

ZO-08-2019

**AN ORDINANCE APPROVING A TEXT AMENDMENT TO THE CITY OF ELMHURST  
ZONING ORDINANCE TO PROVIDE FOR MODIFIED SHIPPING CONTAINERS**

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WHEREAS, the City of Elmhurst (“City”) maintains the City Zoning Ordinance (“Zoning Ordinance”), which is codified in Chapter 22 of the City Code; and

WHEREAS, the City Council deems it reasonable and prudent to periodically review said Zoning Ordinance and make necessary changes; and

WHEREAS, the City is authorized to propose text amendments to the City Zoning Ordinance; and

WHEREAS, the City has made application to amend a certain section of the Zoning Ordinance to (i) amend Section 22.42, entitled “Regulations for specific uses,” (ii) amend Section 22.45, entitled “Accessory buildings and structures,” (iii) add a new Section 22.53, entitled “Modified Shipping Containers,” and (iv) amend Section 22.292, “Definitions,” (collectively, the “Text Amendments”); and

WHEREAS, a public hearing to consider the Text Amendments to said Zoning Ordinance had been conducted by the City Zoning and Planning Commission (“Commission”) on December 18, 2018 and January 15, 2019, pursuant to appropriate and legal notice; and

WHEREAS, during said public hearing, all persons desiring to be heard were afforded an opportunity to give testimony and make comments for the record; and

WHEREAS, the Commission, after considering all evidence and testimony at the public hearing, deliberated its decision on January 15, 2019, and has filed its findings and recommendations with the Development, Planning and Zoning committee (“DPZ”) of the City, dated January 16, 2019, recommending approval of the Text Amendments described herein; and

WHEREAS, the DPZ, after reviewing and considering the Commission findings, minutes and report, met on January 28, 2019, and recommended approval of the Text Amendments described herein; and

WHEREAS, the City Council has considered the findings and recommendations of the DPZ and the Commission.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Elmhurst, DuPage and Cook Counties, Illinois, as follows:

Section 1. The foregoing recital clauses to this Ordinance are adopted as the findings of the Corporate Authority of the City of Elmhurst and are incorporated herein by specific reference.

Section 2. Section 22.42, entitled "Regulations for specific uses," of the City Zoning Ordinance, as amended, is amended as follows (bold and underlined language denotes change):

**22.42 – Regulations for specific uses.**

- (a) Fences and Walls. Fences and walls are permitted in conformance with the provisions of Article XII.
- (b) Signs. Signs are permitted in conformance with the provisions of Article XI.
- (c) Mobile Homes (House Trailers).
  - (1) The use of a mobile home as a permanent or temporary dwelling unit is expressly prohibited, unless authorized by City Council.
  - (2) A mobile home and temporary tents and membrane structures shall not be considered to be permissible as an accessory building. However, a mobile home may be used as a temporary office or shelter incidental to construction on or development of the premises on which the mobile home is located only during the time construction or development is actively underway, provided that such mobile home is removed prior to issuance of the certificate of occupancy. Such temporary use as an office or shelter shall require a temporary occupancy certificate, in accordance with subsection 22.22(b).
- (d) Parking and Storage of Certain Vehicles and Storage of or Location of Storage Containers.
  - (1) For dwelling units in single family districts there shall be provided on the same zoning lot not less than one parking space for licensed passenger vehicles. In addition, for each dwelling unit in a single family district there shall be not more than four licensed passenger vehicles parked on unenclosed parking spaces. At least one of these spaces shall be in the rear of the established building front setback line of the lot. A maximum of two vehicles may be parked in front of the

established building setback line and the remainder must be to the rear of the established building setback line.

- (2) Only one recreational vehicle may be parked or stored behind the established building setback line (the setback of the front wall of the structure) on a residential lot. Only one recreational vehicle may be parked in front of the established building setback line for a period not to exceed seventy-two (72) hours within one-calendar-week for loading and unloading. No recreational vehicle shall be used for living, sleeping or housekeeping purposes on any zoning lot within the city.
  - (3) All parking and storage of vehicles (passenger vehicles and recreational vehicles) in residential districts including associated approaches and driveways; therefore, shall be on a graded surface of concrete, bituminous asphalt or concrete or brick pavers. Such surface shall require a permit issued by the Public Works Department after review and approval by the Engineering Division.
  - (4) No vehicle incapable of being driven or used for the purpose or use for which it was designed shall be stored or parked in an unenclosed space in any residential district.
  - (5) The temporary storage of on-site storage containers is permitted, provided, however, that such on-site storage containers must be located on a graded surface of concrete, bituminous asphalt or brick pavers. Only two on-site storage containers may be located on the property for a period not to exceed one-week in one-calendar-month for purposes of loading and unloading. **Requirements for Modified Shipping Containers as an accessory structure for a food or beverage service station can be found in Section 22.53.**
  - (6) Commercial vehicles may not be parked overnight in any residential district, other than in completely enclosed buildings or garages, except when the vehicle is present for the purpose of providing a required service to the residence where parked, but only for that period of time which is required to provide the service.
  - (7) The storage of semi-trailers is permitted in the I-1 restricted industrial district only. The storage of semi-trailers is prohibited in all other zoning districts at all times. No semi-trailer may be used as an accessory structure in any zoning district except as provided in subsection (c). **Requirements for Modified Shipping Containers as an accessory structure for a food or beverage service station can be found in Section 22.53.**
- (e) Adult Business Uses.

- (1) Declaration of Policy. In the development and execution of the provisions of this Chapter regulating and limiting the location of adult business uses, it is recognized that adult business uses, by virtue of their nature, have serious objectionable operational characteristics which can have a deleterious effect upon areas adjacent to them. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary purpose of these regulations is to control the concentration or location of these uses to the fullest extent allowable by law, in order to eliminate such adverse effects. It is not the intent of this section to deny adults access to sexually oriented materials and services or the providers of such materials and services their market in a manner that is inconsistent with law. Adult business uses shall include adult card, gift or novelty stores, adult book stores and/or video stores, and adult business uses as defined in Article XIII.
- (2) Restrictions on Location. No adult business use shall be maintained:
  - (A) Within one thousand (1,000) feet of the property line of another adult business use;
  - (B) Within five hundred (500) feet of any of the following zoning districts as provided for under this Chapter: RE, R1, R2, R3, and R4; or
  - (C) Within five hundred (500) feet of a church, school, library, park or other publicly operated recreation facility.

The distances provided for in this section shall be measured by following a straight line, without regard to intervening structures, from a point on the property upon which the proposed adult business use is to be located that is nearest to the property or the land use district boundary line from which the proposed use is to be separated.

(f) Automobile Service Stations.

- (1) No automobile service station shall be located within one hundred (100) feet of any building used or constructed for use in whole or in part as a church, hospital, library, community or parish house, theater, or public or private school or kindergarten.
- (2) Any lot occupied by an automobile service station and having its rear yard adjacent to a lot in any residential district shall have a rear yard not less than fifteen (15) feet in depth; no buildings or structures shall be erected or maintained in any such rear yard, and such an automobile station shall be adequately and effectively screened from the residential district.

- (3) Within seventy-five (75) feet of any residential district, major vehicle repair work is prohibited; however, repairs of a minor and routine nature, such as the replacement of light bulbs, fuel pumps, windshield wipers, fan belts, tires and spark plugs, are permitted.

Section 3. Section 22.45, entitled “Accessory buildings and structures,” of the City Zoning Ordinance, as amended, is amended as follows (bold and underlined language denotes change):

**22.45 - Accessory buildings and structures.**

- (a) Time of Construction. No accessory building or structure constructed on any lot prior to the time of construction of the principal building to which it is accessory shall be used for living purposes.
- (b) Drainage and Utility Easements. Accessory buildings, structures or uses shall not be located on or within any utility, including cable television, or drainage easement created by a duly recorded document.
- (c) Height and Area of Accessory Buildings. No detached private garage structure shall exceed seven hundred twenty (720) square feet in area (footprint) or twenty-one (21) feet in height above grade, nor shall the storage space above the main story contain more than fifty (50) percent of the cubic volume of the first floor. Only hip or gable roofs shall be permitted on garage structures provided that for the purpose of architectural compatibility, gambrel roofs shall be permitted if the principal structure has a gambrel roof.
- (d) Location. No detached accessory building shall be located closer to the front lot line than the principal dwelling on the lot.
- (e) On Corner Lots. No accessory building shall be erected in or encroach upon the required side yard of a corner lot which is adjacent to the street, nor upon the required side yard of a reversed corner lot which is adjacent to the street. However, in no event shall an accessory building in a corner side yard extend closer to such corner side yard than the front yard setback distance required for the lots to the rear of such lot.
- (f) Separation Between Buildings. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten (10) feet.

**(g) Reserved for Membrane Structure reference.**

**(h) Additional requirements for modified shipping containers can be found in Section 22.53.**

Section 4. Section 22.53, entitled “Modified Shipping Containers,” of the City Zoning Ordinance, as amended, is amended as follows (bold and underlined language denotes change):

### **22.53 Modified Shipping Containers**

- (a) Modified shipping containers are permitted in the C1, C2, C3, C3A, CBC, CBOC zoning districts as an accessory structure for a food or beverage service station in conjunction with, and on the same zoning lot with a primary use of an existing bar and/or restaurant;**
- (b) Modified shipping containers are not permitted for storage at any time unless such storage is related to furnishing and items associated with the operation of the food or beverage service station;**
- (c) A modified shipping container must be removed from the property if not actively being used as a food or beverage service station between April 15<sup>th</sup> to November 15<sup>th</sup> for a period of more than 30 consecutive days;**
- (d) A building permit and inspection are required. Submittal information shall include manufacture’s details and any available information about the potential storage of harmful materials prior to modification. If the structure has been modified significantly, a structural engineer must provide specifications to the building inspector. If plumbing and electric are proposed, all applicable Building Code requirements must be met.**
- (e) A modified shipping container must be placed on a hard surface, if additional impervious surface is being added all stormwater requirements must be met;**
- (f) A modified shipping container shall be located in rear yard;**
- (g) A modified shipping container shall have a five foot setback to rear and side lot lines;**
- (h) A modified shipping container shall be no greater than 170 square feet;**
- (i) There shall be no more than one modified shipping container per zoning lot;**
- (j)A modified shipping container shall not include signage or be used to display any advertising, excluding menus and other operational messages.**

Section 5. Section 22.292, entitled “Definitions,” of the City Zoning Ordinance, as amended, is amended as follows (bold and underlined language denotes change):

**22.292 Definitions**

**Modified Shipping Container: A shipping container that has been modified or repurposed to be used as a food or beverage serving station.**

Section 6. The corporate authorities of the City intend that this Ordinance will be made part of the City Zoning Ordinance and/or Code and that sections of this Ordinance can be renumbered or relettered and the word “Ordinance” can be changed to “Section,” “Article,” “Chapter” or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors can be corrected with the authorization of the City Attorney, or his or her designee.

Section 7. All parts of the City Code in conflict with the terms or provisions of this Ordinance shall be and the same are hereby amended or repealed to the extent of such conflict, and said City Code and all other existing ordinances shall otherwise remain in full force and effect.

Section 8. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof. The corporate authorities hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

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Section 9. This Ordinance shall be in full force and effect ten (10) days after its passage, approval and publication in the manner provided by law.

ADOPTED this 19<sup>th</sup> day of February, 2019, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTENTION: \_\_\_\_\_

APPROVED by me this 19<sup>th</sup> day of February, 2019.

\_\_\_\_\_  
Steven M. Morley, Mayor of the City of  
Elmhurst, DuPage and Cook Counties, Illinois

ATTESTED and filed in my office,  
this \_\_\_\_ day of February, 2019.

\_\_\_\_\_  
Patty Spencer, Clerk of the City of Elmhurst,  
DuPage and Cook Counties, Illinois

**COUNCIL ACTION SUMMARY**

**Case No. 18P-26**

**SUBJECT:** Ordinance – To approve a City-requested text amendment to the Zoning Ordinance, for the purpose of providing language to provide definitions for and regulate modified shopping containers as accessory structures.

**ORIGINATOR:** City Attorney

**DESCRIPTION OF SUBJECT MATTER:**

Pursuant to the recommendations of the Development, Planning and Zoning Committee, an ordinance approving a text amendment to the Zoning Ordinance for the purpose of providing language to provide definitions for and regulate modified shopping containers as accessory structures.