



CONDITIONAL USE PERMIT (CUP) & INTERIM USE PERMIT (IUP) APPLICATION PROCEDURES

Step 1: Review Section 11-10 of the Nowthen Zoning Ordinance (attached) to first determine if your request meets the criteria for a CUP or IUP.

Important things to know about IUPs and CUPs:

- An IUP or CUP cannot be approved for properties less than five (5) acres, except where the City Code specifically requires such for non-residential uses/zoning.
- There are no variances from the IUP or CUP requirements.
- An IUP or CUP must be secured for any use not listed as permitted under the zoning district within which your property is located or for any use determined by the Planning and Zoning Commission to be an accessory use.
- Conditional and interim uses, although generally compatible with the basic use classification of the zoning district, are not permitted by right because of the inherent hazards or special problems associated with the use or which its proposed location may present.
- An IUP or CUP provides the City a reasonable degree of discretion in determining the suitability of certain uses as they relate to the general welfare, public health, and safety of Nowthen residents.

Step 2: Complete the required documentation below.

- ___ 1. **Application Form**, including legal description and PID number(s)
- ___ 2. **Letter of Intent** (attached) and narrative (if necessary) to explain the proposed use of the property.
- ___ 3. **Application Fee (non-refundable)** is paid.
- ___ 4. **Escrow Agreement**
- ___ 5. **Escrow Deposit is paid.** You will be responsible for all expenses incurred by the City related to this request, including but not limited to engineering fees, attorney fees and city planner fees. All City invoices are due within 30 days of receipt.
- ___ 5. **Building Plans** showing floor plans, building layout and elevation drawings, if your request involves additions or renovations to the existing house or accessory buildings or construction of new building(s).
- ___ 6. **Certificate of Survey** prepared by a registered land surveyor. Please refer to the Certificate of Survey Checklist for features to be

included. On occasion, a site plan, plat map or other detailed, scaled drawing showing your property may be acceptable upon approval by the City Planner.

Step 3: Review the attached Application Schedule. All application materials are due to the City of Nowthen offices on the third (3rd) Tuesday of the month (five weeks prior to the meeting - see application schedule). **Failure to provide all of the required documentation will render the application incomplete and may delay approval of the request until the following month. The request will not go before the Planning and Zoning Commission until a complete packet is received and staff has had time to review it.**

Step 4: **Public Hearing Notification.** The City will notify property owners located within 1,320 feet (at a minimum) of the subject property for which the CUP or IUP is being requested. Neighbors will have the opportunity to comment on the proposed business or use at the public hearing.

Step 5: Attend the **Public Hearing at the Planning and Zoning Commission Meeting** held at 7:00 pm on the **fourth (4th) Tuesday** of the month. The Planning and Zoning Commission will review the application request and make recommendations to the City Council.

Step 6: Attend the **City Council Meeting** held at 7:00 pm on the **second (2nd) Tuesday** of the month which follows the Planning and Zoning Commission meeting. The City Council will review the application and the recommendations received by the Planning and Zoning Commission and make a final decision on your request.

APPLICANTS OR THEIR REPRESENTATIVES MUST SUBMIT ALL REQUIRED INFORMATION BY THE DEADLINE. FAILURE TO COMPLY WILL RESULT IN A DELAYED OR DENIED APPLICATION.

**SECTION 11-10
of the City of Nowthen Zoning Ordinance**

CONDITIONAL AND INTERIM USE PERMIT REGULATIONS

Section:

11-10-1	Purpose
11-10-2	Process
11-10-3	Criteria and Conditions
11-10-4	Change in Usage
11-10-5	Revocation or Modification

11-10-1: PURPOSE:

- A. The purpose of this section is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. A conditional use is a use which, because of certain characteristics, cannot be properly classified as a permitted use in the zoning district with which it is proposed. An interim use is a temporary use of a property until a particular date, until the occurrence of a particular event or until zoning regulations no longer permits it.
- B. Conditional use and interim use permits are designed to meet the problem which arises where certain uses, although generally compatible with the basic use classification of a particular zone, should not be permitted to be located as a matter of right in every area included within the zone because of hazards inherent in the use itself or special problems which its proposed location may present.
- C. A conditional use permit or interim use permit must be secured for any use not listed as a permitted use or determined by the Planning Commission to be an accessory use.
- D. Lots of less than five (5) acres shall not be considered for conditional uses or interim uses. (Ordinance #3, adopted November 9, 2010)

11-10-2: PROCESS:

- A. Application:
 - 1. The procedures outlined in this section of the ordinance shall apply to all conditional or interim use permits.
 - 2. All applications for zoning actions to be reviewed by the Planning Commission and acted upon by the City Council shall be submitted to the City Clerk, who shall determine if sufficient information has been submitted with the application to meet the requirements of this Chapter.

3. All applications shall include the following information:
 - a. A narrative explaining the proposed use of the property, hours of operation, number of employees, use and/or business characteristics, and any other information as may be required by the City; and
 - b. Legal description of the property; and,
 - c. Application fee, which shall be established in Section 1-1-2 of the City Code; and
 - d. A plat or map of the property that shows, at a minimum, all lot lines and their dimensions, the location and dimensions of existing and proposed structures and their dimensions, driveways and parking areas including the number of spaces, and the existing and intended uses of the buildings or property; and
 - e. All setbacks applicable to existing and proposed buildings and parking areas on the property; and
 - f. Mailing labels of all properties situated wholly or partially within one thousand three hundred twenty (1,320) feet of the property.

B. Review:

1. City staff shall review all applications within ten (10) days of their submission to determine their completeness.
2. The applicant shall be notified of any information that is missing or incomplete with the application.
3. The application shall be referred to the Planning Commission as well as any professional consultants retained by the City to review the application.

C. Review Costs: The applicant shall pay all costs associated with the review of all applications. The review costs generally include, but are not limited to, professional consulting services retained by the City, copying charges, city staff time to review and process the application, hearing notice publications, postage for mailed notices, and any other costs necessary to process the application.

D. Public Hearing:

1. All conditional and/or interim use permits shall be heard by the Planning Commission and the City Council.
2. The City Clerk shall set a date for a public hearing following receipt of a completed application. All applications for actions requiring public hearings shall be published in the official newspaper at least ten (10) days prior to the public

hearing. Notice shall be sent to owners of property within one thousand three hundred twenty (1,320) feet of the property.

3. The failure to give mailed notice to all individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this section has been made.
4. The petitioner or his representative shall appear before the Commission in order to answer questions concerning the proposed use. Any person may appear and testify at the hearing either in person or by duly authorized agent. The Commission shall review the testimony and consultant recommendations, if any, and forward its findings on the application to the City Council within thirty (30) days of the hearing, unless the petitioner agrees in writing to a time extension.

E. Review Period:

1. The City Council shall make a decision within sixty (60) days of submission of a completed application, or such longer period as not objected to by the applicant, provided that the application does not first require review by another public agency.
2. The review period for applications that first require a review process by another public agency shall begin following completion of the review process as described in Minnesota State Statute Chapter 15.99.
3. The City may extend the review period for an additional sixty (60) days if written notice is provided to the applicant stating the reason for the extension and specifying the amount of additional review time that is needed.

F. City Council Action:

1. The Council shall review the application and findings of the Commission and shall act on said application within thirty (30) days after receipt of the report from the Commission.
2. In evaluating the application(s), the City Council shall consider and adopt findings regarding compliance or noncompliance of the application(s) with the Comprehensive Plan, the intent and purpose of this Chapter, and requirements and criteria of this Chapter.
3. The City Council may attach conditions to its actions to ensure compliance with ordinance requirements or to affect the purpose of this Chapter and protect adjacent properties.
4. All development, construction, and use shall be in accordance with the approved plan and conditions required by the City Council. Any development not in accord with the approved plan and conditions shall constitute a violation of this Chapter.

5. If the Council denies the application, that shall be the City's final administrative action on the application.
- G. Determination of Type and Duration of Permits: The City Council shall determine if a particular use shall qualify, for purposes of duration, as a conditional or interim use unless specifically stated In Section 3 of this Chapter.
1. A Conditional Use Permit shall remain in effect as long as the conditions agreed upon are observed, but nothing shall prevent the City Council from enacting or amending official controls to change the status of conditional uses.
 2. An Interim Use Permit shall remain in effect for a specified period of time, until a specific end date, or until the occurrence of a particular event as long as the conditions agreed upon are observed, but nothing shall prevent the City Council from enacting or amending official controls to change the status of interim uses.

11-10-3: CRITERIA AND CONDITIONS:

- A. In granting a conditional use permit or interim use permit, the City Council shall consider the advice and recommendations of the Planning & Zoning Commission on the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions, including parking facilities, and the effect on values of property in the surrounding area. The City Council shall also review the conditional use or interim use application against the goals and policies set forth in the Comprehensive Plan.
- B. In permitting a new conditional use or interim use permit or alteration of an existing conditional use or interim use permit, the Planning & Zoning Commission and/or City Council may impose, in addition to these standards and requirements specified by this Chapter, additional conditions which they consider necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to, the following:
1. Limiting the height, size, or location of buildings.
 2. Controlling the location and number of vehicle access points.
 3. Providing for a sufficient number of off-street parking spaces.
 4. Limiting the number, size, location, or lighting of signs.
 5. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.

11-10-4: CHANGE IN USES:

- A. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use or the interim use permit issued shall require an amended conditional use or interim use permit. Said permit will be processed in the same manner as a new application.
- B. The Clerk shall maintain a record of all conditional use permits and interim use permits issued, including information on the use, location, and conditions imposed by the Council, time limits, review dates, and such other information as may be appropriate.

11-10-5: REVOCATION OR MODIFICATION:

- A. The City Council may hold a public hearing to revoke a conditional use upon the happening of any of the following events, whichever occurs first:
 - 1. Upon violation of conditions under which the permit was issued;
 - 2. The use or operation is discontinued for a period of one (1) year;
 - 3. If no other time is specified in the Conditional Use Permit, a conditional use approved by the City Council must be exercised or put into effect within one (1) year of the date of approval, by fulfilling each and every condition attached thereto, or the City Council may hold a public hearing to revoke the conditional use unless a request is submitted to the City in writing no less than thirty (30) days prior to the deadline. The City Zoning Administration may approve an extension which shall not exceed ninety (90) days whereafter consideration by the City Council may require reapplication and subsequent approval of a conditional use.
- B. An interim use shall terminate on the happening of any of the following events, whichever occurs first:
 - 1. The date or event stated in the permit as determined by the City Council.
 - 2. Upon violation of conditions under which the permit was issued.
 - 3. The interim use permit shall terminate upon a change of occupancy or ownership of the principal use.

4. The use or operation is discontinued for a period of one (1) year. This does not apply to a specific part of a use or operation, or a single event, when the remainder of the use or operation has been on-going.
5. If no other time is specified in the Interim Use Permit, an interim use approved by the City Council must be exercised or put into effect within one (1) year of the date of approval, by fulfilling each and every condition attached thereto, or it shall terminate unless a request is submitted to the City in writing no less than thirty (30) days prior to the deadline. The City Zoning Administration may approve an extension which shall not exceed ninety (90) days whereafter consideration by the City Council may require reapplication and approval of the interim use.
6. The City Council may revoke a conditional use permit or an interim use permit upon violation of any condition of the permit, any City ordinance, any law of the State of Minnesota, or any law of the United States.

**SECTION 11-4
of the City of Nowthen Zoning Ordinance**

PERMITTED & EXTENDED HOME OCCUPATIONS

11-4-3: HOME OCCUPATIONS: Home occupations are defined and described either as Permitted Home Occupation under subpart A of this section, or as Extended Home Occupations under subpart B. The Permitted Home occupations are permitted within all zoning districts so long as all requirements are met. There are no variances from requirements for Permitted Home Occupations. Extended Home Occupations are only permitted as Interim Uses. Any home occupation that does not fully comply with Permitted Home Occupation requirements shall be reviewed as an Extended Home Occupation.

- A. **Permitted Home Occupations:** A home occupation shall be permitted in all zoning districts if it complies with the requirements of this section.
1. The home occupation shall be carried on by one or more members of the family residing in the dwelling unit, and the leasing of space to another person is prohibited. No outside employees will be permitted.
 2. The home occupation shall be carried on wholly within the principal structure. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its residential use. A home occupation is not to be conducted in an attached garage.
 3. No retail sale of any product or material is allowed on the premises of a Permitted Home Occupation.
 4. A home occupation may be identified by one sign, without lights or illumination, and of maximum six (6) square foot size. With the exception of any such permitted

sign, there shall be no exterior displays or exterior storage of materials. There shall be no exterior indication of a home occupation nor any variation from the residential character of the principal structure. (Ordinance 2013-04, adopted April 9, 2013)

5. The City Council shall have the authority to review individual Permitted Home Occupations based on nuisance regulations. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. No hazardous or toxic chemical/wastes shall be generated or discharged.
6. Any Permitted Home Occupation shall not create vehicular traffic within the neighborhood in greater volume than would normally be expected in the zoning district.
7. Permitted home occupations are subject to review by the City Council and, if determined not to be in keeping with the residential nature of the neighborhood may be prohibited or may be reviewed as an Interim use.

B. Extended Home Occupations: An extended home occupation shall be reviewed as an interim use and shall be allowed in the Rural Residential Agriculture District if the business is listed as an interim use in and if the business complies with the requirements as stated herein and of those stated in Section 10 of this Chapter.

1. Extended home occupations shall be carried on by one (1) or more members of the property owner's family who shall reside in the dwelling unit, with not more than one (1) full-time or (2) two part-time on site employees who are not part of the family. If the extended home occupation is on property that is fully accessed on bituminous roads, up to two (2) full-time or (4) part-time on site employees may be permitted. (Ordinance 2013-04, adopted April 9, 2013)
2. Extended home occupation may be permitted within either the principal structures or within accessory structures. The number and sizing of accessory structures shall be as defined in Section 11-4-2 of this Chapter.
3. The leasing of space to another person or firm requires an Interim Use Permit and must be obtained by the property owner, not the lessee. The rental of space for the storage of boats, vehicles, etc. are considered as extended home occupations and are subject to the interim use provisions.
4. Retail sales related to extended home occupations shall be limited to minor products that are ancillary to a home occupation service. Such minor retail sales shall be similar to:
 - a. Hair care products ancillary to home beauty or hair care occupations;
 - b. Spare or replacement parts ancillary to a small engine or a small machine (motorcycle, lawn mower, snow blower or snowmobile) repair occupation.

5. An extended home occupation may be identified by one sign, without lights or illumination and of maximum six (6) square foot size. All signs shall be subject to review. With the exception of any such permitted sign, there shall be no exterior displays. No exterior indication of a home occupation or any variation from the residential character of the principal structure shall be permitted.
6. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. No hazardous or toxic chemical/wastes shall be generated or discharged.
7. Access:
 - a. If the extended home occupation is conducted on property that is accessed in total or in part on a gravel or aggregate surfaced street, the home occupation shall not create vehicular traffic within the neighborhood in greater volume than would normally be expected in the zoning district. For purposes of this Section, maximum normal residential traffic consists of two (2) round trip vehicle trips per driving age family member.
 - b. If the extended home occupation is located on and has access totally from bituminous surfaced streets, the use shall not create vehicular traffic that would cause unusual damage to the road or create excessive traffic volumes with the determination of unusual damage or excessive volume totally by the City Council on a specific cost permit basis.
 - c. Limited scale trucking operations may be permitted as Extended Home Occupations only if the property is accessed from a continuous network of bituminous streets and the limitations related to the occupation are being carried on by family members and no more-than two (2) on-site employees is met.
8. Outside storage of materials and equipment used for extended home occupations may be permitted if such storage conforms to the setback, location and maximum size requirement for accessory structures. All outside storage shall be screened from view. If such storage is within one hundred (100) feet of the property line or one hundred twenty (120) feet from any current or potential abutting property residence, it shall be screened by opaque fencing.
9. All extended home occupations shall be reviewed as an interim use and shall be periodically reviewed for compliance with such interim use permits with the review frequency as established by the City Council. (Ordinance #3, adopted November 9, 2010)