

## 11.5 CONDITIONAL & INTERIM USE PERMIT: (AS AMENDED 20 MAY 2019)

### 11.5.1 Description:

Within the unincorporated areas of the County a Conditional Use Permit (CUP) or Interim Use Permit (IUP) shall be required for the establishment of each use permitted by ordinance as a CUP or IUP. An IUP may be granted in lieu of a CUP to regulate land use activities that the Board of County Commissioners, at its sole discretion, determines should be permitted for a limited duration.

Expansion of a permitted CUP/IUP shall require an amendment to the CUP/IUP, except that minor development activities determined by the Administrator to not increase the scale or intensity of the CUP/IUP may be allowed with the issuance of a Land Use Permit.

An interim use is granted to a particular individual or other applicant and does not accrue to the subject property.

Structures and other improvements allowed by interim use shall be of a size and nature such that they can be easily removed from the property or will conform to zoning regulations for permitted or conditional uses should the Interim Use Permit expire.

~~Any proposed conditional use shall be presented to the Planning Commission for the determination of its applicability to the district wherein proposed. In support of such determination of applicability, the Planning Commission may require preliminary architectural drawings or sketches of all buildings or groups of building showing the front, side and rear elevations of the proposed buildings, structure or other improvements and the proposed location of such buildings on the lot as the same shall appear after the work has been completed. Such drawings or sketches shall be considered by the Planning Commission in an endeavor to ascertain that such buildings, structures and other improvements shall be so designed and constructed that they will not be of unsightly, undesirable or obnoxious appearance to the extent that they will hinder the orderly and harmonious development of the County and zoning district wherein located.~~

### 11.5.2 Procedure:

#### A. **Application Requirements:**

The following requirements are for Conditional or Interim Use Permit applications where applicable:

1. The applicant for a Conditional or Interim Use Permit shall file an application in the office of the Administrator and pay a fee according to the fee schedule resolution of County Board of Commissioners.
2. Written description of the proposed activities, including:
  - a. Type of business or activity (including scope of operations);
  - b. Proposed number of employees;
  - c. Days and hours of operation;
  - d. Equipment and vehicles to be used for the activity;
  - e. Proposed floor plan of any structure or use indicated;

- f. Sanitary sewer and water plan with estimated use per day;
        - g. Any maintenance to take place on-site, including how hazardous materials and solid waste will be stored and disposed of; and
        - h. Proposed exterior lighting, signage and storage.
  - 3. Site plan (completed by a licensed land surveyor if applicable) including, but not limited to:
    - a. Property lines;
    - b. Existing topography;
    - c. Existing and proposed development (including roads, driveways, structures, septic components, wells, etc.);
    - d. Distance from water body, road, property lines, septic components (tank and drainfield), well, neighboring feedlots, etc.;
    - e. Finished grading and drainage plan;
    - f. Existing and proposed screening; and
    - g. Other requirements as deemed appropriate by the Administrator.
  - 4. Any additional information required by the Administrator.
- B. The Administrator shall refer the application to the Planning Commission for a public hearing. Property owners of record within 1320 ft. of the affected property or the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners; and the Commissioner of Natural Resources shall be given ten (10) days notice of the date the Planning Commission will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notice shall be given the governing body of any city or village if the incorporated limits of same lie within two (2) miles of the proposed Conditional **or Interim** Use. Notice shall also be given the Town Board of the Township wherein the Conditional **or Interim** Use is proposed. Notice of the time, place and purpose of any public hearing shall be given by publication in a newspaper of general circulation in the town, municipality, or other area concerned, and in the official newspaper of the county, at least ten days before the hearing.
- C. The Planning Commission shall consider the application at its next regularly scheduled meeting after compliance with the provisions of notice above specified.
- D. The applicant or ~~his~~ **applicant** representative shall appear before the Planning Commission and answer any questions concerning the proposed conditional **or interim** use.
- E. The Planning Commission shall consider possible adverse effects of the proposed conditional **or interim** use and what additional requirements may be necessary to prevent such adverse effects.
- F. The report of the Planning Commission shall be referred to the County Board and placed on the agenda of the Board at its regular meeting following referral from the Planning Commission.
- G. The County Board shall take action on the application within forty-five (45) days after receiving the report of the Planning Commission.

- H. In considering a Conditional **or Interim** Use Permit, the County Board shall considered the effect of the proposed use upon health, safety and general welfare of the occupants of surrounding lands, the effect of the proposed use on the environment, the effect of the use on existing and anticipated traffic conditions, including parking facilities on adjacent streets and land, and the effect on property values and scenic views in the surrounding area. It shall make at least the following findings, and others where applicable:
1. The project is in compliance with the setback and other provisions of this ordinance unless a variance has been granted.
  2. The use is not in conflict with the County Comprehensive Land Use Plan.
  3. That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair neighboring property values in the area, and will not interfere with the best interest of the surrounding area or the community as a whole.
  4. The use will not create an excessive burden on parks, schools, streets, water supply, public drainage systems and other public facilities and utilities which serve or are proposed to serve in the area.
  5. The structure and site shall have an appearance that will not have an adverse effect on adjacent properties.
  6. That the road on which the project is proposed is adequate to handle increased traffic during construction and operation, and that the use will not cause traffic hazards or congestion.
  7. Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare, odor or general unsightliness.
  8. That the establishment of the use will not impede the normal and orderly development and improvement of surrounding vacant property uses predominant to the area.
  9. That adequate utilities, drainage, and other necessary facilities have been or are being provided.
  10. That adequate measures have been or will be taken to prevent or control rodents, insects, offensive odors, fumes, dust, noise and vibration in order that none of these will constitute a nuisance, and that adequate measures have been or will be taken to prevent negative impacts on surface water, groundwater and air quality, and that measures have been taken to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- I. A certified copy of any Conditional **or Interim** Use Permit shall be filed with the County Recorder for record. The Conditional **or Interim** Use Permit shall include the legal description of the property involved.

- J. Any conditional **or interim** use shall comply with all reasonable conditions deemed necessary to protect the public health safety, and general welfare. In connection with ordering the issuance of a conditional **or interim** use permit the designated approval authority may impose such additional restrictions or conditions as it deems necessary to protect the public interest, including but not limited to matters relating to appearance, lighting, hours of operation and performance characteristics. ~~When appropriate, restrictive covenants may be entered into regarding such matters.~~ **Interim use permits will be limited to a specific timeframe or event, may be terminated by a change in zoning regulations and may require an annual inspection fee if deemed necessary by the Board.**
- K. Should there be any cause for revocation of a Conditional **or Interim** Use Permit, as in the case of violation of a conditional requirement, the Administrator shall require a hearing on revocation of said Conditional **or Interim** Use Permit. The hearing shall be conducted under the same procedures specified above. If the matters of concern are not resolved at the hearing or subsequent thereto, a Conditional **or Interim** Use Permit may be revoked and the use for which the permit was originally issued shall cease. Each Order of the Board which revokes a Conditional **or Interim** Use Permit shall be effective upon adoption or such other date as the Board may specify and shall be promptly ~~be~~ recorded in the office of the Pope County **Recorder** upon its taking effect.
- L. A Conditional **or Interim** Use Permit shall take effect upon recording and shall be in effect perpetually or for a shorter period as fixed by the Board unless revoked by the Order of the Board for failure to observe conditions or other violations of law provided that nothing in this section shall prevent the Board from enacting or amending official controls to change the status of conditional **or interim** uses.
- M. In the event that there is a need to renew a Conditional **or Interim** Use Permit, the Planning Commission shall review the request for renewal under old business and may decide to: either renew or extend the validity of said permit, or schedule a public hearing on the question of whether the permit shall be renewed.
- N. All decisions made by the County Board in processing a Conditional **or Interim** Use Permit shall be final except that any aggrieved person shall have the right to appeal within 30 days, after receipt of notice of the decision, to the Pope County District Court.
- O. **No application for a Conditional or Interim Use Permit shall be resubmitted for a period of 1 year from the date of said order of denial.**
- P. **An Interim Use Permit 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 is no longer permitted.**
  4. **The Interim Use Permit shall expire if the approved use is inactive for one year or longer as determined by the Administrator and/or tax records indicating the use was inactive.**

5. Granted Interim Use Permits shall become void if the applicant does not proceed substantially on the work within one 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% of the man hours which it is reasonably estimated will be necessary for completion of the project. The Planning Advisory Commission may at their discretion grant an extension of not more than one year in order to establish the use.

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