

68-O-23

AN ORDINANCE

**Amending Title 6 of the City Code with an Omnibus Ordinance (1 of 2)
to provide Clarifications and Updates the Zoning Ordinance**

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt legislation and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section 6(a) of the Illinois Constitution of 1970, states that the “powers and functions of home rule units shall be construed liberally,” was written “with the intention that home rule unit be given the broadest powers possible” (*Scadron v. City of Des Plaines*, 153 Ill.2d 164, 174-75 (1992)); and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and,

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) grants each municipality the power to establish zoning regulations; and,

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended (“the Zoning Ordinance”); and

WHEREAS, the Evanston Land Use Commission (“LUC”), in its capacity as a recommending body to the Evanston City Council on policy and amendments to

the Zoning Ordinance as the relate to the present and future development or redevelopment of land as identified in the Comprehensive General Plan, pursuant to Section 2-19-4 of the Evanston City Code of 2012, finds the below changes to the Zoning Ordinance necessary to further the goals and objectives of the Comprehensive Plan; and

WHEREAS, the LUC has adopted Rules of Procedure in which they may request Community Development Department staff to assist in carrying out their duties as outlined in Section 2-19-4 of the Evanston City Code of 2012 and staff prepared draft Code Amendments for the consideration of the LUC to this effect; and

WHEREAS, following due and proper publication of notice in Pioneer North not less than fifteen (15) nor more than thirty (30) days prior thereto, the Evanston Land Use Commission (“LUC”) conducted a public hearing on May 24, 2023 regarding case no. 23PLND-0006 to consider the proposed Code Amendments at which evidence, testimony, and exhibits in support of the Code Amendments were presented, and at which interested parties were provided the opportunity to provide public comment; and

WHEREAS, after having considered the evidence presented, including the exhibits and materials submitted, and public testimony provided, the LUC found that:

- A. The proposed Code Amendments are consistent with the goals, objectives, and policies of the Comprehensive General Plan, as adopted and amended from time to time by the City Council.
- B. The proposed Code Amendments are compatible with the overall character of existing development in the neighborhoods to which the

amendments will apply. The proposed Code Amendments address various issues and clarifications that have arisen over time. These changes are not expected to significantly alter the character of neighborhoods.

- C. The proposed Code Amendments will not have an adverse effect on the value of properties within the City. The proposed amendments aim to improve conditions on properties by addressing issues such as signage regulations and consistent language and expectations.
- D. The proposed Code Amendments will not negatively impact the provision of public facilities and services.

WHEREAS, after making its findings as set forth herein, the LUC recommended approval of the proposed Code Amendments pursuant to Sections 6-3-4-5 and 6-3-4-6 of the Zoning Ordinance by a vote of six (6) “yes” votes and zero (0) “no” votes with three (3) absent to the Planning and Development Committee (“P & D Committee”) of the City Council approval thereof; and

WHEREAS, on July 10, 2023, the P & D Committee held a meeting in compliance with the Illinois Open Meetings Act, received input from the public, carefully considered the findings and recommendation for approval with modifications by the LUC in case no. 23PLND-0006 as outlined herein, concurred with said findings, and recommended approval of the proposed Code Amendments to the City Council; and

WHEREAS, at its meetings on July 10, 2023, and July 24, 2023, held in compliance with the Open Meetings Act, the City Council considered the aforementioned findings of fact related to the proposed Code Amendments, as

recommended by the LUC and the P & D Committee and amended and outlined herein;
and

WHEREAS, the City Council finds that it is in the best interest of the City of Evanston to codify these changes.

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

SECTION 1: The City Council has considered the findings and recommendations of the LUC and the P & D Committee with regard to the proposed Code Amendments as outlined herein and the foregoing recitals are hereby found and adopted as fact with regard to the proposed Code Amendments.

SECTION 2: Section 6-19-3 “Definitions” of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-19-3. - DEFINITIONS.

(C) Definitions. The following words and terms, wherever they occur in this Chapter, shall be defined as follows:

<i><u>UNIFIED COMPREHENSIVE SIGN PLAN.</u></i>	A <u>plan providing specific sign type, number, placement, size, height, and design requirements for development located on premises for which unique design considerations for signs may considered and applicable. set of criteria and a format approved by the Land Use Commission for all signs to be located on the premises of a Unified Business Center.</u>
<i><u>DIRECTORY SIGN.</u></i>	A sign <u>intended for viewing while within a premises, either by pedestrians or those driving vehicles, and is not intended to be legible from a public right-of-way which indicates the name and/or address of the occupants of a premises accommodating multiple occupants.</u>
<i><u>UNIFIED BUSINESS CENTER.</u></i>	A <u>premises containing four (4) or more individual nonresidential occupancies sharing a common building.</u>

SECTION 3: Section 6-19-5, “Exempt Signs” of the Evanston City Code of

2012, as amended, is hereby amended as follows:

6-19-5. - EXEMPT SIGNS.

(L) *Directory Interior Signs.* Signs which are located on the interior of a premises and which are exclusively oriented to persons within that premises to guide pedestrians to individual businesses on the site. Such signs shall be limited to a maximum of one (1) square foot per occupant listed on the sign.

SECTION 4: Section 6-19-9 “Permitted Sign Types” of the Evanston City

Code of 2012, as amended, is hereby amended as follows:

6-19-9. PERMITTED SIGN TYPES.

~~(J) *Unified Business Center Sign Plans.*~~

~~1. *Unified Comprehensive Sign Plan Applicability.*~~

- ~~a. No permit shall be issued for a permanent sign to be located on a premises for which unified business center until a Unified Sign Plan (fka. “comprehensive sign plan” or “sign district plan”) has been approved for the premises center unless there as described in Section 6-19-14 of this Chapter, and said sign complies with the provisions thereof.~~
- ~~b. A Unified Sign Plan may be requested for premises which have one or more of the following attributes:

 - ~~i. Frontage along two or more public rights away (excluding alleys).~~
 - ~~ii. 200 feet or more of frontage.~~
 - ~~iii. Three (3) or more tenant spaces within one building on a premises.~~
 - ~~iv. Two or more buildings on a premises.~~
 - ~~v. Consist of 75,000 square feet or more of land area.~~~~

~~2. *Center Identification Primary Sign.* In addition to the signs permitted for each separate occupant, A Unified Sign Plan may be requested there may include one (1) freestanding identification sign for the premises if the premises otherwise meets the requirements to allow a freestanding sign or signs stated in this Chapter itself. Primary signs shall only be of the freestanding sign type.~~

- ~~a. Said identification sign may only include the name, address, or graphic logo of the center.~~
- ~~b. The permitted sign surface area of said primary identification sign shall not exceed an area equivalent to one tenth of one percent (0.1%) of the lot area of the premises nor a maximum of one hundred twenty (120) square feet. This sign shall be in lieu of the freestanding sign or signs allowed per property in this Chapter.~~

- ~~c. Unless specifically exempted by the provisions of the approved Unified Sign Plan comprehensive sign plan for the unified business center, said primary identification sign shall conform to all other of the regulations (except those governing number and area) for individual permanent signs allowed by types found elsewhere in this Chapter.~~
- ~~3. *Directory Signs.* In addition to the permitted identification sign for the center, a unified business center may have common directory signs to guide pedestrians to individual businesses on the site. Such signs shall be limited to a maximum of one (1) square foot per occupant listed on the sign.~~

(JK) *Vehicular Dealership Signs.*

1. *Number.*

- a. Each dealership may have one (1) freestanding sign. Each parcel may have no more than two (2) freestanding signs. In the event a business entity consists of multiple dealerships, no more than two (2) dealership signs may appear on one (1) freestanding pole.
- b. One (1) wall sign per business entity.

2. *Area.*

- a. The maximum gross surface area for freestanding signs is one hundred forty (140) square feet per sign face.
- b. For wall signs, the maximum gross surface area must not exceed twenty-five percent (25%) of the square foot area of the facade to which the sign is attached.

3. *Location.*

a. *Freestanding Signs.*

- i. Freestanding signs are permitted at the lot line.
- ii. Freestanding signs shall be separated by a minimum of fifty feet (50').

b. *Wall Signs.*

- i. Wall signs are not to extend above the roofline of the wall upon which the sign is attached.
- ii. *Height.* Freestanding signs erected after the effective date hereof shall not exceed twenty-five feet (25'). Freestanding signs in existence prior to that time shall not exceed their preenactment height.

c. *Uniform Sign Package.* When a dealership changes ownership or acquires a new vehicle line, no new sign(s) may be erected and no modifications to existing signs may be made without the owner having filed a sign package with the City and receiving the City's approval therefor.

d. *Flags.*

- i. Flags may be used on used car lots only, provided that:
1. They are of uniform color; and

2. Worn flags are replaced so as to maintain a neat appearance.
4. *Conflict With Other Provisions of This Chapter.* In the event of a conflict between this Subsection (~~JK~~) and the other provisions of this Chapter, this Subsection shall prevail.

(~~KL~~) *Temporary Real Estate Signs.* For temporary, nonilluminated real estate signs for multi-family, residential projects, the permitted regulations are as follows:

- 5 to 36 dwelling units = 32 square foot maximum, 10'0" maximum sign height
- All temporary real estate signs shall be limited to a maximum of twelve (12) months total duration, or until all the units are sold.

(~~LM~~) *Blade Signs.*

1. *Position.* Blade signs shall be project from and be perpendicular to a building's facade, and the top of any such sign shall not be more than fifteen (15) feet six (6) inches above grade at the building.
2. *Area.* Blade signs shall not measure more than two (2) feet wide nor more than three (3) feet high.
3. *Clearance.* The bottom of any blade sign shall be at least seven (7) feet six (6) inches above grade at the building.
4. *Illumination.* Blade signs shall not be illuminated.
5. *Number.* There shall be no more than one (1) blade sign per business.

SECTION 5: Section 6-19-14 "Unified Business Center" of the Evanston

City Code of 2012, as amended, is hereby amended as follows:

6-19-14. - Unified Sign Plans ~~Business Center.~~

~~No permit shall be issued for a sign to be located in a unified business center until a comprehensive sign plan has been approved for the center and the sign complies with the provisions hereof.~~

~~(A) Comprehensive Sign Plan Approval. Approval of a comprehensive sign plan for a unified business center shall be at the discretion of the Land Use Commission in accordance with the criteria noted herein.~~

~~(B) Site Plan Review. No permit shall be issued for a sign, and no final approval shall be granted for a comprehensive sign plan prior to review and approval by the Land Use Commission of all comprehensive sign plans.~~

~~(C) Application Content. In addition to the requirements listed for permit applications in Subsection 6-19-10(B) of this Chapter, the application for a comprehensive sign plan for a unified business center shall include a format for~~

~~all signs to be used in the center, including their maximum size, color, location, illumination details, lettering type, mounting details, and (if any) landscaping details.~~

A. Applicability.

1. No permit shall be issued for a permanent sign to be located on a premises for which a Unified Sign Plan (fka "comprehensive sign plan" or "sign district plan") has been approved for the premises unless the sign complies with the provisions thereof.
2. A Unified Sign Plan may be requested for premises which have one or more of the following attributes:
 - a. Frontage along two or more public rights away (excluding alleys).
 - b. 200 feet or more of frontage.
 - c. Three (3) or more tenant spaces within one building on a premises.
 - d. Two or more buildings on a premises.
 - e. Consist of 75,000 square feet or more of land area.
 - f. A complete application for a planned development has either been filed or has been approved for more than half or all of the premises.
3. A Unified Sign Plan may also be requested for premises which have unique property or building characteristics that may result in signage that does not otherwise meet the requirements of this Chapter. A Unified Sign Plan shall not be requested for signage for premises that do not meet at least possess at least one of the above attributes. A Unified Sign Plan is not intended to be requested in lieu of a Minor or Major Variation.
4. Primary Sign. A Unified Sign Plan may include one (1) freestanding sign for the premises if the premises otherwise meets the requirements to allow a freestanding sign. Primary signs shall only be of the freestanding sign type.
 - a. The permitted sign surface area of said primary sign shall not exceed an area equivalent to one-tenth of one percent (0.1%) of the lot area of the premises nor a maximum of one hundred twenty (120) square feet.
 - b. This primary sign shall be in lieu of the freestanding sign. If the property is allowed more than one (1) freestanding sign, the primary sign shall be in lieu of one of the allowed freestanding signs.
 - c. Unless specifically exempted by the provisions of the approved Unified Sign Plan, said primary sign shall conform to all other regulations (except those governing number) for individual permanent signs allowed by this Chapter.

- B. Application Content.** In addition to the requirements listed for permit applications in Subsection 6-19-10(B) of this Chapter, the application for a unified sign plan comprehensive sign plan for a unified business center

shall include a format for all signs to be used on the premises in the center, including their maximum size, color, location, illumination details, lettering type, mounting details, and (if any) landscaping details.

C. Review Procedure; Decision.

1. Determination of Completeness of Application: Within ten (10) working days after receipt of an application for a unified sign plan described in this Chapter 19, the Zoning Administrator or his/her/their designee shall determine whether the application is complete. If the Zoning Administrator or his/her/their designee determines that the application is complete, he/she/they shall notify the applicant in writing that the application has been accepted for filing. If the Zoning Administrator or his/her/their designee determines that the application is not complete, he/she/they shall notify the applicant in writing, specifying the deficiencies of the application, including any additional information which must be supplied, and that no further action need be taken by the City on the application until the deficiencies are corrected.
2. General Notice of Public Hearing: After determining the unified sign plan application is complete, the Zoning Administrator or his/her/their designee shall shall cause notice of a public hearing before the Land Use Commission to be published not more than thirty (30) days nor less than fifteen (15) days before the date of the hearing. In addition, a sign shall be posted on the property for a minimum of ten (10) working days prior to the public hearing indicating the place, time and date of the hearing. Such notice shall be sufficient notice for the initial hearing. Subsequent notices are not required for continuances of a hearing, if any. In addition to the aforementioned notice, the City will also provide notice, through the use of a third party service, by first class mail to all owners of property within a five hundred (500) foot radius of the property lines of the subject property, inclusive of public roads, streets, alleys and other public ways whose addresses appear on the current tax assessment list as provided by the City. The applicant must pay any and all fees and postage associated with mailing such notice pursuant to this Section. The City reserves the right to provide the aforementioned notice by first class mail where the Zoning Administrator finds it necessary. The failure of delivery of such notice, however, does not invalidate any such amendment Such notice is sufficient notice for the initial hearing. Subsequent notices are not required for continuances of a hearing, if any.
3. Content of Published and Mailed Notices: Published and mailed notices shall contain the time, date, and place of the public hearing. Additionally, the published and mailed notices shall contain the following:
 - a. A statement indicating that the petition is a request for special use approval;

- b. The address of the subject property requesting the special use;
- c. The current zoning classification of the property requesting the special use;
- d. The time and place where the petition proposing to amend the Zoning Ordinance will be available for examination for a period of at least ten (10) days prior to the public hearing;
- e. The name of the person responsible for giving notice of the public hearing by publication or by mail, or by publication and mail;
- f. Any other information requested by the Commission, as the case may be; and
- g. A statement that after the conclusion of the hearing the matter will be submitted to the City Council for its action and forward his/her/their written report to the Land Use Commission. Approval of a comprehensive sign plan for a unified business center shall be at the discretion of the Land Use Commission in accordance with the criteria noted herein.

4. Land Use Commission Decision: Following the close of the public hearing, the Land Use Commission shall either approve, approve with conditions, or deny the application for a unified sign plan.

D. Standards-Criteria. The standards criteria used by the Land Use Commission in its review of the proposed unified comprehensive sign plan for a unified business center shall include:

- 1. *Scale and Proportion.* Every sign shall have good scale and proportion in its design and in its visual relationship to the other signs, buildings and surroundings.
- 2. *Integral Elements.* The signs in the plan shall be designed as integral architectural elements of the building and site to which they principally relate and shall not appear as incongruous "add-ons" or intrusions.
- 3. *Restraint and Harmony.* The colors, materials and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
- 4. *Effective Composition.* The number of graphic elements and letters shall be held to the minimum needed to convey each sign's message and shall be composed in proportion to the area of the sign's face.
- 5. *Compatibility.* Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.
- 6. *Unified Image.* The effect of the signs proposed in the plan shall be the establishment of a unified image for the center.

SECTION 6: Section 6-3-8-2 "Authority" of the Evanston City Code of

2012, as amended, is hereby amended as follows:

6-3-8-2. - AUTHORITY.

The Zoning Administrator, the Land Use Commission, and the City Council, as the case may be, are authorized to approve, approve with conditions, or deny requested variations in accordance with the provisions of this Section 6-3-8 as follows:

- (A) The Zoning Administrator is delegated the authority to grant "minor variations", ~~and "fence variations"~~, and "sign variations" as defined in Section 6-3-8-3 of this Chapter;
- (B) The Land Use Commission is delegated the authority to hear appeals from decisions of the Zoning Administrator regarding minor variations, ~~and fence variations,~~ and sign variations; to grant family necessity variations; and to grant "major variations," as defined in Section 6-3-8-3 of this Chapter, except as limited below, and combined applications for major and minor variations; and
- (C) The City Council shall retain the authority to grant major variations pertaining to off-street parking for all uses other than single-family and two-family residential, off-street loading, height beyond fifty (50) feet, including within that measurement any height otherwise excluded because the story provides required parking, and townhouse orientation.

SECTION 7: Section 6-3-8-3 "Authorized Variations" of the Evanston City

Code of 2012, as amended, is hereby amended as follows:

6-3-8-3. - AUTHORIZED VARIATIONS.

The following variations from this Ordinance are authorized:

- (A) Minor Variations:
 1. Minor Variations consisting of the following types shall be for all uses (residential and commercial) unless specified differently below:
 - a. Accessory structure requirements.
 - b. Yard obstruction requirements beyond those permitted in Section 6-4-1-9(B).
 - c. Setbacks necessary for an upper floor to align with a legally nonconforming setback below (for single-family and two-family uses only).
 2. Minor variations consisting of the following types shall be for single-family and two-family uses only and may be granted up to a maximum of thirty-five percent (35%):
 - a. Front, side, and rear yards and setbacks.
 - b. Height.
 - c. Lot width.

- d. Building lot coverage.
 - e. Impervious surface.
 - f. Dormer size and location.
 - g. Modification of a residence to meet the special needs of the disabled.
3. ~~Minor variations for signs consisting of the following types shall be for nonresidential uses only, excluding vehicular dealerships, and may be granted by a maximum of up to thirty-five percent (35%):~~
- (a) ~~Wall sign height.~~
 - (b) ~~Blade sign height and/or area.~~
- (B) Fence Variations: Variations from the requirements for fences, set forth in Section 6-4-6-7, "Special Regulations Applicable To Fences," of this Title may be granted subject to the standards and conditions of Subsection 6-3-8-12(B) and Section 6-3-8-14 of this Chapter.
- (C) Family Necessity Variations: The types of minor variations listed in Subsection (A) of this Section may be granted in excess of the maximum of twenty percent (20%) for single-family and two-family uses and residential care homes only, subject to the procedures and standards set forth in Section 6-3-8-7 and Subsection 6-3-8-12(D) of this Chapter respectively in order to:
- 1. Modify a residence to meet the special living needs of the disabled.
 - 2. Modify a residence to provide space for an elderly parent to live with the family of his or her child.
 - 3. Modify a residence to accommodate a growing family or to alleviate an inconvenience.
- (D) Major Variations: "Major variations" shall be defined as all variations other than minor variations and fence variations, and shall be limited to the following:
- 1. Yards and setbacks.
 - 2. Height.
 - 3. Lot size, width and depth (including flag lots).
 - 4. Lot coverage including impervious surface and/or floor area ratio.
 - 5. Off-street parking and loading.
 - 6. Home occupations.
 - 7. Townhouse orientation.
 - 8. Expansion, alteration, and/or enlargement of legal, nonconforming residential uses that contain no more than four (4) dwelling units and zero (0) lodging rooms/rooming units, and/or construction of accessory uses to such legal, nonconforming residential uses.
- ~~9. Signs (excluding scoreboards and billboards).~~
- (E) Sign Variations: Variations from the requirements for signs, set forth in Title 6, Chapter 19, "Sign Regulations," may be granted subject to the standards and conditions of Subsection 6-3-8-6 and Subsection 6-3-8-12(F) of this Chapter.

SECTION 8: Section 6-3-8-6 "Procedure for Minor Variations and Fence

Variations” of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-3-8-6. - PROCEDURE FOR MINOR VARIATIONS, AND FENCE VARIATIONS, AND SIGN VARIATIONS.

Applications for minor variations, ~~and fence variations,~~ and sign variations shall be reviewed and decided in accordance with the following procedure:

- (A) *Notice and Opportunity to Comment:* Upon receipt of a completed application for a minor variation, ~~or a fence variation,~~ or a sign variation, the City will provide notice, through use of a third party service, by first class mail to all owners of property located within a two hundred fifty (250) foot radius of the subject property, inclusive of public streets, alleys and other public ways whose addresses appear on the current tax assessment list as provided by the City. The applicant must pay any and all fees and postage associated with mailing such notice pursuant to this Section. The City reserves the right to provide the aforementioned notice by first class mail where the Zoning Administrator finds it necessary. The notice shall indicate that the application shall be available for review and submittal of written comments thereon ten (10) working days prior to the Zoning Administrator's determination.
- (B) *Zoning Administrator's Decision:* Within twenty (20) working days of receipt of a completed application for a minor variation, ~~or a fence variation,~~ or a sign variation, the Zoning Administrator shall, by written order, either approve, approve with conditions, or deny the requested ~~minor variation.~~
- (C) *Notification of Decision:* The City shall send the Zoning Administrator's decision within ten (10) working days to the applicant and all other persons previously notified pursuant to Subsection (A) of this Section.
- (D) *Records:* A record of all applications for minor variations, ~~and fence variations,~~ and sign variations shall be kept on file in the office of the Zoning Administrator. At least once a year, the Zoning Administrator shall make public a listing of his decisions, by address, regarding the applications for minor variations, ~~and fence variations,~~ and sign variations.
- (E) *Appeal:* The applicant or an adjacent property owner may appeal the decision of the Zoning Administrator to the Land Use Commission within ten (10) working days of the Zoning Administrator's date of mailing of notification.

SECTION 9: Section 6-3-8-8 “Procedure for Appeals from Decisions of the Zoning Administrator Regarding Minor and Fence Variations, Variations, Implementation and Administration,” of the Evanston City Code of 2012, as amended, is

hereby amended as follows:

6-3-8-8. - PROCEDURE FOR APPEALS FROM DECISIONS OF THE ZONING ADMINISTRATOR REGARDING MINOR, ~~AND FENCE,~~ AND SIGN VARIATIONS.

An appeal of any decision of the Zoning Administrator regarding an application for a minor variation, ~~or a fence variation,~~ or a sign variation shall be made to the Land Use Commission and processed in accordance with the provisions of Section 6-3-11 of this Chapter.

SECTION 10: Section 6-3-8-9 “Special Procedures in Connection with Combined Variation Applications,” of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-3-8-9. - SPECIAL PROCEDURES IN CONNECTION WITH COMBINED VARIATION APPLICATIONS.

Whenever an application for a minor variation, fence variation, sign variation, or a family necessity variation would, in addition, require a major variation, the applicant shall indicate that fact on the application where indicated and shall, at the time of filing the application for minor variation, fence variation, sign variation, or family necessity variation file an application for major variation pursuant to this Section 6-3-8. The combined application shall be reviewed and decided in accordance with the procedures set forth in Section 6-3-8-10 of this Chapter.

SECTION 11: Section 6-3-8-12 “Standards for Variations,” of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-3-8-12. - STANDARDS FOR VARIATIONS.

In considering an application for a minor variation, fence variation, family necessity variation, sign variation, or a major variation, or a combination thereof, the Zoning Administrator, the Land Use Commission, or the City Council, as the case may be, may approve such variation only upon finding that the application complies with the separate standards for each type of variation set forth below:

- A. Minor Variations: Minor variations may be authorized by the Zoning Administrator upon making written findings that the proposed variation satisfies the following standards:
 1. The practical difficulty is not self-created.
 2. The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.

3. The requested variation is in keeping with the comprehensive general plan and the zoning ordinance.
 4. The requested variation is consistent with the preservation policies set forth in the comprehensive general plan.
 5. The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Zoning Administrator issues his/her decision regarding said variation.
- B. Variations From Fence Regulations: Variations from the requirements for fences set forth in Section 6-4-6-7 of this Title may be authorized by the Zoning Administrator upon making written findings that the proposed variation satisfies the following standards:
1. The requested variation will not be materially detrimental to the public welfare or injurious to the use, enjoyment or property values of adjoining neighbors.
 2. The additional screening, additional height, or requested location achieved through the variation will assist in reducing noise, screening incompatible adjacent uses, or increase safety to the owners of the subject property or abutting properties.
 3. In no event shall a variation be granted that would permit a fence taller than thirty (30) inches to be located within twenty (20) feet of the corner curb line of an intersection.
- C. Variations From Fence Standards for Landmark Structures and Structures Located in Historic Districts.
- D. Family Necessity Variations: Family necessity variations may be authorized by the Land Use Commission upon making written findings that the proposed variation satisfies the following standards:
1. The requested variation will not have a substantial adverse impact on the use, enjoyment, or property values of the adjoining properties.
 2. The requested variation is in keeping with the intent of the zoning ordinance.
 3. The character of the residence for which the variation is requested will as a result be as or more consistent with the character of the residences of the surrounding neighborhood.
 4. The purpose of the variation is not based exclusively upon a desire to extract additional income from the property.
 5. The requested variation requires the least deviation from the relevant regulation among the feasible options identified before the Zoning Administrator issues his/her recommendation to the Land Use Commission regarding said variation.
- E. Major Variations: Major variations may be authorized by the Land Use Commission, or by the City Council in the case of an application for a major variation to off street parking, off street loading, height beyond fifty (50) feet, including within that measurement any height otherwise excluded because the story provides required parking, or townhouse

orientation, or a combined application for a major variation pertaining to off street parking, off street loading, height beyond fifty (50) feet, including within that measurement any height otherwise excluded because the story provides required parking, or townhouse orientation, and any other variation, upon making written findings that the proposed variation satisfies the following standards:

1. The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.
2. The requested variation is in keeping with the intent of the zoning ordinance.
3. The alleged hardship or practical difficulty is peculiar to the property.
4. The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.
5. (a) The purpose of the variation is not based exclusively upon a desire to extract additional income from the property, or (b) While the granting of the variation will result in additional income to the applicant and while the applicant for the variation may not have demonstrated that the application is not based exclusively upon a desire to extract additional income from the property, the Land Use Commission or the City Council, depending on final jurisdiction under Section 6-3-8-2 of this Chapter, has found that public benefits to the surrounding neighborhood and the City as a whole will be derived from approval of the variation, that include, but are not limited to, any of the standards of Section 6-3-6-3 of this Chapter.
6. The alleged difficulty or hardship has not been created by any person having an interest in the property.
7. The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Land Use Commission issues its decision or recommendation to the City Council regarding said variation.

F. Sign Variations: Sign variations may be authorized by the Zoning Administrator upon making written findings that the proposed variation satisfies the following standards:

1. Hardship. The proposed variation will alleviate some demonstrable and unusual hardship that arises due to factors including, but not limited to, location, site configuration, and/or building configuration.
2. No Prohibited Signs. The relief is not for any sign specifically prohibited by Section 6-19-6.
3. Not Harm Public Welfare. The proposed variation will not be materially detrimental to the public welfare.
4. Consistent with Intent. The proposed variation promotes the purpose of the Sign Regulations set forth in Section 6-19-2 of this Chapter.

SECTION 12: Section 6-19-3 “Definitions” of the Evanston City Code of

2012, as amended, is hereby amended as follows:

6-19-3. - DEFINITIONS.

(C) Definitions. The following words and terms, wherever they occur in this Chapter, shall be defined as follows:

<p>USE, R1 RESIDENTIAL PRESERVATION UNIQUE ADAPTIVE.</p>	<p>A use determined by the City Council to be a residential use which is not listed as an authorized use, but that will be of substantial land use or economic benefit to the City, whose authorization would not be appropriate through a zoning amendment. <u>conversion to a use not listed as an authorized special or permitted use in the zoning district to be developed predominantly within an existing structure or structures which have identified adaptive use as the principal means to preserve and assure the continued existence of said structure(s).</u></p> <p>Such a land use may be approved only as follows:</p> <ul style="list-style-type: none"> (A) It is in an R1 residential district; (B) It is in a designated Evanston preservation district; (C) It is in a structure designated by ordinance as an Evanston landmark; (D) The parcel for which application for the use is made is a minimum of two (2) acres; (E) The parcel for which application for the use is made is improved with a structure with a minimum of fourteen thousand five hundred (14,500) square feet as defined in Subsection (H) of this Section; (F) Any multi-family structure for which the use is approved must contain no more than four (4) dwelling units. A development plan for an R1 residential preservation unique use exception may provide for more than one (1) principal use on a single zoning lot; and (G) All resultant dwelling units created shall have a minimum floor area, as defined in Section 6-
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	18-3, "Definitions," of this Title, of two thousand (2,000) square feet.
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SECTION 13: Section 6-3-7-1 "Purpose" of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-3-7-1. PURPOSE.

- (B) ~~R1 Residential Preservation~~ Unique Adaptive Use Exception: The purpose of the ~~R1 residential preservation~~ unique adaptive use permit is to allow for conversion to a residential use not listed as an authorized special or permitted use in an R1 the zoning district to be developed in that district predominantly within an existing structure or structures which have been designated an Evanston landmark in a designated historic district. Such use may include multi family use of a structure originally designed as a single family structure, or subdivision of a portion of such land for single family dwellings as a the principal means to preserve and assure the continued existence of ~~a designated landmark~~ said structure(s).

Unique Adaptive Use Exception: The purpose of the Unique Adaptive Use permit is to allow for conversion to a use not listed as an authorized special or permitted use in the zoning district to be developed predominantly within an existing structure or structures which have identified adaptive use as the principal means to preserve and assure the continued existence of said structure(s).

SECTION 14: Section 6-3-7-4 "Submission Requirements" of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-3-7-4. SUBMISSION REQUIREMENTS.

An applicant for a unique use shall file an application in accordance with the following requirements:

- (A) ~~Formal Application: Application for unique use approval shall be filed with the Zoning Administrator in order to obtain the review and written comments from the appropriate departments, boards, and commissions including, but not limited to, the Design and Project Review Committee.~~
- (B) ~~Content of Application: Each application shall contain at least the information listed in Section D.5, "Submission Requirements For Unique Uses," Appendix D of this Title. Each unique use application shall contain or address the information listed in Section D.4, "Planned Development Application Submission Requirements," Appendix D of this Title.~~

SECTION 15: Section 6-3-7-5 "Procedure for Review and Decision of Proposed Use" of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-3-7-5. PROCEDURE FOR REVIEW AND DECISION OF PROPOSED USE.

- (D) **Mailed Notices Required:** The City will provide notice, through the use of a third party service, by first class mail to all property owners within ~~one thousand (1,000)~~ five hundred (500) feet of the property lines in each direction of the subject property, inclusive of public roads, streets, alleys and other public ways from the subject site whose addresses appear on the current tax assessment list as provided by the City. The applicant must pay any and all fees and postage associated with mailing such notice pursuant to this Section. The City reserves the right to provide the aforementioned notice by first class mail where the Zoning Administrator finds it necessary. The failure of delivery of such notice, however, shall not invalidate any such hearing. In addition, a sign shall be posted on the property for a minimum of ten (10) working days prior to the public hearing indicating the place, time and date of the hearing. Such notice shall be sufficient notice for the initial hearing. Subsequent notices are not required for continuances of a hearing, if any.
- ~~(F) Application Process: Each unique use application shall be processed in conformance with the procedures of Sections 6-3-6-7, "Application Procedure," and 6-3-6-8, "Review Procedure; Decisions," of this Chapter.~~
- ~~(G)~~(F) **Applicant Rights:** Applicants for a unique use and owners of property within ~~one thousand (1,000)~~ five hundred (500) feet inclusive of public roads, streets, alleys and other public ways, shall have the following rights, in addition to any others they may possess by law, at any hearing before the Land Use Commission:
1. To inspect all documents and material submitted as part of the application for the unique use prior to the hearing.
 2. To present witnesses on their behalf.
- ~~(H)~~(G) **Objection of Property Owners:** Eligible property owners, as set forth above, who wish to object shall, upon written request, be granted one (1) continuance for the purpose of presenting evidence to rebut testimony given by the applicant. The date of such continued hearing shall be at the discretion of the commission.
- (H)~~(I)~~ **Continued Hearings or Meetings:** In the instance a hearing or meeting is continued to a date certain, the date and time of the continued hearing or meeting shall be announced at the time and place of the hearing being continued, and the continued hearing's notice requirements shall be deemed satisfied. If for any reason the continued hearing or meeting date or time needs to be changed, the Zoning Administrator shall, in his or her best effort, provide the public with the new date and time of the continued hearing by:

1. Posting the continued meeting or hearing notice at the Civic Center; and
2. Posting the continued meeting or hearing notice on the City's website.

Failure to provide such notice, however, shall not invalidate any such continued hearing or meeting.

- ~~(I)~~(J) In the event a quorum is not present for the initial meeting or a continued meeting, a majority of the Commission members present may reschedule the meeting to a new date and time. No additional mailed or published notices shall be required for meetings continued as provided in Section 6-3-7-5(1).

SECTION 16: Section 6-3-7-6 "Opposition to Unique Use," of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-3-7-6. OPPOSITION TO UNIQUE USE.

If prior to the close of a Land Use Commission hearing pursuant to Subsection 6-3-4-6(E) of this Chapter a written protest against any proposed unique use, signed and acknowledged by thirty percent (30%) of the owners of property whose lot lines are located within a ~~one thousand (1,000)~~ five hundred (500) foot radius of the boundary of the area of the unique use, inclusive of public rights of way, is filed with the City clerk, approval of the unique use shall require a favorable vote of three-fourths (3/4) of the aldermen elected to the City Council.

SECTION 17: Section 6-3-7-10 "Standards for Unique Uses," of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-3-7-10. STANDARDS FOR UNIQUE USES.

- (F) Each unique use application shall address the planned development standards of Section 6-3-6-9 of this Chapter, the public benefit standards of Section 6-3-6-3 of this Chapter, and the standards for special uses of Section 6-3-5-10 of this Chapter.
- (G) ~~For each R1 residential preservation unique use exception application evidence that these requirements are met:~~
- ~~1. It is in an R1 residential district;~~
 - ~~2. It is in a designated Evanston preservation district;~~
 - ~~3. It is in a structure designated by ordinance as an Evanston landmark;~~
 - ~~4. The parcel for which application for the use is made is a minimum of two (2) acres;~~
 - ~~5. The parcel for which application for the use is made is improved with a structure with a minimum of fourteen thousand five hundred (14,500) square feet as defined in Subsection (H) of this Section;~~

- ~~6. Any multi-family structure for which the use is approved must contain no more than four (4) dwelling units. A development plan for an R1 residential preservation unique use exception may provide for more than one (1) principal use on a single zoning lot; and~~
- ~~7. All resultant dwelling units created shall have a minimum floor area, as defined in Section 6-18-3, "Definitions," of this Title, of two thousand (2,000) square feet.~~

Applications for Unique Adaptive Use within an existing building envelope shall be exempt from the off-street parking, loading, and maximum density requirements outlined within this Title.

- (H) ~~For purposes of this Subsection, gross floor area is the product of the footprint of the building times the number of floors plus any otherwise uncounted roofed areas, or other areas above the first floor that extend past the perimeter of the first floor.~~
Existing building setbacks, height, and lot coverage for applications for Unique Adaptive Use shall be permitted to remain and be considered legally non-conforming regardless of a change in use or intensity of use.

SECTION 18: Section 6-3-7-12 "Effect of Approval of Unique Use," of the

Evanston City Code of 2012, as amended, is hereby amended as follows:

6-3-7-12. - EFFECT OF APPROVAL OF UNIQUE USE.

The approval of a proposed unique use by the City Council shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the regulations of the City, including, but not limited to, a unique use permit, a building permit, a certificate of occupancy and subdivision approval. ~~Development of an approved R1 residential preservation unique use will not require a recommendation from the Land Use Commission or City Council approval provided that it is in conformance with the R1 district regulations.~~

SECTION 19: Section 6-8-2-12 "Access to On-Site Parking," of the

Evanston City Code of 2012, as amended, is hereby amended as follows:

6-8-2-12. - ACCESS TO ON SITE PARKING.

In the R1 district on any zoning lot served by an open alley, access to any on site parking, enclosed or unenclosed, shall not cross the front or street side yard lot line(s) subject to the following exception: On properties improved with legally existing street loading garages or other on site parking both served by legally existing curb cuts, as of the effective date hereof, said street loading garages or other on site parking may be replaced even if on site parking can access the subject property by an alley.

SECTION 20: Section 6-8-3-11 “Access to On-Site Parking,” of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-8-3-11. - ACCESS TO ON SITE PARKING.

In the R2 district on any zoning lot served by an open alley, access to any on site parking, enclosed or unenclosed, shall not cross the front or street side yard lot line(s) subject to the following exception: On properties improved with legally existing street loading garages or other on site parking both served by legally existing curb cuts, as of the effective date hereof, said street loading garages or other on site parking may be replaced even if on site parking can access the subject property by an alley.

SECTION 21: Section 6-8-4-11 “Access to On-Site Parking,” of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-8-4-11. - ACCESS TO ON SITE PARKING.

In the R3 district on any zoning lot served by an open alley, access to any on site parking, enclosed or unenclosed, shall not cross the front or street side yard lot line(s) subject to the following exception: On properties improved with legally existing street loading garages or other on site parking both served by legally existing curb cuts, as of the effective date hereof, said street loading garages or other on site parking may be replaced even if on site parking can access the subject property by an alley.

SECTION 22: Section 6-8-6-11 “Access to On-Site Parking,” of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-8-6-11. - ACCESS TO ON SITE PARKING.

In the R4a district on any zoning lot served by an open alley, access to any on site parking, enclosed or unenclosed, shall not cross the front or street side yard lot line(s) subject to the following exception: On properties improved with legally existing street loading garages or other on site parking both served by legally existing curb cuts, as of the effective date hereof, said street loading garages or other on site parking may be replaced even if on site parking can access the subject property by an alley.

SECTION 23: Section 6-4-6-2 “General Provisions for Accessory Uses and Structures,” of the Evanston City Code of 2012, as amended, is hereby amended as follows:

6-4-6-2. - GENERAL PROVISIONS FOR ACCESSORY USES AND STRUCTURES.

(F) In non-residential districts, accessory uses and structures shall be subject to the yard requirements listed in Table 4-A – Permitted Accessory Buildings, Structures & Uses., and unless otherwise specified, shall be subject to the following setback requirements:

<u>1.</u>	<u>Front Yard</u>	<u>Garages only (attached), principal structure setback applies</u>
<u>2.</u>	<u>Side Yard Abutting a Street</u>	<u>Garages only (attached), principal structure setback applies</u>
<u>3.</u>	<u>Side Yard</u>	<u>Five (5) feet, or the principal structure setback, whichever is less</u>
<u>4.</u>	<u>Rear Yard</u>	<u>Three (3) feet, or the principal structure setback, whichever is less, and subject to 6-4-6-2-E.</u>

~~(G)~~(F) No accessory building located in the rear yard of a corner lot shall be nearer to a street lot line than the minimum width required for a side yard abutting a street in the district where the lot is located.

~~(H)~~(G) No accessory building shall exceed fourteen and one-half (14 1/2) feet in height for a flat roof or mansard roof, or twenty (20) feet measured from grade to the highest point of said structure for all other roofs, except as otherwise provided for garages and coach houses in Section 6-4-6-4 of this Chapter and as otherwise provided for ADUs in Section 6-4-6-10 of this Chapter.

~~(I)~~(H) Child daycare centers shall be considered accessory uses in churches whether or not they are operated by the church in which they are located.

~~(J)~~(I) Bed and breakfast shall be considered accessory uses in residential dwellings subject to the provisions of Section 6-4-7 of this Chapter.

~~(K)~~(J) Signs shall be considered accessory uses subject to the regulations of Section 6-19 of this Title. ~~except when an off-premises sign is the only use on a zoning lot.~~

SECTION 24: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 25: If any provision of this ordinance 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 26: This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

SECTION 27: 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.

Introduced: July 10, 2023

Approved:

Adopted: July 14, 2023

July 26, 2023

Daniel Biss
Daniel Biss, Mayor

Attest:

Approved as to form:

Stephanie Mendoza
Stephanie Mendoza, City Clerk

Nicholas E. Cummings
Nicholas E. Cummings, Corporation Counsel