



## Major Variance

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A major variance is a request to modify a development standard (e.g. setback) by more than twenty (20) percent. The Carlton Development Code (CDC) Chapter 17.148\* establishes a procedure to vary development standards for lands or uses with unique characteristics where the intent and purpose of the development standards are maintained.

### **Applicability**

A property owner or designee may propose a variance from a standard or requirement of the Carlton Development Code (Carlton Municipal Code, Title 17), except when one or more of the following applies:

- A. The proposed variance would allow a use that is not permitted in the zone district;
- B. Another procedure and/or criteria is specified in the Carlton Development Code for modifying or waiving the particular requirement or standard; or
- C. Modification of the requirement or standard is prohibited within the zone district (CDC 17.148.020).

### **Application Process**

A major variance is processed as a Type II land use action in accordance with the 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 may approve a major variance from a requirement or standard provided that the applicant provides evidence that the criteria for major variance approval found in CDC 17.148.050 substantially exist (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 major variance, 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**

### **Expiration of Approval**

If an approved variance has not been implemented within eighteen (18) months, the approval shall expire.

Variance approval shall be voided immediately if the use established on the site does not substantially conform to the approval granted by the Planning Commission.

The property owner or designee may submit a written request to extend the approval period for not more than six (6) months upon payment of the required fee, provided that:

1. No changes are made to the approved variance;
2. The applicant can show intent to implement the variance within the six (6) month extension period; and
3. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based;
4. The request for extension shall be submitted, in writing, thirty (30) days prior to the expiration of the approval period.

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

# Major Variance 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 \_\_\_\_\_

The applicant is seeking a variance to the requirements of Development Code Section(s)

\_\_\_\_\_ [Cite applicable Development Code Section(s)]

**Prerequisites:** In accordance with Development Code Section 17.148.020, the Planning Commission shall have the power to hear and decide major variance requests. To request a hearing and approval of a major variance by the City Planning Commission, there shall be submitted to the City Recorder in addition to this application and filing fee:

\_\_\_\_\_ A Site Plan (8 ½ 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 proposed development or 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 major variance request.

4. For land adjacent to and for the site of the major variance, 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 major variance 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 major variance and specifically how it addresses the criteria for approval from Development Code Section 17.148.050. **It is the sole responsibility of the applicant to provide adequate evidence upon which the Planning Commission can base a decision.**

#### **17.148.050 Criteria and Procedure – Major Variance**

The Planning Commission may allow a major variance from a requirement or standard of this Ordinance after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this Ordinance, topography, or other circumstances over which the applicant has no control.
- B. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.
- C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located or otherwise conflict with the objectives of any City plan or policy.
- D. That the special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this Ordinance by the applicant.
- E. The variance requested is the minimum variance that would alleviate the hardship.

\_\_\_\_\_ **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:** As specified by Development Code Section 17.188.020 (I), approval of a Major Variance may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following:
  - a. Protection of the public from the potentially deleterious effects of the proposed use; or
  - b. Fulfillment of the need for public service demands created by the proposed use.
2. Changes or alterations of conditions shall be processed as a new administrative action.
3. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information which demonstrates to the satisfaction of the Planning Commission that it is not practical to fulfill all conditions prior to issuance of such permit, the Planning Commission may require a performance guarantee as provided in Development Code Section 17.216.

**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.**