

**Dakota County
Official Mapping Ordinance 130**

The Board of Commissioners of Dakota County, Minnesota, does hereby ordain and adopt this ordinance relating to official mapping of lands needed for future public purposes, pursuant to Minn Stat. §394.361.

Section 1

PURPOSE: Land that is needed for future street and highway purposes and as sites for other necessary public facilities and services is frequently diverted to nonpublic uses that could have been located on other lands without hardship or inconvenience to the owners. When this happens, public uses of land may be denied or may be obtained later only at prohibitive cost or at the expense of dislocating the owners and occupants of the land. Identification on an official map of land needed for future public uses permits both the public and private property owners to adjust their building plans equitably and conveniently before investments are made that will make such adjustments difficult to accomplish. It is the purpose of this ordinance to provide a uniform procedure for the proper use of official maps as authorized by Minnesota Statute §394.361.

Section 2

STATUTORY AUTHORITY: The use of official maps by county governments is authorized by Minn. Stat. §394.21 to §394.37. Statutory authority for county governments to adopt and administer official maps for the unincorporated areas of the county is given in Minn. Stat. §394.361. Statutory authority for a county to extend its official mapping controls into incorporated areas at the request of the municipality is given in Minn. Stat. §394.32. An official map adopted pursuant to this ordinance will be in effect in each municipality and township from which a resolution of the governing body approving application of the map in the municipality or township has been received by the clerk to the county board.

Section 3

DEFINITIONS:

1. "County Board" means the Board of Commissioners of Dakota County.
2. "County Building Permit or Permit" means the written permission that must be obtained from the Physical Development Director – or the person to whom the authority is delegated – for the construction of, or addition to, a structure on land included on an official map.
3. "County Zoning Administrator" means the county employee designated by the Director of Physical Development to review applications and issue county building permits pursuant to this ordinance and to receive written notices of appeal from aggrieved landowners requesting review by the Zoning Board of Adjustment (ZBA). The mailing address for notices and correspondence is:

Dakota County Zoning Administrator
Physical Development Division
14955 Galaxie Avenue
Apple Valley, MN 55124

4. "Zoning Board of Adjustment" (hereinafter "ZBA") means the three (3) person body appointed by the County Board to hear appeals arising from operation of this ordinance, in accordance with the provisions of Minn. Stat. §394.27.
5. "Initiation of Proceedings". Proceedings for adoption, amendment, or repeal of an official map or any part thereof may be initiated by: a) a recommendation of the county's physical development division; b) a recommendation of the zoning board of adjustment (ZBA); or c) direction from the County Board.
6. "Official Map" means a map adopted in accordance with this ordinance which may show existing County roads and County state aid highways, proposed future County roads and highways, the area needed for widening of existing County roads and highways, existing and future state trunk highway right-of-way, the location of existing public lands and facilities and other land needed for future public purposes, including public facilities such as parks, trails, and other public buildings.

Section 4

REFERENCE TO PHYSICAL DEVELOPMENT DIVISION: Except when proceedings for adoption, amendment or repeal of an official map have been initiated by recommendation of the physical development division, every proposed official map or change in a map shall be referred to the physical development division for advice and recommendation thereon. Any such advice or recommendation shall be submitted to the County Board within forty-five (45) days after reference to the physical development division along with the report of the Director of Physical Development on the effect of the proposal on the comprehensive plan of the county. If no recommendation is received by the Board from the physical development division within forty-five (45) days after reference of the proposal to the division, the Board may take such action as it may deem proper upon the proposal without further action by the physical development division.

Section 5

NOTICE AND HEARING:

- A. Notice: Upon receiving the recommendation of the physical development division, or after forty-five (45) days from the submission of the proposal to the physical development division without a recommendation from the division, the County Board may call a public hearing on the proposal. A notice of the time, place, and purpose of the hearing and a description of property to be included in the mapped area shall be published in the official newspaper of the County at least ten (10) days prior to the date of the hearing. At least ten (10) days prior to the hearing, the clerk to the board shall also mail a copy of the notice to each owner of land situated within or abutting any highway

or other public ground shown on the official proposed map, as well as to the township or city clerk of the appropriate land use authority. For purposes of this notice, the owners shall be determined by the records of the county treasurer-auditor and the notice shall be addressed to the last known address as shown by the treasurer-auditor's records. Failure to serve any such notice shall not invalidate the proceedings.

- B. Hearing: At the time and place specified in the notice, the County Board shall hear evidence and arguments concerning the proposal. The hearing may be continued from time to time without further notice.

Section 6

PREPARATION AND FILING OF MAPS: The official map or maps shall be prepared by the county surveyor in sufficient detail to permit the establishment of future acquisition lines on the ground. In unplatted areas, a minimum of a centerline survey shall be made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shown on the official map shall be attested to by the county surveyor. After enactment of any ordinance adopting an official map or amending or repealing a previous official map ordinance, a certified copy of the official map or section to which the ordinance relates, together with an attached copy of the ordinance, shall be filed with the county recorder and with the town clerk or city clerk of the appropriate land use authority.

Section 7

EFFECT: After an official map has been adopted and filed, the issuance of building permits by the local land use authority shall be subject to the provisions of this ordinance. All building permit applications received by the local land use authority for property included on a county official map shall be referred to the county zoning administrator before issuance of a building permit. The County shall deny every application by the local land use authority to issue a permit to construct a new building or structure or expand an existing building or structure within any area designated on the official map for street or public purposes unless the proposed new construction or expansion is considered minor in nature by the physical development director.

Whenever any road or highway is widened or improved or any new road or highway segment is opened, or any interest in lands for other public purposes is acquired by the County, the County is not required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit within the limits of the mapped street or outside of any building line that may have been established upon the existing road or highway or within any area thus identified for public purposes.

The adoption of an official map does not give the County any right, title, or interest in areas identified for public purposes thereon, nor a right of first refusal to acquire the land; but the adoption of the map does authorize the County to acquire such interest without paying compensation for buildings or structures erected in such areas without a permit or in violation of the conditions of a permit.

Section 8

APPEALS: Whenever a building permit is denied pursuant to this ordinance the Zoning Board of Adjustments (ZBA) shall have the power, upon written appeal filed with the county zoning administrator by the owner of the land, to authorize the issuance of a permit for building in an area designated on the official map for a highway or other public purpose in any case in which the ZBA finds, upon the evidence and the arguments presented to it: a) that the entire property of the appellant of which the area designated for public purposes forms a part cannot yield a reasonable return to the owner unless such a permit is granted, and b) that balancing the interest of the county in preserving the integrity of the official map and of the comprehensive county plan, or any sub-plan thereof approved by the County Board, and the interest of the property owner in the use of his property and in the benefits of ownership, the issuance of such permit is required by considerations of justice and equity.

Within sixty (60) days after receipt of a written notice of appeal by an aggrieved landowner, the ZBA shall hold a public hearing upon the appeal after notice of the hearing has been published in the official county newspaper once at least ten (10) days before the hearing. If the ZBA authorizes the issuance of a permit, it shall specify the exact location, ground area, height, and other details as to the extent and character of the building for which the permit is granted. If the ZBA authorizes issuance of a permit, the County Board or other authority having jurisdiction shall have six (6) months from the date of the decision of the ZBA to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the County shall issue the permit if the application otherwise conforms to local ordinances. "Proceedings to acquire" includes negotiation for voluntary acquisition or commencement of an action in accordance with Minn. Stat. Chapt. 117. If the ZBA cannot make the findings necessary to support issuance of a building permit, the appeal will be dismissed. The reasons for the ZBA's decision shall be stated in writing, with copies of the decision to be mailed to the appellant and to the county zoning administrator.

APPEAL TO DISTRICT COURT: All decisions of the ZBA shall be final, except that any aggrieved person or persons or any department, board or commission shall have the right to appeal, within thirty (30) days after receipt of the notice of the decision, to the district court in Dakota County in accordance with Minn. Stat. §394.27, subd. 9.

Section 9

OTHER COUNTY ORDINANCES OR OTHER REGULATIONS: No permit shall be granted under this ordinance that does not conform with the conditions of all other applicable County ordinances and state statutes and rules. The adoption of this ordinance shall not erode or restrict the County's other powers under Minn. Stat. §394.37 or Minn. Stat. §383D.65.

Section 10

SEVERABILITY: The provisions of this ordinance shall be separable and the invalidity of any section, paragraph, subparagraph, subdivision, or other part thereof shall not make void, impair, invalidate or affect the remainder thereof.

Section 11

AMENDMENT: This ordinance may be amended from time to time by the County Board and such amendment may be shown by either marking the section amended, attaching the amendment to this ordinance, or reprinting the ordinance publication.

Section 12

ADOPTION OF MAPS: Language for adoption of official maps shall be as follows: ADOPTION OF MAP (fill in description): The map entitled "Official Map of _____", a copy of which is attached to Ordinance No. _____ and incorporated herein by reference, is hereby adopted and designated as the Official Map of...

Section 13

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and publication according to law.

ENACTED AND ORDAINED into an Ordinance this 30th day of December.

Approved as to form
Richard K. Rine Dec. 17, 2008
Assistant County Attorney/Date

Nancy Schurweiler
Nancy Schurweiler, Chair
Dakota County Board of Commissioners
Date of Signature 12-30-08

Attest: Kelly Olson
Kelly Olson, Clerk to the Board
Date of Signature 12-30-08