

**88-O-09**

**AN ORDINANCE**

**Amending Portions of the Zoning Ordinance Related to the  
MXE Mixed Use Employment District**

**WHEREAS**, on July 29, 2009, and August 12, 2009 the Plan Commission held public hearings, pursuant to proper notice, regarding case number 09-PLND-0056 (C1) to consider amendments to the text of Title 6 of the Evanston City Code of 1979, as amended (the "Zoning Ordinance"), related to the MXE Mixed Use Employment District; and

**WHEREAS**, the Plan Commission received testimony and made *verbatim* transcripts and findings pursuant to Section 6-3-4-5 of the Zoning Ordinance that the proposed amendments met the standards for text amendments, and recommended City Council approval thereof; and

**WHEREAS**, at its meeting of September 14, 2009, the Planning and Development Committee of the City Council considered and adopted the findings and recommendation of the Plan Commission, in case number 09-PLND-0056 (C1) and recommended City Council approval thereof; and

**WHEREAS**, at its meeting of September 29, 2009, the City Council considered and adopted the records and recommendations of the Plan Commission and the Planning and Development Committee,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF  
THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** That the foregoing recitals are found as fact and incorporated herein by reference.

**SECTION 2:** That Subsection 6-4-4-4 of the Zoning Ordinance is hereby amended to read as follows:

**6-4-4-4: RESIDENTIAL CARE HOMES (CATEGORY I – FOUR TO EIGHT RESIDENTS) AUTHORIZED AS PERMITTED USES IN CERTAIN RESIDENTIAL AND NONRESIDENTIAL DISTRICTS:**

Residential care homes (Category I) shall be permitted, as of right, upon the issuance of a license pursuant to Section 6-4-4-2, in the R1, R2, R3, R4, R5, R6, B1, B2, B3, C1a, D1, D2, D3, D4, MU, MXE, T1 and T2; provided, however, that Residential Care Homes (Category I) established in the B1, B2, B3, C1a, D2, D3, and D4, shall be located above the ground floor and further provided that no residential care homes (Category I) shall be permitted within nine hundred feet (900') of another residential care home or transitional treatment facility.

**SECTION 3:** That Subsection 6-4-4-6 of the Zoning Ordinance is hereby amended to read as follows:

**6-4-4-6: RESIDENTIAL CARE HOMES (CATEGORY II – NINE TO FIFTEEN RESIDENTS) AUTHORIZED AS PERMITTED USES IN CERTAIN RESIDENTIAL AND NONRESIDENTIAL DISTRICTS:**

Residential care homes (Category II) shall be permitted, as of right, upon the issuance of a license pursuant to Section 6-4-4-2, in the R4, R5, R6, D1, MU, and MXE; provided, however, that no residential care homes (Category II) shall be permitted within nine hundred feet (900') of another residential care home or transitional treatment facility.

**SECTION 4:** That Subsection 6-4-5-3 of the Zoning Ordinance is hereby amended to read as follows:

**6-4-5-3: TRANSITIONAL TREATMENT FACILITIES (CATEGORY I – FOUR TO EIGHT RESIDENTS) AUTHORIZED AS SPECIAL USES IN CERTAIN RESIDENTIAL DISTRICTS:**

A transitional treatment facility (Category I) may be permitted as a special use pursuant to the provisions set forth in Section 6-3-5, "Special Uses," and upon issuance of a license pursuant to Section 6-4-5-2, in the R1, R2, R3, R4, R5, R6, MU, MUE, MXE, T1, and T2 Districts; provided, however, that no transitional treatment facility (Category I)

shall be permitted within nine hundred feet (900') of another transitional treatment facility or a residential care home.

**SECTION 5:** That Subsection 6-4-5-4 of the Zoning Ordinance is hereby amended to read as follows:

**6-4-5-4: TRANSITIONAL TREATMENT FACILITIES (CATEGORY II – NINE TO FIFTEEN RESIDENTS) AUTHORIZED AS SPECIAL USES IN CERTAIN RESIDENTIAL DISTRICTS:**

A transitional treatment facility (Category II) may be permitted as a special use pursuant to the provisions set forth in Section 6-3-5, "Special Uses," and upon issuance of a license pursuant to Section 6-4-5-2, in the R4, R5, R6, MU, MUE, MXE, T1, and T2 Districts; provided, however, that no transitional treatment facility (Category II) shall be permitted within nine hundred feet (900') of another transitional treatment facility or a residential care home.

**SECTION 6:** That Subsection 6-4-6-7 (F) of the Zoning Ordinance is hereby amended to read as follows:

**(F) Special Regulations For Fences Accessory To All Uses Within The Residential, Business, Commercial, Transitional Campus, University, Downtown, And MU Transitional Manufacturing Districts And Residential And Mixed Uses Within The MUE Transitional Manufacturing and MXE Mixed Use Employment Districts:** The following standards shall regulate the erection, construction, replacement, or installation of a fence accessory to all uses within the R1, R2, R3, R4, R5, R6, B1, B1a, B2, B3, C1, C1a, C2, T1, T2, U1, U2, U3, RP, O1, OS, D1, D2, D3, D4, MU districts and residential and mixed uses within the MUE and MXE districts:

**1. Permitted Fence Materials:** The permitted materials for fences accessory to the uses listed in this subsection (F) are:

- (a)** Wood;
- (b)** Wood polymer lumber, provided said material consists of at least fifty percent (50%) postconsumer and/or postindustrial wood fiber;
- (c)** Wrought iron;
- (d)** Masonry or stucco wall;
- (e)** Chainlink, provided said material shall only be permitted within the area between a street lot line and three feet (3') behind any street-facing facade of the principal building where the required front and/or street side yard abuts a type 1 street,

and the city council has specifically listed chainlink as a permitted fence material along the said type 1 street; and

(f) PVC, provided:

(1) Any post or horizontal component does not have a circular cross-section;

(2) Any post or horizontal component has a wall thickness of at least 0.120 inch;

(3) All fence material is solid wall extruded, ensuring any coloring is consistent throughout the fence material;

(4) All fence material is recyclable at the conclusion of its useful life; and

(5) Said fence material meets the material properties and physical properties standards as established in standard specification F964-94 of the 1996 annual book of ASTM standards (*American Society for Testing and Materials*).

2. Permitted Fence Location: The permitted locations for fences accessory to the uses listed in this subsection (F) are:

(a) Required front yard, provided:

(1) The required front yard is adjacent to a type 1 street; and

(2) Wood, wood polymer lumber, wrought iron, or PVC fences shall have a maximum fence opacity of seventy percent (70%);

(b) Required street side yard, provided:

(1) The required street side yard is adjacent to a type 1 street; and

(2) Wood, wood polymer lumber, wrought iron, or PVC fences shall have a maximum fence opacity of seventy percent (70%);

(c) Required interior side yard, provided any fence located within a required interior side yard shall be set back from any front facing facade of the principal building by three feet (3') unless said fence is connected to a portion of fence permissibly located within the required front yard or required street side yard;

(d) Required rear yard; and

(e) Building envelope, provided any fence located within the building envelope shall be set back from any front-facing facade of the principal building by three feet (3'), unless said fence is connected to a portion of fence permissibly located within the required front yard or required street side yard.

3. Permitted Fence Height: Fences accessory to the uses listed in this subsection (F) shall not exceed six feet (6') in height, except:

(a) Fences shall not exceed four feet (4') in height when located within the area between a front lot line and three feet (3') behind any front-facing facade of the principal building or when located within a required street side yard, unless said fence is located as described in subsection (F)3(b) of this Section 6-4-6-7, permitting the fence to not exceed eight feet (8') in height;

(b) Fences shall not exceed eight feet (8') in height when located within a required interior side yard or required rear yard and when the lot line associated with said required yard or an abutting alley is a boundary between a residential use and a nonresidential use;

(c) Temporary construction fences shall not exceed eight feet (8') in height, provided the applicant conforms with Section 6-4-8-4 of this Chapter; and

(d) Open mesh-type fences accessory to parks, recreational areas, and school sites shall have no height restrictions.

**SECTION 7:** That Subsection 6-4-6-7(G) of the Zoning Ordinance is hereby amended to read as follows:

**(G) Special Regulations For Fences Accessory To Nonresidential Uses Within The MUE Transitional Manufacturing and MXE Mixed Use Employment Districts And All Uses Within The Industrial Districts:** The following standards shall regulate the erection, construction, replacement, or installation of a fence accessory to a nonresidential use in the MUE or MXE District and any use within the I1, I2, and I3 Districts;

1. Permitted Fence Material: The permitted materials for fences accessory to the uses listed in this subsection (G) are:

(a) Wood;

(b) Wood-polymer lumber, provided said material consists of at least fifty percent (50%) post-consumer and/or post-industrial wood fiber;

(c) Wrought iron;

(d) Masonry or stucco wall;

(e) Chainlink, provided said material is located within the required interior side yard or required rear yard;

(f) PVC, provided:

(1) Any post or horizontal component does not have a circular cross-section;

(2) Any post or horizontal component has a wall thickness of at least 0.120 inch;

(3) All fence material is solid-wall extruded, ensuring any coloring is consistent throughout the fence material;

(4) All fence material is recyclable at the conclusion of its useful life; and

(5) Said fence material meets the material properties and physical properties standards as established in Standard Specification F964-94 of the 1996 Annual Book of ASTM Standards (*American Society for Testing and Materials*);

(g) Barbed wire, provided:

(1) Said fence material is located within the required interior side yard or required rear yard;

(2) Said fence material is located above the height of six feet (6'); and

(3) Said fence material conforms with Section 7-5-2 of this Code; and

(h) Unfinished concrete or cinder block walls.

2. Permitted Fence Locations: The permitted locations for fences accessory to the uses listed in this subsection (G) are:

(a) Required front yard;

(b) Required street side yard;

(c) Required interior side yard;

(d) Required rear yard; and

## (e) Building envelope.

3. Permitted Fence Height: Fences accessory to the uses listed in this Subsection (G) shall not exceed eight feet (8') in height, except open mesh-type fences accessory to parks, recreational areas, and school sites shall have no height restrictions.

**SECTION 7:** That Subsection 6-8-1-11 of the Zoning Ordinance is hereby amended to read as follows:

**6-8-1-11: SPECIAL CONDITIONS FOR OFFICE USES:**

In residential districts wherein it is listed as a special use, office use may occur only in the following instances and subject to the following conditions:

(A) The subject property shall be adjacent to any B, C, D, RP, O1, MU, MUE, MXE, or I zoning district.

(B) The subject property shall be improved with, and the office(s) shall be located within, a dwelling originally constructed as a single-family detached or two-family dwelling.

(C) The Zoning Board of Appeals shall consider, make findings of fact regarding, and, if necessary, attach specific conditions to address, the following characteristics of the proposed use:

1. The number of employees;
2. The amount of parking;
3. The amount of traffic;
4. The number of clients on the subject property at any one time and per day;
5. The hours of operation;
6. The hours during which pickup and delivery are permitted;
7. The manner in which utilities and other services are provided to the area;
8. Sources of noise, vibrations, smoke, dust, odor, heat, glare, or electrical interference with radio or television transmission to the area;

9. Exterior alterations to the residential appearance of the subject property, including, but not limited to, creating a separate or exclusive office entrance, signage or other advertising or display to identify the office, fencing, and outdoor storage; and

10. The taxable value of buildings and land on, and within the vicinity of, the subject property.

(D) If the City Council grants the special use, the property owner, or his or her agent, shall provide the Cook County Assessor's office with appropriate documentation of the nonresidential use of the subject property, including, but not limited to, the amount of floor area devoted to nonresidential use. The property owner, or his or her agent, shall cause to be placed on file in the office of the Zoning Division a copy of the above described document. Said document and copy shall be received by the Cook County Assessor's office and Zoning Division before the City may issue a final certificate of occupancy for the nonresidential use.

**SECTION 8:** That Subsection 6-13-1-8 of the Zoning Ordinance is hereby amended to read as follows:

**6-13-1-8: OUTDOOR STORAGE AS AN ACCESSORY USE:**

Outdoor storage shall be permitted in the transitional manufacturing districts in interior side and rear yards of lots abutting a nonresidential use. Such storage areas shall be enclosed on all sides by an eight foot (8') solid fence and shall be subject to site plan review. Outdoor storage areas shall, in no case, exceed fifteen percent (15%) of the total area of the zoning lot in the MU District and twenty five percent (25%) of the total area of the zoning lot in the MUE and MXE Districts.

**SECTION 9:** That Subsection 6-16-1-4 of the Zoning Ordinance is hereby amended to read as follows:

**6-16-1-4: EXEMPTION OF REQUIRED PARKING SPACES:**

Except as limited in section 6-16-1-3 of this chapter, the first two thousand (2,000) square feet for any building on a nonresidential lot in the business B1, B1a, B2, B3, C1, C1a, C2, O1, MU, MUE and MXE districts, and the first three thousand (3,000) square feet for any building on a nonresidential lot in the D1, D2, D3, and D4 districts shall be exempt from the calculation for required parking spaces. The exemption shall be applied to the least generating use on the lot. Only one exemption shall be allowed per zoning lot.

**SECTION 10:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.



**SECTION 11:** That if any provision of this Ordinance 88-O-09 or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

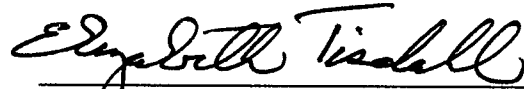
**SECTION 12:** That this Ordinance 88-O-09 shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

Introduced: September 14, 2009

Approved:

Adopted: September 29, 2009


October 1, 2009



Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

  
Rodney Greene, City Clerk

Elke B. Tober-Purze, Interim  
First Assistant Corporation Counsel

