

ORDINANCE NO. 284

AN ORDINANCE AMENDING SECTION 15, SECTION 15.5, AND SECTION 16 OF ORDINANCE 169, THE ARLINGTON ZONING ORDINANCE, PROVIDING FOR THE EXPIRATION, REVOCATION, AND DISCONTINUANCE OF CONDITIONAL USE PERMITS, INTERIM USE PERMITS, AND VARIANCES

- I. THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS SECTION 15 OF ORDINANCE 169 SHALL BE AMENDED TO INCLUDE SUBD. 7 AS FOLLOWS:

SECTION 15 CONDITIONAL USE PERMITS.

SUBDIVISION 7. VIOLATION, REVOCATION AND EXPIRATION OF CONDITIONAL USE PERMITS.

A. Violation.

1. *A violation of any condition set forth in a conditional use permit shall be a violation of both the Conditional Use Permit and this Ordinance.*
2. *Upon a complaint filed with the Zoning Administrator by any interested party and/or a review by the Zoning Administrator alleging non-compliance with the terms of the Conditional Use Permit the Zoning Administrator shall notify the permit holder in writing of the alleged violation. The notice shall contain the nature of the violation and the facts that support the conclusion that a violation exists. The written notice shall provide a deadline for compliance that is sixty (60) calendar days from the date of the written notice.*
3. *Failure to correct a violation within sixty (60) days of written notice from the Zoning Administrator shall be ground to revoke a Conditional Use Permit through the following procedure:*
 - i. *The Zoning Administrator shall provide written notice to the permit holder advising that the Conditional Use Permit may be revoked upon conclusion of a public hearing by the Planning Commission and upon review of the findings of fact by the City Council. The written notice to the permit holder shall contain the nature of the violation and the facts that support the conclusion that a violation exists.*
 - ii. *The Planning Commission shall hold a public hearing following the notice and hearing procedures set forth in Section 15, Subd. 4 of this Ordinance, as may be amended.*
 - iii. *The Planning Commission shall prepare written findings of fact setting forth its findings and recommendations to the City Council. The Planning Commission may recommend that there be a determination that there is no violation, that the permit be revoked, that the permit holder be allowed to seek an amendment to the permit to cure the violation, or such other course of action that the Planning Commission deems appropriate.*
 - iv. *The City Council shall accept, reject, or modify the recommendation of the Planning Commission by Resolution. In the event the City Council rejects or modifies the recommendation of the Planning Commission, it shall prepare written findings of fact giving its reasons for such rejection or modification.*

- v. *Following the City Council's action, the Zoning Administrator or designee shall file a certified copy of the Council Resolution with the County Recorder.*
 - vi. *Revocation of the Conditional Use Permit shall be effective upon delivery of the Council's order to the permit holder.*
 - vii. *Any continued operation of the conditional use after a suspension or revocation shall be deemed a violation of this Ordinance and subject to the fines set forth in Section 19 (Violations and Penalties) of this Ordinance as may be amended.*
 - viii. *Any failure to revoke a Conditional Use Permit for past violations shall not operate as a waiver of the right to suppress future violations.*
- B. *Expiration of Conditional Use Permits. Where a Conditional Use Permit has been issued pursuant to provisions of this Ordinance, such Permit shall become null and void without further action by the Planning Commission or City Council unless construction commences within one (1) year of the date of granting the Conditional Use Permit.*
- C. *Discontinuance of Conditional Use Permit. Where a Conditional Use has been established and is discontinued for any reason for a period of one year or longer the Conditional Use Permit shall be deemed abandoned without further action by the Planning Commission or City Council.*
- D. *Abandonment of Conditional Use Permit. Where a Conditional Use has been changed to a permitted use or to any other Conditional Use, the Conditional Use Permit shall be deemed to be abandoned without further action by the Planning Commission or City Council.*
- E. *Authorized Use Limited. A Conditional Use Permit shall be deemed to authorize only one (1) particular use.*

II. THE CITY COUNCIL OF THE CITY OF ARLINGTON FURTHER ORDAINS SECTION 15.5 OF ORDINANCE 169 SHALL BE AMENDED AS FOLLOWS:

SECTION 15.5: INTERIM USE PERMITS.

SUBDIVISION 6. VIOLATION, REVOCATION AND EXPIRATION OF INTERIM USE PERMITS.

- A. *Violation.*
- 1. *A violation of any condition set forth in an Interim Use Permit shall be a violation of both the Interim Use Permit and this Ordinance.*
 - 2. *Upon a complaint filed with the Zoning Administrator by any interested party and/or a review by the Zoning Administrator alleging non-compliance with the terms of the Interim Use Permit the Zoning Administrator shall notify the permit holder in writing of the alleged violation. The notice shall contain the nature of the violation and the facts that support the conclusion that a violation exists. The written notice shall provide a deadline for compliance that is sixty (60) calendar days from the date of the written notice.*
 - 3. *Failure to correct a violation within sixty (60) days of written notice from the Zoning Administrator shall be ground to revoke an Interim Use Permit through the following procedure:*

- i. *The Zoning Administrator shall provide written notice to the permit holder advising that the Interim Use Permit may be revoked upon conclusion of a public hearing by the Planning Commission and upon review of the findings of fact by the City Council. The written notice to the permit holder shall contain the nature of the violation and the facts that support the conclusion that a violation exists.*
- ii. *The Planning Commission shall hold a public hearing following the notice and hearing procedures set forth in Section 15, Subd. 4 of this Ordinance, as may be amended.*
- iii. *The Planning Commission shall prepare written findings of fact setting forth its findings and recommendations to the City Council. The Planning Commission may recommend that there be a determination that there is no violation, that the permit be revoked, that the permit holder be allowed to seek an amendment to the permit to cure the violation, or such other course of action that the Planning Commission deems appropriate.*
- iv. *The City Council shall accept, reject, or modify the recommendation of the Planning Commission by Resolution. In the event the City Council rejects or modifies the recommendation of the Planning Commission, it shall prepare written findings of fact giving its reasons for such rejection or modification.*
- v. *Following the City Council's action, the Zoning Administrator or designee shall file a certified copy of the Council Resolution with the County Recorder.*
- vi. *Revocation of the Interim Use Permit shall be effective upon delivery of the Council's order to the permit holder.*
- vii. *Any continued operation of the Interim Use after a suspension or revocation shall be deemed a violation of this Ordinance and subject to the fines set forth in Section 19 (Violations and Penalties) of this Ordinance as may be amended.*
- viii. *Any failure to revoke an Interim Use Permit for past violations shall not operate as a waiver of the right to suppress future violations.*

B. Expiration of Interim Use Permits. Where a Interim Use Permit has been issued pursuant to provisions of this Ordinance, such Permit shall become null and void without further action by the Planning Commission or City Council unless construction and/or the use commences within one (1) year of the date of granting the Interim Use Permit.

C. Discontinuance of Interim Use Permit. Where an Interim Use has been established and is discontinued for any reason for a period of one year or longer the Interim Use Permit shall be deemed abandoned without further action by the Planning Commission or City Council.

D. Abandonment of Interim Use Permit. Where an Interim Use has been changed to a permitted use or to any other Interim Use, the Interim Use Permit shall be deemed to be abandoned without further action by the Planning Commission or City Council.

E. Authorized Use Limited. An Interim Use Permit shall be deemed to authorize only one (1) particular use.

III. THE CITY COUNCIL OF THE CITY OF ARLINGTON FURTHER ORDAINS SECTION 16 OF ORDINANCE 169 SHALL BE AMENDED AS FOLLOWS:

SECTION 16: BOARD OF ADJUSTMENT AND APPEALS.

SUBDIVISION 5. REVOCATION AND EXPIRATION OF VARIANCE.

- A. *The granting of a variance from the provisions of this Ordinance shall be subject to the following conditions. The conditions shall apply to all variances granted and conditions shall be continuing.*
- B. *A variance shall be effective only for the specific purposes set forth in the variance grant.*
- C. *A violation of any condition set forth in the granting of the variance shall be a violation of this Ordinance and shall automatically terminate the variance.*
- D. *The variance shall become null and void without further action by the Planning Commission or City Council upon failure of the variance holder to commence or cause the commencement of construction or installation of the specific purpose within one (1) year of variance grant. Completion of construction or installation of the specific purpose shall be completed within a reasonable time after commencement.*
- E. *A variance may be renewed by the City Council for good cause should the variance holder file for an extension. Such extension shall be requested in writing and filed with the Zoning Administrator at least sixty (60) days prior to the expiration of the original variance. "Good cause" may include adverse weather conditions, unexpected site conditions, unanticipated labor shortages, and the like. An extension may be granted for up to one (1) year.*
- F. *Discontinuance of Variance. Where a variance has been granted and the specific purpose for which it was granted has changed to a conforming condition, the variance shall be deemed to be abandoned without further action by the Planning Commission or City Council.*

IV. EFFECTIVE DATE. This Ordinance is effective upon its adoption and publication as prescribed by law.

Adopted by the City of Arlington on the ____ day of _____, 2013.

Attest:

James R. Kreft, Mayor

Liza M. Donabauer, City Administrator

First Reading: November 18, 2013
Second Reading: December 2, 2013
Adopted: December 2, 2013
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