision or ordinances, the provision or ordinances, the provision of the provision of the provision or ordinances, the provision of the provision or ordinances, the provision of the provision or ordinances, the provision or ordinances or ordinances. protection Regardless of and shall federal application, the shall be held to be this Ordinance imposes pollution law or rules of any shall b required by Offi C be used this

SECTION 6. SPECIAL EXEMPTIONS

5.1 Farms Exemption

Except to the extent required to implement this ordinance, no regulation or restriction adopted under the provisions of this Ordinance shall be construed to apply to land, farmstead, farm houses, farm barns, farm outbuildings or other buildings, structures or erections which are primarily adapted by reason of nature and area, for use for agricultural purposes, while so used:

- Application. It shall be the responsibility of any person or group claiming that property is entitled to exemption on the basis of this section to demonstrate that the property is used for agricultural purposes.
- 12 structure, building obstruction, depose excavation in or of floodplain of an shal Limitation. not apply to any , buildings, on, deposits any on any the river exempt 9 dam :ion 9
- .13 Voluntary Compliance. It shall be the policy to seek voluntary compliance of the provisions of this Ordinance.

 φ

Determination. Administrative Officer shall complete a review and make a determination whether the use and property qualifies for the exemption.

 φ

.2 Utility Exemption

 σ

No regulation or restriction adopted under the provisions of this Ordinance shall be construed to control the type or location of distributing equipment and structures of utility companies, including but not

limited to poles, towers, wires, gas mains, cables, or any other similar distributing or operating equipment of a telephone, power, gas and railroad company. Said uses are regulated by the Iowa Commerce Commission.

SECTION 7. RELAT

Benton County Land Preservation and U adopted and amended from time-to-time of Supervisors. The Plan shall serve at the future development of Benton Counbasis for the enactment of this Ordin this Ordinance consideration RELATIONSHIP That the enac Ordinance enactment, inance be a TO LAND PRESERVATION AND USE PI ment, amendment and administrate be accomplished with due of the purposes and objectives FION AND USE and administ; with due serve as a guide on County and the sordinance. Use ру Plan the rat PLAN 0f the ສຸຊ Board no the for of

SECTION 8.

conflict meetings subject of the I Code Commi 0f OPEN DEN MEETINGS LAW

nmissions and Boards, public

to the terms, regulations and Iowa Open Meetings Law, Chap Iowa, appears b law, the 1993. between open Wherever meetings s Law, Chapter 22 cever in these ordinances a the Ordinance and the oper eetings law shall control. the and restri bodies, the oper trictions of the open

ARTICLE II

DEFINITIONS

SECTION 1

permissive. association, company, or intended, occupied. word phrases shall be deemed to have to them in this section. Word number include the plural, tho number include the singular. tense include the past and fut future, the present tense. The shall include the feminine and DEFINITIONS, For the purp The words "shall" purpose of shall be d designed, "used" or "occupied" is mandatory, whi The word "person" GENERAL organization, partnership, trust, organization as well as an individual. or "occupied" include the words this 9 ense. The masculine cannot and neuter genderory, while the word Ordinance, to have the arranged to be used or Words those Words in the the meaning ascribed s in the singular se in the rangular includes r genders. word "may e plural the prea firm, gender and "may" present the The rs L

SECTION 2. DEFINITIONS

- $^{\circ}$. Н Administrative Officer: The individual designated by this Ordinance to administer Ordinance and who is responsible for the enforcement of the regulations imposed by Ordinance. This person may also be referre as the "Administrator". referred to individual nister the said
- \mathbb{N} N Agricultural qualification under Section Section ions 352. Area of S Section Code 352 of Iowa, area Q and meeting designated 1993. the
- \sim W Agricultural County that County that of cities a and Ω L-Land Use District: s not within the co towns corporate Benton limits
- \sim 4 storing th operation secondary 0,5 Agricultural necessary operations, nature Le 03 the fon of ry to used, e and r accessory uses for the farm products; position of such accessory to that of the reg <u>al Use: Included by</u> sed, are primarily adapted by and area for farmland, farms, and farm dwellings; and the , and farm rises for treating c ory uses regular provided shall agricultural farms that the 0 0 reason farm use,

- prairies, surface waters and wildlife habitats activity. For purposes of this Ordits implementation, this definition private open space, including but note, woodlands, wetlands, native and n space, inclu ls, wetlands, Ordinance not limite open and e Q
- N σı the The act provisions Or or process to found in this to change o Ordinance 20
- \sim σ ror the sur Building: for the si including support, Any persons, animals or property, signs or billboards. structure designed 92 intended but
- $^{\circ}$ 7 Compliance issued by t use approval Ordinance ssued ი ს Ω γd oy the Administ consistent wing ce and is in l granted by Certification: Administrator tent with the the accordance County terms Written veri ns of with Board. fying St the this that atement the
- $^{\circ}$ ∞ County Boa of Benton Board: The ton County, The Iowa County Board Of Supervi SOYS
- \mathcal{O} 9 County of Adj Adjustment Board Of. Of f Adjustment: Benton County, The Iowa County Board
- \sim 10 Technical County Technical l Committee Committee: of Benton County, The Iowa. County
- \mathcal{N} \vdash but n Development: Any r
 existing land use o
 but not limited to improvements man made of a parce an made change to alter the f a parcel of land including buildings, structures or
- \sim \vdash N <u>Dwelling</u>: Any buused exclusively not including a t building which i tent, cabin 9 l purposes, trailer. ი ს designed d or
- \sim \vdash more contiguous commercial produ Division of said Farm: property lal production non-contiguous. area said area by compris 0f sing whice farm road ch is products. does not ty-one used in $\widehat{2}$ render 20
- \sim Н 4 <u>Far</u> the armland lland: Thos production se parcels of farm pr ls of land products. suitabl Ō Ηh 02
- \mathcal{N} 15 roadside stands or of noise, odor, dust, fumes, the of noise, odor, dust, fumes, the of noise, odor, dust, fumes, the application aerial seeding and spraying, the application chemical fertilizers, conditioners, insecticides, pesticides, and herbicides, and use of labor. productinot limi Farm Operation: limited Operation: A condition.

 Son a farm in connection with includes but is a crimited to the marketing of products at stands or farm markets, the creation of first, fumes, the operation of first, fumes, ground and first. and
- \sim \vdash 9 grasses, t products, or animal with food, products, l Farm their crops, includes but is not Products: product grains trees, fish, poultry and p product, feed, : 20 any ัง which fish, honey, a Those d feed crops, dairy and dairy and poultry products, vegetables, flowers, seeds, ish, honey, and other similar other plant, animal or plant which supplies the people fiber, or fur. t which fiber, are useful plants supplies the or fur. nd animals to people and
- \aleph Н poultry Livestock: S any Catt other He animal horses 20 sheep fowl v which are

being produced primarily for commercial purposes.

- \aleph 18 commenced this Ordin development for Construction: Ordinance g 8 which the after Those the start structures effective 0f construction date OK O.f.
- \vdash 9 agricultural saw mills, pl of wood nrod services, cult recreational, production and plants, lo implement rendering or its p wholesale storage, manufacture farm equipment creameries, bu agricultural related commercial retain industries and service firms, including For packing agricultural retail stores, accessory structures, veteragricultural retail/service Non-Agricultural use, while so us limited to, For purposes of implementation, commercial, industrial, s, planing mi products. and locker ural chemicals and fertilicals in the livestock sale and auction ure and wholesale of fertiling or its products, refining cocker plant and a sales and a cultural, and urural, entertainment, l, non-agricultural resonand extraction, and income sof this one bulk nd service, and usual grain elevators, and usual cructures, veterinary clinics, l retail/service outlets, dairy fish markets, alcohol processing transportat utilities, processing seed oulk storage chemicals a used, manufacture this ed, for ressing plants, st d processing and s mill, including slaughter ordinance a definition ion, residential and storage, farm ice establishments, and assembly, public refining d pumping of fertilizers, houses, and resource institutional. stock includes storage, and g manufacture cions structure facilities, barns, and meat g but not yards hide the 9
- Ν. 20 Nonconforming building or la or at the time the passage thereto wit amendments thereto which with t in v time n the use which it 0f land the Of. Use: nd that this Ordinance passage regulations is situated was The does not established of this Ordi 97 ished prior to s Ordinance or conform after r amendments 0f nse
- 2 2 Ordinance which designate information. into this Map: Ordinance various The map and land 9 made maps use മ part and incorporated thereof required
- \mathcal{O} 22 Principal which not Permitted Use require മ land Those use uses change Of fi land
- \sim \sim use structures ജ : The main distinguished from use цБ accessory land 9
- \sim \sim includes bu on the attached to ground. ixed bui uildings, panels. d location something Anything Among g other things mobile homes, having g const the things, structures homes, billboards, ructed a fixed ground 9 location erected
- \sim 25 carried on, building or land. arranged, any activi Use: structure ed, intended, maintained, ivity, occupation, busine S O K purpose 20 9 other മ ccupation, bi tract for structure 0f which land business p b മ building may carried Or 9 occupied, or or operation designed, tract 02 Ľ. ot a

- \mathcal{N} Ø \circ where such a public inter peculiar to the actions unnecessary enforcement Variance c interest a change 00 and undue hardship. the the the divergence property and not the the applicant, a lit the Ordinance would and where, will not from owing to conditions . be contrary the result literal the result Ordinan t O n i the
- \sim 7 Zoning Commission: Commission of Benton The County, County 201 Zoning

ARTICLE III

STABLISHMENT $_{\rm F}$ THE OFFICIAL AGRICULTURAL LAND USE DISTRICT MAPS

SECTION Н

guide with the u INTENT For the changes. District. hereby unincorporated area of Benton County, Iowaby designated as an Agricultural Land Use trict. This district is established to be de and plan for non-agricultural land use the purpose of ctions 335. this Ordinance e, and Code c uT accordance Iowa, better 199 $\mu \boldsymbol{.} \, \, \omega$

SECTION N OFFICIAL AGRICULTURAL LAND USE DISTRICT MAPS

- \sim Adopt this (together with all is hereby adopted be a part of this USE ption of Maps. s Ordinance, the DISTRICT MAPS OF ion 0f OF уd Ordinance explanatory To implement OFFICIAL AGRED F BENTON COUNT planatory matter thereon, reference and declared to L AGRICULTURAL COUNTY, IOWA, w the intent which it of
- \sim \aleph Certification. Each of the Office Benton County shall be certified by signature of the Chairman of the Chairman attested by the Benton County A Official Maps shall be on file and for public inspection in the office Administrative Officer of this Ord nton County Auditor. The on file and available in the office of the of this Ordinance. Official Уď County the Maps Board The 0f
- \sim or senton County, Iowa, permanent parce numbering system, the Sidwell Company, I Chicago, Illinois, Fall, 1980, shall be certified as the Official Maps and will scribed or attached with the following recinformation: Description of the Official utilized for the Maps. The acofficial tax required West aerial maps
- The Map's Certification Title tion

- Scale
- Мар Кеу
- 2.32 2.33 2.33 2.33 2.33 3.35 Amendments Adoption Reference n Date of S Subsequent Approval and
- \mathcal{N} 37 The Appropriate Classification Symbols 0f Land Use Per
- \sim .38 Any Explanatory Notat Deemed Necessary for for the ions Understanding or Other Matter Inderstanding of
- 9 the The Maps and Official Nonconforming Use File
- 2 4 notations shown officially determined officer. Any printerpretation opportunity to adjustment. Interpretati notations sh officially shown not determined person n of the 0£ appeal on Maps the the to contesting the maps shall be maps Уď Official the The the County information and al Maps shall be a Administrative ing the official Board given of
- \aleph ហ Approvals and Amendments Ħ Λq permission

approval, any other action of action of the County Board, such change she promptly indicated on the Official Maps the Administrative Officer, together with date of passage of the approval or amendme and sufficient written description to give precise understanding of the change. matter the Cou 30 amendment tter shown to this Ordinance, thereon, is changed soard, such change shon the Official Maps changed amendment Maps give ged by shall the Уd മ

2 9 any such adoption shall not have amending the original ordinance Damaged or Destroyed District Maps Board may from time-to-time adopt Official Maps which may supersede Official Maps, in the event that t Maps become damaged or destroyed; purposes of clarity due to a number subsequent errors amendment 9 ent changes, omissions; approval 20 provided, however to a number of amendment Maps. Or the effect the thereof 0 K new the any of approval drafting ver, that The e prior Official for County

ARTICLE ΙV

USE REGULATION H 인 THE AGRICULTURAL LAND USE DISTRICT

SECTION

Chapters 335 and 352, Code of Iowa, 1993, it is tintent of the Ordinance and this Article to present the availability of agricultural land for continuagricultural production. This district is not intended for non-agricultural uses, unless identified as a property or use of a government unit or utility, a preexisting residential dwelling a non-conforming use, a principal permitted use, an accessory permitted use as set forth below. encroachment in accordance protect designed roachment of non-agricultural uses. accordance with the objectives an upters 335 and 352, Code of Iowa, 1 Agricultural a to serve the agricultural agricultural land and oner hment of nontrict is intended and tural community and operations from and and purposes of 1993, it is the icle to preserve and for continued trict is not a governmental ntial dwelling, rmitted use, or Furthermore 0 f

SECTION N PRINCIPAL PERMITTED

shall the A Use 0 Ьe structures or be permitted as ricultural Lanc or land listed in das a principal pland Use District, r land in in this section permitted use to including: use in.

- 2.1 Farm operations, farms and farmland
- 2.2 person encoperation. Dwellings engaged constructed ged in farm farming for 20 occupation in Ø family by a v farm
- 2.ω Preexisting residential dwellings
- 2.4 цt Property of utility or pipeline മ telephone company, company city 9 public
- 2.5 The County Board may peagricultural use not lise sections 2.1, 2.2, 2.3, Agricultural Land Use I shall be conducted in a Procedures", a use may finding ns 2.1, 2.2, 2.3, and 2.4, in the ltural Land Use District. A review se conducted in accordance with Article ion 3, "Permission Approval Request ires", and the requested non-agricultural be permitted only upon the County party all of the fallow. a 1
- 51 purposes of Iowa, The set 1993; გ. forth inconsistent i L Section nt with 352.1, Code the
- N IJ use does not interfere seriously with

Tarm operations within the area;

- \sim ហ ω stability of in the area; use use does ility of t the and not overall mater cially land use alter pattern the
- \sim IJ 4 Land Preservation a existing and record The proposed specific pol: requested use ი ე and 0f the consistent Use land Benton Plan uses for with County the the

ARTICLE V

AMENDMENT PROVISION AND PERMISSION APPROVAL PROCEDURES

SECTION 1. INTEN

amendments. Thi procedures for agricultural us. District. This ... gennecessity, gen amended, repealed. INTENT This A repeased. This Article shall provide for of application, procedure, public hearing notifications, protests and fees for such amendments. This Article shall prescribe to procedures for permission approval for new agricultural uses in the Agricultural Land District Article supplemented, of This Article general shall neral welfare or the regulations þе utilized whenever changed, mod shall provi . good contained hearing, land fied er the public luse practice d herewith be new non Land Use new 9 the the public

SECTION N ORDINANCE TEXT OR. MAP AMENDMENTS

- N ш procedures, public notifications, consthe receipt of the Zoning Commission the receipt of the recommendation of the Zoning Commission may amend, supplement change the map notations and regulations contained herein or subsequently establi: on its own action or upon the recome from the Zoning Commission, or upon to of an individual, amend this Ordina County Board, after following proper procedures, public hearing(s), public for the control of the contro Intent County consideration Board may from time-to-The Jer prescribed s), public n of prorecommendation protests, on of the established the request time
- 2.2 and proposed profor public ins written or map form sp d proposed provisions a r public inspection i ministrative Officer. written 0 fi Application Said specifying the existing s and shall be available in the office of the amendment shall əd
- N ω shal General amendments al Provisions suffice as tl ice as shall proceed: the manner The following procedure r in which the
- \sim The 9 Officer. to request of o and amendment with the is submitted b Administrative
- N N A public notificati time and place of t public hearing is possection 331.305, Co the Zoning Commission's published as provided in Code of Iowa, 1993.
- $^{\circ}$ ω ω hearing to consider the Officer's report, public and the consideration of amendment Zoning Commission opinion, protests Administrative conduct comments upon the public
- \mathcal{N} υ 4 amendments, supple modifications of thits recommendation Zoning Commission supplements, the amendment makes changes appropriate and 02 offers

- N ω ū recommendation Auditor to subma a public hearin <u>l</u>e the to submit ty Board Zoning hearing upon Board and authorizes the Cou it public notification ng upon the amendment. Commission's receives and places County for d
- N ω 9 purpose, time and place of the County Board's public hearing(s) is published as provided in Section 331.305, Code of Iowa, 1993. public notification stating ace of the
- \sim 37 The to consider the Zoning Commission recommendation, the Administration Officer's report, public opinion, and the consideration of protests amendment County Board conducts public he Zoning Commission' the Administrative comments upon the hear sbur.
- \mathcal{N} ω œ approve, d or modify The County deny, the Board , amend, supplement, charamendment. change to
- \sim ω 9 county for c The date of considered t The മ amendment paper County per of general circulation in the official public notification publication is to be the effective date of the Auditor submit Ø amendment 40
- \sim 10 makes amendments to the Benton Cou Agricultural Land Preservation The the Administrative appropriate notat Officer County ion Ordinance 9 .les Iowa and

SECTION W PERMISSION APPROVAL REQUEST PROCEDURES

- approval for agricultural Agricultural with the prov Int Of. hearing(s), pu consideration ot an indivi Technical report this individual, aft ation of forms, individual, after proper prescribed ation of forms, procedures, public g(s), public and property notifications, eration of protests, and receipt of the of the Administrative Officer and County provisions Ordinance. Committee grant permissior establishing any new ral use to be located in use to be Land Use District Article I permission IV, in the -non accordance Section 2.5 for
- 3.2 Form of Application
- ω 21 be in a wr available office of The request written le for pu of the Ac 0 H f permission approval sien form and filed with a public inspection at the Administrative Officer n and the shal
- ω 22 The request is reverified by all tincluded within tract t o Ьe occupied the owners of required the boundaries of by requested to 99 all signed of an he land said use and
- ω $^{\circ}$ ω The reques following request information: application shall contain the
- Legal description of the real estate upon which the use will be located;
- (2) Name of owner and developer of the land and the intended use;
- (3) A statement of intended use,

- (4) "Sketch" map of proposed site development;
- (5) The disruption expected to be incurred on the area's present setting;
- (6) Methods to be implemented to lessen the severity of said disruption; and
- (7) Signature and date
- ω ω snall suff approval : General shall su ffice as the requests sh Provisions. he manner shall pro The proceed: following h T which permission
- ω 3 The application for submitted to and Administrative O n for permission approval nd filed with the Officer. გ.
- ω $\frac{\omega}{2}$ of all required with the conformulate Administrative all required inf h the County Tec mulate their rep information, Technical Cor report. Officer, r, upon receipt on, shall meet Committee and
- ω file the request and the Cour Committee's report and author Administrative Officer or an representative to advertise notification of the public he consider the request. The pushall be held after fifteen not more than thirty (30) day the notice is published. The (file County r the request. The held after fiftee than thirty (30) ice is published. Board advertise receives e public hearing(s) st. The public heari r fifteen (15) days a r (30) days of the da ne County Teca any au se the and authorized places Technic public hearing days and the date .cal to
- ω 34 The Administrative O proper notification of to landowners of rechanded (500) feet o property shall stathe Count County state boundary lines. Said in the sa the purpose, tim Board's hearing. f record within five set of said rem Officer l requested Said notice shall place provide by mail 0f
- ω ω purpose, time and place board's public hearing published in all office newspapers and public n public place at least public place at least prior to the hearing. notification ime and place me and place of the Collic hearing(s) shall kearing all official Benton and public notice posted fifteen (15) f the Co shall k Benton County эd County days nī മ
- 3.36 The County Board conducts the public hearing to consider the request, the County Technical Committee's Report public opinion, comments and the consideration of protests upon the request.
- 37 percent o included become of In ca the members boundar within ccent or m case, cent or more, either of luded for the proposed area immediately adjac five hundred (500) feet of the ries thereof, such request shall not effective except by the favorable at least sixty (60) percent of all Of however, a med by the the Уd County he owners o either of Board of twe change, e presente twenty (2 area 20 (20) 0f
- 3.38 The County Board shall render their

decision to approve or de based upon information previewed, the standards of Section 2.5 of this Ordin compliance with the specitive Benton County Land Pruse Plan for the existing uses the specific policies o / Land Preservation and existing and requested ion presented lards of Articl ordinance, an deny Article the and request and īV,

- 9 make the appropriate notation for approved requests to the Official Agricultural Land Use District Maps of Benton
- ω 4 shall be reviewed annually to defray necessary costs o fee shall be paid by the in County, approval the County Iowa, ere shall requests. and Board. be a fee Said fee эd ū the individual to l non-refundable. The Offi for all shall be and amount set Of permission determined of the fee а С a leve Benton The

ARTICLE VI

NONCONFORMING USE PROVISIONS

SECTION ш

will until and compliance permit approvals are required avoid undue hardship, nothing in this Ordinal shall be deemed to require a change in the construction, or designated use of any build which construction was lawfully begun prior effective date of adoption of this Ordinance INTENT Within and Ordinance. Conformities Such uses are established structures inance. This Ordinance recognizes these noncormities and will permit them to continue
il they are removed or abandoned. This section
by prescribe when permission approval procedures
compliance permit approvals are required. To
id undue hardship, nothing in this Ordinance lawful the Agricultural d by this Ordi prior to now or to the adoption of this Ordinance low subject to the provisions of this Ordinance recognizes these nonnd will permit them to continue removed or abandoned. This section Ordinance, th of land which Land Use there District, here exist were ge in the plans, any building or established to this the g

SECTION N APPROVAL PROCEDURES REQUIRED

Article V, Procedures" Board following review ۷, Section 3, ", of this the instances development ω "Permission Approval Request Ordinance: require in. that accordance the County with

- 2.1 must area use The Off enlargement or extending of α T beyond at the t bе land approved d the time to occupy addit lot of py additional lot or parcel or parcel occupied by the adoption of this Ordinance g of a nonconforming ional lot or parcel
- N . N use any discont years, 20 such nonconforming use of land continued for a period of more thars, any re-establishment of the any new use must be approved. than thr previous thre D
- ω ω The unless such use is the Agricultural l change ļ'n use se of land must be a s a principal permitt Land Use District. 0 f approved, ted use of 0 4

SECTION W

COMPLIANCE CERTIFICATION REQUIRED
Upon completion of the above-stated p
procedure and approval instances, and
instance set forth in Subsection 3.1,
Administrative Officer shall review t
in accordance with Article VIII, Sect
"Compliance Certification", of this O in accordance "Compliance C ll review the development VIII, Section 5, of this Ordinance. ed permission and in the below, the

ω. ш use The enlargement or extending of a nonconforming use of land to occupy additional lot or parcel area within the lot or parcel occupied by the a t the time occupy additional lot or parce lot or parcel occupied by the of adoption of this Ordinance

SECTION 4 OF

maintained by the Administrative Officer shall include, but not be limited to, the location and identification and the current the land. Nonconforming uses not include subsequently added to the file when accompany to the statement of the statem subsequently added to the file when accompanied by an affidavit of proof that such nonconforming use was legally established prior to the effective date identified this nonconforming tified in the Ordinance NONCONFORMING USES | land uses shall b land uses official r s shall be recorded nonconforming use ative Officer. The d the current use not included may k when accompanied the property The d and file e file bе

ARTICLE TIV

BOARD OF ADJUSTMENT

SECTION ш

authority of this Article the County Board of Adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions and grant variances to the specific terms of this Ordinance. The special exception or variance shall be in harmony with the Ordinance's general purpose and intent and in accordance with general rules herein contained, and provide that any property owner aggrieved by the action of the County Board in the adoption of such regulations and restrictions may petition said County Board of Adjustment direct to modify regulations as applied 0 such County County property y Board s ty Board of this owners. snall provide for Adjustment.

Article the Co shall for Pursuant the appointment the

SECTION N

majority shall reside within the county, a of any city, appointed by the County Board. When the County Board of Adjustment shall first be created, one member shall be appointed for a term of three years, one for a term of three years, one for a term of three years, one for shall k filled Board have position after the be for of for a term of one year. Include for five (5) years, and vacal for the unexpired term of any n becomes vacant. The County three years, one for a term of the for a term of one year. Thence for five (5) years, and work or the power to remove any member Adjustment for cause upon public hearing. ar. Thenceforth, terms and vacancies shall be e County Board member of the upon written member whose charges County shall

SECTION ω

MEETINGS

be open to the his/her absence administer oath shall keep minutes of the proceedings showing vote of each member upon each question, and all material and related documents shall be immediated in the office of the Administration. the calendar Meetings will procedure in accordance with Ordinance. The County Boarelect its own chairperson County r absence, the acting of ster oaths and compel to ses. Three (3) members the a gnorum Board of Adjustment year, chairperson at the first meeting year, who shall serve for one you be established by the rules and Board with the chairperson, or g chairperson, ma l the attendance the provisions of Adjustment the first meet shall adopt cment shall t meeting of immediately ve Officer Adjustment 9 may rules О Н Of. year in shall such 0f . Ω

4 DUTIES, AND ty Board of CONSIDERATIONS

SECTION

POWERS, DUTHE County following County powers and Ad: Adjustment it shall } эd shall rts ts duty have the

- 4.1 where order, made enforcement hear γd **1**. r and decide <u>appeals</u> of interpretation it is alleged there is an error in any requirement, decision, or determination by the Administrative Officer in the ement of this Ordinance.
- \sim such terms Board Tod of Adjust ordinance. 0f and Adjustment the decide ordinance special is required to noqu whi which such such pass County under to the
- the Ordinan justice be special conditions, a lite the provisions of this Ordi unnecessary hardship, and the Ordinance be observed To a from contrary to the special conditi authorize, om the terms conditi done. , upon appeal, such s of this Ordinance a he public interest, v c interest, w a literal enf s Ordinance w , and so that teral enforcement of linance will result is so that the spirit of and substantial such where owing to nforcement of 8 8 will not be g di
- Appeals for the landowner, or requested appeal sho denied does no who regulations appeal should has not ot comply with the specific variance should state the specific variance ted and the should be because comply ons of t applied y with the snothis Ordinates operator/manager ed for a permit potential variance granted. specific buyer be 9 and O f made land, been уd
- 32 appeal, th will hold determine instances Before ore deciding on teal, the County B leal, the County B lead a public hermine if one of has occurred: Board of Adjustment hearing and shall the two following the variance Board of Adj
- situation, top surroundings, s condition of a property of rece application of a vary the amount regulations imposed by this Ordinance subject to the restrictions in this Article. and exceptional difficulties or upon the Ordinance County the because t O o a practical ty Board of Ac application of owner would topographic cs, size, shape record, t any provision of t ld result in nor specific cord, the r particular hardship of such property and practical such property and cal confiscation, f Adjustment mav shape piece tional condition, n of this peculiar
- (2) demonstrate that the hardship is compelling force and not a perceiv one, the hardship was created by th Ordinance and not the applicant, a the strict application of the Ordinance precludes its use for t purpose to which the land is reasonably adapted. When the applicant for not a perceived created by this a variance hardship i ე 1 can the and
- 4 . ,L Appeals or Adjustment and/or 4.3 person, 20 уd pursuant of this S 0 requests this Se any off: Section to icer, to Subsection ion may be department, County cions taken board .1, by 0f 4 any d or

appeal the rec The administrative official's interpretat appeal shall be taken within a reasonal as provided by the first provided by the County Board of Adjustment's les and shall specify the grounds for appeal. e Administrative Officer shall forward the peal and all related papers which constitute record upon which the appeal was taken to County Board of Adjustment. hin a reasonable tim Board of Adjustment by anation. . Said time, ment's

SECTION 5. CONI

this Ordinance shall be made in the specified above unless and until the Adjustment shall be satisfied that variance will not: CONDITIONS FOR GRANTING VARIANCES the Count: granting e provisions instances y Board the 0f Of.

- Merely and is the and hardship variance not serve or difficulty so great onvenience ა მ the applicant demonstrable as to warrant the
- S N and Impair of the Use County the Plan general and Comprehensive Landinance purpose, spiri: dPreservation and int
- UΙ ω Impair air to σ an adjacent adequate property supply of light wat H H and
- IJ 4 and Unduly other increase danger the to hazard said pr prope: from , H H .ood
- S ហ Diminish vicinity the 9 elsewhere value of land and buildings n the county in the
- S $\boldsymbol{\sigma}$ Unduly : increase 9 rease the public ro roads congestion and traff
- G 7 general county. Otherwise welfare impair the public health, elfare of the inhabitants Ω safety, s of the and
- IJ ∞ Afford relief that would b than the minimum necessary for granting a variance. be in the determination substantially more

SECTION 6.

Administrative the next County time being of t Upon GENERAL receipt PROCEDURES ve Officer ity Board o essence appeals/application er will schedule th d of Adjustment meet meeting, the form, cas with

- 6.1 Notification. The Administrative publicize the public hearing in a general circulation in the count location of the property and a b description of the nature of the variance/appeal application, and place of the public hearing in t county h H ive and the time an n the following the brief Ф newspaper y stating t Officer shall oer of r of the and
- σ Notify all within five directions f by ordinary from ty mail hundred from the owners of property 1 (500) feet in propert y located in all question
- بر N Notify Conservationist, allow them time the County and Ö Engineer repl County er, County Soil y Sanitarian and if applicable.
- σ N Public Hearing At the public hearing, any

person may appear and testify either in per or by duly authorized person or attorney, or writing. For all appeals and applications, burden of proof rests with the applicant. proof applicant in person 20

- ω Adjustment affirm, who written reasons any appeal, or variance and impose conditions that are deemed necessary the public good. Every decision of Board of Adjustment three Board variance. of . ic good. Every decision of a Col Adjustment case will result in a findings of fact which specifies for granting or denying an appeal wholly or partly, or modifial, or variance and impose In exercising the Adjustment, members of shal the the County concurring powers modify or a Board of of such appeal to protect a County vote amend County മ the 0 fi
- φ notify Notification Decision. T the written County days the y Board of the applicant by findings of The 0 f of County Board of Adjustment's le Administrative Officer shall plicant by forwarding a copy of indings of fact of the decision of ard of Adjustment within fifteen the decision. of Adjust e Officer
- . ഗ verified, setting forth that such decision illegal, in whole or in part, specifying the grounds of illegality. Such petition shall presented to the court within thirty (30) danger the decision of the County Ball Adjustment. Right commission taxpayer, persons rision ion of the County Board of the provisions of this Ord yer, or any officer, depart ssion or commission member to joint n of t on or commission members to District Court a setting forth that sin whole or in many Appeal ly or separately county Board Decision. department, member of the ly aggrade of Adjust.

 s Ordinance, or the county on, duly on is Any days the ре

SECTION 7 FILING There s FEE

There shall be a filling fee for all app the County Board of Adjustment. Said determined by the County Board. The a fee shall be reviewed annually and set a defray necessary costs of processing. The be paid by the individual to Benton Co and is non-refundable. e paid and and set all appeals Said fee County, amount The с t മ fee s made shall nt of t level shall the be to

ARTICLE VIII

ADMINISTRATION AND ENFORCEMENT

SECTION

INTENT It is whi Of responsibilities and to set forth certain this to set forth a chis Ordinance Ordinance; will the the purpose officers, co Ьe rpose of this Article rs, commissions, boards required to administer to 0 ff procedural system for application and its enforcement. define define the duties said individuals and 20 and to committees and enforce

ECTION N

COUNTY ADMINISTRATIVE OFFICER
The office of Administrative Officer is here established. The County Board shall appoint an Administrative Officer. Said Officer sha or cause to be done the following: hereby shall do,

2.1 Process maintain and records issue thereof a11 required permits and

- \sim N amendments, permission amendments, variances, a exceptions, variances, a compliance with this Or records thereof; suor Ordinance approvals, s for and requests spec t O o ensure maintain ial for
- N ω requests special epermits, Maintain pordinance exceptions, official m ре for amendments, permanent ar including, maps, and variances but cur and permission approvals not rent ordinance limited and records appeals to text, θĘ hi Ø
- \sim 4 Together v amendments with its its report and for p the County t for requests for permission approv Technical approvals Ordinance Committee ٠.
- \sim J hearings an minutes are and Zoning public and the are and commission property proper that procedures are folly notifications, profficial decisions County Board on meetings; О Њ followed Adjustment public and for
- 2 φ Of compliance Conduct the use inspections, example of structures with the terms examinat and O.f. tions land this s and research to determine ordinance;
- \sim ⋖ Determine iolations and 0 f initiate this Ordi Ordinance; action to correct
- \sim ∞ Char fort h ge in and thi eceive Ø Ordi nance such ă sonable \vdash Φ Ö Ω Ф Ø 9 8 ä
- N 9 service : his juri: Д rovide relat. and ive ion; maintain to and മ 'n $\dot{\vdash}$ a public matters a а ar ising informat unde Ton
- ш 0 Perform this Ord Ordinance such other dut μ. 'n Ω മ ū യ R Ø ass igned Λq

ECTION ω TECHNICAL

established. The consist of the fofficer of this (County District COUNTY The Cou County District Soil Conservationist, the Sanitarian, and the Executive Director of t Conservation Board. Said Committee shall cause to be done the following: County Technical The following: ordinance, the County Technical is hereby nical Committee s Administrative County Engineer the County the County do O.F. shal the

 ω ш y of this ord Assist the A formulating County Board requests, is Ordinance. Administrative a report d of its in cative Officer in to be submitted findings upon pe indings upon accordance w ٧, permission ith Article to

ECTION 4 Article V VII ADJUSTMENT

COUNTY See Ar Of. this Ordinanc

HOH S N σ COMPL IANCE CERTIFICATION

- \vdash Compliance Certificat Certification shall I with the following, or required for farm or u with Article I, Secti ρε required.

 ρε required in

 μg, except that nor

 rm or utility use

 Section 6 of

 all be none in in accordance sordinance. acc shall ordanc Ьe
- ហ \vdash H No land shall be a certification Administrative Ouse complies wit Ordinance. on is issued by the re Officer stating the with the provisions ccupied issued lsed that is of unt the thi μ. 'n

- S 12 Nothing in this section shall p continuance of a nonconformin hereinbefore authorized, unles discontinuance is necessary for or life or property. this section shall prevent e of a nonconforming use authorized, unless nonconforming the ω use safety the S D
- . 13 (1) year a issued unle period the Þ permit 1) year ar after unless v shall approved l become r the da within in such date null g Ŋ commenced. one and which void (1) r t year one დ Ļ.
- Ŋ N Compliance Information Certificat: following: formation. rtification iance ion Certification Application

 Applicants for a Compliance

 ion shall be required to provide required provide the
- **У** 21 Legal which the Description use ٤ ۲. 1 0f bе the located real est at D noqu
- J 22 Name use; Of. owner 0f the land and the intended
- 5.23 Statement of intended use;
- Ω . 24 "Sketch" map of proposed site development
- Ŋ N σı Signature a developer; and and date affixed of owner and
- . N g necessary to provide of this Ordinance. may be dee for the deemed enforcement
- ហ ω Certification determination following: signature, or denial Administrative ation of Compliance. The rative Officer shall affix his/Pe, date and determination of application the Compliance ation Application Form. Such ation shall be governed by the x his/her of approv approval
- ហ ω this The Admini standards Ordinance dards set f strative Officer sha nance strictly and a set forth herein. all interpret according to
- S ω N In th this held the to le interpretation and appli Ordinance, the provisions to be minimum requirements n and application provisions shall be dof
- ហ ω Any decision of the Administrative Omay be subject to appeal to the Consoard of Adjustment, in accordance Article VII of this Ordinance. Administrative Officer County nce with

SECTION 6. ENFORCEMEN

to enforce t investigate Ordinance. ENFORCEMENT It shall be the the duty of the Admini-the provisions of this O any alleged violations Administrative f this Ordinance, plations of this -Officer , and to

SECTION 7. REFUSAL OF ADMITTANCE

making a of this the application may administrative : warrant, In the event proceeding to ...aue to the e property pursuant to an adm an Ordinance, tion may be g to enter a investigati the Administrative r any premises for a stion to carry out to shall be refused of made to the Court activities the Court for an ant. During entry administrative se necessary Officer, entry, for a the the purpose of provisions ς† 0 Ę an search carry onto 0f

out \mathbb{L}^{2} lowed the provisions 0 \vdash \Box hi. Ø Ordinance sha bе

SECTION 8. PI

 \triangleright Ordinance PENALTY violat on are 0 Ť f any subj Œ ect of the to \Box provi risions of collowing 0f pena thi .s ltie Ø

- ∞ permitted to constitute a guilty of a of no for A violation shall const Each Dollars person commi court each day convict conviction, be subject to a civil penalty t more than One Hundred Dollars (\$100.00) ach offense, not to exceed Two Hundred rs (\$200.00) for each repeat offense. day that a violation occurs or is tted to exist by the violator shall itute a separate offense. A person found y of a county infraction is liable for the constitute of a county inf costs and fees. more nitting a continuous tion, be so than One Off. any മ provision County i infraction. infraction to a civil О Њ this Ordinance Any shal H,
- ∞ N infraction. The citation may be served by personal service or by certified mail, return receipt requested. A copy of the citation shall be sent to the clerk of district court, and one copy shall be retained by the office of the Administrative Officer. The citation shall serve as notification that a civil offense has been committed and shall contain the name and address of the respondent; the name or description of the infraction; the location and time of the infraction; the amount of civil penalty to be assessed, or the alternate relief sought, or both; the manner, location and time in which the penalty may be paid; the time and place of court appearance; and the penalty for The Administracitation to a principle of the contraction of the contra place of failure + to appear rative The citation may be in court Officer may issue മ county civil relief return tion civil time and for and and has Off.
- ∞ ω good cause citation, j person cite ag H person the perso e to appear judgment sh nos ed ur named appear in I shall be entered against in. the the citation is tion and fails the LS. without he civil served civil st the
- ∞ 4 violation of this grant appropriate violation. The counall of the options 331.307(9), CODE 0 nIaddition of The court options s to this (y civil penalty ordinance, the relief to abate set fo F IOWA. elief to abate or hal shall have available set forth in Section , the cabate cour. imposed rt may t O for the it
- ∞ Л penalty or violates order imposed by the constitute contempt violator willfully the the court, fails terms ms of any otl such failure of pay to the other shall civil
- ∞ φ prosecution of any violat as a simple misdemeanor, 331.307(11), CODE OF IOW Nothing in thi any violations of this IOWA pursuant to o Section

ARTICLE ΙX

MISCELLANEOUS PROVISIONS

SECTION

<u>-</u>1

thereby. If any part, sentence, subsection, section or clause is unconstitutional or invalid as apparticular property, building or of is hereby provided that the appli portion of the Ordinance to other buildings or structures shall not various thereof, hereby. 9 any Ordinance SEVERABILITY This Ordinan y part, clause დ Ի. Ordinance hereby ance or by. If parts, sect, are hereby sentence, is adjudo adjudged provided amendment and reby declared to be so any paragraph, subsect not be af paragraph, use is adjudged alid as applied to a wilding or other structuration of ce to other propers shall not be that amendment itutional or invalid, eremainder of the shall not here. hereto property, be affected and and clauses sture, H.

SECTION

 \aleph RELATIONSHIP OTHER LAWS

regulations o governmental a regulations, the which are mor standards Ordinance Whenever regulations or 20 are more g e either more or less restrictive than or restrictions imposed by any authority through legislation, rule or the regulations, rules or restrictions re restrictive or which impose higher requirements shall govern. restrictions ctions imposed by less restrictive this than

SECTION ω

from This EFFECTIVE and Ordinance after DATE shall be ints final in. passage, full force approval and effect l, and

publication ജ provided уd law

Passed and adopted this 22nd day Of. November .994

BENTON COUNTY BOARD $\bigcirc_{\mathtt{F}}$ SUPERVISORS

Subervisor Norman/ Sacket

.sor De Hanson

NAY:

None

AYE:

Three

ABSTAIN: None

Supervisor Edwin Brecht

ATTEST

J; Marlow, Benton County Re Auditor

November November 16, 22, 1994 1994 First Consideration, Suspension of ADOPTION of Ordinance #24 Published summary ADOPTION of Ordinance #24 ALLand Notice of further of Hearing considerations, and

30, Published Ordinance #24

Ordinance , Jill Marlow, αυ * #24, and the dates hereby certify of consideration above to and bе publication ы true and correct are correct copy of

Jill Marlow, Benton/ County Audito

