



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 Second Dwelling

**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.

Property Owner: _____	Phone: _____
Mailing Address: _____	
Property Address: _____	
Parcel I.D. Number: _____	Section: _____ Twp: _____ Range: _____
Legal Description: _____	

Benton County <u>strongly</u> 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.
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Zoning District: \_\_\_\_\_ (AG - 7.2.5(E), RA - 7.3.5(E) or RS - 7.7.5(C))

Second Dwelling:

- \_\_\_ 1. Full Time Help on the Farm/Farm Operator,  
In accordance with Section 9.19 (Agricultural and Rural Agricultural Districts)
- \_\_\_ 2. Supportive Care.  
In accordance with Section 9.19 (Agricultural, Rural Agricultural and Rural Service Districts)

**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.

**Buildings and Setbacks (As shown on site plan)** 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.

Proposed Structure type: \_\_\_\_\_

Dimensions of proposed structure: \_\_\_\_\_ Height \_\_\_\_\_

Distance of proposed dwelling to primary dwelling: \_\_\_\_\_

Lot Size: \_\_\_\_\_ Lot Coverage: \_\_\_\_\_

Feedlot Setback: \_\_\_\_\_ Shoreland OHW Setback: \_\_\_\_\_

Road type: Township \_\_\_\_\_ County \_\_\_\_\_ State Highway \_\_\_\_\_

Front Setback: \_\_\_\_\_ ROW Setback: \_\_\_\_\_ Centerline Setback: \_\_\_\_\_

Rear Setback: \_\_\_\_\_ Side Setback: \_\_\_\_\_ Side Setback: \_\_\_\_\_

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 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

## General Checklist

Date of drawing \_\_\_\_\_

- ☐ 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

- 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

This image shows a full page of blank graph paper. The grid consists of small, equal-sized squares formed by thin black lines. There are no margins, text, or other markings on the page.

\_\_\_\_\_  
Date

Benton County Planning & Zoning Department  
531 Dewey Street  
PO Box 129  
Foley, MN 56329-0129

I, \_\_\_\_\_ (applicant/property owner) at the  
following property address: \_\_\_\_\_ and with a  
Parcel I.D. Number of \_\_\_\_\_ of acknowledge and understand, that it  
is my responsibility to remove a second dwelling unit

\_\_\_\_\_ associated with full time help on the farm/farm operator

\_\_\_\_\_ associated with supportive care

within 90 days when the demonstrated need for full time help on the farm no longer  
exists, the farm operator no longer resides on the property, the supportive care is no  
longer needed, or the person receiving supportive care no longer resides on the  
property.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
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

Date

## 11.7 Interim Uses

### 11.7.1 Criteria for Interim Use

- (A) 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.

## **9.19      Second Dwelling**

(Ord. #447, adopted 12/20/11)

### **9.19.1      In General**

- (A)      A second dwelling on a property shall be a detached single family dwelling for one of the following uses:
  - (1)      Supportive care,
  - (2)      Help on the farm, or Farm operator.
- (B)      Second dwellings are not intended as rental property and rental of either dwelling is prohibited. All applications and required documents that require signatures must be signed by the primary dwelling occupant(s) over 18 years of age, secondary dwelling occupant(s) over 18 years of age, and the landowner(s).

### **9.19.2      Supportive Care**

- (A)      A Second Dwelling for the use of Supportive Care are allowed as an interim use for the following zoning districts:
  - (1)      “A” Agricultural District
  - (2)      “R-A” Rural Agricultural District
  - (3)      “R-S” Rural Service District
- (B)      The applicant must provide the documents and meet criteria listed below:
  - (1)      Site plan showing the location of the second dwelling unit in relation to the original dwelling unit.
  - (2)      Documentation of the type of supportive care to be provided by a physician, nurse practitioner or physician assistant to verify the need for supportive care.
  - (3)      The principal owner of the property shall annually submit an affidavit to the Department of Development verifying that the dwellings are still occupied by the eligible resident(s) named in the original application.
  - (4)      A signed statement declaring that the second dwelling shall be removed within 90 days of discontinuance of providing or receiving supportive care.
  - (5)      The dwelling must be a manufactured home.

- (6) The dwelling unit must be connected to a permitted sewage treatment system.
- (7) The dwelling must meet the state building code and meet the 31 point inspection requirement.

9.19.3 Help on the Farm or Farm Operator

- (A) A Second Dwelling for the use of Help on the Farm or Farm Operator are allowed as an interim use for the following zoning districts:
  - (1) "A" Agricultural District
  - (2) "R-A" Rural Agricultural District
- (B) The applicant must provide the documents and meet the criteria listed below:
  - (1) Provision of Schedule F, or similar document, demonstrating the need for full time help on the farm.
  - (2) Site plan showing the location of the second dwelling unit in relation to the original dwelling unit.
  - (3) Signed written statement that the farm operator or the retired operator will reside on the property.
  - (4) Signed written statement indicating the name or title of the person(s) occupying the second dwelling.
  - (5) A signed statement declaring that the second dwelling shall be removed within 90 days when the demonstrated need for full time help on the farm no longer exists, or the farm operator no longer resides on the property.
  - (6) The dwelling must be a manufactured home.
  - (7) The dwelling must meet the state building code and meet the 31 point inspection requirement.
  - (8) The dwelling must be connected to a permitted sewage treatment system.

9.19.4 Second Dwelling as a permanent building

A second dwelling may be allowed as a permanent site built dwelling if:

- (A) The requirements of subsection 9.19.2(B) items(1 – 3, 6 & 7) or subsection 9.19.3(B) items(1 – 4, 7 & 8), above, are met;
- (B) The property may be legally subdivided to create 1 lot for the primary dwelling and a separate lot for the secondary dwelling; and

- (C) The property to be subdivided shall meet the zoning district requirements established and documented at the time of the application:
- (1) residential density
  - (2) all lot standards (length, width, area) as indicated on a site plan
  - (3) all existing or proposed structures meeting the setback requirements
  - (4) access approval from the road authority
  - (5) standard sewerability requirements (soil borings meeting the minimum requirement for 2sewage treatment areas)
  - (6) As an interim use a condition shall be placed on the property that indicates that a change in status of either occupant of the dwellings will require a subdivision of said property according to the requirements established in the permit and within the subdivision portion of the ordinance.
- (D) Upon the expiration of the IUP, the property to be split shall be subdivided in accordance with standards of the Benton County Development Code in place at the time of the actual subdivision. The lots to be created will not need to meet the current zoning district requirements for lots at the time of the actual subdivision, but the lots created must meet the documented zoning district requirements that existed at the time of application for the IUP.

#### 9.19.5 Exemption

If the second dwelling is to be constructed as the principal dwelling to replace the existing dwelling it shall be exempt from subsection 9.19.2(B) items (1 – 5) and 9.19.3(B) items (1 – 6). A condition shall be placed on all associated Interim Use Permits for second dwellings stating the original dwelling shall be removed within 90 days after the original party or parties named in the permit are no longer residing in the original dwelling.