ORDINANCE NO. 1006-01

AN ORDINANCE OF LINCOLN COUNTY, SD, AMENDING THE 2009 REVISED ZONING ORDINANCE FOR LINCOLN COUNTY, SD, BY REVISING THE REGULATIONS FOR TEMPORARY USES.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, SD:

Section 1. That Section 12.10 of the 2009 Revised Zoning Ordinance for Lincoln County, SD, is hereby amended to read as follows:

12.10 Temporary Uses.
A. Intent. The requirements of this section are intended to provide for the regulation and permitting of uses and associated improvements on private property which have only a temporary duration and are not so recurring in nature as to constitute a permanent use. These requirements are not intended to regulate temporary uses on public property, including public rights-of-way.
B. Permit Required. No person shall operate a temporary use without first obtaining a permit therefor from the Planning Commission as prescribed in this section. If an appeal is filed pursuant to Section 12.10(G), the Planning Director shall present the Planning Commission's decision to the Board of County Commissioners for review.
C. Applications.
1. Submission deadline. All applications for a temporary use permit shall be made at least 90 days prior to the proposed commencement date of the use.
2. Temporary use plan. All temporary uses shall be subject to approval of a temporary use plan. The plan shall describe the nature and location of all temporary improvements and activities, the location of any permanent buildings intended to be used, the time period for which the temporary use permit is requested, and such other information in sufficient detail as the Planning Department determines is reasonably necessary to adequately review the application and to ensure the use will be conducted in a manner consistent with the requirements of this section.
D. Standards for review. The following standards shall be used in determining the suitability and compatibility of a temporary use:
1. The temporary use will have no unreasonable adverse effect on nearby properties or jeopardize public health, safety, and general welfare, and is compatible with the purpose and intent of this zoning ordinance and the specific zoning district in which it is located.
2. The temporary use will not create hazardous traffic conditions or result in traffic in excess of the capacity of the roads serving the use.
3. The site is adequate to accommodate the proposed use, including the provision for on and off site parking.
4. Adequate sanitation facilities will be available on the site.
5. The time period and hours of operation for the temporary use are clearly specified.
6. Provision is made for the removal, clean-up, and restoration of the site.
7. The temporary use will not adversely impact the natural environment.
8. The site is suitable for the proposed temporary use, considering flood hazard, drainage, soils, and other conditions which may constitute a danger to life, health or property.

9. All temporary improvements and any permanent structures proposed to be used will comply with all applicable provisions of the county’s building code.

E. Planning Commission Hearing. Upon the filing of an application for a temporary use permit, the Planning Director shall set a date for public hearing on such requested temporary use, at which time and place the Lincoln County Planning Commission shall meet to consider the temporary use request.

1. Notification. The applicant must notify all property owners (inclusive of Contract for Deed buyers) of land laying within five hundred (500) feet, inclusive of right-of-way, of the outer boundaries of the property involved in the request. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department shall provide the applicant with “Notice of Hearing” forms for this purpose, and the notices are to be sent by the applicant to all parties on the aforementioned list by registered mail no less then thirty (30) days prior to the public hearing on the requested temporary use held by the Planning Commission or the Board of County Commissioners on appeal. The “Notice of Hearing” forms shall include the time, date and location of the public hearing, a description of the proposed temporary use, the area of the temporary use site, and any other information needed to clearly convey the nature of the proposed temporary use. The applicant shall sign an affidavit certifying that the required mailing was completed and file copies of the registered mail receipts. The affidavit shall be provided to the Planning Department at least five (5) working days prior to the Planning Commission meeting.

2. Signs. Sign(s) to be provided by the Office of Planning and Zoning shall be posted on or near the property at least ten (10) days prior to the scheduled hearing.

3. Action. The Planning Commission shall decide whether to grant the temporary use with such conditions and safeguards as are appropriate or to deny a temporary use. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Section 12.10 (G).

F. Conditions of approval. Reasonable conditions may be required in connection with the approval of any temporary use permit which are deemed necessary to protect the public health, safety and welfare and the social and economic well being of those who will use the temporary use, residents and landowners immediately adjacent to the proposed use, and the community as a whole. Any condition imposed must be clearly specified in writing on the temporary use permit.

G. Appeal of Planning Commission Decision. The decision rendered by the Planning Commission on a temporary use permit, the approval of the terms and conditions of the temporary use plan and the conditions and safeguards determined to be appropriate by the Planning Commission may be appealed to the Board of County Commissioners. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Office of Planning and Zoning within five working days of the Planning Commission decision. When an appeal is filed, the Planning Director shall present the Planning Commission's decision to the Board of County Commissioners for review. Notice of the meeting shall be given as required by Section 12.10 (E) (1). The Board shall vote to either uphold, overrule or amend the decision of the Planning Commission.

H. Fee. A fee of $250 shall accompany the application for a temporary use permit.
I. Exemptions. The following uses shall not require a temporary use permit:
   1. Estate or real estate sales involving the property or items from the property where the sale is held.
   2. Garage, yard or rummage sales provided:
      a. Sales last not longer than three (3) days.
      b. Sales are held no more than twice yearly.
      c. Sales are conducted on the owner’s property or one of the owner’s property in case of a multi-party sale.
   3. Weddings, purely social parties or similar family events where the function or event involves the owner or lessor of the property and where no monetary consideration or fees for such use of the property or attendance is involved.

Adopted this 10th day of June, 2010.

Jim Schmidt
Chairman, Board of County Commissioners

ATTEST:
Kathy Bonnema, Deputy Auditor

1st Reading: May 25, 2010
Hearing: May 25, 2010
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