

ORDINANCE NO. O-2023-45

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WHEATON
CHAPTER 22 (BUILDINGS AND BUILDING REGULATIONS) ARTICLE XII (FENCES AND FLAGPOLES)**

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 XII "Fences and Flagpoles" is hereby amended to provide as follows:

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

Sec. 22-150. 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:

Corner lot means a lot which adjoins two (or more) intersecting streets.

Corner side yard means that portion of the lot adjoining a street not included in the front yard and shall extend from the front yard to the rear lot line. The depth of the corner side yard shall be the lesser of 20 feet or the distance from the corner side lot line to the adjacent side wall of the principal structure.

Decorative fence means an open fence constructed of wrought iron or similar material, split rails or pickets, and not a shadow box, "board-on-board" type fence.

Director means the director of building and code enforcement.

Double frontage lot means a lot having two street lines parallel to and opposite each other forming the boundaries of the lot. Such lots shall be considered to have only one front yard and it shall be determined by the location of the front door.

Fence means a structure forming a barrier between lots, between a lot and a street or any alley, public or private, or between portions of a lot or lots, such structures being independent of any other.

Front door means the required egress door that provides a continuous and unobstructed path of travel from the principal structure directly into a yard that opens to a public street without requiring travel through a garage.

Front of the principal structure means the side where the front door is located.

Front yard means the yard between the front lot line and the principal structure with a line running generally parallel to the front lot line from the corner of the front elevation foundation closest to the side lot line.

High volume streets means a street that has a 24-hour traffic volume of 3,000 or more vehicles.

Lot means a parcel of land which is either a "Lot of Record" or a "Zoning Lot".

Lot line means Lot Boundary Line. See Lot Line, Front; Lot Line, Rear; Lot Line, Side.

Lot Line, Front means a street line forming the boundary of a lot. Lots having two street lines generally parallel to and opposite each other, forming the boundaries of the lot, shall be considered to have two front lot lines. (Such lots are commonly known as double frontage lots or through lots). On corner lots, for fence placement purposes only, the yard where the front door of the principal structure faces the lot line shall be deemed the front yard.

Lot Line, Rear means the lot line that is most distant from, and is, or is most nearly, parallel to the front lot line. If a rear lot line is less than fifteen (15) feet (4.57 m.) long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least fifteen (15) feet (4.57 m.) long, lying wholly within the lot, parallel to the front lot line.

Lot Line, Side means a lot line which is neither a front lot line nor a rear lot line.

Open fence means one constructed so that at least 40 percent of the superficial area thereof consists of apertures.

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

Shadow box or board-on-board fence means a fence that is the same on both sides when mounted or installed between the vertical fence posts. A shadow box fence shall be considered open when such fence has boards installed on alternating sides of horizontal members so that when viewed perpendicular there is a one-quarter inch or greater separation between the alternating vertical boards.

Split rail fence means an underdressed fence rail split lengthwise from a log and set at either end into an upright post, not exceeding a height of four feet above grade.

Yard means that portion of the lot which is not included within the front yard or corner side yard.

(Code 1996, § 22-150; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1087, § 1, 10-17-2005; Ord. No. F-2045, § 1, 11-20-2017)

Sec. 22-151. Nonconforming fences.

Any and all fences erected, installed or maintained in violation of this chapter 22, article XII, which existed lawfully and have been made nonconforming by any and all amendments to the article may continue as nonconforming only in accordance with the following regulations:

- (1) A nonconforming fence, which is in need of repairs to or replacement of 25 percent or less of its total lineal footage due to deterioration or as a result of a casualty event, including, but not limited to, a fire, vehicle collision or an act of God shall either have:
 - a. The affected portion repaired or replaced, and it may continue to exist so long as restorative repairs are started within 30 days of notification to the property owner from the city that the fence violates any provision of this article, and such repairs are diligently prosecuted to completion, or within such additional period of time agreed to by the city; or
 - b. The entire fence removed or replaced with a fence which complies with all provisions of this article.
- (2) A nonconforming fence, which is in need of repairs to or replacement of more than 25 percent of its total lineal footage due to deterioration or as a result of a casualty event, including, but not limited to, a fire, vehicle collision or an act of God, shall have the entire fence removed or replaced with a fence which complies with all provisions of this article.

- (3) Notwithstanding the foregoing, each strip or slat between and among the links of a chain link fence shall be maintained in good repair. Should more than five percent of the strips or slats at any given time need repair, all of the strips or slats shall be removed from the links of a chain link fence and not replaced.

(Code 1996, § 22-151; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1087, § 1, 10-17-2005; Ord. No. F-2045, § 2, 11-20-2017)

Sec. 22-152. Supervision, inspection of fences.

It is hereby made the duty of the director to exercise supervision over all fences erected, altered, constructed or maintained in the city, and to cause inspection to be made whenever it shall appear to the director that any such fence, or any part thereof:

- (1) has been erected in violation of the provisions of this article or any ordinance of the city.
- (2) is in an unsafe condition or has become unstable or insecure.
- (3) is in such condition as to be hazardous to the safety or health of the public.

(Code 1996, § 22-152; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1087, § 1, 10-17-2005)

Sec. 22-153. Notice of article violation.

Should the director, upon examination and inspection of any fence, find any of the conditions enumerated in section 22-152 to exist, the director shall thereupon issue or cause to be issued a notice in writing to the owner of the property upon which the fence is placed, informing such person of the violation of this article and the unsafe or hazardous condition of such fence, and directing the property owner to make such fence comply with the requirements of this article, within such reasonable time as may be stated in such notice.

(Code 1996, § 22-153; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1087, § 1, 10-17-2005)

Sec. 22-154. Permits for erection, alteration of fences.

Before the erection, enlargement or structural alteration of any fence, a permit shall be obtained by the property owner, or his agent, from the director; and it shall be unlawful to proceed with any such work unless such permit shall first have been obtained. Plans to scale, plat of survey and specifications showing work to be done and location of proposed fence on the owner's premises must be submitted with each application for a building permit.

(Code 1996, § 22-154; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1087, § 1, 10-17-2005)

Sec. 22-156. Fence construction, location standards.

- (a) Fences shall be designed and constructed to resist a horizontal wind pressure of not less than 30 pounds per square foot in addition to all other forces to which they may be subjected.
- (b) All chain link fences must be constructed so that twists (barbed ends) are to the ground. The tops of all chain link fences shall be a knuckle edge.
- (c) Fences must maintain a continuous line, without missing sections.
- (d) A fence, including all posts, bases and other structural parts thereof, shall be located completely within the boundaries of the lot on which it is located. No fence shall be located closer than 12 inches to a public right-of-way.

- (d) Fences shall be located so that access to private property, adjacent parkways, public utilities, and alleyways are able to be maintained.
- (e)
- (f)

(Code 1996, § 22-156; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1087, § 1, 10-17-2005; Ord. No. F-1440, § 1, 8-3-2009)

Sec. 22-157. Maximum fence heights.

- (a) Fences may be erected to a maximum height of six feet above grade except as permitted under subsection (e) of this section. Such fences may be either an open type or solid type fence.
- (b) Fences located in a front yard may be erected to a maximum height of three feet above grade. Such fences shall only be a decorative fence.
- (c) Fences located in a corner side yard may be erected to a maximum height of four feet above grade. Such fences shall be open type fences. Fences located in a corner side yard that are directly adjacent to any driveway, neighboring front yard, or right-of-way (including alleyways) that intersects the street shall be a decorative fence.
- (d) Fences installed within the corner side yard adjoining a high-volume street (identified below), and not directly adjacent to any driveway, neighboring front yard, or right-of-way (including alleyways) that intersects the high-volume street, may be erected to a maximum height of six feet above grade. Such fences may be an open type or solid type fence.

22 nd Street	Lorraine Road
Adare Drive	Main Street (north of Roosevelt)
Blanchard Street (south of Roosevelt)	Manchester Road
Briarcliffe Boulevard	Naperville Road
Brighton Drive	Orchard Road (south of Wiesbrook)
Butterfield Road	Plamondon Road
College Avenue (Washington to Hill)	President Street
County Farm Road	Roosevelt Road
Creeside Drive (east of Stonebridge)	Seminary Avenue (east of Main)
Danada Drive (Brighton to Naperville)	Shaffner Road
East Loop Road	Stonebridge Trail (north of Wiesbrook)
Ellis Avenue	Warrenville Road
Gables Boulevard (north of Childs)	Washington Street (Roosevelt to College)
Gary Avenue	Wesley Street
Geneva Road	West Loop Road
Harrison Avenue	West Street (Roosevelt to Harrison)
Jewell Road	Wiesbrook Road
Leask Lane	

- (e) An open type or solid type fence may be erected to a height not exceeding eight feet above grade in any of the following instances:
 - (1) Along a railroad right-of-way.

- (2) Along the lot line of residential property (R1, R2, R3, R4, and R5) which separates such property from any business, multifamily (R6 and R7) or industrial district, or from any property being used for a nonconforming use which is permitted only in a business or industrial district.
- (3) Along the lot line of property used as a private or public utility substation.
- (f) Structural elements of the fence may exceed the maximum height restrictions by no more than six inches. Fences shall be installed so that the bottom of the fence is generally no more than two inches above existing grade.
- (g) Fences that are to be used as a barrier for a swimming pool must comply with the provisions of this article and the barrier provisions specified in the current adopted edition of the International Swimming Pool and Spa Code.
- (h) Masonry pillars within a fence line shall meet the following:
 - 1) Maximum two feet by two feet in dimension.
 - 2) Must comply with the height requirements specified in Section 22-157 for the location where the pillar is being installed.
 - 3) Masonry pillars are allowed to be situated on each side of a point of entry to the property, but otherwise must maintain a minimum 8' spacing between all other intermediate pillars.
 - 4) Light fixtures or ornamentation mounted to the top of the pillar shall be limited to a height of 18" and may be installed only at points of entry into the property.
 - 5) Light from the light fixtures must have minimal spread (no greater than 0.1 footcandle) beyond the property line onto adjoining private property.
- (i) A dog enclosure or run shall not exceed six feet in height or enclose an area greater than 20 percent of the rear yard and set back five feet from all property lines. A dog enclosure or run shall not be permitted in the front or corner side yard.

(Code 1996, § 22-157; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1087, § 1, 10-17-2005; Ord. No. F-1440, § 2, 8-3-2009; Ord. No. F-2045, § 3, 11-20-2017)

Sec. 22-158. Construction of fences adjacent to right-of-way.

Fences constructed along the rear lot line of a property which is adjacent to an existing or proposed right-of-way, except for corner lots, must include a gate providing access to the right-of-way, in order to allow the property owner access to maintain such right-of-way.

(Code 1996, § 22-158; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1087, § 1, 10-17-2005)

Sec. 22-163. Certain fence prohibitions; special permits.

- (a) No chain link fence shall be permitted in any front yard or corner side yard, or, in the case of double frontage lots, the lot line adjacent to a high volume street. No chain link fence shall be permitted in any rear or side yard which is adjacent to a front yard of an adjoining property for the distance the yards are adjacent.
- (b) No chain link fence shall contain strips or slats of any kind between or among the links.
- (c) Any school, church, governmental entity, private utility or public utility may petition the city council for a permit to construct a protective fence that would not conform to the requirements of this section. The city council may approve such petition only upon finding that the proposed fence would:
 - (1) Not alter the essential character of an area.
 - (2) Not set any unfavorable precedent either to the locality or the city as a whole.

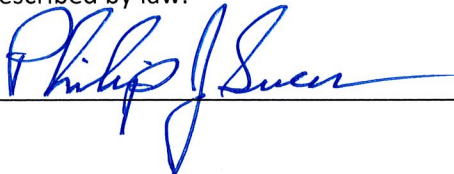
- (3) Not adversely affect the public safety and general welfare.
- (d) No gate or fence is permitted across a driveway within the front or corner side yard in a residential district.
- (Code 1996, § 22-163; Ord. No. F-1044, § 1, 5-16-2005; Ord. No. F-1087, § 1, 10-17-2005; Ord. No. F-1440, § 3, 8-3-2009)

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.



Mayor

ATTEST:



City Clerk

Roll Call Vote:

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

Nays: None

Absent: Councilman Barbier

Motion Carried Unanimously

Passed: November 20, 2023

Published: November 21, 2023