

ORDINANCE NO. F-1335

**AN ORDINANCE AMENDING THE TEXT
OF THE WHEATON ZONING ORDINANCE – SECTION 29.2 “PROHIBITION
AGAINST ANTI-COMPETITIVE USE RESTRICTIONS”**

WHEREAS, the City of Wheaton, Illinois ("City"), has determined it to be in the best interests of the City and its residents to consider certain amendments to the text of 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 City Council, acting as a hearing body, on March 10, 2008, to consider certain text amendments pertaining to its prohibition against anti-competitive use restrictions.

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

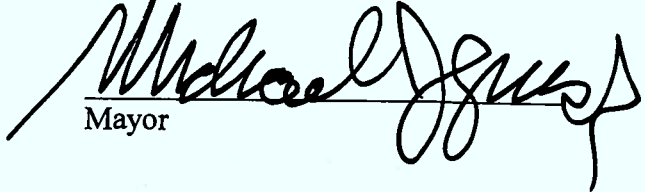
Section 1: The Wheaton Zoning Ordinance text is amended by replacing that portion of Section 29.2 that reads “Negative Use Restriction shall not be interpreted . . . by 765 ILCS 120/1 et seq.” with the following:

“Negative Use Restriction shall not be interpreted to include: 1) provisions in a lease, purchase and sale agreement, declaration of restrictive covenants and conditions, condominium declaration, or other instrument, for a multi-tenant building including but not limited to a shopping center, a strip shopping center, or an outlot located within a shopping center (hereinafter collectively a “Commercial Structure”), in which a developer, landlord, owner and/or condominium or property owner association agrees with an owner, tenant, and/or purchaser (a “Benefitted Party”) of a lot, unit, or space (hereinafter a “Unit”) within said Commercial Structure, to grant the exclusive use of certain uses or types of uses (“Protected Uses”) in a Unit within said Commercial Structure while prohibiting said Protected Uses in another Unit within said Commercial Structure, although said provisions shall become unenforceable in the event the Benefitted Party no longer uses the Benefitted Party’s Unit for one or more Protected Uses, and a) the Benefitted Party does not use other space in an area substantially contiguous to the zoning district in which the Commercial Structure is located for one or more Protected Uses, or b) the Benefitted Party’s Unit is not used by the Benefitted Party’s grantees, successors, or assigns for one or more Protected Uses within eighteen (18) months of the date the Benefitted Party discontinues its use of the Benefitted Party’s Unit for one or more of the Protected Uses; 2) restrictions imposed on residential properties within the identified zoning districts that are intended to promote attainable housing; or 3) qualified conservation easements as provided for by 765 ILCS 120/1 et seq.”

Section 2: In all other respects, the Wheaton Zoning Ordinance is ratified and remains in full force and effect.

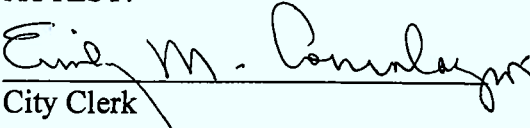
Section 3: All ordinances or parts of ordinance in conflict with these provisions are repealed.

Section 4: This ordinance shall become effective form 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 Mouhelis
Councilman Prendiville
Councilman Sues
Councilwoman Corry
Councilman Johnson
Councilman Levine
Mayor Gresk

Nays: None

Absent: None

Motion Carried Unanimously

Passed: March 17, 2008
Published: March 18, 2008