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ORDINANCE NO. F-0163

AN ORDINANCE AMENDING CHAPTER 30 OF THE
WHEATON CITY CODE BY ADDING ARTICLE V-
"FOREIGN FIRE INSURANCE TAX BOARD"

WHEREAS, Chapter 65, Section 5/11-10-1 of the *Illinois Compiled Statutes* ("*Illinois Municipal Code*") allows municipalities to impose a tax on the premiums of fire insurance policies written by foreign fire insurance companies; and

WHEREAS, pursuant to the *Illinois Municipal Code*, the City of Wheaton has levied a two percent (2%) tax on the gross receipts received by foreign fire insurance companies relative to fire insurance upon property within the City; and

WHEREAS, the *Illinois Municipal Code* requires municipalities to enact an ordinance providing for the election of officers of the department, by members of the department, to receive and spend the money collected from a foreign fire insurance tax for the maintenance, use and benefit of the fire department.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, Illinois, as follows:

SECTION 1: The City of Wheaton Foreign Fire Insurance Tax Board ("Board") and Fund are hereby created; the Board and Fund shall exist and operate pursuant to this Ordinance.

SECTION 2: That Chapter 30 of the Wheaton City Code is amended by adding a new Article V thereto which shall read in its entirety as follows:

"ARTICLE V. FOREIGN FIRE INSURANCE TAX BOARD

Section 30-100. Foreign fire insurance tax board

(a) The City of Wheaton Foreign Fire Insurance Tax board (Board) shall consist of four (4) members. The four (4) members of the Board shall be elected from all employees of the Fire Department and shall have full voting privileges on any matter before the Board. The members of the Board shall be designated as:

1. President
2. Vice President
3. Treasurer
4. Secretary

In addition to the officers as provided above, the Fire Chief or his designee shall be an ex-officio member, unless otherwise elected to the Board at an

election held in accordance with the provisions of this ordinance. As an ex-officio member, the Fire Chief shall not have any voting privileges, but shall have the right to participate in all open or closed session discussions regarding the management of foreign fire insurance tax funds, preparation of annual budgets, or any other matter within the scope of the powers and duties of the Board and shall receive notice of any regular or special meeting in the same manner given to any voting member.

(b) The term "employee" as used in this ordinance shall mean any full-time sworn firefighter or officer of the Wheaton Fire Department, including the Fire Chief. No probationary employee of the Department may hold an office during the period of his or her probation.

Section 30-101. Election

The initial election of the Board shall be held prior to October 1, 1997; the terms of the officers for such election shall terminate April 30, 2000.

Successor elections of the Board shall be held in April, 2000 and in the month of April in even-numbered years thereafter. Officers shall take office on November 1, 1997 for the initial terms and on May 1 in even-numbered years thereafter for successor terms. Officers, except for the initial terms, shall serve up to and including April 30 two years later. Officers, whether for the initial or successor terms, shall take an oath prior to assuming office. The initial election shall be held in accordance with guidelines and procedures established by a temporary three member committee consisting of the Fire Chief, one fire lieutenant, and one firefighter. These individuals shall organize, conduct and supervise the initial elections. The Board shall adopt all necessary rules and regulations governing the nomination and election of such officers for subsequent elections.

Section 30-102. Powers, duties, procedures

All revenue received by the City of Wheaton from the foreign fire insurance tax shall be deposited in the Fund and shall be held and expended according to the following procedures:

(1) By December 31st of each year the officers of the Board shall approve a preliminary budget for the expenditure of the funds received pursuant to the foreign fire insurance tax. The officers of the Board shall, no later than March 1st, adopt a final budget for the collection and expenditure of the foreign fire insurance tax; the budget shall be subject to the approval of the City Council. The final budget may be amended at any time by a majority vote of the officers of the Board; any amendment shall be subject to approval of the City Council. Expenditures shall be made only for items specifically described in the final budget as originally adopted or subsequently amended by the Board and approved by the City Council.

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- (2) The Board shall have the power to approve the expenditure of money from the Fund for items specifically described in the approved budget.
- (3) Any expenditure made from the Fund shall be made in accordance with City rules, regulations, practices and ordinances, as may be amended from time to time, which govern the procurement of goods and services.
- (4) Prior to placing any item(s) and/or service which would be placed within any Fire Station(s) in the proposed budget, the board shall submit a written statement to the Fire Chief stating the descriptions of the items and/or services and the proposed locations within any Fire Station(s). The Fire Chief has the absolute right to prohibit any such item(s) and/or service(s) to be placed or located into any Fire Station(s). If the Fire Chief decides to allow any such item(s) and/or service into any Fire Station, the Fire Chief shall also have the absolute right to prohibit the Board's proposed physical location of any such item(s) or rendering of service in any Fire Station. The Fire Chief must respond in writing to any written statement of the Board within thirty (30) days from his receipt of the statement and the Fire Chief must explain the basis for his decision(s). Upon the purchase of any approved items, title shall be placed in the name of the City.
- (5) The Board may appeal, in writing, any decision of the Fire Chief rendered pursuant to subsection four (4) to the City Manager who shall issue his decision in writing within twenty-one (21) days of his receipt of the Board's written appeal. The decision of the City Manager shall be final.
- (6) The Treasurer of the Board shall:
 - (a) Have charge and custody of and be responsible for all funds collected by the City from the Foreign Fire Insurance Tax;
 - (b) Deposit all such monies in the name of the Foreign Fire Insurance Board for the City of Wheaton Fire Department in such banks, savings and loan associations, or other depositories as shall be authorized by the City Council;
 - (c) Invest such funds as are not immediately required in such securities as the City Council shall specify or generally designate from time to time;
 - (d) Maintain the financial books and records of the Fund.
 - (e) Provide the City Director of Finance a monthly accounting of receipts and expenditures of the Fund.

- (f) Furnish a bond to the City in an amount equal to three (3) times the amount of foreign fire insurance tax revenue to ensure the faithful performance of the Board Treasurer of his duties imposed by law and by Board rules and regulations. Fees for the bond shall be paid from the funds collected from the foreign fire insurance tax.
- (g) Pay the service charge levied by the Illinois Municipal League for the collection of the foreign fire insurance tax from the proceeds of the foreign fire insurance tax, provided such fee is chargeable by state law; and provided that the service charge has not already been retained by the Illinois Municipal League prior to disbursement of the tax funds.

(7) The officers of the Board shall provide to the City Council an annual audit of the finances of the Board. The audit shall be performed at the end of each fiscal year in accordance with generally accepted auditing principles by a certified public accountant. In addition, the audit shall verify that expenditures by the Board are for the maintenance, use and benefit of the Fire Department. The annual report shall be delivered to the Mayor. The cost of said audit shall be paid from the funds collected from the Foreign Fire Insurance Tax.

(8) The Board members shall be subject to the disclosure requirements set forth in Article VIII, Chapter 2, of the Wheaton City Code.

Section 30-103. Meetings

The Board shall, in accordance with the Open Meetings Act, establish a regular time and place for its meetings. The President shall preside at the meetings and the Secretary shall keep a record of all resolutions, proceedings and actions of the Board; these records shall be open to the public. Three (3) members of the Board shall constitute a quorum for the transaction of its business. The affirmative vote of three (3) members of the Board shall be necessary to conduct or transact any business. Special meetings, with appropriate notice, may be called by the President or by no less than three (3) other members of the Board. Any person shall be entitled to appear and be heard on any matter before the Board.

Section 30-104. Rules and regulations

The Board may promulgate written rules and regulations governing Board matters so long as such rules and regulations are not inconsistent with law. All rules and regulations promulgated by the Board must be approved by a majority of the members of the City Council. All rules and regulations shall be posted in each fire station, the City Hall, and a copy provided to the City Clerk. Before any rule or regulation shall become effective, such rule or regulation

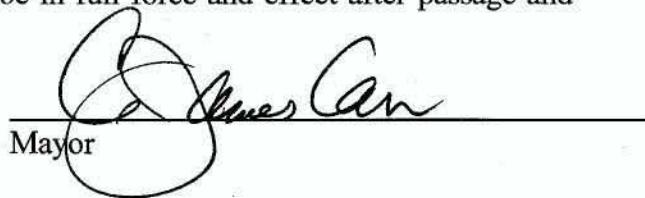
shall be filed with the City Clerk and shall be made available for public inspection. Rules or regulations of the Board shall become effective when the ordinance enacted by the City Council becomes law. The Board Secretary shall maintain a record of all Board rules and regulations, which shall be available for public inspection.

Section 30-105. Limited function of Board

The Board shall be limited in function to the administration of the funds derived from Foreign Fire Insurance Taxes as may be levied from time to time by the City. Nothing in this Ordinance shall give the Board any function or authority for any other purpose. At no time shall the actions of the Board interfere with the duties, responsibilities and rights of the Fire Chief, the City Manager, the City Council, the Board of Fire and Police Commissioners nor shall its actions in any way impede the ordinary, usual and customary operation of the Fire Department.

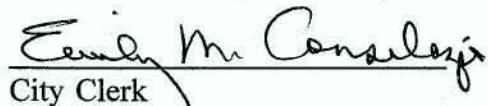
SECTION 3: All ordinances or parts of ordinances in conflict with this ordinance are hereby amended to the extent of the conflict.

SECTION 4: This ordinance shall be in full force and effect after passage and publication according to law.



Mayor

ATTEST:



Emily M. Consalvo
City Clerk

Ayes:

Roll Call Vote:
Councilman Mork
Councilman Eckhoff
Councilman Gresk
Mayor Carr
Councilman Johnson
Councilwoman Johnson

Nays:

None

Absent:

Councilwoman Davenport

Motion Carried Unanimously

Passed: August 18, 1997

Published: August 19, 1997