

9/10/2012

8/20/2012

94-O-12

AN ORDINANCE

**Amending the Special Use for a Convenience Store
At 555 Howard Street in the B3 Business District**

WHEREAS, on April 12, 2005, the City Council enacted Ordinance 40-O-05, which, pursuant to Subsection 6-9-4-3 of the Evanston City Code, 1979, as amended (the "City Code"), granted a Special Use Permit for a Convenience Store at 555 Howard Street in the B3 Business District (the "Subject Property"); and

WHEREAS, on June 28, 2010, the City Council enacted Ordinance 43-O-10, attached hereto as Exhibit 1 and incorporated herein by reference, amended said Special Use Permit; and

WHEREAS, ZIF Enterprises, Inc. (the "Applicant"), current owner of the Subject Property, has requested that the City Council amend the restrictions on the hours of operations of said Special Use, imposed, pursuant to City Code Subsection 6-3-5-12, by Section 3-C of Ordinance 40-O-05, and amended by Section 2 of Ordinance 43-O-10; and

WHEREAS, at its meeting of September 10, 2012, the Planning and Development ("P&D") Committee of the City Council considered the Applicant's request and recommended that the City Council approve certain amendments to the permitted hours of operation; and

WHEREAS, at its meeting of September 10, 2012, the City Council considered and adopted the records and recommendations of the P&D Committee,

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

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.

SECTION 2: The City Council hereby amends the condition set forth in Section 3-C of Ordinance 40-O-05, as amended by Section 2 of Ordinance 43-O-10, to read as follows:

The special use approved hereby: a) shall not operate prior to 6:00 a.m. nor later than 8:00 p.m. any day; and b) shall sell only prepackaged food and/or beverages, all for consumption off the subject property. Foods and beverages which either require cooking or heating, or which are customarily cooked or heated prior to consumption, shall not be sold.

SECTION 3: No sooner than six (6) months after the effective date of this ordinance, the P&D Committee may evaluate the effects of this ordinance and consider additional amendments to the hours of operation as amended herein.

SECTION 4: Except as otherwise provided for herein, all applicable regulations of Ordinances 40-O-05 and 43-O-10 and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the provisions of any of said documents conflict with the terms of this ordinance, this ordinance shall govern and control.

SECTION 5: The Applicant, at its cost, shall record a certified copy of this ordinance, including any Exhibits attached hereto, with the Cook County Recorder of Deeds before it may operate the Convenience Store on the Subject Property between 6:00 a.m. and 7:00 a.m. and/or between 7:00 p.m. and 8:00 p.m. on any day.

SECTION 6: Violation of any of the terms of this ordinance, Ordinance 40-O-05, and/or Ordinance 43-O-10 shall constitute grounds for penalties pursuant to City Code Subsection 6-3-10-5, and/or revocation, pursuant to City Code Subsection 6-3-10-6, of the Special Use for a Convenience Store on the Subject Property.

SECTION 7: When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant's agents, assigns, and successors in interest."

SECTION 8: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 9: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 10: If any provision of this ordinance or application thereof to any person or circumstance is ruled 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 11: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: September 10, 2012

Approved:

Adopted: September 10, 2012

September 12, 2012

Elizabeth B Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene
Rodney Greene, City Clerk

W. Grant Farrar
W. Grant Farrar, Corporation Counsel

EXHIBIT 1

Ordinance 43-O-10

Effective Date: July 16, 2010

5/26/2010

43-O-10

AN ORDINANCE

**Amending the Special Use for a Convenience Store
At 555 Howard Street in the B3 Business District**

WHEREAS, on April 12, 2005, the City Council enacted Ordinance 40-O-05, attached hereto as Exhibit A and made a part hereof, which, pursuant to Subsection 6-9-4-3 of the Evanston City Code, 1979, as amended (the "City Code"), granted a Special Use for a Convenience Store at 555 Howard Street in the B3 Business District (the "Subject Property"); and

WHEREAS, ZIF Enterprises, Inc. (the "Applicant"), current owner of the Subject Property, has requested that the City Council eliminate the restrictions on the hours of operations of said Special Use, imposed by Section 3-C of Ordinance 40-O-05, pursuant to City Code Subsection 6-3-5-12; and

WHEREAS, at its meetings of May 24, 2010 and June 14, 2010, the Planning and Development Committee of the City Council considered the Applicant's request and recommended that the City Council approve certain amendments to the permitted hours of operation; and

WHEREAS, at its meetings of May 24, 2010, June 14, 2010, and, June 28, 2010, the City Council considered and adopted the records and recommendations of 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 the City Council hereby amends the condition set forth in Section 3-C of Ordinance 40-O-05 to read as follows:

The special use approved hereby: a) shall not operate prior to 7:00 a.m. nor later than 7:00 p.m. any day; and b) shall sell only prepackaged food and/or beverages, all for consumption off the subject property. Foods and beverages which either require cooking or heating, or which are customarily cooked or heated prior to consumption, shall not be sold.

SECTION 3: That, no later than ninety (90) days after the effective date of this ordinance, City staff shall issue a report to the Planning and Development Committee on the effects of this ordinance so that the Committee may re-evaluate the hours of operation as amended herein.

SECTION 4: That the Applicant, at its cost, shall record a certified copy of this ordinance, including all Exhibits attached hereto, with the Cook County Recorder of Deeds before it may operate the Convenience Store on the Subject Property between 4:00 and 7:00 p.m. on any Saturday, and/or between 7:00 a.m. and 7:00 p.m. on any Sunday.

SECTION 5: That, except as otherwise provided for herein, all applicable regulations of Ordinance 40-O-05 and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and provisions of any of said documents conflict with the terms of this ordinance, this ordinance shall govern and control.

SECTION 6: That violation of any of the terms of this ordinance and/or Ordinance 40-O-05 shall constitute grounds for revocation, pursuant to Subsection 6-3-10-6 of the City Code, of the Special Use for a Convenience Store on the Subject Property.

SECTION 7: That, when necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant's agents, assigns, and successors in interest."

SECTION 8: That if any provision of this ordinance or application thereof to any person or circumstance is ruled 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 9: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 10: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: 6/14, 2010 Approved: _____
Adopted: 6/28, 2010 7/1, 2010

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:
Rodney Greene
Rodney Greene, City Clerk

Approved as to form:
W. Grant Farrar
W. Grant Farrar, City Attorney

EXHIBIT A

Ordinance 40-O-05

4/12/2005
3/7/2005

40-0-05

AN ORDINANCE

**Granting a Special Use for a
Convenience Store at 555 Howard Street
in a B3 Business District**

WHEREAS, the Zoning Board Appeals ("ZBA") met on February 15, 2005, pursuant to proper notice, in case number ZBA 05-07-SU(R) to consider an application for a special use to operate a Convenience Store pursuant to Section 6-9-4-3 of the Zoning Ordinance filed by John E. Peterson, Jr., owner of the property at 555 Howard Street ("subject property") in a B3 Business District; and

WHEREAS, the ZBA, after hearing testimony and receiving other evidence, made a verbatim record and written findings that the application for the Convenience Store met the standards for special uses in Section 6-3-5 of the Zoning Ordinance and recommended City Council approval thereof; and

WHEREAS, the Planning and Development Committee of the City Council considered and adopted the ZBA's record, findings, and recommendation at its March 14, 2005 meeting and recommended City Council approval thereof; and

WHEREAS, the City Council considered and adopted the respective records, findings and recommendations of the ZBA and the Planning and Development Committee, with modifications, at its March 14, 2005 and March 28, 2005 meetings.

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

SECTION 1: The foregoing recitals are found as fact and made a part hereof.

SECTION 2: That the City Council hereby adopts the respective records, findings, and recommendations of the ZBA and the Planning and Development Committee, as modified, and hereby approves the special use applied for in case number ZBA 05-07-SU(R) on property legally described in Exhibit A, attached hereto and made a part hereof.

SECTION 3: That, pursuant to Section 6-3-5-12 of the Zoning Ordinance, which provides that the City Council may impose conditions on the grant of a special use, the following conditions are hereby imposed, and when necessary to effectuate said conditions and limitations, "applicant" shall be read as "owner" or "operator" or "applicant's successors in interest".

A. Development and use of the subject property shall be in substantial compliance with all applicable legislation, with the testimony and representations of the applicant to the ZBA, the Planning and Development Committee, and the City Council, and with the approved plans and documents on file in this case. The development and use shall further be in substantial compliance with the interior site plan submitted by the applicant and attached hereto as Exhibit B, and shall limit the floor area occupied by shelves, racks, or other display elements for non-automotive products offered for retail sales to no more than sixty percent (60%) of the twenty-four foot by eighteen foot (24' x 18') area therein depicted.

B. 1) The applicant shall adhere to a litter collection plan requiring the policing of an area located within a two hundred fifty foot (250') radius of the building in which the use is located. This area shall be policed once every three hours during the hours the use is in operation and shall be kept free of all litter, including, but not limited to, food, beverages, napkins, straws, containers, bags, utensils, plates, cups, bottles, cans, and all other litter of any type emanating from any source. This Ordinance shall prevail over any inconsistent or contrary provisions in the litter collection plan.

2) For the purpose of this Ordinance, "litter" shall include, but is not limited to, putrescible animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food; other putrescible waste, including animal waste, dead animals, yard clippings and leaves; nonputrescible solid waste, including rubbish,

ashes, street cleanings, abandoned automobiles, solid business, commercial, and industrial wastes, paper, wrappings, cigarettes, cardboard, tin cans, glass, bedding, crockery and similar materials; and all other waste materials which, if thrown or deposited as herein prohibited, may create a danger to public health, safety, or welfare.

C. As represented by the Applicant to the ZBA, the special use approved hereby: a) shall not operate prior to 7:00 a.m. nor later than 7:00 p.m. on weekdays, shall not operate prior to 7:00 a.m. nor later than 4:00 p.m. on Saturdays, and shall not operate on Sundays; and b) shall sell only prepackaged food and/or beverages, all for consumption off the subject property. Foods and beverages which either require cooking or heating, or which are customarily cooked or heated prior to consumption, shall not be sold.

D. The use approved hereby shall be allowed only as an accessory use to an automobile service station as the principal use devoting no less than fifty percent (50%) of the building on the subject property for automotive service bays.

SECTION 4: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: March 14, 2005

Adopted: April 12, 2005

Approved: April 14, 2005

Lorraine H. Morton
Lorraine H. Morton, Mayor

Attest:

Mary P. Morris
Mary P. Morris, City Clerk

Approved as to form:
[Signature]
Corporation Counsel

40-0-05

EXHIBIT A

LOTS 3, 4, 5, 6 AND 7 IN BLOCK 3 OF NILES HOWARD TERMINAL ADDITION, A SUBDIVISION OF THE SOUTH 6.25 CHAINS (412.5 FEET) OF THAT PART OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE RIGHT-OF-WAY OF THE CHICAGO NORTHWESTERN RAILROAD, IN COOK COUNTY, ILLINOIS

(PERMANENT INDEX NOS. 11-30-211-008-0000, 11-30-009-0000, 11-30-211-010-0000, 11-30-211-011-0000, AND 11-30-211-012-0000)

Exhibit B

