



BENTON COUNTY PLANNING & ZONING DEPARTMENT  
531 DEWEY STREET, PO BOX 129  
FOLEY, MN 56329-0129  
PHONE: (320) 968-5065 FAX: (320) 968-5351

## Conditional Use Permit Amendment Application

As set forth in Section 11.6 of Benton County Development Code

**Application Fee:** \$500 (\$954 if it is an after the fact application) **File No.** \_\_\_\_\_

Property Owner _____	Phone _____	
Mailing Address _____		
Parcel I.D. Number _____	Township _____	Section _____
Legal Description _____		
_____		

Existing Use \_\_\_\_\_

Summary of Proposed Change: \_\_\_\_\_

\_\_\_\_\_

Conditional Use Permit # \_\_\_\_\_ Date Issued: \_\_\_\_\_

**On a separate sheet provide a detailed description of how the conditional use permit is being amended and why the amendment is needed. Addresses the following in the description, specifically stating how the proposed amendment would affect each section:**

**\*\*Applications will be deemed incomplete if items 1-12 below are not addressed.\*\***

- 1) Indicate any existing and proposed change to the impacts on parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area. Please explain why there will be no excessive burden on these uses.
- 2) Describe how the existing and proposed use is compatible or separated by distance or screening (landscaping, fences, etc) from adjacent agricultural or residentially zoned or used land (show on site plan). Explain why the proposed use will not depreciate the value or deter development of adjacent parcels.
- 3) Describe the appearance of any existing and proposed structures. Explain why they will not have an adverse effect upon adjacent properties.
- 4) Explain how the proposed use is related to the existing land use.
- 5) Explain how the proposed use is consistent with the purpose and intent of the Development Code and the purposes of the zoning district.
- 6) Explain how the proposed use is in harmony with the Land Use Plan of the County.

## **CONDITIONAL USE PERMIT AMENDMENT**

- 7) Describe the existing and anticipated traffic impact for the proposed use. Describe the road access and visibility (show on site plan). Describe the type and number of parking and loading spaces to be provided (show on site plan). Explain why there will be no traffic hazards or congestion.
- 8) Describe any wetland impacts. If wetlands are impacted explain how the proposed project will respond to the wetland provisions of Minnesota Statutes Chapter 103G.
- 9) Describe the number of existing and proposed employees and existing and proposed hours of operation for the use.
- 10) Describe how erosion and stormwater will be managed and amount of area to be disturbed.
- 11) Describe any signage and/or lighting that will be located on the property (show on site plan and for signs on a structure a building elevation is required).
- 12) Describe the use and type of hazardous materials on site and their storage and disposal plan.

### **Building and Setbacks (As shown on site plan)**

Structure Size\_\_\_\_\_

Dimensions \_\_\_\_\_

Lot Size\_\_\_\_\_

Lot Coverage\_\_\_\_\_

Height\_\_\_\_\_

Front Setback\_\_\_\_\_

Road type\_\_\_\_\_

OHWL Setback\_\_\_\_\_

ROW Setback\_\_\_\_\_

Rear Setback\_\_\_\_\_

Centerline Setback\_\_\_\_\_

Side Setback\_\_\_\_\_

Feedlot Setback\_\_\_\_\_

Side Setback\_\_\_\_\_

**Note: In order to fully evaluate the proposed use, please supply a site plan map that shows all applicable distances, setbacks, buildings, roads, wetlands, etc and specifically highlight proposed changes to the approved conditional use permit.**

I hereby swear and affirm that the information supplied to the Benton County Planning & Zoning Department is accurate and true. I acknowledge that this application is rendered invalid and void should the County determine that information supplied by me, the applicant, in applying for this conditional use permit, is inaccurate or untrue.

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_

### **Planning & Zoning Department Office Use only:**

Zoning District: \_\_\_\_\_ Section of Ordinance: \_\_\_\_\_

Proposed Use \_\_\_\_\_

Meeting Date: \_\_\_\_\_ (Date shall not be scheduled until staff confirms receipt of all materials)

Reviewed for Accuracy: \_\_\_\_\_

## Conditional Use Permit Application Checklist

- 1) \_\_\_\_\_ A site visit with Planning & Zoning Department staff may be required.
- 2) \_\_\_\_\_ Provide applicant with a copy of Section 11.6 of the Development Code "**Criteria for granting Conditional Use Permits**"
- 3) \_\_\_\_\_ **Application packet** is completed and signed Applications are only accepted from property owners.
- 4) \_\_\_\_\_ Applicant must provide **evidence of ownership**. (A valid purchase agreement is acceptable.)
- 5) \_\_\_\_\_ Copy of the complete legal from the abstract is needed for recording.
- 6) \_\_\_\_\_ **A detailed sketch**, to scale, with a north arrow, of property is attached (show buildings, **distance** to property lines, septic, well, roads (name & number), driveway, wetlands, physical features, any feedlots within 1500 ft., etc.)\*
- 7) \_\_\_\_\_ **Clearly identify** proposed structure(s), driveways, septic, fences, etc. by flagging or staking.
- 8) \_\_\_\_\_ A **Compliance Inspection** report must be provided for any existing sewage treatment system on the affected property at the time of application for a CUP.
- 9) \_\_\_\_\_ If the application is for a **new building** that will generate waste water/have plumbing, it must be able to support **TWO "STANDARD"** sewage treatment systems (proved by two soil borings: one for the primary site and one for the secondary site).
- 10) \_\_\_\_\_ Access approval from Township or County if new access is proposed.
- 11) \_\_\_\_\_ **Completed description of the request and statement of justification is attached.**
- 12) \_\_\_\_\_ **Application Fee of \$500** (Including the \$46 recording fee) or as amended. (\$954 if it is an after the fact application). Fees are non-refundable.
- 13) \_\_\_\_\_ Applicant (or their representative) must be present at the Planning Commission public hearing.
- 14) \_\_\_\_\_ If the CUP is denied, by the Planning Commission, it cannot be resubmitted for six months.
- 15) \_\_\_\_\_ **Conditions may be included** on granted CUP's.
- 16) \_\_\_\_\_ **Granted Conditional Use Permits become void** if applicant does not proceed substantially (40% of the hours required to complete the project) **within one year** of the date the CUP is granted.
- 17) \_\_\_\_\_ The **CUP deals only with the use** of the property. A **Land Use Permit is required** prior to construction of any structures.

**NOTE: A Public Hearing will be scheduled** for the next available Planning Commission meeting **only if the applicant provides all the required information prior to the application deadline**. State of Minnesota Law requires public notification for at least 10 days prior to the hearing.

**\*Applicant is responsible for utilizing accurate property boundaries in submitted documents.**

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Applicant

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Date

## **REQUIREMENTS FOR THE SITE SKETCH**

- Drawn to Scale;
- North Directional Arrow;
- Dimensions of lot
- Location of existing or proposed septic system (if applicable);
- Road/street names;
- Location of existing and proposed structures, showing all setbacks (including road right of way, side, front and rear yard, shoreline, ordinary high water mark (OHWL), feedlots);
- Driveway location;
- Location of well (if applicable);
- Location of adjacent existing buildings;
- Location of Wetland areas, fill and grading/vegetation alteration limits, floodplain (if applicable);
- Other information as may be requested

## **SITE PLAN (drawn to scale)**

Please be as complete as possible. Include all of the following items listed where applicable:

Scale: 1 inch = \_\_\_\_\_ feet      Date of drawing \_\_\_\_\_

### **General Checklist**

- north arrow  lot dimensions  structure location(s)  setback measurements
- septic system location  existing local drainage  feedlots within 1500 feet  wetland areas
- fill & grading/vegetation alteration limits

### **Water Resource Checklist**

- location of floodway &/or flood fringe  location & setback distance from ordinary high water level (OHWL)  location of present & highest known water line


## **11.6      Conditional Use Permits**

### **11.6.1      Criteria for Granting Conditional Use Permits**

- (A)    In granting a conditional use permit, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies.
- (B)    Among other things, the Planning Commission shall make the following findings where applicable:
  - (1)    Will the use create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area?
  - (2)    Is the use sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land?
  - (3)    Does the structure and site have an appearance that will not have an adverse effect upon adjacent properties?
  - (4)    Is the use, in the opinion of the Planning Commission, reasonably related to the existing land use?
  - (5)    Is the use consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use?
  - (6)    Is the use in conflict with the Land Use Plan of the county?
  - (7)    Will the use cause traffic hazards or congestion?
  - (8)    Will the use violate the wetland provisions of Minn. Stat. Ch. 103G, as may be amended?

### **11.6.2      Conditions**

- (A)    In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the community as a whole.
- (B)    These conditions may include, but are not limited to, the following:
  - (1)    Increasing the required lot size or yard dimension.
  - (2)    Limiting the height, size or location of buildings.
  - (3)    Controlling the location and number of vehicle access points.
  - (4)    Increasing the street width.
  - (5)    Increasing the number of required off-street parking spaces.
  - (6)    Limiting the number, size, location or lighting of signs.

- (7) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- (8) Designating sites for open space.

(C) Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued, shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The Department of Development Director shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Planning Commission, time limits, review dates, and such other information as may be appropriate.

#### 11.6.3 Procedure

- (A) Applications for conditional use permits will not be accepted from anyone who is not an owner of land for which the application is made.
- (B) The person applying for a conditional use permit shall fill out and submit to the Benton County Department of Development a conditional use application form and filing fee.
- (C) The Department of Development Director shall refer the application to the Planning Commission for review.
- (D) The Planning Commission shall hold a public hearing on the proposal within 90 days of the submission of an application to the Planning and Zoning Office. Notice of the public hearing shall be as provided by Minn. Stat. §394.26, as may be amended. (Ord. #247, adopted 12/20/94)
- (E) The petitioner or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use.
- (F) If the Planning Commission grants the conditional use permit, it may impose conditions it considers necessary to protect the public health, safety and welfare. Such conditions may include a time limit for the use to exist or operate.
- (G) An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. The fee shall be as set by separate action of the County Board. Amended conditional use permits shall include requests for changes in conditions and as otherwise described in this Ordinance.
- (H) No application for a conditional use permit shall be resubmitted for a period of 6 months from the date of said order of denial.
- (I) If a time limit or period review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing

published at least 10 days prior to review; it shall be the responsibility of the Department of Development Director to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review. A public hearing for annual review of conditional use permits may be granted at the discretion of the Benton County Planning Commission.

- (J) Granted conditional use permits shall become void if applicant does not proceed substantially on the work within 1 year of the date the permit is granted. To proceed substantially means to make visible improvement to the property and to have had applied to the property at least 40 percent of the man hours which it is reasonably estimated will be necessary for completion of the project. 1 extension of not more than 1 year may be granted by the Planning Commission at their discretion.
- (K) If the land use does not conform to the conditions of the permit, the conditional use permit may be revoked.

## WETLAND NOTICE

Minnesota Law prohibits the draining or filling of any wetlands, unless specifically approved by the appropriate authorities.

“Wetlands” means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- 1) A predominance of hydric soils;
- 2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and,
- 3) Under normal circumstances, support prevalence of such vegetation.

If you fill or drain a wetland in violation of Minnesota Law, you are subject to criminal penalties of up to **90 days in jail and/or a \$700 fine**. In addition, you could be ordered to restore any altered wetlands to their original condition at your own cost.

The placement of fill or dredged material in any wetland, lake, stream, river, pond, or prairie pothole may constitute a violation of Federal laws that are enforced by the U.S. Army Corps of Engineers. You are advised to contact that agency before commencing any such work.

There are eight types of wetland:

Type 1 – Seasonally flooded basins or flats. Soil is covered with water or waterlogged during seasonal periods but is usually well drained during the growing season.

Type 2 – Wet meadows. Soil is usually without standing water most of the growing season but is waterlogged within a few inches of the surface.

Type 3 – Soils which are usually waterlogged during the growing season and often covered with up to 6 inches of water. Many Type 3 wetlands have cattails and bulrushes and small open water area.

Type 4 – Soils which are usually covered with 6 inches to 3 feet of water during the growing season. Many Type 4 wetlands have cattails and bulrushes and much open water.

Type 5 – Shallow water ponds and reservoirs water 3 feet to 10 feet deep.

Type 6 – Shrub swamps. Soil is usually waterlogged during the growing season and are often covered with as much as 6 inches of water.

Type 7 – Wooded swamps. Soil is waterlogged at least to within a few inches of the surface during the growing season with as much as one foot of water. Occur mostly along sluggish streams or flood plains.

Type 8 – Bogs. Soil is usually waterlogged and supports a spongy covering of mosses.

**As the applicant for this land use permit, you are responsible for determining whether any wetlands will be affected by this proposed project. By signing this document, the applicant affirms that no wetlands will be drained or filled during the course of the project.**

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Signature of Applicant

Date