

ORDINANCE NO. F-1391

**AN ORDINANCE AMENDING THE WHEATON CITY CODE, CHAPTER 62 -
SUBDIVISIONS**

WHEREAS, The City of Wheaton, Illinois ("City") is an Illinois home rule municipality pursuant to the provisions of Article VII, Section 6 of the Illinois Constitution, 1970, and as such the City may exercise any power or perform any function pertaining to its government and affairs; and

WHEREAS, the City has determined it to be in the best interests of the City and its residents to consider certain amendments to the Wheaton City Code; and

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: That Chapter 62 "Subdivisions" is hereby modified as follows:

- A. **Sec. 62-3. Definitions and rules of construction.** The definition for "Flag lot" is hereby deleted and replaced with the following:

"Flag lot means a residential lot having less than the required street frontage, the buildable part of which is located behind an adjacent lot fronting the same street, with access to the buildable portion being provided by the strip of land having a width of less than the required frontage."

- B. **Sec. 62-4. Compliance with chapter.** This section is hereby deleted and replaced with the following:

"Because each new subdivision accepted by the city becomes a permanent unit in the basic physical structure of the future community, and to which the future community will, of necessity, be forced to adhere, all subdivisions planned within the incorporated limits of the City and within the unincorporated area lying one-half mile beyond but under the jurisdiction of the City as provided by statute shall, in all respects, be in full compliance with the regulations contained in this chapter and in conformity with the comprehensive plan of the City.

Notwithstanding the provisions of an act to revise the law in relation to plats (765 ILES 205/0.01 et seq.), all subdivisions of real estate within the City shall be in conformance with the provisions of this chapter. Provided, however, that where a proposed subdivision involves the sale or exchange of parcels of land between owners of adjoining and contiguous land, the subdivision shall be subject to the following requirements at the expense of the owners:

- (1) Full compliance with the provisions of the city zoning ordinance and this chapter;
- (2) Submission of plats of survey illustrating the newly divided lots;
- (3) Review of all deeds and plats by the director of engineering and their approval by the City Council; and

(4) Recording the deeds and plats in the office of the county recorder of deeds.”

C. **Sec. 62-8. Variations generally.** This section is hereby deleted and the subsequent sections are renumbered.

D. **Sec. 62-9. Variance in standards of design or required improvements--When permitted.** This section is hereby deleted and replaced with the following:

“Where the subdivider can show that a provision of the standards of design or required improvements as set forth in Articles III and IV of this chapter would cause unnecessary hardship because of topographical or other conditions peculiar to the site or surrounding conditions, or where alternative improvements are proposed which would reduce negative environmental impacts related to air quality, water quality, waste generation or other environmental considerations related to the public health, and when in the opinion of the City Council a variation may be granted without undermining the intent of such provisions, the City Council may approve the variance.”

E. **Sec. 62-11. Annexation.** This section is hereby deleted and replaced with the following:

“Where a existing or proposed subdivision is contiguous to the corporate limits of the city, the extension or connection of the city water mains to the existing or proposed subdivision, or the extension or connection of sanitary sewers or storm drains to city sewers or storm drains shall not be permitted unless the existing or proposed subdivision shall first have been annexed to the City. If a petition for annexation for the subdivision has been denied by the City Council, permission may be granted by the City Council for connection to the city water system.”

F. **Sec. 62-17. Fees.** This section is hereby added:

“Any application for Subdivision shall be accompanied by the filing fee as set forth in the fee schedule, contained in Appendix B of the Wheaton City Code.”

G. **Sec. 62-54. Letter of credit or cash deposit--Required.** This section is hereby deleted and replaced with the following:

“To insure compliance with the requirements of this Chapter the applicant, shall prior to the recording of any final plat, deposit with the City, security in an amount estimated by the Director of Engineering or his designated representative as reasonably necessary to:

1. Complete all public improvements;
2. Complete required engineering and surveying work including final staking and monumentation
3. Guarantee completed public improvements for period of two (2) years from the date of acceptance.

Security shall be posted as:

1. A letter of credit subject to the approval of the Director of Engineering and City Attorney; or
2. Cash deposited with the City;
3. Cash deposited within a escrow institution which shall be subject to the approval of the Director of Engineering and City Attorney;
4. A performance bond which shall further be subject to the following terms and conditions in order to be deemed good and sufficient in conformance with 65 ILCS 5/11-39-3:
 - i. The bonding company shall be licensed to do business in the State of Illinois;
 - ii. The bonding company shall have the A.M. Best insurance rating of not less than A:X in A.M. Best and Companies Insurance Guide;
 - iii. The bonding company shall provide to the City Director of Finance its most recent certified audited financial statements but in no event shall the audit be more than one year from the date of submission of the bond;
 - iv. The bonding company shall provide a written certification that it has reviewed the approved engineering plans and estimates of those plans and accepts the estimates, as accurate;
 - v. The bond shall provide that it will be paid to the City not less than seven (7) days from the date of demand by the City, but such payment shall not otherwise waive the bonding company's defense;
 - vi. The bonding company shall certify in writing that its sole defense to any claim by the City against the bond shall be that the public improvements which the City claims have not been completed have in fact been completed in conformance with the City's requirements."

H. Sec. 62-79. Review. This section is hereby deleted and replaced with the following:

"The Director of Engineering shall, upon receipt of a preliminary plat, distribute a copy of the preliminary plat and supporting documents to the Director of Planning and other administrative personnel for their review and comment. The Director of Engineering and Director of Planning shall furnish the Planning and Zoning Board with a written report on their findings, such report to be prepared within thirty (30) days of receipt of the preliminary plat and then be presented at the Planning and Zoning Board's next regular meeting. Copies of the plat, supporting documents, and the administrative reports shall be forwarded to the Planning and Zoning Board."

- I. **Sec. 62-116. Transmission to city council.** This section is hereby deleted and replaced with the following:

“If all requirements of this division have been met, and the final plat is identical with the preliminary plat as approved by the City Council, the Director of Engineering shall upon receipt of the final plat distribute a copy of the final plat and any supporting documents to the Director of Planning and other administrative personnel for their review and comments. The Director of Engineering and Director of Planning shall furnish the city council with a written report on their findings. Such report shall be prepared within thirty (30) days of receipt of the final plat and then presented at the next regular meeting of the City Council.”

- J. **Sec. 62-212. Minimum residential lot area and frontage - Generally.** This section is hereby deleted and replaced with the following:

“**Sec 62-212. Lot sizes.** Lot width and area shall conform to the regulations of the zoning ordinance. Corner lots shall be of a size to provide for building lines on each street frontage not less than the depth of the required front yard and corner side yard specified in the Zoning Ordinance.

For unincorporated areas within one and one-half miles of the City’s corporate limits the minimum single-family residential lot area for interior lots shall be 10,000 square feet; the minimum single-family residential lot width at the building setback line, shall be 70 feet; the minimum single-family residential lot frontage along the improved right-of-way shall be 45 feet ; and the minimum area of all corner single-family residential lots shall be 12,000 square feet, and the minimum frontage shall be 90 feet.”

- K. **Sections 62-213 and 62-214** are hereby deleted and the subsequent sections are renumbered.

- L. **Sec. 62-216. Lots to abut upon roadway; setback lines to be shown.** This section is hereby deleted and replaced with the following:

“All lots shall abut upon a roadway; minimum building setback lines shall be shown along all public streets as established by either the applicable zoning ordinance district or the city council, based upon existing conditions within and surrounding the subdivision, to provide for conformity and continuity.”

- M. **Sec 62-297. Same – Costs.** This section is hereby deleted.

Section 2: All ordinances, or parts of ordinances, in conflict with these provisions are hereby repealed.

Section 3: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

Attest:

Emily M. Pennington
City Clerk

William J. Gresk
Mayor

Roll Call Vote:

Ayes: Councilman Prendiville
Councilman Sues
Councilwoman Corry
Councilman Johnson
Councilman Levine
Mayor Gresk
Councilman Mouhelis

Nays: None

Absent: None

Motion Carried Unanimously

Passed: November 17, 2008

Published: November 18, 2008