



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

## Interim Use Permit Application Community Solar Energy System

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

As set forth in Section 11.7 of the Benton County Development Code.

<b>Property Owner:</b> _____	<b>Phone:</b> _____
Mailing Address: _____	
<b>Applicant:</b> _____	<b>Phone:</b> _____
Mailing Address: _____	
Property Address: _____	
Parcel I.D. Number: _____	Section: _____ Twp: _____ Range: _____
Legal Description: _____	

Benton County strongly recommends that you discuss your proposal with the adjacent property owners and the Township Supervisors before a formal application is made. Any conflicts you can resolve ahead of time will make it easier and faster for the County to process your application.

Zoning District: \_\_\_\_\_ in accordance with Section 9.20 of the Benton County Development Code.

**It is the burden of the applicant to demonstrate satisfaction of the criteria for granting a interim use permit stated in Section 11.7 of the Development Code (attached).**

Provide a detailed description and reason for the request that addresses the following:

1. How the interim use conforms to the zoning regulations of the County, see requirements within each district;
2. There will be no additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future.
3. The interim use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
4. The interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
5. The interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

6. The interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district.
7. The interim use is consistent with the Comprehensive Plan of the County.
8. The interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.
9. The interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including that adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance.

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 \_\_\_\_\_

Owner's Signature \_\_\_\_\_ Date \_\_\_\_\_

Planning & Zoning Department Office Use only:

Zoning District: \_\_\_\_\_ Proposed Use: \_\_\_\_\_ Sec. of Ord.: \_\_\_\_\_

Meeting Date: \_\_\_\_\_ Reviewed for Accuracy by: \_\_\_\_\_

(Date shall not be scheduled until staff confirms receipt of all materials)

# INTERIM USE CHECK LIST

- 1) \_\_\_\_\_ A site visit with Planning & Zoning Department staff may be required.
- 2) \_\_\_\_\_ Provide applicant with a copy of Section 11.7 of the Development Code “**Criteria for granting Interim 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 an IUP.
- 9) \_\_\_\_\_ If the application is for a **new building** that will generate wastewater/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 IUP is denied, by the Planning Commission, it cannot be resubmitted for six months.
- 15) \_\_\_\_\_ **Conditions may be included** on granted IUP’s.
- 16) \_\_\_\_\_ **Granted Interim 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 IUP is granted.
- 17) \_\_\_\_\_ The **IUP deals only with the use** of the property. A **Land Use and/or Building permit is required** prior to construction of any structures or solar panel foundations.

**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

# WETLAND ADVISORY

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 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

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Date

**Section 9.20.2 Standards for Solar Farms: Solar Farms shall be subject to the requirements of Section 11.7 and the following additional performance standards:**

**9.20.2.1 Standards for Private Solar Gardens and Community Solar Farms**

Private Solar Gardens and Community Solar Farms shall be subject to the requirements of subsection 11.7 and the following additional performance standards:

**(A) Foundations.**

A professional licensed engineer in the state of Minnesota shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.

**(B) Other standards and codes.**

All private solar gardens and community solar farms shall comply with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; the National Electric Code, as amended; the National Pollutant Discharge Elimination System (NPDES), as amended; and shall be in compliance with all applicable federal, state and local wetland laws, rules and regulations, as amended.

**(C) Power and communication lines.**

Power and communication lines running between banks of solar panels, to electric substations, among other project elements and providing interconnections with buildings shall be buried underground. Exemptions may be granted by the planning commission in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

**(D) Setbacks.**

Private solar garden and community solar farms must meet the minimum principal building setback for the zoning district and be located a minimum of 300 feet from a residential dwelling unit not located on the property. Setbacks shall be measured to the nearest solar array or other structure within the private solar garden or community solar farm, excluding security fencing, screening or berm.

**(E) Maximum Height.**

Ground mounted systems shall not exceed 25 feet in height at maximum ground tilt.

**(F) Field Windbreak.**

As stipulated in Section 9.13, no field windbreaks shall be removed as part of the project unless it can be shown that the windbreak is no longer serving its purpose and the Planning Commission approves such removal.

(G) Screening.

Private solar gardens or community solar farms shall be screened from residential dwelling units as follows when there is less than 1,000 feet of separation between the solar array and residential dwelling:

- (1) Screening shall consist of earth mounds or berms; neutral colored fences; or landscaping used in combination or singularly so as to block direct visual access and to mitigate potential glare concerns.
- (2) The use of berming and landscaping shall be 80 percent opaque at the time of maturity. Planting screens shall consist of healthy plant materials at least 6 feet in height at the time of planting. Or planting screens shall include at least 2 staggered rows of evergreen trees placed no more than 8 feet apart.
- (3) Screening fences that are in disrepair shall be repaired. Planting screens shall be maintained in a neat and healthy condition with plantings that have died being replaced within the current or next growing season.
- (4) Applicant shall provide mitigation of glare issues, failure to mitigate will be a violation of the IUP.

(H) Solar panels must be removed and properly disposed of if they are out of production for more than 1 year unless the Planning Commission grants an extension of time for their removal.

(I) The interim use permit shall expire at the same time the solar energy farm lease expires, but in no case shall the permit be less than 25 years. The IUP may be extended following the same process as establishment of the original IUP. The Planning Commission may waive the expiration requirement for solar energy farms located on property owned by public utilities or other unique owner operated facilities.

(J) Application Requirements.

The following information shall be provided to the Department as part of the IUP permit:

- (1) A site plan of existing conditions showing the following:
  - (a) Existing property lines and property lines extending 300 feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
  - (b) Existing public and private roads, showing widths of the roads and any associated easements.
  - (c) Location and size of any existing or abandoned wells, and sewage treatment systems.
  - (d) Existing buildings and any impervious surface.
  - (e) Topography at 2 foot intervals and source of contour interval, a contour map of surrounding properties may also be required.

- (f) Existing vegetation (list type and percent of coverage; i.e. grassland, pasture, plowed field, wooded areas, etc.).
  - (g) Waterways, watercourses, lakes and public water wetlands.
  - (h) Level 2 wetland delineation required. Other levels may be appropriate if approved by the Department of Development staff.
  - (i) The 100 - year flood elevation and Regulatory Flood Protection Elevation, if applicable.
  - (j) Floodway, flood fringe and/or general flood plain district boundary, if applicable.
  - (k) The shoreland district boundary, if any portion of the project is located within a shoreland overlay district.
  - (l) In the shoreland overlay district, the ordinary high water level and the highest known water level.
  - (m) In the shoreland overlay district, the toe and top of any bluffs within the project boundaries.
  - (n) Surface water drainage patterns.
  - (o) Mapped soils according to the Benton County Soil Survey.
- (2) Site Plan of Proposed Conditions:
- (a) Location and spacing of solar panels.
  - (b) Location of access roads.
  - (c) Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load.
  - (d) New electrical equipment other than at the existing building or substation that is the connection point for the solar farm.
  - (e) Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any).
- (3) Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks;
- (4) The number of panels to be installed;
- (5) A description of the method of connecting the array to a building or substation;
- (6) Aviation Analysis. If the project is within 2 miles of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or successor policy. The applicant must also complete the Air Space Case Analysis (Form 7460) and provide the results.

- (7) Visual Impact Analysis. An analysis of the potential visual impacts from the project including solar panels, roads and fencing along with measures to avoid, minimize or mitigate the visual effects shall be required. A plan may be required showing vegetative screening or buffering of the system from those items to mitigate for visual impacts.
- (8) Solar farms must also provide the following:
  - (a) A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary;
  - (b) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet all applicable rules and regulations to proper disposal.
  - (c) To ensure proper decommissioning, the applicant shall provide a financial surety by posting a bond, letter of credit or the establishment of an escrow account at a rate of \$25,000 per MW or fraction thereof for Community Solar Farms and at a rate of \$500 per acre for Private Solar Gardens.

Any financial surety arrangement shall be approved by the County Attorney's Office as to form and issuing bank. The issuing bank must be an FDIC insured bank. The issuing bank must be available in its entirety to fulfill the obligations of Developer under the Agreement. Any letter of credit to the County shall contain language requiring its automatic renewal prior to December 31 of each calendar year, unless cancellation of the letter of credit is specifically approved in writing by the County.

## **11.7            Interim Uses**

### **11.7.1        Criteria for Interim Use**

- (K) No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:
  - (1) The interim use conforms to the zoning regulations of the County.
  - (2) There will be no additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future.



- (3) The interim use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- (4) The interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
- (5) The interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- (6) The interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district.
- (7) The interim use is consistent with the Comprehensive Plan of the County.
- (8) The interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.
- (9) The interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including that adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance.

#### 11.7.2

##### Conditions

- (A) The use shall be limited to a specific time or event as identified by the Planning Commission.
- (B) Any interim use may be terminated by a change in zoning regulations.
- (C) As a condition of approval of the IUP, the Planning Commission may require an additional annual inspection fee as adopted by the Board.
- (D) Any use permitted under the terms of any Interim Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith. If the applicant does not abide by the conditions set forth in the permit, the County has the right to either revoke the permit or hold another hearing to investigate and set additional conditions.

#### 11.7.3

##### Termination

- (A) An Interim Use shall terminate on the happening of any of the following events, whichever comes first:
  - (1) The date or event stated in the permit.
  - (2) Upon violation of conditions under which the permit was issued.
  - (3) Upon change in the County's zoning regulations where the use no longer permitted.
  - (4) The IUP shall expire if the approved use is inactive for 1 year or longer as determined by the Department of Development and/or tax records indicating the use was inactive.

- (5) Granted IUPs shall become void if the 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.

#### 11.7.4

##### Process of Approval

- (A) A complete IUP application shall comply with the criteria below:
  - (1) An application for an Interim Use Permit shall be filed with the Department of Development on a form prescribed by the Department. The applicant shall provide the following written information in order for an IUP application to be complete:
    - (a) A complete IUP application form signed and dated by the applicant and property owner(s) and pay all applicable fees.
    - (b) Written description of the proposed activities.
    - (c) Description of equipment and vehicles to be used for the activity.
    - (d) Days and hours of operation.
    - (e) Number of employees using the property, including sub-contractors (full-time and part-time).
    - (f) Site plan, including:
      - (i) A survey, aerial photograph or site plan showing all existing and proposed buildings, well, septic system (or other restroom facilities), outside storage area(s), and driveway access(s).
      - (ii) Existing and proposed screening.
    - (g) A Certificate of Septic Compliance in shoreland or a compliance inspection if in non-shoreland.
    - (h) Written description of any maintenance to take place on-site, including how hazardous materials will be stored and disposed of.
    - (i) Any additional information required by the Department of Development specific to the IUP request.
  - (2) Complete applications shall be reviewed by the Benton County Department of Development in accordance with Minn. Stat. § 15.99, as may be amended.
  - (3) The petitioner or their representative shall appear before the Planning Commission in order to present evidence concerning the proposed interim use.
  - (4) After a public hearing has been held, the Planning Commission shall approve, deny, or continue an IUP request, with written findings in support of their decision.
  - (5) An amended interim use permit application shall be administered in a manner similar to that required for a new interim use permit.

The fee shall be as set by separate action of the County Board. Amended interim use permits may include requests for changes in conditions and as otherwise described in this Ordinance.

- (6) No application for an interim use permit shall be resubmitted for a period of 6 months from the date of said order of denial.
- (7) If a time limit or period review is included as a condition by which an interim use permit is granted, the interim 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 to schedule such public hearings. A public hearing for annual review of interim use permits may be granted at the discretion of the Benton County Planning Commission.
- (8) Any use permitted under the terms of any Interim Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith. If the applicant does not abide by the conditions set forth in the permit, the County has the right to either revoke the permit or hold another hearing to investigate and set additional conditions.
- (9) The applicant shall pay all IUP and recording fees as determined by the County Board. As a condition of approval of the IUP, the Planning Commission may require an additional annual inspection fee as adopted by the County Board. The annual inspection fee shall cover the cost of County Staff or their agent to inspect the property as required within the IUP's conditions of approval.
- (10) Granted interim 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.