

ORDINANCE NO. O-2025-24

**AN ORDINANCE AMENDING THE WHEATON ZONING ORDINANCE
ARTICLES II - DEFINITIONS, V – ADMINISTRATION AND ENFORCEMENT and XXII – OFF-STREET
PARKING AND LOADING**

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 City has determined it to be appropriate to amend the City Zoning Ordinance; and

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the City Zoning Ordinance, a public hearing was conducted by the Wheaton Planning and Zoning Board, acting as a hearing body on April 22, 2025, to consider said amendments.

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 Wheaton Zoning Ordinance text is amended by adding the following additional definitions to Article II – Definitions added in alphabetical order:

“Elementary School: A public or private school for grades one to eight which may or may not include a kindergarten.

High School: A public or private school for grades nine to twelve.”

SECTION 2: That Section 5.7 Variations of Article V – Administration and Enforcement is hereby repealed and rescinded in its entirety and replaced with a new Section 5.7 which shall read as follows:

“5.7 Variations

A. **Administrative Variations.** Any variation to decrease any front yard setback by less than or equal to 25% or 10 feet, whichever is less, or any minimum side or rear yard dimension by less than or equal to 25% or five feet, whichever is less, or to increase the maximum height of a building or structure required by the applicable provisions by less than or equal to 25% or five feet, whichever is less, may be heard and decided by the Director of Planning & Economic Development as an administrative variation.

1. **Application for Administrative Variation.** Any application for an administrative variation shall be filed with the Director of Planning & Economic Development.

2. Application Form. The application shall contain such information as the Director of Planning & Economic Development may require.
3. Applicant qualification. Any application shall be filed either by the owner of record or the contract purchaser of the property to be directly affected thereby.
4. Notification to Adjacent Owners. After the Director of Planning & Economic Development determines that the application is complete, the applicant shall notify adjacent property owners in all directions of the subject property by one of the following two methods:
 - a. Certified Mail. The City shall send a copy of the variation application by certified mail; or if there are no written objections filed with the Director of Planning & Economic Development within 15 days of receipt of such notice, the administrative variation will be granted, or:
 - b. In-person meeting. The applicant shall meet with the adjacent owners to review the variation application. The applicant shall obtain a signed statement along with a signed set of plans from each adjacent property owner confirming that the owner has no objection to the requested variation. Only upon receiving a signed statement along with a signed set of plans from each adjacent property owner may the Director of Planning & Economic Development grant the administrative variation.
5. Requirements for Administrative Variation. It shall be a condition precedent to the granting of an administrative variation that the Director of Planning and Economic Development determines and concludes that: (i) the variation will be in harmony with the general purpose and intent of the Zoning Ordinance; and (ii) the applicant has demonstrated and established the following:
 - a. Hardship. Practical difficulties prevent compliance with the strict application of the regulations of the zoning ordinance, or that a practical hardship would result from compliance with the strict application of the requirements of the zoning ordinance; and
 - b. Essential Character of the Neighborhood. The variation will not alter the essential character of the area or neighborhood.
6. Director of Planning's Review. For purposes of determining whether an applicant for an administrative variation has satisfied the requirements recited in Section 5.7.6 of this Article, the Director of Planning and Economic Development shall take into consideration the extent to which the evidence establishes, or fails to establish, the factors recited in Section 5.7.C of this Article, and whether any written objections to the application have been submitted.
7. Conditions. The Director of Planning & Economic Development may impose such conditions and restrictions upon the subject property benefited by an administrative variation as may be necessary to comply with the standards recited in this Article to reduce or minimize the injurious effect of such variation upon other property in the neighborhood, and to better promote and implement the general intent of this ordinance.

8. Denial. If the Director of Planning & Economic Development finds the proposed application does not meet the standards contained herein, the application for an administrative variation shall be denied. Following a denial of an administrative variation, the applicant may file for a non-administrative variation.
9. Administrative Variation Limitations. No administrative variation shall be valid unless completed within twelve months of its approval. Upon written application, the Director of Planning & Economic Development may grant a maximum of two extensions, not exceeding 1 additional year each, without notice of hearing, as provided in Section 4.4 of this ordinance.
- B. Non-administrative Variations. Any other request for a variation that exceeds the standards for an administrative variation set forth in Section 5.7.A shall be considered a non-administrative variation. The Board may recommend, and the City Council may grant, non-administrative variations from the regulations of this ordinance when such variations are in harmony with the general purpose and intent of the zoning ordinance.
 1. Application for Non-Administrative Variation. Any application for a non-administrative variation shall be filed with the Director of Planning and Economic Development.
 2. Application Form. The application shall contain such information as the Director of Planning and Economic Development may require.
 3. Applicant qualification. Any application shall be filed by either the owner of record or the contract purchaser of the property involved.
 4. Public Hearing and Recommendation. The Director of Planning and Economic Development shall submit the application to the Planning and Zoning Board for a public hearing and recommendation. The Planning and Zoning Board shall submit its recommendation related to the proposed variation to the City Council as soon as reasonably practical, but in no event, later than sixty (60) days from the closing of the public hearing.
 5. Requirements for a non-administrative variation. It shall be a condition precedent to the recommendation of the Board to grant a non-administrative variation, and the granting of a variation by the City Council, that the applicant has demonstrated and established the following:
 - a. Hardship. Practical difficulties prevent compliance with the strict application of the regulations of the zoning ordinance, or a particular hardship would result from compliance with the strict application of the requirements of the zoning ordinance; and
 - b. Essential Character of the Neighborhood. The variation will not alter the essential character of the area or neighborhood.
 6. Conditions. The Board may recommend, and the City Council may impose, such conditions and restrictions upon the subject property benefited by a non-administrative

variation as may be necessary to comply with the standards set out in this Article to reduce or minimize the injurious effect of such variation upon other property in the neighborhood, and to better carry out the general intent of this ordinance.

7. City Council Decision. A non-administrative variation may be granted by the City Council, by ordinance, approved by a majority of the members of the City Council qualified to vote. No non-administrative variation shall be valid unless completed within 12 months of approval. The City Council may grant a maximum of two extensions, not exceeding 1 additional year each, upon written application without notice of hearing, as provided in Section 4.4 of this ordinance.
8. Non-administrative Variation Limitations. A non-administrative variation from the regulations of this ordinance may be granted by the City Council only in accordance with the standards set out in Section 5.7B and may be granted only in the following instances, and in no others:
 - a. To permit a decrease of greater than twenty-five percent (25%) or five feet in any setback or any minimum yard dimension or to permit an increase in the maximum height of a building or structure required by the applicable provisions.
 - b. To permit the use of a lot or lots for use otherwise prohibited solely because of the insufficient area or width of the lot or lots but in no event shall the respective area and width of the lots be less than seventy-five percent (75%) of the required area and width, except for R-1 zoned lots meeting the following:
 - i. At least seventy-five percent (75%) of the zoning lots fronting on both sides of the street within the block, including corner lots, are improved with single-family dwellings; and
 - ii. At least fifty percent (50%) of the single-family dwellings fronting on both sides of the street within the block are constructed on zoning lots with the same or less lot width and lot area as the subject lot of record. Dwellings on corner lots of equal or less lot width and/or lot area than the subject lot of record shall be included in this calculation; dwellings on corner lots of greater lot width and/or lot area than the subject lot of record shall be excluded.
 - c. To reduce the number of required off-street parking or loading spaces for a property.
 - d. To increase by not more than twenty-five percent (25%) the maximum distance that required parking spaces are permitted to be located from the use served.
 - e. To permit overhead wiring for public utility purposes not otherwise permitted under the regulations of this ordinance.
 - f. To increase the Floor Area Ratio to a maximum of forty-five percent (45%) for additions to single-family dwellings constructed prior to October 17, 1989, and for additions to

single-family dwellings constructed in the Northside Residential Overlay District prior to February 7, 2005.

- g. For a seasonal parking lot, to permit a reduction in the amount of required landscaping and/or the elimination of any required lighting.
- h. To allow an attached front, side or rear loading garage on a single-family dwelling in the Northside Residential Overlay District where construction of a detached garage is not physically possible. In such cases, the total area of the attached garage, up to 500 square feet, shall not be counted in the gross floor area calculation for the purpose of calculating the floor area ratio.
- i. To increase the maximum lot coverage for elementary and high schools without dormitory accommodations to forty percent (40%).

C. Variation Evidence. For purposes of determining whether an applicant for an administrative or non-administrative variation has satisfied the requirements recited in this Section 5.7, the Planning and Zoning Board, and the City Council, shall take into consideration the extent to which the evidence establishes, or fails to establish, the following factors. No single factor shall be controlling or determinative. All applicable factors shall be weighed and evaluated in an overall determination of whether the requirements of this Section 5.7 have been satisfied.

1. The particular physical surroundings, shape or topographical condition of the subject property prevents compliance with the strict application of the regulations of the zoning ordinance rather than causing a mere inconvenience if there is compliance with the strict application of the regulations of the zoning ordinance.
2. The purpose of the variation is not based primarily upon a desire to enhance the monetary value of the subject property.
3. The alleged practical difficulty or particular hardship has not been created by any person presently having any interest, whether financial, beneficial, legal or other, in the subject property or by the applicant.
4. The granting of the variation will not be detrimental to the public welfare, injurious, in any way whether economic, aesthetic or otherwise, to other property or improvements in the neighborhood or inconsistent with the general character of the area or neighborhood.
5. The proposed variation will not:
 - a. impair an adequate supply of light and air to adjacent property;
 - b. substantially increase the hazard from fire or other dangers to the subject property or adjacent property;
 - c. otherwise impair the public health, safety or general welfare;

- d. diminish or impair property values within the neighborhood;
 - e. unduly increase traffic congestion in the public streets and highways;
 - f. create a nuisance; and
 - g. result in an increase in public expenditure.
6. A denial of the requested variation would potentially allow for the creation of a more adverse or unintended use, improvement or consequence because the regulations of the Zoning Ordinance would allow alternative construction which would potentially have a more negative impact on the character of the neighborhood than the construction of the improvement pursuant to the requested variation.
 7. The variation is the minimum variation that will make possible the reasonable use of the land, building or structure.
 8. In the case of an existing Planned Unit Development, the granting of the variation will not significantly compromise the character and concept of the planned unit development.
 9. The subject property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district.
 10. Denial of the variation would unreasonably deprive the property owner of the use and enjoyment of the subject property."

SECTION 3: That Subsections 5 and 6 of Section 22.2 Off-Street Parking Use and Location Standards of Article XXII – Off-Street Parking and Loading are hereby repealed and rescinded in their entirety and replaced with new Subsections 5 and 6 which shall read as follows:

22.2 Off-Street Parking Use and Location Standards

5. Non-Residential Parking - Residential Districts - Location. All required off-street parking facilities accessory to non-residential uses in the R-1, R-2, R-3, R-4, R-5, R-6, and R-7 Zoning Districts shall be located on the same lot as the building or use served. Provided, however, that any such required off-street parking may be located on a separate lot within 300 feet of the building or use served, upon the granting of a Special Use Permit as provided in Article V of this ordinance.

6. Non-Residential Parking - Non-Residential Districts - Location. All required off-street parking facilities accessory to non-residential uses in the C-1, C-2, C-3, C-4, C-5, O-R, and M-1 Zoning Districts shall be located on the same lot as the building or use served. Provided, however, that any such required off-street parking in the C-2, C-4 and O-R Districts may be located on a separate lot within 300 feet of the building or use served, upon the granting of a Special Use Permit as provided in Article V of this ordinance. No off-street parking accessory to such use shall be located in a residential or institutional zoning district."

SECTION 4: In all other respects, the terms and provisions of the Wheaton Zoning Ordinance are ratified and remain in full force and effect.

SECTION 5: All ordinances or parts of ordinances in conflict with these provisions are hereby repealed.

SECTION 6: 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 7: 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 Weller Councilwoman Bray-Parker Councilwoman Brice Councilman Brown Mayor Suess Councilman Clousing Councilwoman Robbins
Nays:	None
Absent:	None
	<u>Motion Carried Unanimously</u>

Passed: May 19, 2025

Published: May 20, 2025

