

ORDINANCE NO. O-2023-44

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WHEATON
CHAPTER 22 (BUILDINGS AND BUILDING REGULATIONS) ARTICLE XIV (DEMOLITION OF BUILDINGS)**

WHEREAS, the City of Wheaton ("City") is an Illinois Home Rule Municipality pursuant to provisions of Article VII, Section 6 of the Illinois Constitution, and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the subject matter of this ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, the Mayor and City Council and City Staff have carefully evaluated the City Code and believe certain amendments are appropriate.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, Illinois by its home rule authority, that the Wheaton City Code, Chapter 22 "Buildings and Building Regulations", Article XIV "Demolition of Buildings" is hereby amended to provide as follows:

SECTION 1: That the following sections of Chapter 22 (Buildings and Building Regulations), Article XIV (Demolition of Buildings) are hereby amended as follows:

Sec. 22-201. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Demolition means the razing and removal of all or substantially all of a structure.

Demolition site means the parcel or portion of parcel upon which the demolition is to take.

Department means the City's building and code enforcement department.

Detached garage or a detached roofed structure means a structure which is subordinate to and serves a principal structure; is subordinate in area, extent, and purpose to the principal structure; contributes or has contributed to the storage of one or more motor vehicles, storage of belongings, or convenience of the principal structure, and is located on the same parcel of property as the principal structure.

Director means the City's director of building and code enforcement.

Property means the property on which the structure to be demolished is located.

Security means a cash demolition bond or letter of credit.

Principal structure means the building in which the principal or primary use on the lot is conducted.

Structure means any covered structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, which is affixed to the land.

(Code 1996, § 22-201; Ord. No. F-1044, § 1, 5-16-2005)

Sec. 22-202. Application.

(a) *Principal structure.* In order to obtain a permit for the demolition of any principal structure, a permit application shall be completed and submitted to the director. The permit application shall include the following information/documents:

- (1) Location of property; legal description; legal owner of property.
- (2) Plat of survey for the property.
- (3) Plan identifying structures to be demolished.
- (4) Specific plans for the reuse of the property. Building plans and specifications prepared in compliance with the provisions of this chapter for any new structure to be built on the subject property.
- (5) Site restoration plans and specifications. If commencement of construction of a new structure is not planned to occur within 60 days after completion of demolition, then the application shall include a detailed site restoration and maintenance plan depicting all work required to restore the subject property, within 60 days after completion of demolition, to a safe, clean condition until construction of a new structure has commenced, including, without limitation, backfilling of any excavation, grading, seeding, fencing, stormwater management, utility disconnections and the like.
- (6) Stormwater management plans. Detailed plans and specifications for stormwater management, soil erosion control, and grading on the subject property, which shall be made in conformance with the requirements of the city's stormwater management ordinance. Such plans and specifications shall be on a drawing or drawings separate from all other plans and specifications, labeled as "stormwater management plans."
- (7) List of adjacent properties. Names and addresses of those persons to whom tax bills were sent for the general taxes for the last preceding year on all real estate immediately adjacent to and across the street from the subject property, along with a sworn affidavit certifying that the list is complete, accurate, and that the mailing requirements set forth in Section 22-203(b) have been met.
- (8) Tree preservation plan. A tree preservation plan which identifies all trees with a six-inch diameter or larger trunk located on the property. The plan shall identify any trees which would be removed as a result of the demolition or reuse of the subject property and provide for their replacement in conformance with the city zoning ordinance.
- (9) Traffic control plan. A traffic control plan that depicts the subject property, surrounding roads, lots, and parking lots that indicates where construction vehicles and workers will be parking during the duration of the demolition of the structure. The city may make revisions to the traffic control plan based upon the volume of traffic on the road, width of the road, existing no-parking restrictions, location of drive approaches and the time of work.
- (10) Statement of intent to recycle applicable construction debris. A statement of intent indicating that the waste hauler that will be utilized to remove the construction debris from the demolition site will transport the debris to a recycling facility that will sort and recycle the appropriate materials. The waste hauler and recycling center to be used shall be identified within the statement of intent.
- (11) IEPA approval. If the structure to be demolished is subject to Illinois Environment Protection Agency (the "IEPA") regulations, copies of any applications or other documents required by the IEPA.
- (12) If applicable, a copy of the asbestos inspector's license and report certifying the condition of the structure.
- (13) The department shall not consider any application for the demolition of a principal structure unless the applicant furnishes all information/documents required by this article.

(b)

Detached Garage or detached roofed structure. Permit applications for the demolition of a detached garage or a detached roofed structure with a foundation and served by either electric, water, or natural gas shall be submitted to the director, along with the following information/documents:

- (1) Location of property; legal description; legal owner of the property.
- (2) Plat of survey for the property.
- (3) Plan identifying structure(s) to be demolished.
- (4) Specific plans for the reuse of the property. Building plans and specifications prepared in compliance with the provisions of this chapter for any new structure to be built on the property.
- (5) Site restoration plans and specifications. If commencement of construction of a new structure is not planned to occur within 60 days after completion of demolition, then the application shall include a detailed site restoration and maintenance plan depicting all work required to restore the subject property, within 60 days after completion of demolition, to a safe, clean condition until construction of a new structure has commenced, including, without limitation, backfilling of any excavation, grading, seeding, fencing, stormwater management, utility disconnections and the like.
- (6) Tree preservation plan. A tree preservation plan which identifies all trees with a six-inch diameter or larger trunk located on the property. The plan shall identify any trees which would be removed as a result of the demolition or reuse of the property and provide for their replacement in conformance with the city zoning ordinance.

(c) *Interior demolition.* Permit applications for interior demolition (except single-family structures) shall include a description of the demolition work and a floor plan identifying the location of any structural components that shall be removed.

(Code 1996, § 22-202; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1185, § 2, 7-5-2006)

Sec. 22-203. Procedures for permit approval.

- (a) *Application review.* The department will be responsible for the processing and review of any demolition permit application. As part of the review process, an inspection of the property may be performed by the department.
- (b) *Notification.* (1) Within five business days of receipt of a complete permit application for demolition of a principal structure, the department shall place a sign noticing the proposed demolition on the subject property.
(2) The applicant/owners of the subject property shall make written notification to the adjacent property owners via certified mail, return receipt requested, at least fourteen days prior to submitting an application for demolition. For purposes of this section, an "adjacent" property shall be any property having any common boundary with the subject property and property which would have a common boundary if not interrupted by a street, alley or other right-of-way.

The purpose of the notification is not to secure any form of approval from the adjacent property owners, but to ensure that the adjacent property owners have had an opportunity to learn, in general terms, about the demolition of a principal structure.

The content of the written notification shall include the address of the subject property, the name and contact information of the property owner, the scope of work, the timetable for the work, and a site plan. The applicant shall also provide the adjacent property owners with a city-prepared informational handout that includes a summary of construction regulations and procedures.

- (c) *Other application processing.* The demolition of a principal and/or accessory structure may also be processed as part of an annexation, subdivision, zoning, or special use permit application. Any such application which

includes the proposed demolition of a structure must include the permit application information referenced in section 22-202.

(Code 1996, § 22-205; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1133, § 1, 1-6-2006; Ord. No. F-1185, § 1, 7-5-2006)

Sec. 22-204. Review standards, requirements.

(a) General standards.

- (1) The department will review all demolition permit applications in accordance with this article and the ordinances of the city, together with the following standards:
 - a. The granting of a permit shall not be detrimental to the public health, safety, and general welfare of the community.
 - b. All required site components of the approved demolition plan shall be in place and inspected for code compliance prior to issuance of a permit.
 - c. The applicant shall be required to submit to the city proof of disconnection of utilities prior to issuance of the demolition permit.
- (2) The city may also impose such conditions and restrictions upon the issuance of the permit as may be necessary in order to comply with the standards recited in this article.

(b) General requirement. Any demolition which takes place shall be done in accordance with the provisions of the ICC International Building Codes in force at the time of issuance of the permit, the requirements of this Code, and any additional requirements or conditions as placed on the applicant by the city.

(c) Inspection. All structures proposed for demolition shall be examined by an state-licensed asbestos building inspector at the owner's expense who shall inspect all accessible areas of the dwelling proposed for demolition to determine if asbestos-containing building materials are present. The inspection shall include, but not be limited to, pipes, beams, walls, ceilings, floors, furnace, boiler, water storage tanks, wall panels, insulation, siding, roofing and other potential asbestos-containing materials. In the event that suspect asbestos is found at the property, laboratory testing shall be performed, and if regulated friable asbestos material is present, removal and disposal of the asbestos shall be undertaken in conformance with all applicable laws, rules and regulations. Any plan for removal and disposal shall be confirmed in a report submitted to the city by the applicant's state-licensed asbestos building inspector. The director may in his discretion submit the findings of any such inspector for review by an environmental consultant of its choice prior to approval of demolition permit. The review costs by any environmental consultant retained by the city shall be paid by the demolition permit applicant prior to issuance of the demolition permit.

(d) Particulate control. Airborne particles shall be controlled at all demolition sites at all times during the work by thoroughly saturating all portions of the structure and areas surrounding the structure with water. Such spraying shall be undertaken to thoroughly control creation and migration of airborne particles, including, without limitation, dust from the subject property during the demolition and removal of material from the subject property. The water source for control of airborne particles shall be either a water tanker truck with a pump capacity of 100 gallons per minute at the nozzle or a hydrant connection to the city's water system. If the city's water system is used, the demolition contractor shall obtain a hydrant meter and the permit/applicant shall pay the city for the retail value of the water used. The water shall be delivered from the water source by a hose with a minimum diameter of 1½ inches. The water source for controlling airborne particles shall be identified on the demolition permit application. In the event that a water tanker truck is utilized to provide the water source, the name, address and telephone number of the entity providing such service shall be identified on the demolition permit.

(e) Safety fencing. Fencing shall be installed as required by section 22-6. Such fencing shall be removed no later than the completion of restoration as required by subsection (f) of this section.

(f) *Duration of demolition and Restoration.* (1) If a new structure was not proposed to be constructed at the time the permit application was submitted, then the demolition of a structure and the restoration of all associated site features shall be completed within 30 days of the start of demolition.

(2) If a new structure was proposed to be constructed at the time the permit application was submitted, and the construction of said new structure has not commenced within 30 days of demolition, the subject property shall be restored within 15 days thereafter.

(3) Restoration of the property shall include without limitation: permanent disconnection of sewer and water at mains, final grading and seeding, the removal of dangerous conditions, rubbish and debris, restoration of damaged public property and removal of safety and tree protection fencing. If weather does not allow final grading and seeding, the department may allow rough grading until weather conditions permit final grading. Silt fencing and other stormwater measures shall remain in place in accordance with city stormwater ordinance.

(g) *Demolition security.* The applicant shall post with the city, at time of issuance of permit for the demolition of a principal structure, security in the form as prescribed by the department in the amount of three percent of the cost of demolition or \$10,000.00, whichever is greater. Such security shall be in addition to all other application and processing fees, costs, escrows, bonds, and performance securities required by codes or ordinances of the city.

(1) The city shall have the right at all times, at its option, to draw on the security for the costs, including legal fees and administrative expenses, incurred or to be incurred by the city in exercising any of its rights under this article in the event the applicant undertakes any work in violation of any provisions of this article or of any permit issued or plan approved pursuant to this article, or the applicant fails or refuses to complete any work authorized by any permit issued under this article in accordance with all plans approved in connection with said permit.

(2) Replenishment of security. If the city draws on the security, then the applicant shall replenish the security to the full amount required by this subsection (g) immediately after demand therefor is made to the applicant in writing by the city. Any failure of the applicant to replenish the security shall result in cancellation of the related permit, which permit shall not be reissued thereafter except after the filing of a new application therefor, payment of the permit fee, and establishment of a new security.

(3) Return of unused security. Upon the completion of demolition, the permit holder shall submit a written request for refund of the security. The city shall return any unused portion of the security to the applicant, without interest, within 30 days after final demolition inspection of the subject property and approval of the completed demolition by the director. A property where construction of a new principal structure has not commenced within 30 days of demolition, shall be restored as required by subsection (g) of this section before the security can be returned. For a property that has been issued a building permit for a new structure and construction has begun within 30 days of completion of demolition, items to be completed prior to return of the security shall include, but not be limited to, removal of all debris, rough grading of site, safety, tree and silt fencing in place and maintained, temporary disconnection of sewer and water services, sidewalk street and parkway clean and clear of obstructions. Where construction has not commenced within 30 days of the completion of demolition and the director has allowed rough grading due to weather conditions, the security shall not be returned until final grading and seeding has been completed.

(h) *Notification of demolition activities.*

(1) The person/entity obtaining a demolition permit shall contact the department at least one business day prior to the commencement of any approved demolition activities and identify the date and time of all scheduled demolition. In the event that the schedule is altered in any way, the city shall be provided notice of any and all such alterations, at least one business day prior to the alteration, in the same manner provided herein. The person/entity referenced above shall also notify the city on the day that demolition has been completed, in the same manner provided herein. A failure to comply with this

section results in a separate violation for each day in which demolition activities proceed without proper notice.

- (2) Two brightly colored placards shall be provided by the city and posted in a conspicuous location by the permit holder or property owner. The placard shall identify the scheduled date of the demolition and shall be posted no more than ten days prior and not less than three days prior to the scheduled demolition date.
 - (i) *Portable toilet.* During demolition, the site shall be provided with portable temporary restroom facilities in the manner provided by the Illinois Construction Site Temporary Restroom Facility Act, 410 ILCS 37/10. The location of the portable toilet shall be located as close to the center of the lot as possible and away from the adjacent properties, and shall not be placed on city rights-of-way, including, but not limited to, parkways or sidewalks.

(Code 1996, § 22-206; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1185, §§ 1, 2, 7-5-2006; Ord. No. F-1396, § 2, 12-1-2008)

Sec. 22-205. Fees.

A nonrefundable fee in accordance with appendix B to this Code shall be required for a building demolition permit, and the fee must be submitted with the building demolition permit application required by section 22-202. Permit fees as required by other codes and ordinances of the city may also be required.

(Code 1996, § 22-207; Ord. No. F-1044, § 1, 5-16-2005)

Sec. 22-206. Penalty for violation of article.

If any structure is demolished without complying with this article:

- (1) The owner of the subject property, demolition permit applicant and any other person or entity participating in any demolition activities on the subject property, including those involved in particulate control, shall each be subject to a separate fine of not less than \$2,000.00 or more than \$5,000.00 per day for each separate violation; and
- (2) Until the owner of the subject property pays any and all fines for violations of the provisions of this article, no building permits shall be issued for the construction of any improvement on the subject property and any active permits shall be suspended.

(Code 1996, § 22-208; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1185, § 1, 7-5-2006)

SECTION 2: In all other respects, the terms and provisions of the Wheaton City Code are ratified and remain in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict with these provisions are hereby repealed.

SECTION 4: In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

SECTION 5: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

Philip J. Sauer
Mayor

ATTEST:



City Clerk

Roll Call Vote:

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

Nays: None

Absent: Councilman Barbier
Motion Carried Unanimously

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