

MUNICIPAL CODE

005 ADOPTION OF MUNICIPAL CODE OF WHEATON

005.01 Adoption of Code.

The Ordinances of the City of Wheaton are hereby revised and codified. Such codification is hereby adopted as the "Wheaton Municipal Code".

005.02 Subsequent Ordinances.

Ordinances passed after the effective date of this Code shall be passed as amendments or additions to this Code (unless they are of limited or special application or are designated as not a part of this Code). Such Ordinances shall be incorporated into this Code.

005.03 Consecutive Numbering to Continue.

Consecutive chronological numbering of all Ordinances as passed shall continue and an ordinance book containing all Ordinances, past and future, in chronological order shall be permanently maintained in the office of the City Clerk.

005.04 Severability.

If any chapter, section, subsection, sentence, clause or other part of the Wheaton Municipal Code shall be adjudged void or of no effect, for any reason whatsoever, such decision shall not affect the validity of any other portion or portions of the Code.

005.05 Penalty Clause.

Every person convicted of a violation of any provision of this Code shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$700.00 or by imprisonment for not to exceed 90 days, or both, and in either event at the court's discretion by assessing costs of prosecution, unless otherwise provided in this Code with reference to specific misdemeanors.

005.06 Publication of Code and Effective Date.

This Ordinance, the Wheaton Municipal Code, together with such indexes, supplements, tables, appendices, or other material as the Council may designate, shall be published in book, loose-leaf, pamphlet or newspaper form, and a substantial quantity of copies shall be printed and available for general distribution to the public. The Wheaton Municipal Code shall become operative and effective as soon as the City Clerk shall publish a notice in the Wheaton Gazette for two successive weeks stating that the Code has been passed and adopted and that printed copies thereof are available at the office of the City Clerk for general distribution.

005.07 Repeater Clause.

The following ordinances are hereby repealed and are not included in or made a part of the Wheaton Municipal Code: 3(3); 12; 16; 20; 28; 31; 37; 38; 44; 47; 53; 64; 128; and 152. Further, any and all ordinances of the City of Wheaton not heretofore or hereby repealed which are wholly or in part inconsistent with this ordinance or the Wheaton Municipal Code herein adopted are hereby expressly repealed to the extent of the inconsistency.

005.08 Effect of Repeal.

The repeal of any ordinance or portion thereof by the proceeding section shall not affect or impair any act done or right vested or accrued and any proceeding, suit or prosecution had or commenced shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed has remained in force. No offense committed and no liability, penalty or forfeiture either civilly or criminally incurred prior to the time when any such ordinance or part thereof was repealed or altered by the Wheaton Municipal Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

005.09 Prima Facie Evidence

Copies of the Wheaton Municipal Code certified by the mayor and the city clerk, under the city seal, and copies of the same printed in any newspaper, book, pamphlet, or other form, and which purport to be published by authority of the council of the City of Wheaton, shall be prima facie evidence of the law of said City.

MUNICIPAL CODE

010 RULES OF CONSTRUCTION

010.01 General.

Words and phrases not specifically defined herein shall be construed in their plain, ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

010.02 Masculine, Feminine or Neuter.

Unless the context clearly requires otherwise, the use of either masculine, feminine or neuter gender shall include the other genders.

010.03 Singular or Plural.

Unless the context clearly requires otherwise, the use of either singular or plural numbers shall include the other number.

010.04 Past, Present or Future.

Unless the context clearly requires otherwise, the use of either past, present or future tense shall include the other tenses.

010.05 Joint Authority.

Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons.

010.06 Computation of Time.

The time within which an act shall be done shall be computed by excluding the first and including the last day. If the last day is Sunday or legal holiday, such day shall be excluded.

010.07 Deputies.

Whenever the Wheaton Municipal Code requires an act to be done, which act may legally be done by an agent or employee as well as the principal, such requirement shall be satisfied by the performance of such act by an authorized agent or employee.

010.08 City Clerk.

The term City Clerk and City Treasurer are used interchangeably herein.

010.09 Conjunctions.

The words "or" and "and" may be read interchangeable where the context requires it.

010.10 Catch Lines.

The catch lines of the various sections of the Wheaton Municipal Code printed in bold face type or underlined are intended to indicate the contents of the section for the convenience of the reader, but shall not be construed as a part of the section.

010.11 Codifier's Notes.

Codifier's notes appearing in the Wheaton Municipal Code are advisory only and do not have the force and effect of law.

010.12 Citation.

It shall be proper to cite specific sections of the Wheaton Municipal Code by indicating "W.M.C." followed by the section number. The citation to this section would thus be W.M.C. 010.12.

AIRPORTS AND AIRCRAFT

50 VEHICULAR TRAFFIC

50.01

No person, firm or corporation shall operate or move any motor vehicle, automobile, truck, tractor or farm machine whether self-propelled or not upon the runways of the Wheaton Municipal Airport or in the ditches adjacent thereto, said airport being located in Section 26, Township 127 North, Range 47 West, Traverse County, Minnesota, except in connection with maintenance of said runways or ditches, or maintenance of an aircraft, or in the event of emergencies involving an aircraft.

50.02

Persons, firms, or corporations operating machinery on cultivated fields adjacent to said runways and ditches shall not park said machines or leave them unattended within a distance of 200 feet of said runways.

50.03

Violation of any provision of this ordinance shall be a misdemeanor punishable pursuant to W.M.C. 005.05.

AIRPORTS AND AIRCRAFT

60 MINIMUM STANDARDS FOR AERONAUTICAL ACTIVITY

Section 1. Definitions.

1. Airport. Any reference to “airport” herein shall be to the Wheaton Municipal Airport.
2. City. Any reference to “City” herein shall be to the City of Wheaton.
3. City Administrator. Any reference to “City Administrator” herein shall be to the Wheaton City Administrator.
4. City Council. Any reference to “City Council” herein shall be to the Wheaton City Council.
5. Fix-Based Operator (FBO). An aeronautical service operator who has received permission from the City Council and has designated the airport as the place of business for purposes of a Minnesota Commercial Operator’s License. The FBO will provide more than one aeronautical service to the public, for example, flight instruction and airplane maintenance services.
6. Specialized Aviation Service Operator (SASO). An operator who has received permission from the City Council and has designated the airport as the place of business for purposes of a Minnesota Commercial Operator’s License and will be providing only one aeronautical service to the public, for example Aerial Agricultural Spraying or Aerial Photography.
7. Temporary Aerial Agricultural Spraying Operator (TAASO). An operator who has not designated the airport as the place of business for purposes of a Minnesota Commercial Operator’s License, but wishes to temporarily use the airport as a base for temporary Operations, typically less than 120 days.
8. Operator. Any person, firm, partnership, corporation, association or group and all associated employees (full time, part-time, or contract) that has been awarded a FBO, SASO, or TAASO status

Section 2. Minimum Standards and Airport Rules for All FBOs and SASOs.

- A. Required Documentation for Pilots. All pilots must annually submit to the City Administrator the following documentation to legally conduct commercial business at or from the airport, this includes full time, part –time or contracted pilots of an FBO or SASO:

- 1 FAA Operating Certificate.
- 2 FAA Commercial Pilots License.
- 3 Current Second Class Flight Physical.
- 4 Bi-Annual Log Entrees.
- 5 Current FAA and State Aircraft Registration and Airworthiness Certificate.

B. Required Annual Documentation for All FBOs and SASOs.

1. Minnesota Department of Transportation Commercial License or ability to obtain.
2. Proof of Liability Insurance. Per M.S.A. §360.59, Subd. 10, the minimum insurance coverage for each aircraft must be the following types and amounts: \$100,000 per person and \$300,000 per occurrence for bodily injury and \$100,000 for property damage.
3. Proof of Liability Insurance on all ground vehicles, used in the commercial operation.
4. Proof of Workman's Compensation on all ground and air labor.

C. Required Documentation to request FBO or SASO status. All parties who wish to become a FBO or SASO at the airport must submit an application containing the following information to the City Council for approval before commencing operations:

1. The name, address, and phone number of all individuals who would be owners, partners, or managers, employees that own more than 10% of the business.
2. Type of proposed business, along with copies of current FAA and State of Minnesota licenses and certificates which would be required for the proposed business.
3. The name, address, and phone number of all airports that the operator has worked from for the five-year period immediately prior to submitting the application.
4. Land and/or building space, including undeveloped property, required for business operation. A map must be submitted with the application indicating where the proposed business activity will take place at the airport.

D. Lease. All FBO's or SASO's must agree to a lease for a term to be mutually agreed upon between the parties, with due consideration for an operator's financial investment and the need to amortize improvements to the leasehold.

E. Insurance Cancellation. Any contract of insurance required above must carry an endorsement stating that the contract cannot be cancelled by the insurer until five days' notice (or longer) in writing of cancellation has been given the

City Administrator by the insurer. In any case, when an insurance contract is canceled, notice of cancellation must immediately thereafter be given to the City Administrator by the insurer.

- F. Public Facilities. All operators and employees may use the Arrival Departure building, i.e.: bathroom, phone, etc. They must keep said premises in a clean orderly manner.
- G. Radio Communications. All operators must use radio communications (Unicom) for all take-offs and landings on airport property.

Section 3. Minimum Standards Specific to All Aerial Spray Applicators

- A. Trucks. After a FBO, SASO or Temporary Operator status is granted; all trucks must not exceed 9 tons per axel. Each tire must have a pad of 1' wide by 4' long by 1" thick (1' x 4' x 1") to help prevent sinking into the tarmac. All vehicles must abide by a 10 mph speed limit.
- B. Chemicals: Storage and Disposal. All operators must submit Material Data Safety Sheets (MSDS) to the City Administrator for all chemicals that will be brought onto the airport. In addition, these sheets must be prominently displayed in the areas where the chemicals are being loaded.

- 1. No chemicals may be stored outdoors unattended.
- 2. No disposing, disclosing, or spillage, of chemicals or their containers on airport premises, or any other city-owned property.
- 3. All applicators are responsible for spills, theft, vandalism, and injury caused by chemicals and operation of aerial application while operating at the Wheaton Municipal Airport.
- 4. No Chemicals will be stored at the airport beyond the end of the spray season, which would typically be on or about October 31 of each year.

- C. Minnesota Department of Agriculture. All applicators must abide by all Department of Agriculture rules and regulations and all other pertinent regulations, which includes maintaining a valid Minnesota Department of Agriculture Commercial Pesticide license.

- D. Annual Bond. All spray applicators must submit a bond or post \$2,000 to the City to go towards any clean-up costs. If after 30 (thirty) days from the expiration of the permit and/or end of the spray season, no clean-up is necessary, all money less a 5% administration fee will be refunded. All FBOs, SASOs, or TAASOs will be responsible for their own clean-up costs.

Section 4. Temporary Aerial Agricultural Spraying Operator (TAASO)

- A. All temporary sprayers are to submit to the City Administrator a request to use the airport, accompanied by the documentation required in Section 2A, 2B, 3B, 3C and 3D. The information will be included at the next City Council agenda. The City Council will review the materials, and consider the operator's request to use the facility.
- B. The operator may request a seasonal or daily permit. A standard seasonal, temporary permit must not exceed 120 days. Temporary spray operators requesting a permit longer than this duration must request an exception from the City Council for approval.
- C. The City must be notified when business is begun and completed.
- D. The Temporary Operator will sign/submit the appropriate ground lease agreement supplied by the City Administrator.

Section 5. Rejection of Application for FBO or SASO status.

All applications must be reviewed and acted upon by the City Council within 30 days from the receipt of the completed written documentation. Applications may be denied for one or more of the following reasons:

- A. The operator does not meet qualifications, standards, and/or requirements established by the above-listed Minimum Standards Guidelines.
- B. The granting of the application will require the expenditure of airport funds, labor, or materials on the facilities described in or related to the application, or the operation could have a negative impact on the airport's financial operations.
- C. The proposed operation, airport development, or construction does not comply with the approved Master Plan and/or Airport Layout Plan and the FAA will not agree to the suggested changes.
- D. The applicant has supplied false information, or has misrepresented any material fact in the application or in the supporting documents, or has failed to make full disclosure on the application.
- E. The applicant has a record of violating the rules, regulations, or minimum standards of the airport or any other airport, the Federal Aviation Regulations, other local, state or federal law, or local health regulations.
- F. The applicant has defaulted in the performance of any lease or other agreement with the airport or the City.

Section 6. Miscellaneous Provisions.

- A. Any construction required by an operator must be in accordance with design and construction requirements and regulations of the airport, State, and Federal governments, as well as all applicable local codes. All plans and specifications must be submitted to the City for approval. All operators must be required to furnish to the City any payment and performance bonds commensurate with any construction required under the minimum standards set forth for their individual type of operation.
- B. The location of any operation must be at a site or area determined by the City Council in keeping with the airport Layout Plan. It must also be the right of the City Council to determine the availability of suitable space in keeping with the type of operation to be performed.
- C. The City reserves the right to take any action it considers necessary to protect the aerial approaches of the airport from obstructions, together with the right to prevent any operator from erecting any buildings, signs, or other structures on the airport which, in the opinion of the City, would limit the usefulness of the airport or constitute a hazard to aircraft.
- D. Upon notification by the City Administrator, the operator must provide access within a reasonable time limit to allow for inspection of the interior of the hangar.
- E. In the event of damage to or destruction of the operator's facilities, the operator must agree to repair such facilities or return the site to its original state.
- F. Upon the expiration or earlier termination of any agreement, the operator's rights granted in the agreement must cease, and the operator must immediately surrender such to the City.
- G. All operators must observe and comply with all laws, ordinances, rules and regulations of the United States Government, the State of Minnesota, the County of Traverse, City of Wheaton, and all agencies thereof which may be applicable to its operation, or the operation, management, maintenance, and administration of the airport now in effect or hereafter promulgated. Further, the operator must take out and keep current all City, County, State, and Federal licenses and permits that may be required in its operation, and display to the City Administrator, upon request, said permits and licenses as evidence of compliance.
- H. All contracts and leases between the operator and the airport must be subordinate to the provisions of any existing or future agreement between the

City and the United States Government, relative to the operation or maintenance of the airport, the execution of which has been, or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.

- I. All contracts and leases between the operator and the airport must be subordinate to the right of the City, during time of war, national emergency, riot or natural disaster, to lease the entire airport, or any part thereof, to the United States or the State of Minnesota for military or National Guard use and, in such event, the provisions of any contract or lease with such operators, insofar as they are inconsistent with the provisions of any lease to any such unit of government, must be suspended for the period of such government lease.

Section 7. Appeal Process.

Any operator who believes they have been unfairly treated by this process or by interpretations or decisions of the City Council may submit a written request to the City Council for a formal review in front of the City Council.

Section 8. Violation.

A violation of any provision of this Ordinance shall be deemed a misdemeanor offense.”

POLICE AND FIRE DEPARTMENTS

75 INTERFERENCE WITH OPERATIONS

75.01 False Alarms.

It shall be unlawful for any person to tamper, meddle or interfere in any way with any fire alarm, any fire warning system, any wire or telegraphic or telephonic equipment of any kind, provided and used to transmit fire alarms or messages forwarded or sent to or received by any member of the Wheaton Fire Department or official reporting station in the performance of his official duties, and it shall be further unlawful for any person to falsely report a fire or attempt to falsely report a fire to any member of the police or fire departments of the City of Wheaton, through any means whatsoever.

75.02 Interference With Equipment.

It shall be unlawful for any person to tamper, meddle or interfere in any way with any equipment of the police or fire departments of the City of Wheaton or to use any of said equipment for unofficial or unauthorized purposes; and it shall further be unlawful for any person to interfere with or obstruct any member or members of the said fire and police departments in the discharge of their official duties. Nothing herein shall be construed to limit or reduce the supervisory or disciplinary powers of the City Council over members of the said departments.

75.03

It shall be unlawful for any person to tamper meddle or interfere in any way with the radio or radar equipment of the police department of the City of Wheaton, or to use any of said equipment for unauthorized or unofficial purposes, or to use any of said equipment to transmit false messages, alarms or reports or to register, in the case of radar equipment, false or inaccurate readings.

75.04 Penalty.

Violation of any provision of this ordinance shall be a misdemeanor punishable pursuant to W.M.C. 005.05.

CROSS REFERENCE: W.M.C. 269.40 and .41

80 ADMINISTRATIVE OFFENSE PROCEDURES

80.01 Purpose.

Administrative Offense Procedures established pursuant to this Ordinance are intended to provide the public and City of Wheaton with an informal, cost effective, and expeditious alternative to traditional court actions for violation of certain traffic and criminal offenses.

The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty, as provided for hereafter, the individual may withdraw from participation in the administrative offense procedures in which event the City may bring traffic or criminal charges in accordance with the law.

Likewise, City of Wheaton, in its discretion, may choose not to initiate administrative offense procedures and may bring criminal or traffic charges in the first instance.

80.02 Administrative Offense.

An administrative offense is a violation of those City ordinances identified by the City of Wheaton City Council and is subject to the administrative penalties set forth on a Schedule of Administrative Offenses and Penalties to be adopted by the City of Wheaton City Council.

Violations which may be charged as administrative offenses and the penalties for such offenses may be established, changed or modified by resolution of the City Council from time-to-time. Copies of such resolutions shall be maintained at the Office of the City Administrator.

80.03 Notice.

Any officer of the City of Wheaton Police Department and/or the City Administrator, having authority to enforce City ordinances, shall, upon determining that there has been a violation, notify the violator, or if a motor vehicle is involved in the violation and the violator is not present at the time, attach the notice of the violation to the vehicle. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

80.04 Payment.

Once such notice is given, the alleged violator may, within thirty (30) days of the time of issuance of the notice, pay to the City the amount set forth on the schedule of penalties for the violation, or request in writing a hearing, as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

80.05 Administrative Hearing

Any person contesting an administrative offense pursuant to this Ordinance, may, in writing and within fifteen (15) days of the time of issuance of the notice, request a hearing by a hearing officer who shall conduct a hearing to determine if an administrative offense has occurred. The hearing shall be held within 21 days of receipt of a written request for hearing.

The hearing officer shall have authority to dismiss the violation, or to reduce or waive the penalty. If the hearing officer determines that the violation is proven by the preponderance of evidence, the violator shall pay the penalty imposed within thirty (30) days of the decision.

80.06 Hearing Officer.

The Chief of Police and City Administrator will act as hearing officers. Any individual appointed in writing by the City Council may also act as a hearing officer. The appointment is for an indefinite term. At least one hearing officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this Ordinance, and will be assigned on a case-by-case basis. The issuer of a citation to a specific individual may not act as a hearing officer for the same citation.

80.07 Failure to Pay.

In the event a party charged with an administrative offense:

- a. fails to pay the penalty within thirty (30) days of issuance of the notice, or
- b. following a hearing, fails to pay the penalty within thirty (30) days of a decision by the hearing officer, or
- c. fails to attend a scheduled administrative hearing, a traffic or criminal charge may be brought against the alleged violator in accordance with applicable statutes or ordinances.

If the penalty is paid within the times stated above, or if an individual is found not to have committed the administrative offense by the hearing officer, no traffic or criminal charge will be brought by City of Wheaton for the same violation.

80.08 Disposition of Penalties.

All penalties collected pursuant to this Subdivision shall be paid to City of Wheaton and deposited in the City general fund.

80.09 Effective Date.

This Ordinance shall be in full force and effect on and after January 1, 2009.

85 TRAFFIC AND CRIMINAL CODE

85.01 Purpose and Authority.

The City of Wheaton City Council adopts this Ordinance to better protect the safety and welfare of its citizens. The Ordinance is adopted pursuant to Minnesota Statutes 169.022, 412.191, and 412.231.

This Ordinance, in conjunction with the City of Wheaton Administrative Offense Procedures Ordinance, will provide an informal and cost effective alternative to traditional court actions for the violation of certain criminal and traffic offenses. It will provide a more prompt resolution of minor criminal and traffic offenses, will conserve resource of the criminal justice system and will reserve the scarce resources of the court system for the more serious offenses.

85.02 Offenses.

The following acts are violations of the City of Wheaton Traffic and Criminal Code:

- a. **Failure to Obey Traffic Control Signals.** The language of Minnesota Statute 169.06 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- b. **Speeding.** The language of Minnesota Statute 169.14 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- c. **Improper Lane Use.** The language of Minnesota Statute 169.18 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- d. **Improper Turns.** The language of Minnesota Statute 169.19 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- e. **Failure to Yield Right of Way.** The language of Minnesota Statute 169.20 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- f. **Stopping or Parking on a Roadway.** The language of Minnesota Statute 169.32 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- g. **Other Parking Violations.** The language of Minnesota Statute 169.34 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- h. **Littering.** The language of Minnesota Statute 169.42 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- i. **Equipment Violations.** The language of Minnesota Statutes 169.46 to Minnesota Statutes 169.75, inclusive and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.
- j. **Failure to Use Passenger Restraint for Children.** The language of Minnesota Statute 169.685 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

k. **Seat Belt Violations.** The language of Minnesota Statute 169.686 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

l. **Theft, less than \$50.00.** The language of Minnesota Statute 609.52 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance, except that the value of the stolen property may not exceed \$50.00.

m. **Trespass.** The language of Minnesota Statute 609.605, Subd. 1, and any subsequent amendments thereto, are hereby incorporated in and made part of this Ordinance.

n. **Disorderly Conduct.** The language of Minnesota Statute 609.72 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

o. **Public Nuisance.** The language of Minnesota Statute 609.74 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

p. **Unlawful Deposit of Garbage.** The language of Minnesota Statute 609.68 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

q. **Loud Exhaust.** No driver or operator of a motor vehicle shall allow the discharge into the open air of the exhaust of any vehicle, except through a properly installed and operating muffler or other device which will effectively prevents loud or explosive noises there from.

r. **Exhibition Driving.** No person shall operate a motor vehicle anywhere in the county in such a manner as to cause the spinning or skidding of tires, the squealing of tires, defacing the roadway with black marks or harming the road surface, fishtailing or skidding, accelerating excessively, drag racing, or in any other manner which creates a hazard to the driver or other persons or property, or interferes with traffic in the area.

s. **Off-road Vehicle Violations.** The language of Minnesota Statute 84.804 subd. 1-4 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

t. **Snowmobile Violations.** The language of Minnesota Statute 84.87 subd. 1-2a and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

u. **Animals Running Loose.** No owner of any animal of the species of cattle, horse, ass, mule, sheep, swine, or goat, or any animal which is otherwise domesticated, shall permit said animal to run at large upon the land of another without that landowner's permission.

v. **Animal Welfare Violations.** The language of Minnesota Statute 346.36 to 346.43, and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

w. **Failure To Secure A Load.** The language of Minnesota Statute 169.81, Subd. 5b and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

x. **Inattentive Driving.** The language of Minnesota Statute 169.14, Subd. 1, and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

y. **Tinted Windows.** The language of Minnesota Statute 169.71, Subd. 4, and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

z. **Provisional License.** The language of Minnesota Statute 171.055, and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

aa. **Illegal Burning.** The language of Minnesota Statute 88.16 through 88.171 and any subsequent amendments thereto, is hereby incorporated in and made part of this Ordinance.

85.03 Penalty.

The maximum penalty for a violation of this Ordinance shall not exceed \$300.00

85.04 Effective Date.

This Ordinance shall be in full force and effect on and after January 1, 2009.

90 AN ORDINANCE ESTABLISHING FEES FOR EMERGENCY PROTECTION SERVICES

90.01. Purpose and Intent.

This ordinance is adopted for the purpose of authorizing the City of Wheaton to charge for fire service as authorized by Minn. Stat. §§ 366.011, 366.012, and 415.01.

90.02. Definitions.

- (A) **"False alarm"** means a request for emergency protection services that is requested when not needed.
- (B) **"Fire protection contract"** means a contract between the City and a town or other city for the City to provide fire service.
- (C) **"Fire service"** means any deployment of fire fighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.
- (D) **"Fire service charge"** means the charge imposed by the City for receiving fire service.
- (E) **"Motor vehicle"** means any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi trailers. It does not include snowmobiles, manufactured homes, all terrain vehicles, or park trailers.
- (F) **"Mutual aid agreement"** means an agreement between the City and a town or other city for the City's fire department to provide assistance to the fire department of a town or other city.

90.03. Persons Affected.

- (A) Owners of property within the City who receive fire service.
- (B) Anyone who receives fire service from the Wheaton Fire Department as a result of a motor vehicle accident or fire.
- (C) Owners of property in towns or cities to which the City provides fire service pursuant to a fire protection contract.

90.04. Rates.

- (A) \$500 per call flat fee.

90.05. Billing and Collection.

- (A) Parties requesting and receiving fire services may be billed directly by the City. Additionally, if the party receiving fire services did not request services but a fire or other situation exists which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not

the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.

(B) Parties billed for fire service will have 90 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the City will send a notice of delinquency.

(C) If the fire service charge remains unpaid for 90 days after this notice of delinquency is sent, on or before November 15 of each year, the City will certify the unpaid fire service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the city all charges collected on behalf of the city. The City must give the property owner notice of its intent to certify the unpaid fire service charge by October 25.

(D) False alarms will not be billed as fire calls, unless they are based on false reports (ie, whereby an individual intentionally gives false warning of a fire). However, a party will be allowed only one false alarm within a twelve-month span, and will be billed for any other calls made.

90.06. Mutual Aid Agreement.

When the City fire department provides fire service to another fire department pursuant to a Mutual Aid Agreement, the billing will be determined by the Mutual Aid Agreement.

90.07. Application of Collections to Budget. All collected fire charges will be city funds and used to offset the expenses of the City Fire Department in providing fire services, including the maintenance and acquisition of fire equipment and vehicles.

90.08. Effective Date.

The ordinance shall become effective January 1, 2017.