

ORDINANCE NO. O-2021-64

**AN ORDINANCE AMENDING THE TEXT OF THE WHEATON ZONING ORDINANCE
TO REMOVE GROUP CARE HOME SPACING REQUIREMENTS AND REFERENCES FROM
ARTICLES II, VII, VIII, IX, X, XI, XII, XIII, AND XIV**

WHEREAS, the City of Wheaton (the "City") is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the City has the authority to adopt ordinances and to promulgate rules and regulations related to the effective and orderly development of property located with the City; and

WHEREAS, Title VIII of the Civil Rights Act of 1968, as amended by the Federal Fair Housing Amendments Act of 1988 ("FHA"), prohibits enforcement of zoning regulations which would have the effect of discriminating against equal housing opportunities for the handicapped; and

WHEREAS, in the case of *Valencia v. City of Springfield*, 446 F.Supp.3d 369 (C.D. Ill. 2020), the United States District Court for the Central District of Illinois determined that municipal zoning ordinance spacing rules for the location of group homes housing handicapped individuals discriminates on the basis of disability; and

WHEREAS, Group Care Home as defined in Article II of the Wheaton Zoning Ordinance pertains to the housing of individuals classified as handicapped under the FHA; and

WHEREAS, the City of Wheaton, Illinois ("City"), has determined it is appropriate to amend the Wheaton Zoning Ordinance, Articles II, VII, VIII, IX, X, XI, XII, XIII, and XIV by removing spacing requirements for the location of Group Care Homes in the R-1, R-2, R-3, R-4, R-5, R-6, and R-7 Residential Districts and from the I-1 Institutional District, and to remove the reference to a spacing requirement in the definition of Group Care Home; and

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the Wheaton Zoning Ordinance, a public hearing was conducted by the Wheaton Planning and Zoning Board, acting as a hearing body on December 14, 2021, to consider said amendments to the text of the Wheaton Zoning Ordinance and the Planning and Zoning Board has recommended approval of the request.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1. The text of Article II of the Wheaton Zoning Ordinance is amended by repealing and rescinding the definition of "Group Care Home" in its entirety and replacing it with a new definition of "Group Care Home" which shall read as follows:

Group Care Home: Group Care Home means (a) one residential dwelling maintained as a single housekeeping unit occupied by special needs individuals or (b) no more than two residential dwellings occupied by special needs individuals on the same zoning lot, each being operated as a separate housekeeping unit, but both being

under the control and management of a single not-for-profit organization. In both instances no more than a total of 15 persons, including caregivers, shall occupy one residential dwelling or two residential dwellings in combination with each other. The total number of occupants of a Group Care Home may be further limited by the conditions of the Special Use Permit where lawful. The occupants of a Group Care Homes are not required to meet the definition of a "Family" as set forth in the Zoning Ordinance. A Group Care Home of two dwellings on a single zoning lot shall satisfy the bulk regulations, parking requirements, and other requirements and standards applicable to the zoning district and zoning lot as if the two dwellings were one. A group care home dwelling may have separate bath and kitchen facilities for live in staff. For purposes of this definition the term "special needs individuals" includes, but is not limited to, developmentally disabled persons, alcoholics, the mentally ill, or other persons participating in counseling, respite or rehabilitation programs. Group Care Homes shall provide a program structured to meet the social, rehabilitative, and respite needs of persons residing therein, in a residential community setting.

Prior to admitting residents, the Group Care Home shall file for and obtain a license from the appropriate Federal, State, or County agencies. If no license is required by a Federal, State, or County agency, the Group Care Home shall file for and obtain a Group Care Home license as provided for by Chapter 26 of the Wheaton City Code. A valid existing Federal, State, County or City license shall be a condition precedent to issuance of a Special Use Permit.

Prior to admitting residents, the Group Care Home shall obtain a letter approving the occupancy from the City Planner, certifying that all codes and standards have been satisfied. The Group Care Home shall house such staff persons as is required to meet the standards of the licensing agencies. A foster care home shall not be classified as a Group Care Home, unless it fails to meet the definition of "Family" contained in Article II of this ordinance.

Section 2. Article VII, "R-1 Residential District" of the Wheaton Zoning Ordinance is amended by repealing and rescinding Section 7.1 in its entirety and replacing it with a new Section 7.1 which shall read as follows:

7.1 Permitted Uses

1. Single-family dwellings.
2. Elementary and high schools without dormitory accommodations.
3. Parks and forest preserves.
4. Group Care Homes, with no more than five (5) occupants, including staff persons.

Special Use Permit Required

1. Golf courses.
2. Truck gardens and nurseries.
3. Cemeteries.
4. Senior citizen home sharing facility.
5. Group Care Homes with six (6) to fifteen (15) occupants, including staff persons.
6. Not-for-profit, governmental and specialty school uses in elementary, middle, and high school buildings no longer used for teaching purposes.
7. Buildings primarily devoted to Religious Worship.
8. Private or public utility substations with a capacity not greater than 34 kilovolts.

Section 3. Article VIII, "R-2 Residential District," of the Wheaton Zoning Ordinance is amended by repealing and rescinding Section 8.1 in its entirety and replacing it with a new Section 8.1 which shall read as follows:

8.1 Permitted Uses

1. Single-family dwellings.
2. Elementary and high schools without dormitory accommodations.
3. Parks and forest preserves.
4. Group Care Homes, with no more than five (5) occupants, including staff persons.

Special Use Permit Required

1. Golf courses.
2. Cemeteries.
3. Senior citizen home sharing facility.
4. Group Care Homes with six (6) to fifteen (15) occupants, including staff persons.
5. Not-for-profit, governmental and specialty school uses in elementary, middle and high school buildings no longer used for teaching purposes.
6. Buildings primarily devoted to Religious Worship.

7. Private or public utility substations with a capacity not greater than 34 kilovolts.

Section 4. Article IX, "R-3 Residential District," of the Wheaton Zoning Ordinance is amended by repealing and rescinding Section 9.1 in its entirety and replacing it with a new Section 9.1 which shall read as follows:

9.1 Permitted Uses

1. Single-family dwellings.
2. Elementary and high schools without dormitory accommodations.
3. Parks and forest preserves.
4. Group Care Homes, with no more than five (5) occupants, including staff persons.

Special Use Permit Required

1. Golf courses.
2. Senior citizen home sharing facility.
3. Group Care Homes with 6-15 occupants, including staff persons.
4. Historical and architectural education center.
5. Not-for-profit, governmental and specialty school uses in elementary, middle, and high school buildings no longer used for teaching purposes.
6. Buildings primarily devoted to Religious Worship.
7. Private or public utility substations with a capacity not greater than 34 kilovolts.
8. College or University outdoor recreation or athletic activities on land parcels not less than two (2) acres in size.
9. Nursery Schools.

Section 5. Article X, "R-4 Residential District," of the Wheaton Zoning Ordinance is amended by repealing and rescinding Section 10.1 in its entirety and replacing it with a new Section 10.1 which shall read as follows:

10.1 Permitted Uses

1. Single-family dwellings.
2. Elementary and high schools without dormitory accommodations.
3. Parks and forest preserves.
4. Group Care Homes, with no more than five (5) occupants, including staff persons.

Special Use Permit Required

1. Golf courses.
2. Senior citizen home sharing facility.
3. Group Care Homes with 6-15 occupants, including staff persons.
4. Historical and architectural education center.
5. Not-for-profit, governmental and specialty school uses in elementary, middle, and high school buildings no longer used for teaching purposes.
6. Buildings primarily devoted to Religious Worship.
7. Private or public utility substations with a capacity not greater than 34 kilovolts.
8. Nursery Schools.

Section 6. Article XI, "R-5 Residential District," of the Wheaton Zoning Ordinance is amended by repealing and rescinding Section 11.1 in its entirety and replacing it with a new Section 11.1 which shall read as follows:

11.1 Permitted Uses

1. Single-family dwellings.
2. Elementary and high schools with or without dormitory accommodations.
3. Parks and forest preserves.
4. Multiple-family dwellings.
5. Group Care Homes, with no more than five (5) occupants, including staff persons.

Special Use Permit Required

1. Golf courses.
2. Private clubs.
3. Senior Housing Developments.
4. Historical and architectural education center.
5. Senior citizen home sharing facility.
6. Group Care Homes with six (6) to fifteen (15) occupants, including staff persons.
7. Not-for-profit, governmental and specialty school uses in elementary, middle, and high school buildings no longer used for teaching purposes.
8. Buildings primarily devoted to Religious Worship.
9. Private or public utility substations with a capacity not greater than 34 kilovolts.

Section 7. Article XII, "R-6 Residential District of the Wheaton Zoning Ordinance is amended by repealing and rescinding Section 12.1 in its entirety and replacing it with a new Section 12.1 which shall read as follows:

12.1 Permitted Uses

1. Single-family dwellings.
2. Elementary and high schools and colleges with or without dormitory accommodations.
3. Parks and forest preserves.
4. Multiple-family dwellings.
5. Group Care Homes, with no more than five (5) occupants, including staff persons.

Special Use Permit Required

1. Golf courses.
2. Private clubs.

3. Senior Housing Developments.
4. Nursery schools.
5. Adult day care facilities.
6. Business and professional offices.
7. Governmental office buildings.
8. Research laboratories.
9. Senior citizen home sharing facility.
10. Group Care Homes with six (6) to fifteen (15) occupants, including staff persons.
11. Historical and architectural education center.
12. Not-for-profit, governmental and specialty school uses in elementary, middle, and high school buildings no longer used for teaching purposes.
13. Buildings primarily devoted to Religious Worship.
14. Private or public utility substations with a capacity not greater than 34 kilovolts.

Section 8. Article XIII, "R-7 Residential District," of the Wheaton Zoning Ordinance is amended by repealing and rescinding Section 13.1 in its entirety and replacing it with a new Section 13.1 which shall read as follows:

13.1 Permitted Uses

1. Multiple-family dwellings.
2. Elementary or high schools.
3. Parks and forest preserves.
4. Group Care Homes, with no more than five (5) occupants, including staff persons.

Special Use Permit Required

1. Golf courses.
2. Motels.
3. Private clubs.

4. Senior Housing Developments.
5. Adult day care facilities.
6. Nursery schools.
7. Business and professional offices and uses.
8. Governmental office buildings.
9. Research laboratories.
10. Financial institutions.
11. Mortuaries.
12. Senior citizen home sharing facility.
13. Group Care Homes with six (6) to fifteen (15) occupants, including staff persons.
14. Historical and architectural education center.
15. Not-for-profit, governmental and specialty school uses in elementary, middle, and high school buildings no longer used for teaching purposes.
16. Barber shops.
17. Beauty shops
18. Buildings primarily devoted to Religious Worship
19. Private or public utility substations with a capacity not greater than 34 kilovolts.

Section 9. Article XIV, "I-1 Institutional District," of the Wheaton Zoning Ordinance is amended by repealing and rescinding Section 14.1 in its entirety and replacing it with a new Section 14.1 which shall read as follows:

14.1 Permitted Uses

1. Single-family dwellings.
2. Elementary or high schools.
3. Parks and forest preserves.
4. Group Care Homes, with no more than five (5) occupants, including staff

persons.

Special Use Permit Required

1. Art galleries, libraries, museums, private clubs, and similar uses.
2. Golf courses.
3. Colleges or universities.
4. Governmental buildings or uses.
5. Senior citizen home sharing facility.
6. Group Care Homes, with six (6) to fifteen (15) occupants, including staff persons.
7. Not-for-profit, governmental and specialty school uses in elementary, middle, and high school buildings no longer used for teaching purposes.
8. Buildings primarily devoted to Religious Worship.
9. Private or public utility substations.

Section 10. This ordinance shall be cumulative of all provisions of the ordinances of the City of Wheaton, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 11. If any phrase, clause, sentence, paragraph, or section of this ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance.

Section 12. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.



Philip Suen
Mayor

ATTEST:



Andrea Rosedale
City Clerk

Roll Call Vote:

Ayes: Councilwoman Bray-Parker
Councilman Brown
Mayor Suess
Councilwoman Fitch
Councilwoman Robbins
Councilman Weller
Councilman Barbier

Nays: None

Absent: None

Motion Carried Unanimously

Passed: December 20, 2021

Published: December 21, 2021