

SECTION 29

ADMINISTRATION AND PROCEDURES

2901 Purpose

The Administration and Procedures Provisions establish the methods for implementation of the Zoning Ordinance. These provisions include procedures for reviewing specific uses within certain zoning districts; amending the Zoning Ordinance; and granting variances.

2902 Site Plan Review Procedure

1. PLAN REVIEW.

All required plans and specifications for residential, multi-family, commercial, industrial, and manufacturing building projects shall be reviewed by the Building Inspector for completeness and compliance. Except for residential projects, (single-family and two-family structures) the Building Inspector or his or her designee will forward these plans and specifications on to other City departments or personnel to determine whether or not such plans and specifications are in compliance with the laws and ordinances under their jurisdictions.

2. MULTI-FAMILY, COMMERCIAL, INDUSTRIAL, AND MANUFACTURING BUILDING PROJECT PLANS AND SPECIFICATIONS REVIEWED BY THE PLANNING AND ZONING COMMISSION.

The Planning and Zoning Commission (Planning Board) shall review the plans and specifications for multi-family, commercial, industrial and manufacturing building projects before the Building Inspector approves the building permit. Included in this class of construction are all proposed tenant-finished projects, residential subdivisions, and multi-family dwellings of more than 3 units. Within thirty (30) days of receiving the Building Inspector's report, checklist and complete plans (approved by the City's Engineering Firm or other licensed firm, if appropriate, and by all appropriate City departments), the Planning Board shall convene to review the proposed plans and specifications and make its recommendations. Recommendations by the Planning Board shall be considered by the Building Inspector before approval.

3. No building permits are to be issued by the Building Inspector until the final plat for the subdivision has been approved by the Planning Board and City Council.

a. Purpose

The Site Plan Review Procedure provides for the administrative review in addition to plan review required by other sections of the Unified Land Development Ordinances and/or the Carter Lake Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

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b. Administration

The Building Inspector, or his/her designee shall review, evaluate, and act on all site plans submitted pursuant to this procedure. An applicant may appeal a denial of any application to the City Council.

c. Uses Requiring Site Plan Review

All uses indicated as subject to Site Plan Review in Table 29-1 are subject to the provisions of this section, unless otherwise subject to a Conditional Use Permit procedure for specific zoning districts.

d. Application Requirements

An application for a Site Plan Review may be filed by the owner(s) of a property or the owners' authorized agent with the Building Inspector. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address, and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
 - a) The date, scale, north point, title, name of owner, and name of person preparing the site plan.
 - b) The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
 - c) The location, size, and use of proposed and existing structures on the site.
 - d) The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.
 - e) Location of any major site feature, including drainage and contours at no greater than five-foot intervals.
 - f) Any other information that may be required for review by the Building inspector or his/her designee.

e. Administrative Action and Appeal

The Building Inspector, or his/her designee must act upon each complete application within ten working days of filing. An applicant may appeal a denial to the Board of Adjustment within ten days of the action. The Board of Adjustment shall consider the appeal at the first available meeting after the filing of the appeal.

f. Review and Evaluation

1. The Building Inspector or his/her designee (or the Board of Adjustment in cases of appeal), shall review and approve the site plan based on the criteria established in Table 29-1 and conformance with applicable regulations in these Zoning Regulations.
2. The Building Inspector, or his/her designee (or the Board of Adjustment in cases of appeal), shall make the following findings before approval of the site plan:
 - a) The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 29-1.
 - b) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
 - c) The site plan conforms to the Zoning Regulations.

g. Modification of Site Plan

The Building Inspector, or his/her designee (or the Board of Adjustment in cases of appeal), may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, welfare, community character, property values, and/or aesthetics.

h. Term and Modification of Approval

1. A Site Plan Approval shall become void two years after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.
2. The Building Inspector, or his/her designee, may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth in Table 29-1.
3. The Building Inspector, or his/her designee may revoke a Site Plan Approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.

2903 Conditional Use Permits

a. Purpose

The conditional use permit procedure provides for Planning Board review and approval of uses within zoning districts that have unusual site development or operating characteristics that could adversely affect surrounding properties. Denials may be appealed to the City Council.

b. Administration

The Planning Board shall review, evaluate, and act upon all applications submitted pursuant to this procedure. The Planning Board, following proper notice, shall hold a public hearing on each conditional use permit application and, following such public hearing, shall act on the application. Before approval of any conditional use permit, the Board shall review the conformity of the proposal with the criteria set forth in Table 29-1. The Board may approve or disapprove the conditional permit as submitted or, before approval, may require that the applicant modify, alter, adjust, or amend the proposal as the board deems necessary to the end that it preserves the intent and purpose of this title to promote public health, safety and the general welfare.

c. Application Requirements

An application for a conditional use permit may be filed with the Building Inspector by the owner(s) of a property or the owners' authorized agent. Applications for a conditional use permit under the terms of this section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a detailed site plan containing all requirements for site plan review set forth under Section 24.

d. Criteria for Review

The Board shall review and act upon the request based on the criteria established in Table 29-1 and conformance with applicable regulations in this Zoning Ordinance.

e. Scope of Planning Board's Approval

1. The Planning Board may, at its discretion, apply a conditional use permit to a specific owner or applicant. The Planning Board may establish special site development or operational regulations as a condition for approval of a conditional use permit.
2. The Planning Board shall not grant a conditional use permit for any home occupation/home-based business that is otherwise prohibited under Section 2310 of this Ordinance.

f. Change in Approved Conditional Use Permits

In the event a conditional permit is granted under the terms of this section, any change thereafter in the approved use or site plan shall be resubmitted and considered in the same manner as the original proposal.

g. Lapse and Revocation of Permit

1. A conditional use permit shall become void two years after its effective date if the applicant has not carried out development or occupancy during that period, or sooner if so conditioned by the Planning Board.
2. The Planning Board may revoke a conditional use permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

h. Previously Approved Permits

Any conditional use approved under regulations in effect before the effective date of this Ordinance shall be considered to have a valid conditional use permit, subject to requirements imposed at the time of its approval.

i. Appeals

1. Actions taken by the Planning Board subject to this section may be appealed to the City Council. The appealing party shall file a written request for an appeal with the City Clerk, stating the reasons for the appeal and the areas of difference with the decision of the Planning Board.
2. Appeals to the City Council may be filed by the applicant in the event of a denial of the permit application or by a notarized petition signed by a minimum of 50% of the owners of property within 200 feet of the location of the proposed permit.
3. The City Council shall consider the appeal at the soonest practical meeting that is at least two weeks from the date of the filing of the appeal.

2904 Amendment Procedure

a. Purpose

The amendment procedures describe the methods by which changes may be made in the text of the Zoning Ordinance (text amendment) and/ or the official boundaries of zoning districts (rezoning).

b. Initiation of Amendments

1. Text amendments may be initiated by the Planning Board or City Council.
2. Rezoning may be initiated by a property owner or authorized agent; the Planning Board; or the City Council.

c. Rezoning Application Requirements

An application for a rezoning may be filed with the Building Inspector, the City Clerk, or a designee for either office holder. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Building Inspector to be necessary to describe the proposed use to the Planning Board and/or the City Council.

d. Amendment Process

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1. If the amendment was initiated by the City Council or by a property owner (or authorized agent), the Planning Board shall consider the request and return its recommendation in writing to the Council within sixty days. Upon request of the Board to the Council, the Board shall have an additional 30 days to return its recommendation.
2. The Planning Board, following a minimum of ten days notice and publication, shall hold a public hearing on each proposed text or rezoning and, following such public hearing, shall recommend action to the City Council.
3. The City Council, after publication and public hearing, shall act on the proposed amendment. A simple majority vote of those members either elected or appointed to the City Council is required for approval.

e. Required Notice and Publication

Prior to consideration of amending, supplementing, changing, modifying, or repealing this ordinance by the governing body, notice of public hearings shall be provided by:

1. **Notice By Posted Sign:** A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen inches in height and twenty-four inches in width with a white background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.
2. In addition, notice of public hearing shall also be provided by at least one of the following methods:
 - a) **Publication:** At least ten days before the date of hearing, the City Clerk shall have published in a newspaper having a general circulation in the City of Carter Lake a notice of the time, place and subject matter of such hearing.
 - b) **Notification by Mail:** At least ten days prior to the date of hearing, the party initiating the rezoning request shall present the City Clerk an address list of those persons who own property within 300 feet of the subject site. The City Clerk shall mail notice of the time, place and subject matter of the hearing to such property owners at least ten days prior to the date of the hearing.

2905 Building Permits and Certificates of Zoning Compliance

a. Administration and Enforcement

1. The Building Inspector shall administer and enforce this ordinance. The City Council may direct other persons to assist him/her.
2. If the Building Inspector, or his/her designee shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/ she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes;

discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance or to ensure compliance with or to prevent violation of its provisions.

b. Building Permits Required

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Building Inspector. No building permit shall be issued by the Building Inspector except in conformity with the provisions of this ordinance, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this ordinance.

1. Asphalt and Concrete Installation. No asphalt or concrete shall be poured or installed on any lot in Carter Lake without there first being a permit issued for such work. The permit application must be signed by the property owner, shall include a description of the area of property to be covered by the asphalt or concrete, and shall state when said work is to be completed. If any part of the City right-of-way is to be covered by the project, said portion covering the City right-of-way shall be covered by concrete only and not by asphalt.
2. Dirt Hauling. It shall be unlawful for any person except authorized city employees or persons contracted by the city to haul, or authorize to be hauled, any earth in excess of ten (1) cubic yards over, across, or along any paved street or alley in the city without a permit from the Building Inspector to do so.

a. Application for permit.

Any person desiring a permit required by the provisions of this division shall make application therefore to the Building Inspector. Such application shall contain:

- (1) The place from which the earth is to be removed;
- (2) The place to which the earth is to be hauled; and
- (3) An approximate estimate of the number of cubic yards to be moved.
- (4) The Building Inspector shall require proof of contractor's liability insurance coverage of the applicant in cases where dirt hauling will occur over city streets and city rights-of-way.

b. Deposit.

Before any permit shall be issued under the provisions of this division, the applicant therefore shall deposit with the City an amount determined by the amount of earth to be moved as follows:

- (1) Less than 100 cubic yards: \$10.00
- (2) 100 to 1,000 cubic yards: \$20.00
- (3) Over 1,000 cubic yards, not more than \$100.00, as determined by the Building Inspector.

c. Issuance of permit.

Upon compliance with the requirements of this division, the Building Inspector shall issue a permit required by the division to the applicant therefore.

d. Contents of permit.

Each permit issued under the provisions of this division shall contain:

- (1) The streets or portions of streets over, across or upon which dirt may be hauled; and

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- (2) The time when such work will be permitted.
- (3) In no event shall a dirt-hauling permit exceed six (6) months in duration.

e. Inspection of permit.

A permit issued under the provisions of this division shall be subject to inspection upon demand by any city officer or employee who may be designated by the Building Inspector to look after work performed coming under this division. If necessary, the Building Inspector shall provide directions to the permit holder of the appropriate steps to provide dust control during the project. All reasonable measures will be taken to ensure a minimum amount of dust and dirt blowing.

f. Duty to prevent spilling of dirt; duty to clean street.

It shall be the duty of any person engaged in hauling earth over, along or across any part of any paved street or ally in the city in pursuance of a permit issued under the provisions of this division to use wagons or trucks for hauling such earth of such construction as the Building Inspector may approve, and to so load such wagons or trucks in such manner and to so clean them after unloading as to prevent the spilling or wasting of earth there from in passing over the streets and alleys. It shall be the duty of such person holding such permit, during the progress of such work, to keep the paved streets and alleys over which dirt shall be hauled by them free from any dirt that may accidentally, or otherwise, be spilled upon pavements, gutters or sidewalks, and properly clean the same when required by the Building Inspector.

g. Protection of sidewalks.

No person holding any permit issued under the provisions of this division shall haul dirt or earth over, across or upon any permanent sidewalk in the city without first covering such sidewalk with planks of not less than two (2) inches in thickness. It shall be the duty of such permittee to remove and clean sidewalk (planked) crossing areas for pedestrian use after hauling hours each day.

h. Cleaning of street by city.

The Building Inspector shall have the right, when any person operating under a permit issued under this division shall fail to removed dirt spilled, wasted or left by such permittee upon any pavement, gutter, sidewalk or crossing along the line of their haulage when required, to cause the same to be done at the expense of, and out of, the funds specially deposited in connection with such permit, with the balance of such fund, if any, remaining after the completion of the work under such permit to be returned to the permittee. If at any time the deposit shall prove to be insufficient, the Building Inspector shall be empowered to stop further work and haulage until an additional amount shall have been deposited which in the opinion of the Building Inspector shall be sufficient to maintain the pavements, gutters, sidewalks and crossings clear of earth during the progress of the work; and after the completion of such work the balance of such deposit shall be returned to the depositor upon the return of the permit and receipt issued to him.

i. Site plan with final grades.

If a permit for dirt hauling is applied for, a grading plan shall be filed with the Building Inspector showing the final grade of the property affected. The Building Inspector shall give his/her approval of the final grade. The site shall be graded to near level within thirty (30) days of hauling dirt.

j. Violation

Anyone violating this provision shall be subject to a civil municipal infraction and a \$100.00 a day penalty for each day the violation occurs and/or may be subject to injunctive or equitable relief issued by a court so as to restore the property to its previous condition prior to the fill or removal of dirt on the site.

c. Application for Building Permit

1. All applications for building permits shall include plans if applicable in duplicate drawn to an appropriate scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration.

2. The application shall include such other information as lawfully may be required by the Building Inspector, including existing or proposed building or alterations; existing or proposed uses 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 matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

3. One copy of the plans shall be returned to the applicant by the Building Inspector, after he/she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the Building Inspector.

d. Posting of Building Permits

A building permit shall be posted by the applicant on the property in question at least five (5) days prior to the start of construction. It shall be placed so that it is readable from the public street and shall remain in place during the construction period. If a building permit is not obtained and properly posted prior to construction, construction must cease until such permit is granted. The usual permit fee will be doubled and other penalties may be levied. Construction may resume following a required ten (10) day posting of the building permit.

e. Certificates of Occupancy for New, Altered or Non-Conforming Uses

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefore by the Building Inspector stating that the proposed use of the building or land conforms to the requirements of this ordinance.

f. Expiration of Building Permit

1. If the work described in any building permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Building Inspector; and written notice thereof shall be given to the persons affected.

2. If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be canceled by the Building Inspector, and written notice thereof shall be given to the persons affected, together

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with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

3. The expiration date of a building permit may be established for a period longer than two years if established at the time that such permit is issued by the City. The Building inspector, or his/her designee may, at his/her discretion, extend the expiration period of the building permit.

g. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Occupancy

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Building Inspector authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this ordinance, and punishable as provided by Section 2905 hereof.

2906 Schedule of Fees, Charges and Expenses.

- a. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance.
- b. 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.
- c. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

2907 Board of Adjustment

a. **Creation, Terms, Meetings, Rules**

A City Board of Zoning Adjustment is hereby created and shall be known as the City Board of Zoning Adjustment. The City Board of Zoning Adjustment shall consist of five (5) members appointed by the City Council for a term of five (5) years, excepting when the Board shall first be created one (1) member shall be appointed for a term of five (5) years, one (1) for a term of four (4) years, one (1) for a term of three (3) years, one (1) for a term of two (2) years, and one (1) for a term of one (1) year. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The City Board of Zoning Adjustment shall annually elect one (1) of its members as Chairperson, another as Vice-Chairperson, who shall act as Chairperson in the chairperson's absence, and appoint a secretary who may be an officer or an employee of the City. Each shall serve until his/her successor has been selected.

The City Board of Zoning Adjustment shall adopt rules in accordance with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the Board, decisions of the Board and the vote upon each question. Records of all official actions shall be kept in the office of the city Clerk and shall be

open to public inspection during reasonable business hours. All meetings of the Board shall be open to the public.

b. Appeals to City Board of Zoning Adjustment

The City Board of Zoning Adjustment shall hear and determine appeals from or other matters referred to it regarding the application of this Ordinance. The Board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of the time, place and subject of such hearings shall be published one in the official City newspaper at least fifteen days prior to the date fixed for hearing. A copy of said notice shall be mailed to each party in interest, property owners within two hundred (200) feet, and to the Planning Board.

Appeals to the City Board of Zoning Adjustment may be taken by any person aggrieved, or by any officer of the City or any governmental agency or body affected by any decisions of the officer administering the provisions of this Ordinance. Such appeal shall be taken within a reasonable time as provided by the rules of the Board, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefore. The officer, from whom the appeal is taken, when notified by the Board or its agent, shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

c. Powers and Jurisdiction Relating to Administrative Review

The City Board of Zoning Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map.

d. Powers and Jurisdiction Relating to Exceptions

The City Board of Zoning Adjustment shall have the power to hear and decide, in accordance with the provisions of this Ordinance, requests for exceptions upon which the Board is authorized by this Ordinance to pass; to decide such questions as are involved in determining whether exceptions should be granted; and to grant exceptions with such conditions and safeguards as are appropriate under this Ordinance. In no event shall exceptions to the provisions of this Ordinance be granted where the use or exception contemplated is not specifically authorized to be granted such exceptions and only under the terms of this Ordinance. Further, under no conditions shall the City Board of Zoning Adjustment have the power to grant an exception where conditions of such exception are not found to be present. And exception shall not be granted by the City Board of Zoning Adjustment unless and until:

1. Application: A written application for an exception is submitted indicating the section of the Ordinance under which the exception is sought and stating the grounds on which it is required;
2. Hearings: The public hearing shall be held. Any party may appear in person, or by agent or attorney;
3. Findings: The City Board of Zoning Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the exception, and that the granting of the exception will not adversely affect the public interest;
4. Rules Governing Individual Exceptions: Before any exception shall be issued, the Board shall make written findings certifying compliance with the specific rules governing individual exceptions and that satisfactory provision and arrangement have been made concerning the following, where applicable:

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- a. entrance and exit to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- b. off-street parking and loading areas where required, with particular attention to the items in (a) above and the noise, glare, odor or economic effects of the exception on adjoining properties and properties generally in the district;
- c. refuse and service areas, with particular reference to the items in (a) and (b) above;
- d. utilities, with references to locations, availability, and compatibility;
- e. screening and buffering with reference to type, dimensions, and character;
- f. signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- g. required yards and other open space;
- h. general compatibility with adjacent properties and other property in the district.

e. Powers and Jurisdiction Relating to Variances

The City Board of Zoning Adjustment shall have the power to authorize in specific cases a variance from the specific terms of this Ordinance which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will, in an individual case, result in unnecessary hardship, and provided that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted in such case, upon a finding by the Board that all of the following conditions have been met:

1. Unique Circumstances: That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action nor actions of the property owner or the applicant;
2. Consideration of Adjacent Property Rights: That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. Application of Regulations Constitutes Undue Hardship: That the strict application of the provisions of this Ordinance from which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. Consideration of General Welfare of Public: That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare;
5. Adherence to Intent of Regulations: That granting the variance desired will not be opposed to the general spirit and intent of this Ordinance;
6. Requirement for Written Application and Conditions: A variance from the terms of this Ordinance shall not be granted by the City Board of Zoning Adjustment unless and until a written application for a variance is submitted demonstrating that 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; that 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, that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land, structures, or buildings in the same district;
7. Effect of Non-Conformance: No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance;
8. Public Hearing and Findings of the Board: Notice of public hearing shall be given as in Section 2907 - b above; the public hearing shall be held. Any party may appear in person or by agent or by attorney; the City Board of Zoning Adjustment shall make findings that the

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requirements of this section have been met by the application for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; the Board shall further make a finding that 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.

9. Conditions Imposed: In granting any variance, the City Board of Zoning Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 2908 of this Ordinance.

10. Use Variances: Under no circumstances shall the City Board of Zoning Adjustment 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.

f. Board has Powers of Administrative Officer on Appeals: Reversing Decision of Administrative Officer

In exercising the above mentioned powers, the City Board of Zoning Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

A concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the applicant or any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

g. Appeals to District Court

Any person, official or governmental agency aggrieved with any decision or determination of the city Board of Zoning Adjustment may present a petition to the District Court, specifying the grounds of illegality and the procedure thereof as provided. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the board.

2908 Administrative Procedure and Enforcement

a. Duties of the Administrative Official, City Board of Zoning Adjustment, and Courts on Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Building Inspector and that such questions shall be presented to the City Board of Zoning Adjustment only on appeal from the decision of the Building Inspector, and that recourse from the decisions of the City Board of Zoning Adjustment shall be to the courts as provided by law, except as provided in Article 2908.

It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Ordinance. Under this Ordinance, the City Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this Ordinance as provided by law and of establishing a schedule of fees and charges as stated herein.

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An administrative official who shall be known as the Building Inspector and who shall be designated by the City Council shall administer and enforce this Ordinance. He/she may be provided with the assistance of such other persons as the City Council may direct.

If the Building Inspector shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

c. Building Permits Required

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Building Inspector. No building permit shall be issued by the Building Inspector except in conformity with the provisions of this Ordinance, unless he/she receives a written order from the City Board of Zoning Adjustment or City Council in the form of an administrative review, special exception, or variance as provided by this Ordinance.

d. Application for Building Permit

All applications for building permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration.

The application shall include such other information as lawfully may be required by the Building Inspector, including existing or proposed building or alterations; existing or proposed uses 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 matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance.

One copy of the plan shall be returned to the applicant by the Building Inspector after he/she shall have marked such copy either as approved or disapproved and attested to same by his/her signature on such copy. If a building permit is refused, the Building Inspector shall state the reasons for such refusal in writing. The original and one (1) copy of the plans, similarly marked, shall be retained by the Building Inspector. The issuance of a building permit, shall, in no case, be construed as waiving any provisions of this Ordinance.

e. Certificates of Zoning Compliance for New, Altered or Non-Altered or Non-Conforming Use

It shall be unlawful to use or occupy or permit the use or occupancy of any (non-farm) building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the Building Inspector stating the proposed use of the building or land conforms to the requirements of this Ordinance.

No non-conforming structure or use shall be maintained, renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the Building Inspector. The certificate of zoning compliance shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance provided, that within six (6) months of the enactment or amendment of this Ordinance, the Building Inspector shall notify in writing the owners or occupants of non-conforming uses or structures that the uses or structures are in non-conformance with the provisions of this Ordinance and that a certificated of zoning compliance is required. Failure by

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the Building Inspector to make such notification within six (6) months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this Ordinance.

No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this Ordinance upon completion of the work.

A temporary certificate of zoning compliance may be issued by the Building Inspector for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

The Building Inspector shall maintain a record of certificates of zoning compliance and a copy shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this Ordinance and punishable under Section 2905 of this Ordinance.

f. Expiration of Building Permit

If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Building Inspector; and written notice thereof shall be given to the persons affected.

If the work described in any building permit has not be substantially completed within two (2) years of the date of the issuance thereof, said permit shall expire and be cancelled by the Building Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

g. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Building Inspector authorize on the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 2905 thereof.

h. Schedule of Fees, Charges and Expenses

There is hereby established in a schedule of fees, charges and expenses for building permits and certificates of zoning compliance, as presented below.

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FEES FOR BUILDING PERMITS AND ZONING COMPLIANCE

<u>Value of Building</u>	<u>Fee</u>
To and including \$1,000	\$5.00 minimum
For each additional \$1,000 or fraction Thereof up to and including \$15,000	\$1.00/\$1,000
For each additional \$1,000 or fraction Thereof up to and including \$50,000	\$0.50/\$1,000
For each additional \$1,000 or fraction Thereof, exceeding \$50,000	\$0.25/\$1,000

The schedule of fees shall be posted in the office of the Building Inspector and may be altered or amended only by the City Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

i. New Buildings on Unapproved Streets

No building permit shall be issued for, or no building shall be erected on any lot within the jurisdiction of this Ordinance, unless the street giving access to the lot upon which said building is proposed to be placed shall be accepted or opened as, or shall have otherwise received the legal status of, a public street prior to that time, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the City Council after submission to the Planning Board, and in case of said Planning Board's disapproval, is later approved by a minimum of two-third's (2/3) vote of the City Council. Any building erected in violation of this section shall be deemed an unlawful structure and the City may bring action to enjoin such erection or cause it to be vacated or removed.

TABLE 29-1: Criteria For Site Plan Review And Conditional Use Permits

Land Use Compatibility	CRITERION	APPLICATIONS TO	
		Site Plan Review	Conditional Use Permit
Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features.	X	X
Height and Scale			
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	X	X
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variation should be justified by site or operating characteristics.	X	X
Building Coverage	Building coverage should be similar to that of surrounding development if possible. Higher coverage should be mitigated by landscaping or site amenities.	X	X
Site Development			
Frontage	Project frontage along a street should be similar to lot width.	X	X
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	X	X
	All structures must be accessible to public safety vehicles.	X	X
	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	X	X
Landscaping	Landscaping should be integral to the development, providing street landscaping breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainageways should be preserved.	X	X
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations		X
Operating Characteristics			
Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	X	X
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	X	X
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	X	X
Industrial Access	Projects must provide direct access from major arterials without requiring travel through residential areas or along local, residential streets.	X	X
Hazardous Effects	Projects must minimize external hazards to surrounding properties or, if hazardous materials are handled or stored, take measures to provide appropriate separations between the site and neighboring inhabited properties.	X	X

TABLE 29-1: Criteria For Site Plan Review And Conditional Use Permits (continued)

CRITERION		APPLICATIONS TO	
Operating Characteristics		Site Plan Review	Conditional Use Permit
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X
Public Facilities			
Sanitary Waste Disposal	Developments must connect to the public sanitary sewer system.	X	X
Storm Water Management	Sanitary sewer must have adequate capacity to serve development.	X	X
	Development should handle storm water adequately to prevent overloading of public storm water management system.	X	X
	Development should not inhibit development of other properties.	X	X
Utilities	Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	X	X
	Project must be served by utilities.	X	X
Comprehensive Plan	Projects should be consistent with the City of Carter Lake's Comprehensive Development Plan.		X