

ORDINANCE NO. 281

AN ORDINANCE AMENDING ORDINANCE 169, THE ARLINGTON ZONING ORDINANCE, BY ADDING SECTION 13.9 RELATING TO HOME OCCUPATIONS

- I. THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS ORDINANCE 169, THE ZONING ORDINANCE, SHALL BE AMENDED BY ADDING SECTION 13.9 AS FOLLOWS:**

SECTION 13.9: HOME OCCUPATIONS

SUBDIVISION 1. PURPOSE AND INTENT.

- A. The purpose of this Section of the Zoning Ordinance is to provide for the conducting of home occupations in residential neighborhoods while protecting the health, safety, and general welfare of the surrounding neighborhood.
- B. The intent of this Section is to establish operational standards and review procedures for home occupations. This Section provides a mechanism to distinguish between permitted home occupations that are allowed under administrative permit and more intense home occupations which require an interim use permit and public hearing.

SUBDIVISION 2. SCOPE.

- A. All occupations conducted in a dwelling unit within a residential zoning district or on the premises of a principal residential use in a residential zoning district shall comply with the provisions of this Section, the provisions of the district in which it is located, and all other Sections of this Ordinance.
- B. Home occupations are defined as and limited to all of the following:
 - i. Gainful occupations or professions engaged in by the occupant(s) of a dwelling;
 - ii. Which are carried on within a dwelling unit or structure(s) accessory thereto; and,
 - iii. Which are clearly incidental to the principal use of the property as a residential dwelling unit.
- C. Home occupations shall be classified as either 'Permitted' or 'Special' home occupations. Home occupations not specifically identified as 'Permitted' or 'Special' shall be considered prohibited. Permitted home occupations are allowed without a permit but shall adhere to the 'General Performance Standards' contained in this Section as may be amended. 'Special' home occupations require the issuance of an 'Interim Use Permit' as provided for in Section 14.5 of the Zoning Ordinance as may be amended and shall adhere to the 'General Performance Standards' contained in this Section as may be amended.
- D. Home occupations whether permitted or allowed under an 'Interim Use Permit' are not transferable, shall expire when the occupation ceases, and/or shall expire upon the sale

of the subject property or transfer of title to the real estate upon which the occupation is conducted.

- E. Home occupations existing on the effective date of this Ordinance are considered legal non-conforming uses and shall be allowed to continue. In the event an expansion, enlargement, or intensification of an existing home occupation is contemplated, the standards of this Section shall be applied. "Expansion, Enlargement, or Intensification" of an existing legal non-conforming home occupations shall be as defined in Section 14 of the Zoning Ordinance as may be amended and relating to non-conformance.
- F. Nothing in this Section is intended to prohibit or regulate non-commercial activities in residential neighborhoods.

SUBDIVISION 3. PROHIBITED HOME OCCUPATIONS.

- A. Home occupations involving illegal substances, illegal devices, and/or unlawful activities are prohibited.
- B. Home occupations involving explosive materials as defined in Mn. Rules 7500.0100 as may be amended are prohibited.
- C. Home occupations involving sexually oriented materials and/or activities as defined by Mn. Statutes as may be amended are prohibited.
- D. Home occupations conducted in a manner which produce noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line are prohibited.
- E. Home occupations involving materials or storage of items declared a public nuisance, as defined in City of Arlington Ordinance 259 (the nuisance ordinance) as may be amended.

SUBDIVISION 4. PERMITTED HOME OCCUPATIONS

- A. Permitted home occupations are those home occupations which are not identified as 'Prohibited Home Occupations' under Subdivision 3 of this Section or 'Special Home Occupations' under Subdivision 5 of this Section as may be amended.
- B. Permitted home occupations require the issuance of an 'Administrative Permit' from the Zoning Administrator as provided for in Section 13.8 of the Zoning Ordinance as may be amended.
- C. Permitted home occupations shall comply at all time with the "Performance Standards" contained in Subd. 6 of this Section as may be amended.

SUBDIVISION 5. SPECIAL HOME OCCUPATIONS

- A. Special home occupations require the issuance of an 'Interim Use Permit' as provided for in Section 15.5 of the Zoning Ordinance as may be amended.

B. Special home occupations are activities which include any of the following:

1. Home occupations involving retail or wholesale trade on-site which is conducted by more persons than the occupant of the dwelling unit.
2. Home occupations providing services on-site which are conducted by the dwelling unit occupant and/or more than one employee.
3. Home occupations involving outdoor storage of materials not typically associated with residential dwellings.
4. Home occupations involving outdoor storage of items of which the dwelling unit occupant is not the fee owner.
5. Home occupations with the potential to reasonably involve the presence of five (5) or more adult customers at the subject property at one time.
6. Home occupations conducted between the hours of 10:00 p.m. and 6:00 a.m. that generate walk-in traffic.
7. Home occupations involving 'Dangerous Weapons' as defined by Mn. Statutes, provided:
 - i. The Applicant possesses a current federal firearms license.
 - ii. The Applicant provides written evidence of home owners/rental insurance specifying current coverage for proposed home occupation.
 - iii. The applicable federal firearms license and home owners/rental insurance are maintained.
 - iv. Inspection of the facility by the Fire Marshal and the Police Chief and adherence to conditions as required by said Fire Marshal and/or Police Chief.
 - v. The proposed home occupation maintains compliance with federal, state, and local laws and standards.
 - vi. Adherence to conditions imposed under Subd. C of this Section, as may be amended.
8. Home occupations involving the regular, reoccurring delivery or pick-up of materials by commercial vehicles more than one time per week.

C. Right to Impose Conditions for Special Home Occupations.

1. The City Council may impose such conditions on the granting of an interim use permit for a special home occupation as may be necessary to carry out the purpose and provisions of this Section.
2. Such conditions may include, but are not limited to:

- i. Limiting hours of operation.
- ii. Limiting the number of vehicles at the site at one time.
- iii. Limiting the amount of vehicles used in conducting the home occupation.
- iv. Requiring additional parking be provided on-site and off of the public street.
- v. Limiting the duration and/or volume of on-street parking.
- vi. Limiting the number of employees.
- vii. Limiting the volume of traffic generated by the home occupation.
- viii. Limiting the amount of outdoor storage of materials, property other than real estate, chattel, and/or equipment used or stored on-site in conjunction with the home occupation.
- ix. Requiring additional setbacks and/or buffering so as to reduce noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line resulting from the home occupation.
- x. Limiting the number of customers, guests, and/or clients present at the site in conjunction with the home occupation.
- xi. Limiting the amount of time the Interim Use Permit is in effect to a specific date, time, or event occurrence.
- xii. Requiring inspection by the Police Chief and/or the Fire Marshal and adherence to public safety conditions imposed thereby.

SUBDIVISION 6. PERFORMANCE STANDARDS.

- A. All Permitted Home Occupations and all Special Home Occupations shall comply with the following Performance Standards.
 1. Home occupations shall be clearly incidental and subordinate to the principal residential use of the property.
 2. Home occupations shall not change the residential character of the neighborhood, be incompatible with surrounding land uses, disturb surrounding residential uses, or be intrusive to surrounding dwellings.
 3. Home occupations shall not occupy or use greater than twenty-five percent (25%) of the combined footprint of structures on the subject parcel. In addition, a home occupation shall not occupy or use greater than twenty-five percent (25%) of the lot area; except that home day care providers may use greater than twenty-five percent (25%) of the lot area for play/recreation purposes.
 4. A home occupation shall not be established before a dwelling unit exists on the subject property.

5. Signage for home occupations shall be limited to one (1) non-illuminated sign which shall not exceed four (4) square feet in area.
6. Operation of a home occupation shall be limited to the residential dwelling, an attached garage, or an accessory structure.
7. Home occupations shall not generate excessive employee, customer, or client traffic that is detrimental to the character of the surrounding properties.
8. Home occupations shall be conducted in a manner which produces no indication of noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line.
9. Any equipment used in conjunction with a home occupation shall not create electrical interference to surrounding properties.
10. Home occupations shall not require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
11. Areas used for home occupations shall meet all applicable fire and building codes.
12. Home occupations shall comply with the city nuisance regulations.
13. Home occupation walk-in traffic shall be conducted only between the hours of 6:00 a.m. and 10:00 p.m.
14. Home occupations shall be operated and licensed as required by applicable state and/or federal law.

SUBDIVISION 7. REVIEW PROCESS.

- A. Special Home Occupations. Special home occupations require issuance of an interim use permit. The application, process, fee, review criteria, and issuance criteria for 'Interim Use Permits' included in Section 15.5 of the Zoning Ordinance, as may be amended apply and are hereby incorporated by reference.
- B. Permitted Home Occupations. Permitted home occupations require issuance of an administrative permit from the Zoning Administrator. The application, process, fee, review criteria, and issuance criteria for 'Administrative Permits' included in Section 13.8 of the Zoning Ordinance, as may be amended apply and are hereby incorporated by reference.

SUBDIVISION 8. HOME OCCUPATIONS EXISTING PRIOR ORDINANCE EFFECTIVE DATE.

- A. Home occupations existing prior to the effective date of this Ordinance (December 5, 2013) that are prohibited under this Ordinance shall be considered legal non-conforming

uses and shall be subject Section 14 of the Zoning Ordinance, as may be amended, relating to non-conformance.

B. Home occupations in existence prior to the effective date of this Ordinance (December 5, 2013) that require an Interim Use Permit under the standards of this Ordinance shall be required to obtain as applicable, an Interim Use Permit or an Administrative Permit if/when one of the following occurs:

1. The home occupation ceases for more than one year.
2. The nature of the home occupation changes to a different type of home occupation requiring an interim use permit.
3. The home occupation changes to a permitted home occupation.
4. The existing home occupation is expanded, enlarged, or intensified as defined in the Zoning Ordinance relating to non-conformance.

C. Home occupations in existence prior to the effective date of this Ordinance (December 5, 2013) that require an administrative permit shall be required to obtain as applicable, an Administrative Permit or Interim Use Permit if/when one of the following occurs:

1. The home occupation ceases for more than one year.
2. The nature of the home occupation changes to a different type of home occupation requiring an interim use permit.
3. The home occupation changes to a permitted home occupation.
4. The existing home occupation is expanded, enlarged, or intensified as defined in the Zoning Ordinance relating to non-conformance.

II. EFFECTIVE DATE.

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

For City of Arlington:

By James R. Kreft
It's Mayor

By Liza M. Donabauer
It's Administrator

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