

ORDINANCE NO. O-2023-06

**AN ORDINANCE AMENDING THE TEXT OF THE WHEATON ZONING ORDINANCE
ARTICLES II, VII, VIII, IX, X, XI, XII, XIII, AND XIV RELATING TO GROUP CARE HOMES**

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 (“FHAA”), prohibits enforcement of zoning regulations which would have the effect of discriminating against equal housing opportunities for the handicapped; and

WHEREAS, the City has determined that it is appropriate to amend the Wheaton Zoning Ordinance, Articles II, VII, VIII, IX, X, XI, XII, XIII, XIV, and XIX by repealing and rescinding the definition of “Group Care Homes” in its entirety, repealing and rescinding the definition of “Family” in its entirety and replacing it with a new definition of “Family”, and removing “Group Care Homes” as a permitted use and as a special use in the R-1, R-2, R-3, R-4, R-5, R-6, and R-7 Residential Districts, in the I-1 Institutional District, and in the C-4 CBD Perimeter Commercial District; 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 13, 2022 and January 10, 2023, 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 further repealing and rescinding the definition of “Family” and replacing it with a new definition of “Family” which shall read as follows:

Family: Either (a) an individual or two (2) or more persons related by blood, marriage, or adoption, including foster children, living together as a single housekeeping unit in a dwelling unit; or (b) a group of not more than four (4) persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit; plus in either case, usual domestic workers or paid professional staff and/or support staff. Notwithstanding the foregoing, nothing herein shall be construed to prevent any group care home whose occupant’s right to live together is protected by state or federal fair housing laws.

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:

Article VII – R-1 Residential District

7.1--Permitted Uses.

1. Single-family dwellings.
2. Elementary and high schools without dormitory accommodations.
3. Parks and forest preserves.

Special Use Permit Required

1. Golf courses.
2. Truck gardens and nurseries.
3. Cemeteries.
4. Senior citizen home sharing facility.
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. 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:

Article VIII – R-2 Residential District

8.1 – Permitted Uses

1. Single-family dwellings.
2. Elementary and high schools without dormitory accommodations.
3. Parks and forest preserves.

Special Use Permit Required

1. Golf courses.
2. Cemeteries.
3. Senior citizen home sharing facility.
4. Not-for-profit, governmental and specialty school uses in elementary, middle and high school buildings no longer used for teaching purposes.
5. Buildings primarily devoted to Religious Worship.
6. 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:

Article IX – R-3 Residential District

9.1 – Permitted Uses

1. Single-family dwellings.
2. Elementary and high schools without dormitory accommodations.
3. Parks and forest preserves.

Special Use Permit Required

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

Article X – R-4 Residential District

10.1 – Permitted Uses

1. Single-family dwellings.
2. Elementary and high schools without dormitory accommodations.
3. Parks and forest preserves.

Special Use Permit Required

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

Article XI – R-5 Residential District

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.

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. 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 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:

Article XII – R-6 Residential District

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.

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. Historical and architectural education center.
11. Not-for-profit, governmental and specialty school uses in elementary, middle and high school buildings no longer used for teaching purposes.
12. Buildings primarily devoted to Religious Worship.
13. 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:

Article IX – R-7 Residential District

13.1 – Permitted Uses

1. Multiple-family dwellings.
2. Elementary or high schools.
3. Parks and forest preserves.

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. Historical and architectural education center.
14. Not-for-profit, governmental and specialty school uses in elementary, middle, and high school buildings no longer used for teaching purposes.
15. Barber shops.
16. Beauty shops.
17. Buildings primarily devoted to Religious Worship.
18. 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:

Article XIV – I-1 Institutional District

14.1 - Permitted Uses

1. Single-family dwellings.
2. Elementary or high schools.
3. Parks and forest preserves.

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. 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.

Section 10. Article XIX, "C-4 CBD Perimeter Commercial District," of the Wheaton Zoning Ordinance is amended by repealing and rescinding Section 19.2 in its entirety and replacing it with a new Section 19.2 and repealing and rescinding Section 19.3 in its entirety and replacing it with a new Section 19.3 which shall read as follows:

Article XIX – C-4 CBD Perimeter Commercial District

19.2. – Permitted Uses

Any use permitted in the C-2 zoning district

Adult day care facilities
Animal hospitals
Business and professional offices
Catering Dwellings (Single and Multi-family)
Furniture stores and upholstery
Governmental uses and buildings
Home Hair Stylists
Health Club, tanning studio, gymnasium and athletic training schools
Libraries
Mail order and catalog sales
Meeting halls
Nursery schools
Parking lots Private clubs
Public utility offices
Radio, TV, and recording studios

Other uses which are of the same general character as the above permitted uses, as determined by the Director of Planning & Economic Development, but specifically excluding those uses which are first permitted in the C-3 zoning district."

19.3 – Special Use Permit Required

A special use permit is required for any of the following uses:

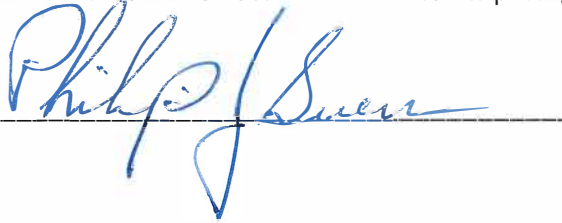
Any use involving sales or service directly to customers in vehicles
Automobile repair facilities
Automobile service stations
Banquet facilities
Fast food restaurants with drive through facility
Pre-schools and kindergartens operated by a public or private elementary school system, secondary level school units, or institutions of higher learning.

Section 11. 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 12. 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 13. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor



ATTEST:



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: February 21, 2023
Published: February 22, 2023

