

ORDINANCE NO. [REDACTED]

AN ORDINANCE APPROVING A SPECIAL USE PERMIT
TO ALLOW OUTDOOR STORAGE
[REDACTED]

WHEREAS, [REDACTED] (collectively, the "**Owner**") are the owners of that certain real property commonly known as [REDACTED], and legally described on **Exhibit A ("Property")**; and

WHEREAS, the Property is located in the B-4 Motorist Service District of the City ("**B-4 District**") and is improved with a commercial building and off-street parking areas; and

WHEREAS, [REDACTED], an Illinois corporation ("**Applicant**"), operates an auto repair shop on the Property; and

WHEREAS, the Applicant also operates a U-Haul truck, van, and trailer (collectively, "**U-Haul Equipment**") rental business on the Property ("**Proposed Use**"); and

WHEREAS, pursuant to the City of [REDACTED] Zoning Ordinance ("**Zoning Ordinance**"), the Proposed Use involves outdoor storage of the U-Haul Equipment ("**Outdoor Storage**"); and

WHEREAS, pursuant to Table 3A of the Zoning Ordinance, Outdoor Storage may be approved as a special use in the B-4 District in accordance with Section 7C of the Zoning Ordinance; and

WHEREAS, in order to continue to utilize the Property for Outdoor Storage, pursuant to the applicable sections of the Zoning Ordinance and the [REDACTED] City Code ("**City Code**"), the Applicant, with the consent of the Owner, filed an application with the City for approval of a special use permit to allow the Outdoor Storage ("**Special Use Permit**"); and

WHEREAS, a public hearing by the Plan Commission to consider the Special Use Permit was duly published in the Daily Herald on [REDACTED] and was convened on [REDACTED], during which hearing evidence and testimony was received by the Plan Commission; and

WHEREAS, on [REDACTED] the Plan Commission, having adopted Findings of Fact, Project Number SUP 2023-0005, unanimously recommended that the Mayor and the City Council approve the Special Use Permit; and

WHEREAS, the Mayor and the City Council have determined, subject to and contingent upon the conditions, restrictions, and provisions of this Ordinance, that the Special Use Permit complies with the required standards for special uses as set forth in Section 7C of the Zoning Ordinance; and

WHEREAS, consistent with the Plan Commission recommendation, and pursuant to the City's powers under applicable law, including its home rule powers under the Illinois Constitution of 1970, the Mayor and the City Council have determined that it is in the best interest of the City and the public to approve the Special Use Permit, in accordance with, and subject to and contingent upon, the conditions, restrictions, and provisions of this Ordinance;

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF
[REDACTED] COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Recitals. The recitals listed above are incorporated in this Ordinance as if fully set forth in this Ordinance.

SECTION 2: Approval of Special Use Permit. Subject to and contingent upon the conditions, restrictions, limitations and provisions set forth in Section 3 of this Ordinance, the City Council approves the Special Use Permit to allow the Outdoor Storage of the U-Haul Equipment on the Property.

SECTION 3: Conditions. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the City Code, the Zoning Ordinance or any other rights the Applicant or Owner may have, the approval granted in Section 2 of this Ordinance is hereby expressly subject to and contingent upon the conditions, concepts, restrictions, limitations, and provisions set forth in this Section (collectively, the "**Conditions**").

A. **Compliance with Law and Regulations.** The development, use, operation, and maintenance of the Property and the Outdoor Storage must comply with all applicable City codes and ordinances, as the same have been or may be amended from time to time, except to the extent specifically provided otherwise in this Ordinance.

B. **Compliance with Plans and Documents.** Except for minor changes and site work approved by the Director of Community and Economic Development in accordance with all applicable City standards, the development, use, operation, and maintenance of the Property, and the Outdoor Storage must comply with:

1. The Narrative, prepared by the Applicant, consisting of one page, and undated, a copy of which is attached to, and by this reference, made a part of, this Ordinance as **Exhibit B ("Narrative")**; and

2. The Site Plan, prepared by the Applicant using a plat of survey dated [REDACTED] consisting of one page, and undated, a copy of which is attached to, and by this reference, made a part of, this Ordinance as **Exhibit C ("Site Plan")**.

C. **U-Haul Equipment.** No more than 10 pieces of U-Haul Equipment may be stored outdoors on the Property at any given time.

D. **Outdoor Storage Area.** The Outdoor Storage must be limited to the gravel area depicted and highlighted on the Site Plan.

SECTION 4: Invalidation of Approvals. Upon the failure or refusal of the Owner or the Applicant to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, in addition to all other remedies available to the City, the approval granted in Section 2 of this Ordinance ("**Approval**") may, at the sole discretion of the City Council, by ordinance duly adopted, be revoked and become null and void; provided, however, that the City Council may not so revoke the Approval unless it first provides the Owner and the Applicant two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the City Council. In the event of such revocation, the City Administrator and City Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

SECTION 5: Recordation and Binding Effect. A copy of this Ordinance must be recorded in the Office of the [REDACTED] County Recorder of Deeds. This Ordinance and the privileges, obligations, and provisions contained herein run with the Property and inure to the benefit of, and are binding upon, the Applicant.

SECTION 6: Amendments. Any amendment to any provision of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance and the City Code, as applicable to the affected items of relief, except as otherwise specifically authorized in this Ordinance.

SECTION 7: Effective Date.

A. This Ordinance will be effective only upon the occurrence of all of the following events:

1. Passage by the City Council by a majority vote in the manner required by law;
2. Publication in pamphlet form in the manner required by law;
3. The filing by the Applicant with the City Clerk of an Unconditional Agreement and Consent, in the form of **Exhibit D** attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the City for any claims that may arise in connection with the approval of this Ordinance; and
4. Recordation of this Ordinance, together with such exhibits as the City Clerk deems appropriate for recordation, with the office of the Recorder of DuPage County.

B. In the event that the Applicant does not file with the City Clerk a fully executed copy of the unconditional agreement and consent referenced in Paragraph 7.A.3 of this Ordinance within 90 days after the passage of this Ordinance by the Mayor and City Council, the corporate authorities shall have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

[Signatures and Voting Record on Following Page]

PASSED THIS ____ day of _____, 2023.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED THIS ____ day of _____, 2023.

MAYOR

ATTEST:

CITY CLERK

Example

EXHIBIT D

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The [REDACTED] Illinois ("City");

WHEREAS, [REDACTED] (collectively, the "**Owner**") are the owners of that certain real property commonly known as [REDACTED] Illinois ("**Property**"); and

WHEREAS, [REDACTED], an Illinois corporation ("**Applicant**"), operates an auto repair shop on the Property; and

WHEREAS, Ordinance [REDACTED], adopted by the City Council on [REDACTED], 2023 ("Ordinance"), approved a Special Use Permit to allow the outdoor storage of U-Haul trucks, vans, and trailers on the Property, subject to specified conditions; and

WHEREAS, Section 7 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Applicant has filed, within 90 days following the passage of the Ordinance, its unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Applicant does hereby agree and covenant as follows:

1. The Applicant hereby unconditionally agrees to, accept, and consent to, and will abide by, each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.

2. The Applicant acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right, provided that the notice to the Applicant required by Section 4 of the Ordinance is given.

3. The Applicant acknowledges and agrees that the City is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the City's granting of the Special Use Permit or its adoption of the Ordinance, and that the City's approvals do not, and will not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time.

4. The Applicant hereby agrees to hold harmless and indemnify the City, the City's corporate authorities, and all City elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with (a) the City's review and approval of any plans and issuance of any permits, (b) the City's adoption of the Ordinance granting the Special Use Permit, and (c) the development, maintenance and use of the Property as authorized by the Ordinance.

[SIGNATURE PAGE FOLLOWS]



By: _____

Its: _____

SUBSCRIBED and SWORN to
before me this _____ day of
_____, 2023.

Notary Public

Example