

ORDINANCE NUMBER 22- 39

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AMENDING SECTION 157.086, SPECIAL USES, TO INCLUDE LANGUAGE REGARDING SPECIAL USE TRANSFERABILITY AND EXPIRATION**

**WHEREAS**, the Village of East Dundee (“Village”) is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the Village Board of Trustees desires to amend the zoning ordinance to allow for language regarding special use transferability and expiration; and

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of East Dundee, Kane and Cook Counties, Illinois, as follows:

**SECTION 1: Incorporation.** That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

**SECTION 2: Village Code Amendment.** That Section 157.086 of the Zoning Ordinance of the Village of East Dundee, is hereby amended by amending and adding the following text:

Section 157.086 of the Zoning Ordinance is amended as follows, with new text underlined:

(A) To provide for the location of certain uses hereinafter specified which are deemed desirable for the public welfare within a given district or districts, but which might have an adverse effect upon nearby properties or upon the character and future development of the district in which they are located, a classification of special uses is hereby established. Procedures for special uses are set forth in § 157.224.

(B) (1) Where a use exists on the effective date of this chapter and it is classified as a special use hereby, it shall be considered to be a lawful special use.

(2) Additions or alterations to existing buildings or land improvements for expansion of lawful special uses may be made within the area of the lot included in the ownership existing at the time of adoption of this chapter, and they shall be subject to yard, floor area ratio

and building height requirements set forth in this chapter for permitted uses in the districts in which they are located.

(C) A special use granted by the Village after July 18, 2022 (i) shall not run with title to the property and (ii) shall not be transferrable. Special uses granted by the Village before July 18, 2022 (i) shall only run with title to the property if the ordinance granting the special use provides that the special use runs with title to the property, and (ii) shall only be transferrable if the ordinance granting the special use provides that the special use is transferrable.

(D) A special use shall expire at the earlier of (i) the sale of the property, unless the ordinance granting the special use provides that the special use runs with title to the property, (ii) operation of the special use by a different person, unless the ordinance granting the special use provides that the special use is transferrable, or (iii) after commencement of the special use, discontinuance of the special use for a period of six consecutive months, regardless of any reservation of an intent not to resume such special use. Upon expiration, a special use shall not be reestablished or resumed unless the Village President and Board of Trustees, in its discretion, grants a new special use pursuant to, and in accordance with, Section 157.224.

**SECTION 3: Continuation.** That all provisions of the Village Code not amended herein shall remain in full force and effect.

**SECTION 4: Severability.** That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 5: Repeal.** That all ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

**SECTION 6: Effect.** That this Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

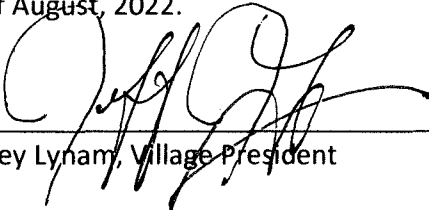
ADOPTED this 22<sup>nd</sup> day of August, 2022 pursuant to a roll call vote as follows:

AYES: Kunze, Brittin, Treiber and Sauder

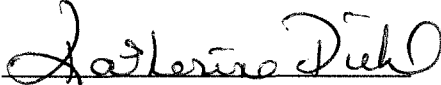
NAYES: Ø

ABSENT: Mahony and Saviano

APPROVED by me this 22<sup>nd</sup> day of August, 2022.

  
\_\_\_\_\_  
Jeffrey Lynam, Village President

ATTEST:

  
Katherine Diehl, Village Clerk

Published in pamphlet form this 22nd day of August 2022, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on August 23, 2022.

The Applicant acknowledges hereby the reasonableness of the above and foregoing terms and conditions in the Ordinance, and hereby accepts the same.

By: \_\_\_\_\_  
Applicant

Date: August \_\_, 2022