

903.15 Conditional Uses (CUP)

Subd.1 - Intent

The City Council may grant a Conditional Use Permit in any District. Conditional use permits for uses other than those specifically permitted in each district, are intended to provide for the needs of the community in areas where they may be appropriate, but where special safeguards may be needed to protect other permitted uses from their adverse effects.

Subd.2 - Conditional Use Requirements

- A. No land or structure may be used for any purpose, or designed, constructed or altered for such purpose in a district where such use is not listed as permitted use, unless such use is provided for as a conditional use in this district and a conditional use permit is applied for in writing and granted by the City Council.

- B. A conditional use permit shall only be granted by the City Council based upon a statement of findings by the Planning Commission that:
 - 1. The use conforms generally to the objectives and the intent of the Ordinance, and
 - 2. Such uses will not be detrimental in any substantial way to nearby affected properties or their occupants, and
 - 3. Such uses (except in the case of planned unit development) meet the overall density, coverage, yard, height and all other regulations of the district in which they are located, and
 - 4. A public hearing has been held thereon by the Planning Commission.

Subd.3 - Procedures on Applications for Conditional Use Permit

- A. An application for a conditional use permit shall be filed with the City Clerk.

- B. The City Clerk shall promptly transmit the application to the Planning Commission upon receipt of the application and a list of the record owners of the property for which the conditional use is requested.

- C. The Planning Commission shall set a date for a public hearing on the application for the conditional use permit which hearing shall be held no later than thirty (30) days after receipt of the application from the City Clerk.
- D. The City Clerk shall provide notice by U.S. mail not later than ten (10) days prior to the hearing to the owners of record of all property lying within three hundred fifty (350) feet of the property for which the conditional use is requested. Similar notice shall also be published in the official City Newspaper prior to the hearing, and posted at the City Hall at least ten (10) days prior to the hearing:
- E. The mailed and published notices shall state:
 - 1. The date, times and place of the public hearing.
 - 2. The purpose of the public hearing.
 - 3. The substance of the requested conditional use.
- F. The public hearing shall be held in accordance with the rules adopted by the Planning Commission. At the hearing, the application for conditional use shall be described and all persons wishing to comment on the proposed conditional use shall be heard.
- G. Following public comment at the hearing, the Planning Commission shall make its findings and submit a recommendation to the City Council recommending approval or rejection of the application. The Planning Commission shall specify any conditions that it feels will improve the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties or make it more acceptable in other ways.
- H. The Planning Commission shall report its written findings and recommendation to the City Council within ten (10) days after the public hearing and shall send a copy thereof to the applicant.

In the course of its deliberations, the Planning Commission may consult such people as may be deemed helpful or necessary.

Subd.4 - City Council Action

After reviewing the recommendations of the Planning Commission, the City Council shall grant or deny the application.

The City Council may make the granting of a conditional use permit subject to such additional reasonable limitations or conditions as it may impose to enhance the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties, or to make it more acceptable in other ways.

Subd.5 - Action Upon Approval

Whenever the City Council approves an application for a conditional use, the Zoning Official, who shall be responsible for determining that the conditions imposed by the City Council are met, thereafter shall issue a permit.

Subd.6 - Failure to Comply with a Conditional Use Permit

A. Failure to comply with any condition set forth in a conditional use permit shall be a violation of this Ordinance and failure to correct said violation with thirty (30) days of written notice from the City Clerk shall cause the permit to be revoked.

B. Revocation shall not occur earlier than ten (10) City working days from the time written notice of revocation is served upon the permittee or if a hearing is requested, until written notice of the Planning Commission action has been served on the permittee.

C. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts that support the conclusions that a violation or violations have occurred and a statement that if the permittee desires to appeal, he must, with ten (10) working days, exclusive of the day of service, file a request for a hearing.

D. The hearing request shall be in writing, stating the grounds for appeal and shall be served personally or by registered or certified mail on the Carlton City Council by midnight of the tenth City working day following service. Service upon the City Clerk shall constitute service upon the Carlton City Council.

Following the receipt of a request for hearing, the Carlton City Council shall set a time and place for the hearing. Following the hearing, the City Council may affirm, modify or vacate the revocation.

Subd.7 – Expiration of Conditional Use Permit

A conditional use permit shall expire and be considered null and void one (1) year after it has been issued if no construction has begun or if the conditional use has not been established.

Subd.8 – Records of Conditional Uses

A certified copy of any conditional use shall be filed with the County Recorder or Registrar of Titles.

903.16 **Variances**

Subd.1 - General

The Planning Commission may recommend to the City Council and the City Council may grant variances from the strict application of the provisions of this Ordinance and impose conditions and safeguards in the variance so granted, provided the Planning Commission and City Council make findings that the following conditions exist:

- A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district which create practical difficulties for a reasonable use allowed within the district without a variance.
- B. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
- C. The special conditions and circumstances do not result from the actions of the applicant.
- D. Granting the variance requested will not confer on the applicant any special privileges that are denied by this Ordinance to other uses, lands, structures, or buildings in the same district.

- E. The reasons set forth in application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- F. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

No nonconforming use of neighboring lands, structure or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Under no circumstances shall the Planning Commission grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Subd.2 - Procedures for Variances

- A. An application for a variance shall be filed with the City Clerk.
- B. Upon receipt of the application and a list of record owners of the property for which the variance is sought, the City Clerk shall promptly transmit the application to the Planning Commission.
- C. The Planning Commission shall set a date for a public hearing on the application for the variance which hearing shall be held no later than thirty (30) days after receipt of the application from the City Clerk.
- D. The City Clerk shall provide notice by U.S. mail not later than ten (10) days prior to the hearing to the owners of record of all property lying within three hundred fifty (350) feet of the property for which the variance is requested. Similar notice shall also be published in the official City Newspaper prior to the hearing, and posted at the City Hall at least ten (10) days prior to the hearing:
- E. The mailed and published notices shall state:
 - 1. The date, times and place of the public hearing.
 - 2. The purpose of the public hearing.
 - 3. The substance of the requested variance.

- F. The public hearing shall be held in accordance with the rules adopted by the Planning Commission. At the hearing, the variance shall be described and all persons wishing to comment on the proposed variance shall be heard.
- G. Following public comment at the hearing, the Planning Commission shall make its findings and submit a recommendation to the City Council recommending approval or rejection of the application. The Planning Commission shall specify any conditions that it feels will improve the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties or make it more acceptable in other ways.
- H. The Planning Commission shall report its written findings and recommendation to the City Council within ten (10) days after the public hearing and shall send a copy thereof to the applicant.

In the course of its deliberations, the Planning Commission may consult such people as may be deemed helpful or necessary.

Subd.3 - Procedure for Appeals

An applicant may request reconsideration by the City Council and/or may take appropriate action in the District Court. Any request for reconsideration by the City Council must be made in writing and served upon the City Clerk within 30 days of the City Council's decision on the variance application.

Subd.4 – City Council Action

After reviewing the recommendations of the Planning Commission, the City Council shall grant or deny the application. The City Council may make the granting of a variance subject to such additional reasonable limitations or conditions as it may impose to enhance the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties, or to make it more acceptable in other ways.

Subd.1 - Purpose

It is the policy of the City of Carlton to preserve its significant natural resources as a complement to its existing and future development. In particular, its woodlands, tree stands, wetlands and slopes and rock outcroppings shall be preserved in their natural state insofar as is practical for the intended use of the property. In addition to preservation of woodland areas, it is the policy of the City to require significant landscaping and planting as a part of land development. Landscaping should be used to enhance pedestrian environments. Landscaping should be used to screen loading areas, storage areas and parking from pedestrian activity.

Subd.2 - General Requirements in All Districts

Required Landscaping: All disturbed areas of developed lots which are not used for placement of structures, off-street parking, loading and driving areas, sidewalks, patios, gardens and similar uses, shall be landscaped. The minimum amount of green space on each site shall be 20% of the total lot area in all districts, unless otherwise specified. Undisturbed areas containing existing viable natural vegetation may be left in their natural state and shall be kept free of litter, debris and noxious or unsightly weeds.

- A. Landscaping shall include trees, shrubs, planted ground cover and other appropriate vegetative material.
- B. Ornamental non-vegetative landscaping material may be used in addition to vegetative materials.
- C. In all zones, all developed uses shall provide a landscaped yard along all streets unless otherwise specified herein.
- D. It shall be the responsibility of the owner to see that the landscaping is maintained in an attractive and well-kept condition and to remove and replace landscaping vegetation that dies.
- E. All vacant lots, tracts, or parcels shall be properly maintained in accordance with their natural or existing character, including required boulevards.
- F. Parking areas that contain more than four (4) parking spaces shall be landscaped and shall have appropriate vegetation planted on the perimeter of the parking area.
- G. A reasonable attempt shall be made to incorporate preservation of existing vegetative species on the site as is practical into a tree preservation plan for the property.
- H. Clear cutting of trees is prohibited, except when no reasonable alternatives exist, except for the removal of dead, diseased and undesirable trees; and the clearance of rights-of-way and easement corridors for the construction of public roadways.

903.18 Administration and Enforcement

Subd.1 - Administration and Enforcement

The City Clerk and such other staff assistance as is provided by the City Council shall administer and enforce this Ordinance.

- A. If the City Clerk shall find that any provision(s) of this Ordinance is being violated he/she shall notify, in writing, the person responsible for such violation and order corrective action(s).
- B. The City Clerk shall order discontinuance of illegal use of land, structures, or buildings. The City Clerk shall order removal of illegal buildings, structures, additions, alterations or structural changes, or discontinuance of any illegal work being done. The City Clerk shall take any other action authorized by this Ordinance to insure compliance to prevent its violation.

Subd.2 - Building Permit Requirement

No building or other structure shall be erected, moved, added to, or structurally altered without a valid building/zoning permit.

Subd.3 - Procedures on Application for Building Permit

- A. No such building permit shall be issued except in conformity with all of the provisions of this Ordinance, except upon issuance of a Variance or Conditional Use Permit recommended by the Planning Commission and approved by the City Council.
- B. An application for a building permit shall be filed with the City Clerk.
- C. All applications for building permits shall be accompanied by building and plot plans in duplicate, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lots of buildings already existing, if any; and the location and dimensions of the proposed building or alteration(s).
- . The application shall include such other information as lawfully may be required, including the existing or proposed building or alteration; existing or proposed use of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions

existing on the lot; and such other information as may be necessary to determine conformance with and provide for the enforcement of this Ordinance.

- E. The City Clerk shall approve, or disapprove, the application. If approved, the Building Official shall issue a Building Permit. If disapproved, the City Clerk shall notify the applicant by mail of the reason for disapproval. The applicant may appeal the denial of application to the Planning Commission within ten (10) days of the notice of the disapproval.
- F. One copy of the building and plot plan shall be returned to the applicant after such copy either is approved or disapproved. The second copy of the plan, marked approved or disapproved, shall be retained by the City.
- G. The building permit shall be displayed on the premises while construction is in progress.

Subd.4 - Expiration of Building Permits

- A. If the work described in any building permit has not begun within one (1) year from the date of issuance, the said permit shall expire and it shall be canceled and written notice thereof shall be given to the permittee by the City Clerk.
- B. If the work described in any building permit has not been substantially completed within three (3) years of the date of issuance, the said permit shall expire and be canceled and written notice thereof shall be given to the permittee by the City Clerk. Further work, as described in the canceled permit, shall not proceed unless a new building permit has been obtained.

Subd.5 - Conformity of Construction and Use

Building permits issued on the basis of plot plans and applications approved by the City Clerk authorize only the use, arrangement and construction set forth in such plans, and no other use or arrangement. Any use, arrangement, or construction at variance with the authorized building and plot plan shall be deemed a violation of this Ordinance and is punishable as provided in Section 19 in this Ordinance.

Subd.6 - Duties and Powers of the Planning Commission and the City Council

It is the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall include hearing and deciding questions of interpretation or enforcement that may arise from time to time. The procedure for deciding questions of interpretation or enforcement issues shall be as set forth in this Ordinance and specifically in this section. Any question of interpretation or enforcement shall be first

presented to the City Clerk for decision. Anyone aggrieved by the decision of the City Clerk may then present such questions of interpretation or enforcement to the Planning Commission, which shall make a recommendation to the City Council. The City Council shall then make a final decision upon any such issue.

A. Under this Ordinance, the City Council shall also have the duties of:

1. Considering and adopting or rejecting proposed amendments to or the repeal of this Ordinance, as provided by law.
2. Establishment of a schedule of fees and charges as stated in Section 17.7 below.
3. Approving zoning permits for conditional uses, after hearing thereon and recommendations by the Planning Commission.
4. Deciding requests for variance from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration.
5. Taking such other action(s) as may be necessary from time to time to properly administer and enforce this Ordinance.

Subd.7 - Schedule of Fees, Charges, Expenses

The City Council by resolution may establish and amend from time to time a schedule of fees, charges, and expenses and a collection procedure for building permits, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the City Clerk and may be altered or amended only by the City Council.

No permit, certificate, conditional use or variance shall be issued unless or until such costs, charges, fees or expenses have been paid in full nor shall any action be taken on proceedings before the Planning Commission unless or until any preliminary charges and fees have been paid in full.

903.19 Planning Commission

Subd.1 - Establishment and Composition

A Planning Commission composed of the members of the City Council, with the City Clerk and City Engineer as ex-officio members, is hereby established. The City Council may, by motion, establish a

Planning Commission that consists of one or more persons who are not members of the City Council. If the City Council elects to appoint a separate Planning Commission, which does not consist of any members of the City Council, the following rules shall apply:

- A. The members shall annually elect one of their members as chairman.
- B. Members shall serve without compensation, but shall be entitled to reimbursement for expenses incurred in performance of their duties.

Subd.2 – Requirements Applicable to the Planning Commission

- A. A majority of the members of the Board shall constitute a quorum for the transaction of business.
- B. The City Clerk shall keep a written record of all its proceedings, which shall include: minutes of its meetings showing the vote of each member or, if absent or failing to vote, an indication of such fact; records of its examinations and official actions; its findings and final orders indicating the action taken on each matter heard by the Planning Commission.
- C. The Planning Commission shall adopt rules for its own proceedings, which shall provide, among other things, for regular or special meetings at the call of the chairman or at the call of two members of the Planning Commission. Such rules shall also provide for a time limit within which appeals may be taken as provided herein.

Subd.3 - Duties

The Planning Commission shall have the following duties:

- A. Review and make recommendations to the City Council regarding building/zoning permits, variances, changes and other necessary items relating to the Zoning Ordinance.
- B. To prepare and recommend to the City Council plans, for specific improvements and to aid the Council in the development and completion of such projects.
- C. To hear, review and offer recommendations to the City Council on applications for conditional uses.
- D. To initiate procedures for changes and amendments to the zoning provisions and to hold the required public hearing, and review and recommend appropriate action to the Council in the manner specified.

903.20 Amendments

Amendments, including changes in the Use District boundaries or in the text of this Ordinance, may be adopted upon a four of five affirmative vote of all of the members of the City Council.

Subd.2 - Initiation of Amendment

Amendments to this Ordinance may be initiated in one of the following manners:

- A. By motion of the City Council.
- B. By motion of the Planning Commission.
- C. By verified petition of one or more persons owning property in the City of Carlton.

Subd.3 - Planning Commission Review

Any amendment not initiated by the Planning Commission shall be referred to it for study and report and shall not be acted upon by the City Council until it has been reviewed by the Planning Commission or until sixty (60) days have elapsed from the date of referral.

- A. Before it makes its recommendation to the City Council, the Planning Commission shall hold at least one (1) public hearing on the proposed amendment.
- B. Notice of the time, date, and purpose of said hearing shall be published at least once in the official newspaper of the City at least ten (10) days before the date of the hearing. Planning commission members shall receive written notice of the public hearing at least ten (10) days prior to the date of the hearing.
- C. Following the hearing, the Planning Commission shall make a written report of its findings and recommendations on the proposed amendment and shall file a copy of the report with the City Clerk for transmittal to the Council.
- D. Failure of the Planning Commission to so report within sixty (60) days, following referral of the proposed amendment to it by the City Council shall be deemed to be a recommendation for approval of the proposed amendment.

Subd.4 - City Council Action

Upon the filing of the report of the Planning Commission or upon expiration of the sixty (60) days, the City Council may hold such public hearings on the proposed amendment as it deems advisable. At the conclusion of the hearings, if any, the Council may adopt the proposed amendment or any part thereof as it deems advisable, or may reject the proposed amendment.

903.21 Violations and Penalties

Subd.1 - Violations

The owner, lessee, or renter of a building or premises in or upon which a violation of any provision of this Ordinance has been committed or shall exist; or the lessee of the entire building or entire premises in or upon which violation has been committed or shall exist; or the owner or lessee of any part of the building or premises in or upon which such violation has been committed or shall exist, shall be served with an order to remove said violation.

Subd.2 - Penalties

If the violator has not complied with the said order within thirty (30) days after being so served, the violator shall be guilty of a misdemeanor.

Subd.3 – Fees

If a building permit has not been applied for prior to commencing work, the fee for said building permit shall be two (2) times the currently scheduled rate, plus actual City costs incurred as a result of not applying for the permit. Such costs may include but not be limited to, attorney fees, City Council meeting fees, investigation fees, consultant fees, building inspection fees, and the like.

903.22 Validity

Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.