

City of Lexington Conditional Use Permit

Conditional Use Permit for CO Overlay District

This Conditional Use Permit issued this _____ day of _____, 2014, by the City of Lexington, a municipal corporation in the County of Dawson, Nebraska (“City”) to, Carlos Montejano (“Owner”), pursuant to the Lexington Zoning Ordinance.

WHEREAS, Owner wishes to locate and operate a variety store at 806 N. Washington Street upon the following legally described property of land within the City of Lexington zoning jurisdiction:

South 50 feet of Lot5 and South 50 Feet of Lot 6, Block 16 Original Town

WHEREAS, Owner has applied for a conditional use permit for the purpose of creating a CO overlay district in order to create and operate a variety store in an R-3 High Density Residential District; and

WHEREAS, the Mayor and City Council of the City of Lexington are agreeable to the issuance of a conditional use permit to the owner for such purposes, subject to certain conditions and agreements as hereinafter provided.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area of the property described herein for an **confinement**/variety retail store, said use hereinafter being referred to as “Permitted Use or Use”.

Conditions of Permit

The conditions to which the granting of this permit is subject are:

1. The rights granted by this permit are **transferable** any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City or unless exempted herein.
2. In respect to the proposed Use:
 - a. Owner shall create screening from all abutting, residentially zoned properties per Section 8.05 of the Lexington Zoning Code, within 60 days of approval of this permit.
 - b. Owner shall provide egress/ingress and off-street parking in accordance with Section 7.01.04 and Section 7.02.
 - c. Owner shall maintain required landscaping in accordance with Sections 8.03, 8.05 and 8.06.
3. The applicant’s right to maintain the use as approved pursuant to these provisions shall be based on the following:
 - a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.

- b. The use authorized by the conditional use permit must be initiated within twelve (12) months of approval.
 - c. All obsolete or unused structures and accessory facilities or materials specifically pertaining to such permitted use shall be removed at owner's expense within twelve (12) months of cessation of the conditional use, if required by the City.
4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as a permitted use hereunder upon the first of the following to occur:
 - a. Owner's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
 - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.
 - c. Owner's breach of any other terms hereof and his/her failure to correct such breach within ten (10) days of City's giving notice thereof.
5. In the event of the owner's failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner's failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner's cost and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.
6. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Miscellaneous

The conditions and terms of this permit shall be binding upon owner, his/her successors and assigns.

1. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his/her agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.
2. Any notice to be given by City shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed to the owner as follows:

Contact Name and Address:

**Carlos Montejano
903 North Monroe Street
Lexington, NE 68850**

Effective Date:

This permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

THE CITY OF LEXINGTON

By _____
John Fagot, Mayor

Attest:

Pam Baruth
City Clerk

CONSENT AND AGREEMENT

The undersigned does hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of the undersigned to fully and timely perform each and every condition and term hereof, and the undersigned does hereby warrant, covenant and agree to fully and timely perform and discharge all obligations and liabilities herein required by owner to be performed or discharged.

Owner:

By: _____

Title: owner/operator _____

Date: _____