



## Nonconforming Use Permit

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A nonconforming use means an existing activity or use that was lawfully established, but is prohibited or restricted under the current Development Code. The general purpose of the Chapter 17.164 of the Carlton Development Code (CDC)\* is to encourage the conversion of such nonconforming uses to conforming uses. However, CDC 17.164 allows nonconforming uses and structures to be continued, altered, restored or replaced subject to satisfaction of the nonconforming use criteria found in Chapter 17.164. Nothing contained in CDC 17.164 shall require any change in the plans, construction, or designated use of any structure for which a building permit was issued and actual construction commenced prior to the date of adoption of the Carlton Development Code or any amendment thereto.

### **Discontinuance of a Nonconforming Use**

If a nonconforming use is discontinued for a period of more than twelve (12) consecutive months, the use shall not be resumed unless the new or resumed use conforms to the requirements of the Carlton Development Code.

A single-family dwelling may be continued, altered, or restored for residential purposes without review. A single-family dwelling does not lose its nonconforming status due to vacancy (CDC 17.164.040).

### **Alterations Required by Law**

The alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure, or to bring the use or structure into closer compliance with the Carlton Development Code shall be permitted, subject to all other laws, ordinance and regulations (CDC 17.164.050).

### **Maintenance**

Normal maintenance of a nonconforming use is permitted provided there are not major structural alterations as determined by the building official (CDC 17.164.060).

## **Alteration, Restoration or Replacement**

- A. Nonresidential Use: The City Manager shall authorize restoration or replacement of any nonresidential nonconforming use when restoration or replacement is made necessary by fire, casualty, or natural disaster and does not exceed forty (40) percent of the value of the original structure, provided the physical restoration or replacement is lawfully commenced within six (6) months of the damage or destruction.
  
- B. Residential Use: The City Manager shall authorize restoration or repair of any residential nonconforming use when restoration or replacement is made necessary by fire, casualty, or natural disaster provided the physical restoration or replacement is lawfully commenced within six (6) months of the damage or destruction.
  
- C. Restoration or Replacement Period: The Planning Commission, subject to the Type II review procedure, may extend the restoration or replacement period for an additional six (6) months. In no case shall the total restoration or replacement period exceed one (1) year. Requests for extension of restoration or replacement period shall be submitted in writing thirty (30) days prior to the expiration date of the restoration or replacement period.
  
- D. Alteration: The alteration of a nonconforming use may be authorized by the Planning Commission, subject to the Type II review procedure, provided that the applicant demonstrates that the proposal satisfies the following criteria:
  - 1. That the alteration of the structure or development would not expand a nonconformity by more than twenty (20) percent of floor area or site area, as applicable, and would have no greater adverse impact on the neighborhood. (An alteration that brings a nonconforming situation into closer conformity with this title may be approved through the Type I review procedure.)
  - 2. A change in use to another nonconforming use may be permitted, subject to the Type II review procedure, if it is of the same or less intensity of use;
  - 3. The alteration of a nonconforming single-family residence that does not involve a change in use is authorized without planning commission approval;
  - 4. Should a nonconforming structure be moved on- of off-site for any reason, and by only distance, it shall thereafter conform to the regulations of this title (CDC 17.164.070).

### **Application Process**

A request to alter a nonconforming use as specified in CDC Chapter 17.164, is processed as a Type II land use action in accordance with the land use approval procedures found in CDC Section 17.188.020. The Planning Commission conducts a public hearing to review the request and makes a final decision on whether or not to approve the application. The Planning Commission shall approve the application provided that all the requirements of the Carlton Development Code relative to the proposed use are satisfied, and the applicant demonstrates that the proposed use also satisfies the criteria for nonconforming use approval found in CDC 17.164.070.D (see attached application form). The Planning Commission's decision may be appealed to the City Council by filing an appeal application within 12 days following the final written notice of the Commission's decision.

### **Application Requirements**

To request a nonconforming use permit, there shall be submitted to the City Recorder:

\_\_\_ **One (1) paper copy** and **one (1) electronic copy** (PDF format preferred) of the application form and the application attachments. Copies must be clear and legible.

\_\_\_ Application filing **fee**

\*The Carlton Development Code is available online at: [www.ci.carlton.or.us/municode](http://www.ci.carlton.or.us/municode)

# Nonconforming Use Permit Application

## City of Carlton

Docket No.: \_\_\_\_\_

Date: \_\_\_\_\_

Fee: \_\_\_\_\_

Receipt No.: \_\_\_\_\_

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**Applicant:** Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone \_\_\_\_\_

**Title Holder:** Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

**Location:** Street Address \_\_\_\_\_

Tax Lot Number \_\_\_\_\_ Map \_\_\_\_\_

**Description:** Comprehensive Plan Designation \_\_\_\_\_

Current Zoning \_\_\_\_\_

**Prerequisites:** In accordance with Development Code Section 17.164.070, the Planning Commission shall have the power to hear and decide requests for alterations of nonconforming use that are specifically listed in the Ordinance. To request a hearing, and approval of a request, for alteration of a nonconforming use by the City Planning Commission, there shall be submitted to the City Recorder in addition to this application and filing fee:

\_\_\_\_\_ A Site Plan (8½ x 11 inches or multiples thereof) illustrating the following information:

1. The date, north point, scale and sufficient description to define the location and boundaries of the parcel(s) on which the conditional use is to be located.
2. Name and address of the recorded owner or owners and of the person who prepared the Site Plan.
3. Approximate acreage(s) and dimensions of the parcel(s) under a single contiguous ownership directly involved in the conditional use.
4. For land adjacent to and for the site of the conditional use show locations, names and existing widths of all streets and easements of way; location, width and purpose of all other access or utility easements; drainage ways; and other significant site features.

5. Outline and location of existing and proposed buildings. Plan shall indicate existing setback distance from building to the property lines.
6. Indicate areas of flooding, soil hazard or areas of steep slopes.

\_\_\_\_\_ The names and addresses of all property owners within 100 feet of the partition site boundaries, as shown on the last preceding tax roll of the Yamhill County Assessor. Note: A list of property owner names and addresses within 100 feet of the property may be obtained from a title company or the Yamhill County Assessor Department located at: 535 NE 5<sup>th</sup> Street, Room 42, McMinnville, OR, phone: (503) 434-7521.

\_\_\_\_\_ A detailed description of the proposed alteration of the nonconforming use and specifically how it addresses the Criteria for Approval from Development Code Section 17.164.070. **It is the sole responsibility of the applicant to provide adequate evidence upon which the Planning Commission can base a decision.**

#### **17.164.070 Alteration, Restoration or Replacement**

- A. The alteration of a nonconforming use may be authorized by the Planning Commission, subject to the Type II review procedure; provided that the applicant demonstrates that the proposal satisfies the following criteria:
  1. That the alteration of the structure or development would not expand a nonconformity by more than twenty (20) percent of floor area or site area, as applicable, and would have no greater adverse impact on the neighborhood. (An alteration that brings a nonconforming situation into closer conformity with this title may be approved through the Type I review procedure.)
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  3. The alteration of a nonconforming single-family residence that does not involve a change in use is authorized without planning commission approval.
  4. Should a nonconforming structure be moved on- of off-site for any reason, and by only distance, it shall thereafter conform to the regulations of this title (CDC 17.164.070).

\_\_\_\_\_ **One (1) paper copy and one (1) electronic copy** (PDF format preferred) of this application and all of the application attachments. Copies must be clear and legible.

**Conditions of Approval:**

**17.164.080 Conditions of Approval**

In approving the alteration, restoration or replacement of a nonconforming use, the Planning Commission may impose such conditions, as it deems appropriate to ensure that the intent of this Section is carried out.

**I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title Holder's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title Holder's Signature

\_\_\_\_\_  
Date

**NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.**