

ZO-09-2019

**AN ORDINANCE APPROVING A TEXT AMENDMENT TO THE CITY OF ELMHURST
ZONING ORDINANCE TO PROVIDE FOR LOW TUNNELS AND COLD FRAMES**

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 22.52, entitled "Low Tunnels and Cold Frames," 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 September 18, 2018, 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 October 16, 2018 and December 4, 2018, and has filed its findings and recommendations with the Development, Planning and Zoning committee ("DPZ") of the City, dated January 10, 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 on January 29, 2019 issued its report recommending 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, **other than low tunnels and cold frames**, shall not be **permitted** 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) Requirements for low tunnels and cold frames can be found in Section 22.52.**
- (h) Additional requirements for modified shipping containers can be found in Section 22.53.

Section 4. Section 22.52, entitled “Low Tunnels and Cold Frames,” of the City Zoning Ordinance, as amended, is amended as follows (bold and underlined language denotes change):

22.52 Low Tunnels and Cold Frames

- (a) Time of Construction. No low tunnel or cold frame shall be constructed on any lot prior to construction of a principal building. No low tunnels or cold frames may be on a property for longer than six (6) months and may only be up from October 15th through April 15.**
- (b) Drainage and Utility Easements. Low tunnels or cold frames shall not be located on or within any utility, cable television, or drainage easement created by a duly recorded document.**
- (c) Height and Area of Low Tunnels and Cold Frames. No low tunnel or cold frame shall exceed one hundred (100) square feet (footprint) or be higher than three (3) feet in height above grade. If there are multiple low tunnel or cold frame structures on a property, the aggregate square footage may not exceed one hundred (100) square feet.**
- (d) Location. No low tunnel or cold frame shall be located in the front or corner side yard. Low tunnels and cold frames may be located in the required side or rear yard setback, provided that it does not obstruct access to the rear yard of a property.**
- (e) On Corner Lots. No low tunnel or cold frame 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 a low tunnel or cold frame 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. At no time can a low tunnel or cold frame be closer to the corner side yard lot line than the principal structure.**
- (f) Separation Between Buildings. Low tunnel and cold frame structures may be less than ten (10) feet from an accessory or principal building.**
- (g) Permitted obstructions and detached accessory structures, including low tunnels and cold frames, shall not, in the aggregate, occupy more than forty (40) percent of the required rear yard.**
- (h) A low tunnel or cold frame must meet all front and corner side yard structure setback and coverage requirements for the zoning district in which it is located.**

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

22.292 Definitions

Greenhouse: a building, room, or area, usually chiefly of glass, in which the temperature is maintained within a desired range, used for cultivating tender plans or growing plans out of season.

Conservatory: A greenhouse, usually attached to a dwelling, for growing and displaying plans.

Cold Frame: A temporary unheated, transparent roofed structure, not higher than three (3) feet, or greater than one hundred (100) square feet, used to protect plans from excessively cold and wet weather. Construction material typically consists of, but is not limited to, a wooden or concrete frame and a plastic or glass cover. A cold frame may not be used for storage.

Low Tunnel: A temporary structure typically made of, but not limited to, flexible pipe or other material covered with translucent plastic/material, constructed in a “half-round” or “hoop” shape, for the purpose of protecting and cultivating plants. A low tunnel cannot exceed three (3) feet in height nor one hundred (100) square feet in area. The land that is covered by a low tunnel must be an area designated for crop cultivation where crops are grown in the natural soil profile or in raised beds. A low tunnel may not be used for storage of inorganic materials. A low tunnel is considered more temporary than a greenhouse.

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.

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 19th day of February, 2019, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTENTION: _____

APPROVED by me this 19th 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-15

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 low tunnels and cold frames 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 low tunnels and cold frames as accessory structures.