

**ARTICLE 19.00  
CONDITIONAL USE PERMITS**

- SECTIONS: 19.01 Procedure  
19.02 Application  
19.03 Fees  
19.04 Information on Site Plan  
19.05 Planning Commission Hearing  
19.06 Appeal of Planning Commission Decision  
19.07 Amendments  
19.08 Expiration  
19.09 Preexisting Uses  
19.10 Reapplication  
19.11 Recall and Review  
19.12 Revocation

19.01 PROCEDURE. The Planning Commission may authorize by conditional use permit the uses designated in this ordinance when located in a zoning district allowing such use. The Planning Commission 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 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, phone number, and signature of the owner of the property which is the subject of such application. (*amended MC16-94-07 07-17-07*)
- (C). Name, address and phone number of the person making the application if made by anyone other than the owner.
- (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 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.

**CONDITIONAL  
USE PERMITS**

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

- (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 (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 then one (1) week prior to the public hearing on the

**CONDITIONAL  
USE PERMITS**

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 MC16-88-06 7/18/06)*

- (B). SIGNS. A sign(s) to be provided by the Office of Planning and Zoning shall be posted on or near the property at least five days prior to the scheduled hearing.
- (C). ACTION. The Planning Commission 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 Commission shall be final unless an appeal is filed in accordance with Article 19.06.
- (D). CONDITIONAL USE PERMIT CRITERIA. The following criteria shall be considered by the Planning Commission in their review of Conditional Use Permit applications:
  1. The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.
  2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
  3. That utilities, access roads, drainage, and other necessary facilities are provided.
  4. That the off-street parking and loading requirements of these Zoning Ordinances are met.
  5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.
  6. Health, safety, general welfare of the public and the Comprehensive Plan.

These criteria shall be in addition to any specific criteria set forth under various conditional uses in Articles 3.04, 4.04, 5.04, 6.04, 7.04, 8.04, 9.01, and 12.

*(amended by MC16-138-14 9/28/14)*

19.06 APPEAL OF PLANNING COMMISSION DECISION. The decision rendered by the Planning Commission on a conditional use permit may be appealed to the Board of County Commissioners. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Office of Planning and Zoning within five working days of the Planning Commission decision. When an appeal is filed, the Planning Director shall present the Planning Commission's decision to the Board of County Commissioners for review. Notice of the meeting shall be given as required by Article 19.05 (A). The Board shall vote to either uphold, overrule or amend the decision of the Planning Commission.

**19.07 AMENDMENTS.**

- A. Any approved conditional use plan or conditional use plan addendum may be amended as provided in this section, or entirely withdrawn by the applicant. The Planning Director may approve minor changes to an approved plan without notice or hearings, after consideration of the record from the original public hearing on the plan. *(amended by MC16-125-13 2/19/13)*
  
- B. Minor changes to an approved conditional use plan shall be done administratively. Minor changes may include but are not limited to minor relocation or reorientation of buildings, lot lines, or easements; relocation of points of access if approved by the appropriate road authority; relocation of internal access and circulation; or relocation or rearrangement or parking areas; reduction in the designated parking spaces, but not less than required under Article 15.00; reorientation of landscaping. *(amended by MC16-125-13 2/19/13)*
  
- C. Major changes to an approved conditional use plan shall follow the public hearing approval process in Section 19.05. Major changes may include but are not limited to major relocation or reorientation of buildings which have external impacts on adjacent property; reduction in landscaping, an increase in the provision of utilities or infrastructure demands; increase in sign height or sign size. *(amended by MC16-125-13 2/19/13)*

**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 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 Planning Director, subject to the following conditions: *(amended by MC16-19-94)*

- (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 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 Commission or Board of County Commissioners shall be again considered by the Planning Commission before the expiration date of six (6) months from the date of the final action on the petition.

**19.11 RECALL & REVIEW.**

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, or that the use endangers the health and welfare of the public, the Director may recall the conditional use permit for a review by the Minnehaha County Planning Commission. The permittee, landowner and/or operator and other impacted persons shall be notified 15 days prior to the County Planning Commission hearing. The County Planning Commission shall have the authority to amend, revise, delete or add conditions to the conditional use permit in event that they determine 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, or that the use endangers the health and welfare of the public.

*(amended by MC16-19-98 and MC16-73-05 6/16/05 and MC16-125-13 2/19/13)*

**19.12 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. The County Planning Commission 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. *(amended by MC16-125-13 2/19/13)*