

**ARTICLE 19.00
CONDITIONAL USE PERMITS**

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19.01 PROCEDURE. The City and County Planning Commissions may authorize by conditional use permit the uses designated in this ordinance when located in a zoning district allowing such use. The Planning Commissions shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and to protect the health, safety, and general welfare in the issuance of such conditional use permit.

19.02 APPLICATION. To obtain a conditional use permit, the applicant shall file an application with the County Office of Planning and Zoning on a form as provided. Every application shall contain the following information:

- (A). Legal description of the land on which such conditional use is requested.
- (B). Name, address and phone number of the owner of the property which is the subject of such application.
- (C). Name, address, phone number, and signature of the person making the application if made by anyone other than the owner. *(amended by MC-28-13-07 11/6/07)*
- (D). Zoning district classification under which the property is regulated at the time of such application.
- (E). Any other information concerning the property as may be requested by the Office of Planning and Zoning.

19.03 FEES. Upon the filing of any application for conditional use with the County Office of Planning and Zoning, the applicant shall pay to the County the appropriate fee as designated in Article 24.00.

19.04 INFORMATION ON SITE PLAN. In addition to the following information, plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance and all relevant laws, rules, and regulations.

EXCEPTION: The County Planning Director may waive the submission of plans, if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this title.

- (A). The address of the property and the legal description.
- (B). The name of the project and/or business.
- (C). The scale and north arrow.
- (D). All existing and proposed buildings or additions.
- (E). Dimensions of all buildings.
- (F). Distance from all building lines to the property lines at the closest points.
- (G). Building height and number of stories.
- (H). Dimensions of all property lines.
- (I). Parking lots or spaces; designate each space, give dimensions of the lot, stalls, and aisles.
- (J). Screening; show height, location, and type of material to be used.
- (K). The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
- (L). Name and location of all adjacent streets, alleys, waterways and other public places.

Approved plans shall not be changed, modified, or altered and all work shall be done in accordance with the approved plans.

19.05 HEARING BY PLANNING COMMISSIONS. Upon the filing of an application for a conditional use permit, the County Planning Director shall set a date for public hearing on such requested conditional use, at which time and place the Minnehaha County Planning Commission and the Dell Rapids Planning Commission shall meet to consider the conditional use request.

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- (A) **NOTIFICATION.** A good faith effort must be made by the applicant to notify all property owners (inclusive of Contract for Deed buyers) of land laying within five hundred feet (500) feet, inclusive of right-of-way, of the outer boundaries of the property involved in the request. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department shall provide the applicant with “Notice of Hearing” forms for this purpose, and the notices are to be sent by the applicant to all parties on the aforementioned list by first class mail no less than one (1) week prior to the public hearing on the request held by the Planning Commission. The applicant shall sign an affidavit certifying that the required mailing was completed. The affidavit shall be provided to the Planning Department at least five (5) working days prior to the Planning Commission meeting. *(amended by MC28-08-06)*
- (B) **SIGNS.** A sign(s) to be provided by the County Office of Planning and Zoning shall be posted on or near the property at least five days prior to the scheduled hearing.
- (C) **ACTION.** At a joint meeting the Planning Commissions shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Planning Commissions shall be final unless an appeal is filed in accordance with Article 19.06. In the event the Planning Commissions are not in agreement on a decision whether to grant a conditional use permit, the following shall apply: *(amended by MC28-01-03)*
- (1) When one Planning Commission votes to grant a conditional use permit and the other Planning Commission votes to deny, the permit is deemed to be denied and the petitioner may appeal the decision to the governing bodies in accordance with Section 19.06.
 - (2) When both Planning Commissions vote to grant a conditional use permit but the conditions are not identical, the application shall be presented to a joint meeting of the County Commission and City Council for final action. The requirements of Section 19.05(A) shall apply.
 - (3) When one or the other Planning Commission votes to defer action on a conditional use permit, the application shall be considered at a future joint meeting of the Planning Commissions.

19.06 APPEAL OF DECISION OF PLANNING COMMISSIONS. The decision rendered by the Planning Commissions on a conditional use permit may be appealed to the Board of County Commissioners and the City Council. To appeal the decision of the Planning Commissions, the applicant or any other person aggrieved by said decision shall file a written appeal with the County Office of Planning and Zoning within five working days of the Planning Commissions' decision.

19.06A. HEARING BY BOARD OF COUNTY COMMISSIONERS AND CITY COUNCIL.

When an appeal has been filed in accordance with Section 19.06 or the decision by each Planning Commission is not in agreement, the Board of County Commissioners and the City Council shall jointly conduct a public hearing and take final action on the conditional use application.

- (A). **SIGNS.** A sign(s) to be provided by the County Office of Planning and Zoning shall be posted on the property at least five days prior to the scheduled hearing.
- (B). **HEARING.** At the public hearing, the Board of County Commissioners and City Council shall review the decisions of the respective Planning Commissions on the applications coming before them. In making their determination of such applications, they need not be bound by the actions of the Planning Commissions.
- (C). **ACTION.** The Board of County Commissioners and the City Council shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny the conditional use when not in harmony with the purpose and intent of these regulations. The Board and the City Council, in making their determinations on such applications, may make changes in accordance with or in rejection or modification of the decisions of the respective Planning Commissions. In order for any conditional use to be approved, the Board of County Commissioners and the City Council must each vote in favor of the application.

19.07 AMENDMENTS. Amendments shall be processed in the same manner as required for a separate conditional use permit.

19.08 EXPIRATION. A conditional use permit which has been approved shall expire by limitation and become null and void if the building, work or use authorized by such conditional use permit is not commenced within one year from the date of approval. This provision shall not apply to a conditional use permit approved for a residential use in the A-1 or RC zoning districts. Upon written request to the County Planning Director and prior to the conditional use permit expiration date, a one-year time extension for the conditional use permit may be granted by the County Planning Director, subject to the following conditions:

- (A). There was no public objection presented during the public hearing process for the original conditional use permit;
- (B). The land uses for the surrounding properties have not significantly been altered since the original approval date for the conditional use permit.

19.09 PREEXISTING USES. An existing use eligible for a conditional use permit which was lawfully established on the effective date of this ordinance shall be deemed to have received a conditional use permit as herein required and shall be provided with such permit by the County

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upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in accordance with this ordinance shall be required.

19.10 REAPPLICATION. No applicant requesting a conditional use permit whose application includes the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Planning Commissions or Board of County Commissioners and City Council shall be again considered by the Planning Commissions before the expiration date of six (6) months from the date of the final action on the petition.

19.11 REVOCATION. If the County Planning Director finds that at any time that the terms, conditions, or requirements of the conditional use permit have not been complied with, or that any phase thereof has not been completed within the time required under the permit or any amendment thereto, the Director shall report this fact to the permittee, landowner, and/or operator, and the Minnehaha County Planning Commission and the Dell Rapids Planning Commission. The County and City Planning Commissions may, after conducting a public hearing, of which the permittee, landowner and/or operator shall be notified, revoke the conditional use permit for failure to comply with the terms, conditions, or requirements of the permit.