

**ORDINANCE NO. O-2023-31**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WHEATON  
CHAPTER 1 (GENERAL PROVISIONS); CHAPTER 2 (ADMINISTRATION); CHAPTER 6 (ALCOHOLIC  
BEVERAGES); CHAPTER 10 (SPECIAL EVENTS); AMUSEMENTS AND ENTERTAINMENTS); CHAPTER 26  
(BUSINESSES); CHAPTER 54 (SOLID WASTE); CHAPTER 58 (STREETS, SIDEWALKS AND OTHER PUBLIC  
PLACES); CHAPTER 62 (SUBDIVISIONS); AND CHAPTER 78 (VEGETATION)**

**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 Mayor and City Council and City Staff have carefully evaluated the City Code and believe certain amendments are appropriate.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Wheaton, Illinois by its home rule authority, that the Wheaton City Code, Chapter 1 "General Provisions", Chapter 2 "Administration", Chapter 6 "Alcoholic Beverages", Chapter 10 "Special Events, Amusements, and Entertainments", Chapter 26 "Businesses", Chapter 54 "Solid Waste", Chapter 56 "Streets, Sidewalks and Other Public Places", Chapter 62 "Subdivisions", Chapter 78 "Vegetation", are hereby amended to provide as follows:

**SECTION 1:** That Chapter 1 (General Provisions) is hereby amended as follows:

**Sec. 1-8. General penalty for violation of Code; continuing violations; judicial enforcement of Code.**

(a) Whenever in this Code, or any other ordinances of the city, any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and where no specific penalty is provided therefore, the violation of any such provision of this Code shall be a petty offense and punished by a fine in accordance with this section, unless provided otherwise in this Code. Each day during any portion of which any violation of any provision of this Code or ordinance subject to this penalty section is committed, continued or permitted shall constitute a separate offense. Any penalty imposed for violation of this Code or ordinance and subject to this provision may include: some reasonable public service work, such as, but not limited to, the picking of litter in public parks or along public highways or the maintenance of public facilities; or where applicable the abatement of the condition which is the basis for the code violation.

(b) Any person who violates or who pleads guilty to or is found guilty of a violation of any of the provisions of this Code shall be punished by a fine of not less than \$100 nor more than \$950 unless the City in its sole and absolute discretion chooses to impose community service work as the penalty.

(c) In addition to the payment of a fine as set forth in subsection (b) above, any person who pleads guilty to or is found guilty of the violation of any provision of this Code may be sentenced by the court to a period of court supervision or to conditional discharge for a period not to exceed one (1) year under the provisions of the Illinois Criminal Code of 2012, as may be amended from time to time, \* including a requirement that the

person (a) perform community service work appropriate in type and duration to the offense committed; (b) make restitution or reparation in an amount not to exceed actual loss or damages to property and pecuniary loss; or (c) any other penalty or condition set forth in 730 ILCS 5/15-6-3 or 5-6-3.1 as may be amended from time to time. If sentenced to work as aforesaid, the court may not require the person to work more than eight (8) hours per day on weekends or legal holidays.

(d) The court may also order compliance with the Code or abatement of the violation; and if the defendant fails to comply with the provisions of this Code or abate the conditions within the specified time period set by the court, the court:

- (1) Where the violation occurs over multiple days but has terminated by the court-ordered compliance date, shall impose a fine of not less than \$100.00 nor more than \$950.00 for each day of the offense, from the date of the offense through the date upon which the violation terminated;
- (2) Where a violation continues to exist as of the date of court-ordered compliance, shall retain jurisdiction for imposition of a continued daily fine of not less than \$100.00 nor more than \$950.00 per day for each day of the violation until there is compliance with this Code or abatement of the condition which is the basis for the penalty; or
- (3) May use its powers of contempt as the court deems appropriate.

\*720 ILCS 5/1-1 *et seq.*

(Code 1968, § 1-8; Code 1996, § 1-8; Ord. No. F-1448, § 1, 10-5-2009)

**SECTION 2:** That Chapter 2 (Administration), Article IV (Departments), Division 7 (Public Works) is hereby amended as follows:

**Sec. 2-232. Divisions.**

The public works department shall consist of five divisions, as follows:

- (1) Street division;
- (2) Water division;
- (3) Sewer division(sanitary sewer and storm sewer);
- (4) Forestry division;
- (5) Fleet division.

(Code 1968, § 2-170; Code 1996, § 2-232)

**SECTION 3:** That Chapter 2 (Administration), Article VI (Personnel), Division 1 (Generally) is hereby amended as follows:

**Sec. 2-486. Prevailing wage rates.**

- (a) To the extent and as required by the Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*), as amended, the general prevailing rate of wages in this locality for laborers, mechanics and other workers engaged in construction of public works coming under the jurisdiction of the city is hereby ascertained to be the same as the prevailing rate of wages for construction work in the county area as determined by the Illinois Department of Labor as of June of each year or as may be adopted by the Department of Labor during the year. As required by such Act, any and all revisions of the prevailing rate of wages by the Illinois Department of Labor shall supersede the department's June determination and apply to any and all public works construction undertaken by the city. The definition of any terms appearing in this section which are also used in the aforesaid Act shall be the same as in such Act.

(b) Nothing contained in this section shall be construed to apply the general prevailing rate of wages as ascertained in this section to any work or employment except public works construction of the city to the extent required by the aforesaid Act.

(c) A copy of the current prevailing rate of wages then in effect shall be attached to public works contract specifications.

(Code 1968, § 2-257; Code 1996, § 2-486; Ord. No. E-4107, 7-10-1995)

**SECTION 4:** That Chapter 6 (Alcoholic Beverages), Article I (In General) is hereby amended as follows:

**Sec. 6-3. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic liquor* means any spirits, wine, beer, ale, or other liquid containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes. Beverages sold as beer, ale, or other designation commonly applied to malt beverages containing more than one-half of one percent of alcohol by volume shall be presumed to be alcoholic liquor for the purposes of this chapter.

*Bar* means any counter at which alcoholic beverages may be stored, displayed, prepared or served and at which patrons are permitted to sit or stand and consume alcoholic beverages.

*Beer* means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water, and includes among other things, beer, ale, stout, lager beer, porter and the like.

*Brewer* means a person who is engaged in the manufacture of beer.

*Club* means a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used, and maintained by its members through the payment of annual dues, and owning, hiring, or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable comfortable use and accommodation of its members and their bona fide guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of employees or contractors for cooking, preparing, and serving food and meals for its members and their bona fide guests; provided that such club files with the local liquor commissioner at the time of its application for a license under this chapter two copies of a list of names and residences of its members, and similarly files within ten days of the election of any additional member his name and address; and provided that the sale or offer of alcoholic liquor for sale to the public by the club is not permitted; and further provided that the affairs and management of the club are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting, and that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

*Coffee shop* means a place of business that:

- (1) Is licensed under chapter 26, article II of this Code;
- (2) Opens to the public for business each day not later than 7:00 a.m. and remains open to the public for business continuously for not less than ten hours;
- (3) Has a total floor area not greater than 2,500 square feet; and

(4) Is engaged in the primary business of the sale, over a counter located at the point of sale where customers place orders, of:

- a. Coffee, tea, coffee-based beverages, tea based beverages, and other beverages prepared on the premises for consumption on or off the premises where served; and
- b. Food items, including baked goods, sandwiches, and salads, primarily prepared off-premises for consumption on or off the premises where served.

*Convenience store* means any establishment in which the primary business includes, but is not limited to, the sale of food, beverages, household products, cosmetic items, reading materials, and other goods for the convenience of the public.

*Courtyard* means a seasonal open-air area used for the service of food and alcohol. Depending upon the nature and use of the surrounding properties and subject to review and approval by the liquor control commission, a courtyard may be required to be delineated by screening or a barrier. Courtyard seating shall not be counted towards any minimum seating standard required by this chapter.

*Eating counter* means any counter, accommodating a maximum of eight seats, at which patrons may consume alcohol and food in the same manner as patrons at a table.

*Fast food restaurant*. Indicia of a fast food restaurant shall include, but not be limited to:

- (1) Patrons ordering food from a counter area or service window;
- (2) Patrons picking up food or beverages from a counter area or service window;
- (3) Payment for food or beverages at the time they are ordered;
- (4) Menus limited to food items requiring minimal preparation;
- (5) Menus not offering a wide variety of foods from all major food groups;
- (6) Food and beverages being available for carry-out;
- (7) The presence of drive-up facilities;
- (8) Patrons not paying gratuities;
- (9) Restaurants not having waiters or waitresses;
- (10) Food and beverages not being served with permanent utensils;
- (11) Not having individual menus for each patron;
- (12) Patrons bussing their own tables;
- (13) Food being prepared in an area not entirely separated from patrons by full walls; and
- (14) Trash containers being contained within the restaurant eating area.

The foregoing factors may be considered by the local liquor commission in determining whether a business is a fast food restaurant. The determination of the commission shall be based upon the totality of the circumstances.

*Hotel* means a building with 21 or more guestrooms offering temporary lodging for compensation for a period of one day or more, with or without restaurants, shops and meeting rooms, open to the public. Such building or group of buildings may also include a cocktail lounge, room service facilities, or rooms providing dancing or live entertainment.

*Improvement* means the enclosed portion of a building, including any courtyard.

*Inn* means an establishment containing lodging rooms for occupancy to the public for compensation, limited to the following:

- (1) Not more than 20 guestrooms shall be provided;

- (2) Customary inn services, such as maid, telephone, secretarial and desk services, laundering of linens, food and cooking service including a restaurant, with service in the guestrooms or any designated area. The use and operation of a restaurant for persons other than guests occupying any of the guestrooms shall be specifically authorized, if at all, and regulated pursuant to the provisions of any special use permit authorizing the use and operation of an inn;
- (3) Meeting rooms for business and nonbusiness uses, with incidental food service available to guests or the public for compensation; provided, however, the meeting rooms shall not be the primary purpose or use of the inn, and shall not exceed 25 percent, in gross measurement, of the gross floor space of the entire inn. The number of people occupying the meeting rooms, and the hours of use and operation of the meeting rooms, shall be regulated pursuant to the provisions of any special use permit authorizing the use and operation of an inn.

*Lounge* means any room in a restaurant in which patrons may order and consume alcohol with or without the purchase of food. A lounge may include bars with chairs, stools or other seating for the use of patrons.

*Original package* means any bottle, flask, jug, can, barrel, keg, or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor to contain and convey any alcoholic liquor.

*Physical separation* means a partial wall, screen, partition or suitable enclosure of sufficient height to set apart an area of a restaurant or store from the rest of the facility by preventing unintended access or visibility.

*Private craft cocktail lounge* means a private place of business licensed under Chapter 26 Article II of this Code in which members and their guests may order and consume a curated selection of specialty alcoholic liquor with or without the purchase of food. A private craft cocktail lounge may include bars with chairs, stools or other seating for the use of patrons.

*Restaurant* means any public place kept, used, maintained, advertised or held out to the public as a place where the primary business is the service of meals, and where meals are actually and regularly served, without sleeping accommodations, and where adequate provision is made for sanitary kitchen and dining room equipment and capacity and a sufficient number of employees to prepare, cook and serve a reasonable variety of meals for its customers. The mere availability and service at any premises of cold sandwiches, hors d'oeuvres or other similar foods will not, standing alone, be deemed sufficient to constitute such premises as a restaurant within the meaning of this definition, it being the intent of this definition that the primary business conducted on premises to be licensed as restaurants under this chapter shall be the service of meals. Restaurants which are specifically not contemplated as qualifying for a restaurant license include, but are not limited to, fast food and carry-out establishments.

*Retail sale* means the sale for use or consumption, and not for resale.

*Sale* (to sell) means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and not for resale, including all sales made by any person, or other governmental subdivisions or districts, which shall include, but which is not limited to, park districts and forest preserve districts, where the property upon which the transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and not for resale, is within the municipal boundaries of the city, except a person acting in the privacy of his home, or as part of a religious ceremony, whether as principal, proprietor, agent, servant or employee, and including, but not limited to, all of the following acts when done for consideration:

- (1) The selling of alcoholic liquor;
- (2) The delivery of alcoholic liquor, without additional charge, with a meal or with entertainment, or the providing of samples of liquor as part of a promotion or sale device of any kind;
- (3) The dispensing of alcoholic liquor;
- (4) The providing of mix, ice, water, or glasses for the purposes of mixing drinks containing alcoholic liquor for consumption on the same premises;

- (5) The pouring of alcoholic liquor;
- (6) The providing of set-ups containing alcoholic liquor; and
- (7) The serving of alcoholic liquor.

*Service counter* means any counter at which alcoholic beverages may be prepared. No service of beverages or food to patrons is permitted at a service counter. The use of chairs, stools or other seating is not permitted at a service counter.

*Shopping center* means a group of retail businesses, with or without office or service uses, in one or more buildings that have a common architectural theme and common parking facilities.

*Specialty foods* means products including imported and gourmet cheeses, meats, baked goods, condiments, seasonings and novelty foods.

*Wine* means any alcoholic beverage obtained by the fermentation of natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits.

(Code 1968, § 3-3; Code 1996, § 6-3; Ord. No. F-0047, § 1, 8-5-1996; Ord. No. F-0270, § 1, 8-17-1998; Ord. No. F-0638, § 1, 10-15-2001; Ord. No. F-0693, §§ 1—3, 4-1-2002; Ord. No. F-1441, § 1, 8-3-2009; Ord. No. F-1657, § 1, 8-20-2012; Ord. No. F-1904, § 1, 12-7-2015; Ord. No. O-2022-52 , § 1, 11-7-2022)

State law reference(s)—Definitions, 235 ILCS 5/1-3 et seq.

**SECTION 5:** That Chapter 6 (Alcoholic Beverages), Article III (Retail Licenses) is hereby amended as follows:

**Sec. 6-81. License required.**

It shall be unlawful to make in the city any sale or offer for sale, as defined in this chapter, of any alcoholic liquor without having a State and local retail liquor license, or a State and local special event license, or in violation of the terms of this chapter or such license.

(Code 1968, § 3-8; Code 1996, § 6-81)

**Sec. 6-82. Applications—Generally.**

- (a) This section applies to all applications for all license categories under this chapter other than Class F and outdoor special event liquor licenses.
- (b) A person applying for a retail liquor license shall obtain an application form from the city as prescribed by the city manager. Such application shall be filed with the local liquor commissioner, together with: a description of the applicant's program for training its employees to properly handle the sale of alcoholic liquor and a nonrefundable application fee in accordance with appendix B to this Code. The application shall be signed by the applicant, if the applicant is an individual; by the president and secretary, if the applicant is a club or corporation; by a general partner, if the applicant is a partnership; or by a manager, if the applicant is an LLC. A copy of a lease, title or tract search for the premises for which a license is sought shall be attached to the application to establish the applicant's interest in the premises.
- (c) Applications for a retail liquor license shall be made to the local liquor commissioner, in writing, signed by the applicant, verified by oath or affidavit, and shall contain the following statements and information:
  - (1) The applicant's name, mailing and residence addresses, and telephone number.
  - (2) The name and address of the applicant's business.

- (3) If applicable, the assumed name of the business and the date of the filing of the assumed name with the county clerk.
- (4) In the case of an Illinois corporation or an Illinois limited liability company, the date of its incorporation or registration, or if a foreign corporation or a foreign limited liability company, the state where it was incorporated or registered and the date of it becoming qualified under 805 ILCS 5/1.01 et seq., or 805 ILCS 180/1-1 et seq., to transact business in Illinois, and in either case, a statement of the objects or purposes for which the corporation or limited liability company is organized, a statement of good standing, the full name, address, age and telephone number of all officers, members, directors, and shareholders with an aggregate of more than twenty (20) percent of the capital stock of the corporation or more than twenty (20) percent ownership interest in the limited liability company or any other persons receiving profits from the sale of alcoholic liquor in the city through the corporation or limited liability company.
- (5) The name, age, address, and telephone number of the person who will manage the business of the applicant in the city. The person who will manage the business of the applicant shall be at least 21 years of age.
- (6) The character of the business of the applicant.
- (7) The length of time that the applicant has been in business of that character.
- (8) The amount of goods, wares, and merchandise on hand at the time application is made.
- (9) The location or description of the premises or place of business which is to be operated under such license, and the following information:
  - a. If a leased premises, a copy of lease shall be provided, and the lease shall be for a term of sufficient length to encompass the term of the license sought; and
  - b. The name and address of the owner or owners of the premises and the names and addresses of all the owners of beneficial interest of any trust if such premises are held in trust.
- (10) A statement of whether the applicant has made similar application for another similar license on premises other than as described in this application, and the disposition of such application.
- (11) A statement signed by or on behalf of the applicant and by all individuals required to be identified therein, that each of them has never been convicted of a felony or a Class A misdemeanor and is not disqualified to receive a license by reason of any matter or thing contained in the laws of Illinois or the provisions of this article.
- (12) Whether a previous license by any state or subdivision thereof, or by the federal government, has been issued, and if so, where and when, or if any such license has been revoked, stating the reasons therefore.
- (13) A statement that the applicant and all individuals required to be identified in the application have not in the past and will not in the future violate any of the laws of Illinois or of the United States, or any ordinance of the city controlling the retail sale of alcoholic liquor in the conduct of his place of business.
- (14) The applicant's retailer's occupation tax registration number and a statement as to whether the applicant is delinquent in the payment of the retailer's occupation tax (sales tax), and if so, the reasons therefor.
- (15) A statement as to whether the applicant is delinquent under the 30-day credit law, and if so the reasons therefor.
- (16) Whether the applicant, any individual identified in the application, or any other person directly or indirectly interested in the place of business possesses a current federal wagering and gaming device stamp, and if so, the reasons therefor.

- (17) Whether the applicant, any individual identified in the application, or any other person directly or indirectly interested in the place of business is a public official, and if so, the particulars thereof.
- (18) A statement as to whether the applicant is in violation of section 123 of the Liquor Control Act (235 ILCS 5/6-6), and if so, the reasons, therefore.
- (19) A statement that the applicant and all individuals required to be identified in the application have not sold, delivered, or given away alcoholic liquor in violation of any state law or city ordinance to a person under the minimum age required to purchase or possess liquor.
- (20) A floor plan, diagram, or drawing, subject to the approval of the local liquor commission, illustrating the premises in which alcoholic liquor is to be sold.
- (21) The current zoning of the property at which the applicant's place of business is to be operated.
- (22) Such additional information or identification as the local liquor commissioner may deem necessary in order to establish the character of the applicant.
- (23) If the applicant is a corporation or limited liability company, a copy of its Certificate of Good Standing from the Secretary of State's Office must be submitted with the application.

(d)

(Code 1968, § 3-9; Code 1996, § 6-82; Ord. No. F-0407, § 1, 11-15-1999; Ord. No. F-0638, §§ 1, 2, 4, 5, 10-15-2001; Ord. No. F-0913, § 1, 6-7-2004; Ord. No. F-1565, § 1, 6-6-2011; Ord. No. F-1903, § 1, 12-7-2015)

#### **Sec. 6-83. Same—Class F licenses.**

- (a) A club or nonprofit organization wishing to file an application for a Class F license may obtain a Class F license application form from the city as prescribed by the city manager for the purpose of providing reasonable information about the applicant. Such application shall be filed with the local liquor commissioner with a nonrefundable application fee in accordance with appendix B to this Code. All subsequent Class F licenses shall be renewed on a yearly basis. The application shall be signed by both the president and secretary or head of the board of directors and secretary of the applicant.
- (b) Applications for a Class F license shall be verified by oath or affidavit and shall contain the following statements and information:
  - (1) The applicant's name, mailing address, and telephone number.
  - (2) The president or chairman of the board of directors, and secretary's names, mailing and residence addresses, and telephone numbers.
  - (3) If applicable, the date that the club was organized.
  - (4) A statement of the objects for which the club or nonprofit organization was organized, along with the full name, address, and telephone number of all the officers and directors.
  - (5) The names, dates of birth, addresses, and telephone numbers of all persons, up to a maximum of ten persons, who are members of the club or nonprofit organization and who will sell alcoholic beverages for the club or nonprofit organization at its special events during the year following the granting of the license or a renewal of the license.
  - (6) The anticipated number of permits for Class F licenses which shall be requested by the applicant in the forthcoming year. This figure shall not be binding on the applicant except as to the limitations set forth in the Class F license classification.
  - (7) The anticipated location or locations and a description of that premises where the alcoholic beverages will be sold pursuant to the Class F license.

- (8) A statement as to whether the applicant has made similar applications for another similar license and the disposition of such applications.
- (9) A signed statement by the president or head of the board of directors of the club that none of the individuals identified in subsection (b)(5) of this section have ever been convicted of a felony or a class A misdemeanor and are not disqualified to receive a license by reason of any matter or thing contained in the laws of Illinois or any other provision of this article.
- (10) Whether a previous liquor license by any state or subdivision thereof, or by the federal government, has been issued to the club or nonprofit organization, and if so, where and when, or if any license has been revoked, stating the reasons therefor.
- (11) A statement signed by the president or the chairman of the board of directors of the club or nonprofit organization that the applicant and all individuals identified in subsection (b)(5) of this section have not in the past and will not in the future violate any of the laws of Illinois or the United States, or any ordinance of the city, controlling the retail sale of alcoholic liquor in the conduct of the sale of the alcoholic liquor pursuant to the Class F license.
- (12) Whether the president or chairman of the board of directors of the club or nonprofit organization is a public official, and if so, the particulars thereof.
- (13) A statement signed by the president or the chairman of the board of directors of the club or nonprofit organization stating that no individual person in the club or nonprofit organization will stand to gain any pecuniary benefit from the sale of alcoholic beverages pursuant to the Class F license.
- (14) A statement that the applicant and all individuals required to be identified in the application have not sold or given away alcoholic liquor in violation of any state law or city ordinance to a person under the minimum age required to purchase or possess liquor.
- (15) Such information or identification as the local liquor commissioner may deem necessary in order to establish the character of the applicant.
- (16) If the applicant is a corporation or limited liability company, a copy of its Certificate of Good Standing from the Secretary of State's Office must be submitted with the application.

(Code 1968, § 3-9.1; Code 1996, § 6-83; Ord. No. F-0638, §§ 1, 6, 10-15-2001)

#### **Sec. 6-83.5. Outdoor special event liquor license application.**

- (a) A city-based nonprofit organization wishing to file an application for an outdoor special event liquor license may obtain an application form from the city as prescribed by the city manager for the purpose of providing reasonable information about the applicant. Such application shall be filed with the local liquor commissioner with a nonrefundable application fee shall be in accordance with Appendix B to this code. All outdoor special event liquor license applications shall be filed at least 90 days prior to the outdoor special event. The application shall be signed by an authorized representative of the applicant.
- (b) Applications for an outdoor special event liquor license shall be verified by oath or affidavit and shall contain the following statements and information:
  - (1) The applicant's name, mailing address, and telephone number.
  - (2) The president or chair of the board of directors, and secretary's names, mailing and residence addresses, and telephone numbers.
  - (3) The date that the nonprofit organization was formed.
  - (4) A statement of the objects for which the nonprofit organization was organized, along with the full name, address, and telephone number of all the officers and directors.

- (5) The names, dates of birth, addresses, and telephone numbers of all persons who are members of the nonprofit organization and who will sell alcoholic beverages for the nonprofit organization at the outdoor special event.
- (6) A site plan and detailed description of the location of the outdoor special event and a diagram or drawing, subject to approval of the city special event review group, that illustrates entrances and exits for the outdoor special event, seating areas, food service areas, and alcohol sales area.
- (7) A statement as to whether the applicant has made similar applications for another similar license in the city or other communities and the disposition of such applications.
- (8) A signed statement by the president or chair of the board of directors of the nonprofit organization that none of the individuals identified in subsection (b)(5) of this section has ever been convicted of a felony or a class A misdemeanor and none is disqualified to receive a license by reason of any matter or thing contained in the laws of Illinois or any other provision of this article.
- (9) Whether a previous liquor license by any state or subdivision thereof, or by the federal government, has been issued to the nonprofit organization, and if so, where and when, or if any license has been revoked, stating the reasons therefor.
- (10) A statement signed by the president or the chair of the board of directors of the nonprofit organization that the applicant and all individuals identified in subsection (b)(5) of this section have not in the past and will not in the future violate any of the liquor laws of Illinois or the United States, or any ordinance of the city, controlling the retail sale of alcoholic liquor in the conduct of the sale of the alcoholic liquor.
- (11) Whether the president or chair of the board of directors of the nonprofit organization is a public official, and if so, the particulars thereof.
- (12) A statement signed by the president or the chair of the board of directors of the nonprofit organization stating that no individual person in the nonprofit organization will stand to gain any pecuniary benefit from the sale of alcoholic beverages.
- (13) A statement that the applicant and all individuals required to be identified in the application have not sold or given away alcoholic liquor in violation of any state law or city ordinance to a person under the minimum age required to purchase or possess liquor.
- (14) Such information or identification as the city special event review group may deem necessary in order to establish the character of the applicant.
- (15) If the applicant is a corporation or limited liability company, a copy of its Certificate of Good Standing from the Secretary of State's Office must be submitted with the application.

(c) Existing Class A, B or I licensees wishing to file an application for an outdoor special event liquor license shall follow the application procedures as described in section 6-82.

(Code 1996, § 6-83.5; Ord. No. F-0407, § 2, 11-15-1999; Ord. No. F-0638, §§ 1, 7, 10-15-2001; Ord. No. F-1924, § 1, 3-21-2016)

### **Sec. 6-86. Processing of applications.**

- (a) *Investigation.* Except as provided herein, on receipt of an application for any license authorized to be issued pursuant to this Chapter, the local liquor commissioner shall cause a full investigation to be undertaken of the individual applicant, or of the principals of an applicant which is a corporation, a partnership, or a limited liability company. The investigation shall include a background check conducted by the city police department and such other matters as the local liquor commissioner deems appropriate. If the applicant is a corporation, background checks will be conducted of applicant's officers, directors, and any stockholder(s) owning in the aggregate more than twenty percent (20%). If the applicant is a partnership, background checks will be conducted of all general partners, and any limited

partner. If the applicant is a limited liability company, background checks will be conducted on all managers or members.

- (b) *Investigation/Liquor Manager.* Except as provided herein, on receipt of an application for any license authorized to be issued pursuant to this Chapter, the local liquor commissioner shall cause a full investigation to be undertaken of the designated liquor manager. The investigation shall include a background check conducted by the city police department and such other matters as the local liquor commissioner deems appropriate. The designated liquor manager shall submit his or her fingerprints to be used in completing the investigation. The local liquor commissioner may accept certified copies of fingerprints taken by other federal, state or local law enforcement agencies. No license shall be issued until the local liquor commissioner has received, review and approved the fingerprint results.
- (c) *Waiver of investigation.* The local liquor commissioner may also waive the investigation if fingerprints have been submitted and/or investigations have been previously conducted or for other good reason within his sole discretion.
- (d) Upon receipt of an application for any license authorized to be issued pursuant to this chapter, the local liquor commissioner shall forward such application to the local liquor commission for its review and recommendations; except in the case of an application for an outdoor special event liquor license, which shall be processed in accordance with the procedures set forth in subsection (f) of this section. At the next regularly scheduled local liquor commission meeting, the commissioners may ask questions related to any and all information contained on the applicant's application as well as questions the liquor commission deems pertinent to the applicant and the effect that the granting of a license to the applicant would have on the health, safety, morals, and welfare of the residents of the city. The public shall also be given a reasonable opportunity to make its comments known to the commission. Recommendations from the liquor commission shall be submitted to the local liquor commissioner within 45 days after the close of the meeting on such application. Within 15 days of receipt of the recommendation from the liquor commission, the city council at their regularly scheduled meeting shall vote to grant or deny such license.
- (e) Upon making a determination on the grant or denial of a license under this chapter, the local liquor commissioner may state the reasons such license has been refused or granted and may specify in particular the findings as to the expected effect of granting such license on:
  - (1) The neighborhood in which such licensed establishment is to be operated;
  - (2) The geographical distribution of licenses in the city;
  - (3) Other pending or proposed applications for licenses in the city; and
  - (4) The welfare of the city as a whole.
- (f) An application for an outdoor special event liquor license shall be reviewed and processed by the director of planning and economic development. The director of planning and economic development shall provide a recommendation for approval or denial to the local liquor commissioner. The local liquor commissioner shall make the final determination on whether to issue or deny the application.
- (g) Any decision of the local liquor commissioner to grant or deny a license authorized to be issued under this chapter shall be conclusive.

(Code 1968, § 3-12; Code 1996, § 6-86; Ord. No. F-0638, §§ 1, 2, 8, 10-15-2001)

**Sec. 6-86.5. Training Required.**

All licensees, except Class F, shall be required to have all employees who serve, sell or distribute alcohol, the liquor manager, and those checking identification for alcohol service successfully complete a Beverage Alcohol Sellers/Servers Education And Training (BASSET) program within thirty (30) days of receiving a city liquor license, and for a new liquor manager within thirty (30) days of the approval of such a new manager. In addition, the licensee shall submit proof of completion of a BASSET program to the city for said individuals required to complete the training. BASSET certification must be renewed every three years. Any employee who has not successfully completed the BASSET program shall not serve, sell or distribute alcohol.

**Sec. 6-87.5. Outdoor special event liquor license.**

- (a) For city-based nonprofit organizations, the outdoor special event liquor license shall authorize the sale of alcoholic liquor on a specified premises for a maximum period of five consecutive days in conjunction with an outdoor special event as defined in section 10-4 . For existing Class A, B or I licensees, the outdoor special event liquor license shall authorize the sale of alcoholic liquor on a specified premises for a maximum period of one day each calendar year.
- (b) All applications for an outdoor special event liquor license shall be made pursuant to the provisions of section 6-83.5. Applications for an outdoor special event liquor license shall be made with the submission of the application for the special event permit. The processing of all outdoor special event liquor license applications shall be according to the procedures in section 6-86(c).
- (c) All applicants shall submit a detailed description of the outdoor special event that explains how access to the alcohol sales and consumption areas will be controlled, the method of verifying the age of individuals attempting to purchase alcohol, the estimated number of persons attending the event, the manner in which alcohol will be dispensed and consumed, whether any entertainment will be provided in conjunction with the event, what food products will be sold, and how the applicant will protect against violations of the city's ordinances.
- (d) The retail sale and consumption of alcoholic liquor authorized by an outdoor special event liquor license shall be limited to: the downtown Wheaton area as defined as Seminary Avenue to the north, Naperville Road to the east, Illinois Street to the south, and West Street to the west; the DuPage County Fairgrounds property; the Central Athletic Complex or Cosley Zoo.
- (e) Upon final approval by the local liquor commissioner, the outdoor special event liquor license shall be granted only for the dates and type and quantity of alcoholic liquor specified in the application.
- (f) City-based nonprofit organizations shall obtain a special event permit pursuant to section 10-6 prior to the local liquor commissioner approving and issuing any outdoor special event liquor license,.
- (g) All persons who sell alcoholic liquor for an outdoor special event liquor license held by a city-based nonprofit organization shall complete the city police department's online alcohol sales training program. Completion of the training session will qualify an outdoor special event bartender for three years.
- (h) Prior to issuance of an outdoor special event liquor license, the applicant shall submit a certificate of insurance as required by section 6-93. In addition to the insurance required by section 6-93, if an outdoor special event is held wholly or in part on any city property, the applicant shall obtain liability insurance for the outdoor special event with minimum coverage of not less than \$2,000,000.00 for bodily injury and \$2,000,000.00 for property damage. The applicant shall provide a certificate of insurance to the city and shall name the city as an additional insured. This certificate shall cover the entire time for which the outdoor special event license is issued.
- (i) The licensee shall maintain the premises in a neat, orderly and safe condition, shall provide such traffic control and sanitation facilities as may be required by the city special event review group to protect the public health, safety, and welfare of the residents of the city, and shall restore the premises after

expiration of the license to its prior condition, including the removal of trash, rubbish, and garbage. No alcoholic liquor shall be brought onto the premises or consumed on the premises other than that provided by the licensee under the terms and conditions of the outdoor special event liquor license.

(j) The applicant shall contract with the city police department for city services by having at least two off-duty officers present at the outdoor special event at all times during the hours of operation. In the city's discretion, the city special event review group may require that the applicant contract for additional city services based on the size, location, and the anticipated number of persons attending the outdoor special event. Fifty percent of the estimated cost of these services shall be paid to the city prior to the issuance of an outdoor special event license. The balance, reflecting the actual cost of city services provided shall be due within 30 days of invoicing. The city services required under this provision shall not be subject to city assistance as described in section 10-4.

(Code 1996, § 6-87.5; Ord. No. F-0638, § 14, 10-15-2001; Ord. No. F-0794, § 1, 3-17-2003; Ord. No. F-1773, § 1, 4-21-2014; Ord. No. F-1903, §§ 3, 4, 12-7-2015; Ord. No. F-1924, § 2, 3-21-2016; Ord. No. O-2018-48, § 1, 8-20-2018; Ord. No. O-2019-11, § 1, 3-18-2019; Ord. No. O-2021-23, § 1, 5-17-2021; Ord. No. O-2021-44, § 1, 9-7-2021)

#### **Sec. 6-88. Term; fees.**

- (a) The term of each license issued under this chapter shall be from January 1 to December 31.
- (b) The fee for the licenses required under this chapter shall be in accordance with appendix B to this Code.
- (c) For the initial term of a license under this chapter, the fee shall be reduced in proportion to the full calendar months which have expired in the calendar year prior to the issuance of the license.
- (d) There shall be no refund to the license fee imposed under this chapter for any portion of a year during which the licensee ceases to engage in the business of selling alcoholic liquor.
- (e) The annual fee imposed under this section shall be due and payable by January 1 of each year. No licensee shall continue to engage in the business of selling alcoholic liquor unless such fee has been paid.
- (f) All required fees imposed under this section shall be paid at the time of issuance of the license after approval by the local liquor commissioner pursuant to section 6-86. All such fees shall be forthwith deposited with the city treasurer.

(Code 1968, § 3-14; Code 1996, § 6-88; Ord. No. F-0047, § 3, 8-5-1996; Ord. No. F-0250, § 2, 6-15-1998; Ord. No. F-0270, § 9, 8-17-1998; Ord. No. F-0292, § 1, 12-7-1998; Ord. No. F-0407, §§ 4, 5, 11-15-1999; Ord. No. F-0638, § 15, 10-15-2001; Ord. No. F-0989, § 2, 1-3-2005; Ord. No. 1053, § 2, 6-20-2005; Ord. No. F-1500, § 2, 6-21-2010; Ord. No. 1544, § 2, 2-22-2011; Ord. No. F-1607, § 2, 12-19-2011; Ord. No. F-1683, § 2, 12-3-2012; Ord. No. F-1726, § 2, 8-19-2013; Ord. No. F-1773, § 2, 4-21-2014; Ord. No. F-1824, § 2, 11-17-2014; Ord. No. F-1765, § 2, 3-3-2014; Ord. No. F-1903, § 5, 12-7-2015; Ord. No. F-1904, § 3, 12-7-2015; F-2029, § 2, 8-7-2017; F-2030, § 2, 8-7-2017)

#### **Sec. 6-93. Insurance required.**

- (a) No license under this chapter shall be granted to any applicant until such applicant shall furnish evidence satisfactory to the local liquor commissioner that such applicant is covered by a policy of liquor liability insurance in an amount sufficient to satisfy statutory limits, and, if the applicant is not the owner of the premises described in such application, that the applicant has a lawful right to possession of the premises until the expiration of the term of the license for which application is made.
- (b) Each licensee under this chapter shall furnish the local liquor commissioner with a certificate of insurance as required by this section, and in the event of cancellation, the local liquor commissioner shall be notified immediately of such cancellation.

(Code 1968, § 3-19; Code 1996, § 6-93; Ord. No. F-0638, § 1, 10-15-2001)

**SECTION 6:** That Chapter 6 (Alcoholic Beverages), Article IV (Conduct on Licensed Premises) is hereby amended as follows:

**Sec. 6-124. Sale to certain persons prohibited.**

- (a) No licensee under this chapter shall sell alcoholic liquor, including beer and wine, to any person under the age of 21 years, or to any intoxicated person, or to any person known by him to be under legal disability or in need of mental treatment.
- (b) If a person under the age of 21 years is in possession of alcoholic liquor on premises licensed to sell alcoholic liquor for consumption on such premises, it shall be presumed that the licensee sold such alcoholic liquor to the minor in possession thereof.
- (c) For the purpose of preventing the violation of this section, any licensee, or its agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that the person is over the age of 21 years.

(Code 1968, § 3-27; Code 1996, § 6-124)

State law reference(s)—Similar provisions, 235 ILCS 5/6-16.

**SECTION 7:** That Chapter 10 (Special Events, Amusements and Entertainments), Article I (In General) is hereby amended as follows:

**Sec. 10-2. Permit required.**

It shall be unlawful to conduct or operate any of the events described in this chapter without having first secured a required permit from the city.

(Ord. No. O-2019-10, § 1, 3-18-2019)

**SECTION 8:** That Chapter 10 (Special Events, Amusements and Entertainments), Article II (Special Events) is hereby amended as follows:

**Sec. 10-4. Definitions.**

The following words and phrases when used in this article shall mean:

*Actual cost(s)* means the costs which a city department incurs to provide city services at a special event at the rates in accordance with appendix B.

*Applicant* means the person who is the organizer and with whom the responsibility for conduct of the event lies. The applicant completes the application to conduct an event governed by this article, and all other required documents relevant to the event. The applicant shall be the primary contact for the special event and shall be 21 years of age or older. If a corporation, business, organization, or any other entity which is not a natural person desires to conduct a special event governed by this article, the applicant or responsible party shall be a natural person acting on behalf of such entity.

*City* means the City of Wheaton, Illinois.

*City services* means the services provided by the city as determined by the special event review group or required by the applicant for a special event. City services include, but are not limited to, services associated with traffic and/or pedestrian control, closure of streets or intersections, materials and supplies, contracted services, employee overtime, and on-site medical personnel.

*Demonstration* means a public display of group opinion as by a rally or march, the principal purpose of which is expressive activity.

*Event organizer* means any person who conducts, manages, promotes, organizes, aids or solicits attendance at a special event.

*Event participants* means persons in attendance at a special event, including spectators, vendors, event staff, city staff and all others present for the purpose of the special event.

*Event management company* means an entity with expertise in managing special events.

*Expressive activity* means the conduct of activity for which the sole or principal purpose is the expression, dissemination, or communication by verbal, literary, or auditory means of political or religious opinion, views, or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity or where the activity is subject to the application of the strict scrutiny standard under the United States Constitution. For purposes of this article, expressive activity that may not be subject to strict scrutiny may include fairs, festivals, circuses, concerts, performances, athletic events, fundraising events, or events in which the principal purpose is entertainment.

*Fair/festival/carnival* means a stationary event, held for one or more calendar days devoted to exhibition of goods, services, art, or entertainment.

*March* means a group of pedestrians travelling together across city streets whether on the sidewalk, public street, or public pathway to advance a common cause.

*Motion photography* means the commercial taking or making of a motion picture, television, videotape or film production.

*Parade* means any organized group marching or in procession, whether on foot, animal, or vehicle, held on public streets, sidewalks, trails, and/or public places.

*Public property* means property owned or controlled by the city.

*Race/run* means an organized event conducted on a public street, sidewalk, or trail in which ten (10) or more persons participate by walking, running, riding a bicycle, or operating an assistive device.

*Rally* means a gathering whose principal purpose is expressive activity, especially one intended to inspire enthusiasm for a cause.

*Sign* means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device.

*Site map* means a map and plan developed by the applicant to identify the key features and elements of the special event at the specified special event venue.

*Special event review group* means representatives assigned by their respective city department directors to represent the interests of their department or division as it relates to the issuance of special event permits.

*Special event* means any organized activity including, but not limited to a fair, carnival, amusement, circus, festival, concert, demonstration, march, rally, performance, show, parade, run/walk/cycle, motion photography, or public firework displays that:

- (1) Is held in whole or in part upon city property, streets, sidewalks, trails, walkways or on other public rights-of-way;
- (2) Occurs on private property, which may affect, impact or interfere with the standard, ordinary and normal use of public property, streets, rights-of-way, walkways, or sidewalks by the general public within the vicinity of such special event; or
- (3) Requires the use of city services.

*Special event permit* means a permit issued under this article.

*Special event permit coordinator* means the city staff member designated to oversee the special event review group's review of applications and communicate with applicants.

*Special event venue* means that area or location for which a special event permit has been issued.

*Sponsor* means the person, business, or group responsible for the special event, or the organization that provides financial or other resources for the conduct of a special event.

*Traffic management plan* means a plan developed by the applicant to identify and mitigate traffic and parking impacts, to propose vehicle and pedestrian route detours, and other solutions necessary to provide for traffic safety at a special event.

*Vendor* means any person who sells or offers to sell any goods, food, or beverages within a special event.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22, § 1, 6-1-20)

### **Sec. 10-5. Permit for expressive activity.**

When a special event permit is sought for an expressive activity such as a demonstration, march, rally, or parade, as defined in this article, the following exceptions shall apply:

(1) Where the expressive activity will not require street closures, the insurance requirement of section 10-15 shall not apply.

(2) Where the expressive activity will require temporary street closures that necessitate the provision of city services, the insurance requirement of section 10-15 shall be waived, provided that the applicant has filed with the application a verified statement that he or she intends the special event purpose to be First Amendment expression.

(3) Where the application for the expressive activity is submitted less than thirty (30) calendar days before the special event, the special event review group shall consider the application if good cause can be demonstrated by the applicant through a written statement showing the circumstances that gave rise to the special event application did not reasonably allow the participants to file within the time prescribed.

(4) The city may deny a special event permit for a demonstration, rally, parade, or march if:

- a. The special event will substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;
- b. The special event will cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility; or
- c. The special event will block traffic lanes or close streets during peak commuter hours on weekdays between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. on streets designated as arterials by the city's engineering department.

(5) With regard to the permitting of expressive activities, where the provisions in this section conflict with the provisions in any other section of this article, the provisions of this section shall prevail.

(6) Except as otherwise provided in section 10-12(b) of this article, sections 10-12 and 10-14 shall not apply to expressive activity special events.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22, § 2, 6-1-20)

### **Sec. 10-7. Intent and limitation of liability.**

(a) It is the specific intent of this article and any procedures adopted hereunder to place the obligation of complying with the requirements of this article upon the applicant, and no provision of this article is intended to impose any duty upon the city or any of its officers, employees or agents. The issuance of a special event permit under this article does not obligate or require the city to provide city services, equipment, or personnel in support of a special event.

(b) This article shall not be construed as imposing upon the city or its officials or employees any duty, liability or responsibility for any injury or damage to any person in any way connected to the special event. The city and its officials and employees shall not be deemed to have assumed any liability or responsibility by reasons of any inspections performed, the issuance of any permit, or the approval of any use of the right-of-way.

Nothing in this article shall constitute or be interpreted as a waiver of the city's tort immunities or be interpreted as the voluntary assumption of a duty: all such immunities and non-duties remaining fully reserved.

(Ord. No. O-2019-10, § 1, 3-18-2019)

**Sec. 10-8. Special event review group and special event permit coordinator.**

- (a) A special event review group is hereby created to carry out the provisions of this article. In order to assure working representation from appropriate departments, the special event review group shall consist of, at a minimum, one department representative from each of the following: Police department, public works department, fire department, building and code enforcement department, and administration department.
- (b) A special event permit coordinator shall be designated and shall receive special event permit applications and fees, maintain special event review group records and communications, and issue permits on behalf of the city.

(Ord. No. O-2019-10, § 1, 3-18-2019)

**Sec. 10-9. Powers of the special event review group.**

The special event review group shall have the power to:

- (1) Administer this article;
- (2) Review special event applications;
- (3) Represent the city in discussions with the applicant and/or event organizer;
- (4) Coordinate with city departments and other government agencies for the provision of city services for special events;
- (5) Impose reasonable terms and conditions for granting the special event permit, and the time, venue and manner for the event, based on the provisions of this article;
- (6) Establish the costs for city services based on the provisions of this article;
- (7) Approve or deny special event permits, pursuant to the procedures established; and
- (8) Prepare and adopt procedures for the purpose of administering this article, as necessary.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22 , § 3, 6-1-20)

**Sec. 10-10. Exceptions to special event permit requirement.**

Although not required to be issued a special event permit, an event organizer of an activity exempted from obtaining a special event permit is required to comply with all local, state and federal laws and regulations governing public safety or health. The following activities are exempt from having to obtain a special event permit:

- (1) Funeral procession by a licensed mortuary;
- (2)
- (2) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, sidewalk sales, or anniversary sales that do not impact street or sidewalk rights of way;
- (3) Garage sales, rummage sales, lemonade stands and car washes;
- (4) Private events and social gatherings and events held entirely on private property that do not involve the use of or have an impact on public property, facilities or streets, other than for lawful parking, and do not require the provision of city public safety services;

- (5) Block parties, which is governed by Section 58-34 of this Code;
- (6) Lawful picketing on sidewalk;
- (7) Motion photography at schools, businesses, places of worship, residents using their own premises for producing films for their own educational, family, or training purposes; individuals filming on public or private property for personal, non-commercial purposes; the filming of actual news events or stories within the city that do not require city services; and filming activities if a permit for such activities has been issued by the city; and
- (8) First Amendment expressive activities: If it is not reasonably possible to obtain a permit in advance of a special event involving First Amendment expressive activities, no permit shall be required providing that the prohibitions of subsections (a)(4), (a)(6) (a)(7), (a)(8), (a)(11) and (a)(14) of section 10-12 are not violated and the applicant has submitted the written statement required by section 10-5(2).

(Ord. No. O-2019-10, § 1, 3-18-2019)

**Sec. 10-11. Application and processing of permits and post event evaluation.**

- (a) An application shall be submitted to the city up to one year and no less than thirty (30) calendar days prior to the date of the proposed special event to allow adequate time for review, except applications for special events where street closures are requested and liquor will be served shall be submitted to the city at least ninety (90) days prior to the special event. Except as provided in section 10-5(3), if an application is submitted less than thirty (30) calendar days before the proposed special event, the application shall not be accepted.
- (b) Applications shall be processed on a first come, first served basis; provided however, special event applications submitted by entities which are exempt under Section 10-16 shall take precedence.
- (c) Applicant is required to submit a complete application with information about the proposed special event. This may include, and shall not be limited to, a site map/route map, event schedule and program of activities, hours of operation, security and public safety plan, emergency plan, garbage and recycling plan, traffic management plan and authorized indemnification and hold harmless agreement. Specific requirements shall be determined by the special event review group.
- (d) The special event review group shall review the application and determine if the special event can be accommodated.
- (e) The special event review group shall communicate or meet with applicant to discuss proposed location/routes, activities, attendance and to discuss comments received, possible terms and conditions, fees, and city services, if required. Applicants may utilize alternate resources to safely operate a special event without the need for city services when such is practical and effective and approved by the special event review group.
- (f) The special event review group shall make a recommendation on the application, set forth any terms and conditions and fees, and notify the applicant of approval.
- (g) Upon approval of an application for a special event permit, the special event permit coordinator shall provide the applicant with a statement of the estimated cost of city services, equipment, materials, and special event permit fee.
- (h) Upon payment of the special event permit fee by the applicant, the special event permit coordinator shall issue the permit.
- (i) The special event permit coordinator shall furnish an annual report to notify the city manager, which shall include but not be limited to, the type and number of events, fees received and waived, and fees for city services.

- (j) As determined by the special event review group, and at least fifteen (15) calendar days prior to the scheduled date of the special event, the applicant shall provide notification to the affected surrounding area regarding special event approval and activities of the special event, date(s), times(s), location/route, and possible impacts of the event.
- (k) A post-event evaluation shall be conducted by the special event permit coordinator and/or special event review group. The evaluation may include a survey of affected residents and/or businesses, and a meeting with the event organizer and the special event review group.
- (l) The total actual cost of city services required in connection with a special event will be invoiced thirty (30) calendar days after the event occurs. This amount shall be paid in full by the applicant no later than thirty (30) calendar days after being invoiced.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22 , § 4, 6-1-20)

#### **Sec. 10-12. Standards for permit approval.**

- (a) Applications for special event permits shall be reviewed for compliance with the standards provided herein.
  - (1) The application is complete and accurate, if not complete, application shall be denied;
  - (2) The application was submitted at least thirty (30) calendar days before the special event, and ninety (90) days for special events where street closures are requested or liquor will be served;
  - (3) The special event, as proposed, can be conducted in a safe manner, can safely and reasonably support the number of estimated event participants, will not violate public health or safety laws, and will conform to the requirements of law or established city policy;
  - (4) The special event, as proposed, will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route or venue;
  - (5) The special event provides for adequate health, sanitation and garbage services;
  - (6) The conduct of the special event will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent police, fire, or other public services protection to the remainder of the city;
  - (7) The concentration of persons, vehicles, animals, or temporary structures will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health and safety services, or with access to fire stations and fire hydrants.
  - (8) The special event will not cause irresolvable interference with previously approved and/or scheduled construction, development, maintenance, or other activities, including, but not limited to, another special event, in the public right-of-way or at a public facility;
  - (9) The location of the special event will not cause a material adverse impact, unnecessary disruption or hardship to adjacent residential or business access and traffic circulation;
  - (10) The special event applicant has submitted the plans, as required for each specific event or activity;
  - (11) The applicant complies with all required terms of this article, the terms and conditions of the permit, including submitting fees and deposits, providing proof of insurance to the city;
  - (12) The applicant obtained the approval of, or obtained other permits that may be required from, other public agencies within whose jurisdictions the special event or portion thereof will occur, or the applicant has not obtained the approval of the private property owner of which the event or a portion thereof will occur;
  - (13) The applicant has provided for adequate first aid, emergency medical services, participant or crowd control, or emergency response planning, based on special event risk factors;

- (14) The special event does not create the imminent probability of violent disorderly conduct likely to endanger public safety or cause significant property damage;
- (15) The applicant has paid all fees due from a previous special event;
- (b) Exceptions. Applications for special events involving First Amendment expressive activity shall be reviewed only for compliance with the standards outlined in section 10-12(a)(4), (6), (7), (8), (9), (11) and (14). In reviewing any application for a special event permit involving First Amendment expressive activity, the special event review group or city manager may place reasonable time, place, and manner restrictions on the special event. No such restriction shall be based on the content of the beliefs expressed or anticipated to be expressed during the First Amendment expressive activity, or on factors such as the identity or appearance of persons expected to participate in the special event.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22, § 5, 6-1-20)

#### **Sec. 10-13. Denial or revocation of special event permit application/appeal.**

- (a) The special event review group or the city manager may deny or restrict an application for a special event permit or revoke any special event permit if:
  - (1) The applicant's special permit application fails to comply with the requirements of section 10-12 "Standards for permit approval" and cannot be corrected.
  - (2) The applicant supplies false or misleading information; the applicant fails to complete the application or to supply other required information or documents; or the applicant declares or shows an unwillingness or inability to comply with reasonable terms and conditions contained in the proposed permit;
  - (3) Any of the conditions set forth in section 10-14 of this article are not met;
  - (4) The applicant requests withdrawal of its application, requests the cancellation of the permit, or cancels the event;
  - (5) An emergency or supervening occurrence requires the cancellation or termination of the special event to protect the public's health or safety.
- (b) An applicant whose permit application is denied, or whose permit is revoked pursuant to this section shall be notified of the action of denial or revocation in writing as soon as is reasonably practicable and such notification shall contain a statement setting forth the reason(s) for the denial or revocation, as well as a reference to the appeal provisions set forth in this section. Notification, pursuant to this subsection shall be deemed satisfied when the notice is placed, postage prepaid, in the United States mail, certified mail, return receipt requested and addressed to the applicant at the address shown on the permit application.
- (c) The denial or the revocation of a special event permit may be appealed to the city manager by filing a written petition with the city manager setting forth with specificity the grounds for the appeal and any documentation in support of the appeal. An appeal shall be made in writing within seven (7) calendar days of the date of the written denial sent by the city. The city manager or designee shall consider and decide the appeal within ten (10) business days from receipt of the appeal and provide a written decision to the appellant. The appellant may appeal the decision of the city manager to the city council in writing within seven (7) calendar days of the date of the city manager's decision. The city council shall consider the appeal as soon as is reasonably practicable at a regularly scheduled city council meeting, at which time the applicant shall be entitled to be heard and present evidence on his/her behalf. The city council shall determine the merits of the appeal. The city council's determination to grant or deny the appeal shall be final.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22, § 6, 6-1-20)

#### **Sec. 10-14. Conditions of special event approval and additional permits.**

The city may issue a special event permit in accordance with the terms of the application or may condition the issuance of a special event permit by imposing reasonable terms and conditions. These conditions may

include, but are not limited to: time, place and manner of the event; duration of the event, compliance with health and sanitary regulations, emergency services, and security; and other such requirements as are necessary to protect the safety and rights of persons and property, and the control of traffic. Additional permits may be required to meet the conditions established by the permit, and/or other city codes. A special event permit may include the following information, terms and conditions:

- (1) The conditions or restrictions on the service, use or sale of alcoholic beverages;
- (2) The provisions for any city services required or requested in connection with a special event;
- (3) In order to accommodate other concurrent special events, the rights of abutting owners, and/or the needs of the public to use streets or parks, the conditions may also include: reasonable adjustments in the date, time, route or location of the proposed event, accommodations for pedestrian or vehicular traffic using the street; and limitation on the duration of the special event;
- (4) In order to minimize repeated road closures in the same geographic area, particularly involving heavily used thoroughfares, special events using the same or similar routes should not be scheduled on the same day, subsequent days, or on subsequent weekends within the year. Special events that request the use of high-impact areas are subject to additional conditions as determined by the special event review group. Races, runs, walks and parades that require street closures shall not be scheduled in the same or similar geographic area within a sixty (60) day time period and no more than two times per calendar year in said area;
- (5) Other information or conditions as are reasonable and necessary for the conduct of the special event, including the requirement for a professional special event management company to produce a special event, or for the on-site presence of the special event organizer or its designated representative for all special event coordination and management purposes;
- (6) The applicant may be required to do a walk-through of the special event site with the special event permit coordinator and/or other city personnel prior to and after the special event, and to make adequate provisions for site safety, cleaning the area or route to the same condition of material preservation and cleanliness as existed prior to the special event; or
- (7) The applicant shall be required to reimburse the city for all expenses associated with repairs for damage to property or additional clean-up necessary as a direct result of the special event. These items/charges will be discussed during a walk-through with the special event permit coordinator and/or other city personnel after the special event.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22 , § 7, 6-1-20)

#### **Sec. 10-15. Insurance required.**

(a) Each applicant for a special event permit shall, before the issuance of such a permit, purchase and maintain either a policy of insurance, issued by a solvent insurance company authorized to do business in the state of Illinois, or insurance coverage through a risk management pool authorized to do business in the state of Illinois, insuring the permittee against liability for any bodily injury or property damage arising out of, or resulting from, the alleged acts or omissions of the permittee, its officers, agents, volunteers, employees or event participants in connection with the special event. The policy of insurance or insurance coverage provided by a risk management pool shall cover the entire time for which the special event permit is issued, and shall include limits of liability as follows:

- (1) General liability insurance in the following amounts:
  - a. A minimum of \$250,000.00 combined single limit per occurrence and \$500,000.00 general aggregate for personal injury, bodily injury and property damage for special events with an estimated amount of 100 event participants or less in attendance; or
  - b. A minimum of \$500,000.00 combined single limit per occurrence and \$1,000,000.00 general aggregate for personal injury, bodily injury and property damage for special events with an estimated amount of 101 to 1,000 event participants in attendance; or

c. A minimum of \$1,000,000.00 combined single limit per occurrence and \$2,000,000.00 general aggregate for personal injury, bodily injury and property damage for special events with an estimated amount of more than 1,000 event participants in attendance.

(2) Business automobile liability insurance of \$1,000,000.00 combined single limit per accident for bodily injury and property damage if the applicant is using vehicles as part of the special event set-up or take down or has vehicles being operated in relation to the event.

(3) All insurance coverage provisions and limits may be revised or increased by the city manager or city attorney to reflect risk exposure.

(4) For special events where liquor will be served, see Section 6-87.5 of this Code for insurance coverage requirements.

(b) Each applicant shall provide either an original certificate of insurance ("COI") signed by an authorized representative of the applicant's insurance company or an original certificate of coverage ("COC") signed by an authorized representative of the applicant's risk management pool.

(1) COIs shall show the policy numbers, effective dates, and limits of liability sorted by required coverage type. The description of coverage on the COI shall identify the name of the event, the location of the event, and the date(s) of the event and shall name the City of Wheaton, its elected officials, officers, employees, and agents as an additional insured under the applicant's general liability policy, for the date(s) of the event. The city may require the applicant to provide the city with a copy of the additional insured endorsement or insurance policy language providing the city with additional insured status under the applicant's general liability policy.

(2) COCs shall show the coverage document(s) number, coverage date(s), and limits of liability sorted by required coverage type. The description of coverage or operations on the COC shall identify the name of the event, the location of the event, and the date(s) of the event and shall name the City of Wheaton, its elected officials, officers, employees, and agents as an additional insured(s) under the applicant's general liability policy, for the date(s) of the event. The city may require the applicant to provide the city with a copy of the additional insured certificate or other document providing the city with additional insured status under the applicant's general liability insurance coverage.

(c) An applicant with a self-insurance program may satisfy the requirement of section 10-15(a) by submitting a statement from the administrator of such program which, to the satisfaction of the city, establishes that the applicant can satisfy claims in the relevant amount set forth in (a)(1) and(a)(2) of this section.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22 , § 8, 6-1-20)

#### **Sec. 10-16. Special event permit fees and city services.**

(a) Application fees for special events shall be based on the time frame in which the applicant submits the special event application in accordance with appendix B.

(b) Special event application and permit fee(s) shall be paid upon issuance of an event permit in accordance with appendix B.

(c) City services required or requested for the special event shall be estimated by the special event review group. Payment for city services shall be paid in full not later than thirty (30) calendar days after being invoiced.

(d) Special event permit fees and charges for city services except those city services defined in section 6-87.5(j), (outdoor special event liquor license fees), shall be waived for:

(1) Applicants who submit a special event permit application which states that the special event shall be used for expressive activity which describes the expressive activity in sufficient detail in the application to allow the city attorney to determine that the activity qualifies as expressive activity under applicable law.

(2) Applicants who are units of local government who are not co-sponsoring the special event with an individual or private entity and are not sharing the proceeds of the special event with an individual or a private entity.

(3) Applicants who are associations funded in whole or in part by local taxes and which have contracts or agreements with the city to promote policies consistent with the city's economic vitality who are not co-sponsoring the special event with an individual or a private entity and are not sharing the proceeds of the special event with an individual or a private entity.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22, § 9, 6-1-20)

**Sec. 10-18. Access—by building, police and fire personnel.**

All building inspectors, members of the police department and fire department, and other appropriate city employees as determined by the city shall have free access to special events for the purpose of inspection and to enforce compliance with the provisions of this article and other applicable city, county and state health, zoning, building, fire and safety ordinances and laws.

(Ord. No. O-2019-10, § 1, 3-18-2019)

**SECTION 9:** That Chapter 10 (Special Events, Amusements and Entertainments), Article VI (Raffles) is hereby amended as follows:

**Sec. 10-47. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means any person managing or supervising the raffle or any entity described in subsections 10-51(a)(1) and 10-51(a)(2) as being qualified to submit an application for a raffle license.

*Business* means a voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

*Charitable* means an organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

*Educational* means an organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax supported schools.

*Fraternal* means an organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burden of government by caring for those who otherwise would be cared for by government.

*Key location* means the location where the winning chances in the raffle are determined.

*Labor* means an organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

*Net proceeds* means the gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees, and other reasonable operating expenses incurred as a result of operating a raffle.

*Nonprofit* means an organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation.

*Raffle* means a form of lottery, as defined in section 28-2(b) of the Criminal Code of 2012, conducted by an organization under this article, in which:

(1) The player pays or agrees to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;

(2) The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

*Religious* means any church, congregation, society, or organization founded for the purpose of religious worship.

*Veterans* means an organization or association comprised of members of whom substantially all are individuals who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

(Ord. No. O-2019-10, § 1, 3-18-2019)

#### **Sec. 10-48. Construction of article.**

Nothing in this article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity or device other than raffles as provided for herein.

(Ord. No. O-2019-10, § 1, 3-18-2019)

#### **Sec. 10-51. Raffle application.**

(a) Applications for licenses to conduct raffles shall be made in writing on the forms provided by the city and shall be delivered to the city manager at least fourteen (14) days prior to the sale of raffle chances.

Applications for raffle licenses shall not be submitted to the city manager more than one year in advance of the date of the requested raffle drawing. Licenses shall be issued only to:

(1) Bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations, which operate without profit to their members, as defined in this article. Such organizations shall have been in existence continuously for a period of no less than five (5) years immediately before making application for a license, and such organizations shall have had for that entire five-year period a bona fide membership engaged in carrying out its objectives.

(2) A nonprofit fundraising organization that the city manager determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

(b) Such applications shall be signed by the applicant or its duly authorized representative(s) and shall contain the following information:

(1) The name and address of the applicant;

(2) The time period during which raffle chances will be sold or issued;

(3) The manner in which the proceeds from the raffle will be used for charitable purposes;

(4) The time of determination of winning chances and the location at which winning chances will be determined;

(5) The retail value of each prize awarded;

(6) The aggregate retail value of all prizes or merchandise to be awarded;

(7) The price to be charged for the raffle ticket;

- (8) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and secretary of the prospective licensee organization;
- (9) Written proof issued by the state that the applicant is in good standing with the Office of the Illinois Secretary of State and which specifies the date of incorporation of the organization as a nonprofit organization;
- (10) A sworn statement by the applicant as to whether the applicant or any officer, director, employee or person associated with the applicant organization or corporation, including any person participating in the management or operation of the raffle which is the subject of the application, or person who has a proprietary, equitable or credit interest in such raffle has ever been convicted of a felony, and the details of the circumstances of any such felony conviction(s), unless such conviction occurred prior to a person's 18<sup>th</sup> birthday or the conviction has been expunged or sealed;
- (11) A sworn statement by the applicant as to whether the applicant or any officer, director, employee or person associated with the applying organization or corporation, including any person participating in the management or operation of the raffle which is the subject of the application, or person who has a proprietary, equitable or credit interest in the raffle has ever been convicted of a violation of any ordinance or statute regulating gambling and the details of the circumstances of any such conviction(s), unless such conviction occurred prior to a person's 18<sup>th</sup> birthday or the conviction has been expunged or sealed; and
- (12) A sworn statement by the owner, manager, or duly authorized representative of any rented premises on which the winning chance or chances in the applicant's raffle shall be determined, that the owner, manager, or duly authorized representative of such premises consents to the use of such premises for such raffle activity and has never been convicted of a felony or any local ordinance or state law regulating gambling.

(c) Each license issued under this article shall be valid for a single raffle, or a specified number of raffles to be conducted during a specified period not to exceed one year.

(d) For the purpose of satisfying the raffle license requirement of section 10-56(10) of this article, a raffle license shall be deemed issued to any establishment, place of business, or premises ("premises") which submits with an applicant's application for a license under this article, a sworn statement that satisfies the requirements of section 10-51(b)(13) of this article. Such license shall be limited to only allowing the applicant's raffle activities to occur on the premises as set forth in the applicant's application for a license under this article.

(Ord. No. O-2019-10, § 1, 3-18-2019)

#### **Sec. 10-54. Application; issuance or denial.**

Review of applications shall include, but is not limited to, consideration of the requirements contained in sections 10-51 and 10-53 of this article and in section 15/3.1(a) and (b) of the Raffles and Poker Runs Act, as amended (230 ILCS 15/3.1(a) and (b)). Within thirty (30) calendar days from the date of an application for a license under this article, the city manager shall either issue a license or advise the applicant, in writing, of the reason for denial of a license, including a statement about the decision to refuse to issue a license, a listing of any convictions which the city determined will impair the applicant's ability to engage in the licensed activity, and a listing of convictions which formed the sole or partial basis for the denial. In the event a license is denied, the applicant shall have the right upon receipt of such written denial, to appeal the decision to the city council at the next regularly scheduled city council meeting.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22, § 22, 6-1-20)

#### **Sec. 10-56. Conducting raffles.**

The conducting of raffles within the city is subject to the following restrictions and conditions:

- (1) The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct the raffle.

- (2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle.
- (3) No person may receive any remuneration or profit for participating in the management or operation of the raffle.
- (4) All drawings for the winning raffle ticket or tickets shall be held in a place open to the general public.
- (5) Raffle chances may be sold or issued throughout the State, including beyond the borders of the city, but winning chances may be determined only at those locations specified on the license.
- (6) A person under the age of 18 years may participate in the conducting of raffles or chances only with the permission of a parent or guardian. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by a parent or guardian.
- (7) All raffle tickets sold by a licensed organization shall include the name and address of the sponsoring organization on the raffle ticket.
- (8) The drawing of the winning raffle ticket or tickets must take place within the corporate limits of the city.
- (9) The maximum number of days during which chances may be issued or sold shall be 180 calendar days, unless otherwise provided by resolution of the city council.
- (10) A licensee may rent a premise on which to determine the winning chance or chances in a raffle only from an organization which has a city issued raffle license.
- (11) If a lessor rents premises where a winning chance or chances on a raffle are determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the city under the provisions of this article.
- (12) If any raffle for which a license is issued under this article is canceled, or if any such raffle is not conducted on the date contained in the application for license, the licensee shall refund all money paid for any raffle chances issued or sold to the persons to whom such raffle chances were issued or sold within forty-five (45) days after the date on which the raffle was to be conducted or within forty-five (45) days after cancellation of the raffle, whichever is sooner.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22, § 23, 6-1-20)

#### **Sec. 10-57. Manager; bond.**

All operation and conduct of raffles shall be under the supervision of a single raffle manager designated by the licensed organization. The manager shall give a fidelity bond in the sum of the total amount of the aggregate retail value of all of the prizes in favor of the organization conditioned upon his honesty and the performance of his duties. The terms of the bond shall provide that notice shall be given in writing to the city not less than thirty (30) calendar days prior to its cancellation. The city manager may waive this bond requirement by including a waiver provision in the license issued to an organization under this article, provided that the organization has voted to request the bond waiver.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22, § 24, 6-1-20)

#### **Sec. 10-58. Records and reporting requirements.**

Each organization licensed to conduct raffles and chances pursuant to this article shall keep records, provide reports, and be subject to the requirements set out as follows:

- (1) Each licensee shall keep records of gross receipts, expenses and net proceeds for each raffle at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reasons for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount, and date of payment.

(2) Gross receipts from the operation of raffle shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are conducted by the same nonprofit organization pursuant to a license therefore issued by the Illinois Department of Revenue, and placed in a separate account. Each organization shall have separate records of its raffles. The person who accounts for gross receipts, expenses, and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.

(3) Each organization licensed to conduct raffles shall submit a report within thirty (30) calendar days after the conclusion of each raffle to its membership and to the city of its gross receipts, expenses, and net proceeds from raffles, and the distribution of net proceeds itemized as required under subsection (1) of this section.

(4) Records required by this article shall be preserved for three (3) years, and organizations shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

(Ord. No. O-2019-10, § 1, 3-18-2019; Ord. No. O-2020-22, § 25, 6-1-20)

#### **Sec. 10-59. City reporting requirements.**

No later than May 1 of each year, the city manager or designee, shall prepare and publish a report of summary statistical information relating to new and renewal license applications during the preceding calendar year. Each report shall show at a minimum:

- (1) The number of applicants for a license under this article within the previous calendar year;
- (2) The number of applicants for a license under this article within the previous calendar year who had any criminal conviction;
- (3) The number of applicants for a license under this article in the previous calendar year who were granted a license;
- (4) The number of applicants for a license under this article with a criminal conviction who were granted a license under this article within the previous calendar year;
- (5) The number of applicants for a license under this article within the previous calendar year who were denied a license under this article; and
- (6) The number of applicants for a license under this article with a criminal conviction who were denied a license under this article in the previous calendar year in whole or in part because of a prior conviction.

(Ord. No. O-2019-10, § 1, 3-18-2019)

**SECTION 10:** That Chapter 26 (Businesses), Article I (In General) is hereby amended as follows:

#### **Sec. 26-5. Sale of food and beverages—From vehicles.**

(a) No person conducting a business from a vehicle on the public roads, streets and highways within the city shall sell any food or beverages from such vehicles except under the following conditions:

- (1) The vehicle shall be located more than 100 feet from the nearest intersecting road, street or highway, and more than 100 feet from a restaurant licensed by the city serving similar products or another food vehicle licensed by the city. The vehicle shall not be located directly in front of a restaurant licensed by the city. .
- (2) No food or beverage shall be sold from any such vehicle during the hours of 5:00 p.m. to 7:00 p.m. except on Saturdays, Sundays and public holidays.
- (3) Any vehicle stopped upon the public roads, streets or highways for the purpose of selling food or beverages shall not broadcast any music or other sounds while it is in the stopped position.
- (4) A valid city license must be displayed on the vehicle.

(5) Said business shall provide a certificate of insurance, subject to the reasonable approval of the city attorney, naming the city as an additional insured for the term of the license and including a liability insurance policy of not less than \$2,000,000.00 per occurrence.

(6) Said business shall provide a signed indemnification statement on a form provided by the city.

(b) Any vehicle used for the sale of food and beverages upon the public roads, streets and highways shall possess the following equipment which shall be in good working order and operative at the time in which the sales are taking place:

(1) A sign on the front and back of the vehicle which shall consist of letters no less than five inches in height which shall state: "Caution, Children Crossing."

(2) A foldout diamond-shaped sign on the left side of the vehicle which shall consist of letters no less than five inches in height which shall state: "Slow."

(3) Two amber lights, eight inches in diameter, mounted on the front and back of the vehicle capable of flashing alternately so as to be visible at a distance of 500 feet in normal daylight.

(Code 1968, § 15-28; Code 1996, § 26-5; Ord. No. F-1417, § 1, 2-17-2009)

**Sec. 26-6. Same—From carts on public sidewalks.**

No person conducting a business from a cart or nonmotorized trailer on a public sidewalk within the city shall sell any food or beverage from such cart or trailer except under the following conditions:

(1) The cart shall be located not less than 100 feet from a restaurant licensed by the city serving similar products or another food cart or trailer licensed by the city. A cart shall not be located directly in front of a restaurant licensed by the city.

(2) No person conducting business from a cart may sell any food or beverage from a road, street or highway or while the cart is attached to a motorized vehicle.

(3) Carts must be equipped with appropriate litter containers for use by the customers of the business.

(4) Carts shall not be placed within 15 feet of any fire hydrant, emergency facility, or intersecting driveway, street or alley.

(5) Carts shall not be placed where the width of the paved area for pedestrian passage is reduced to less than three (3) feet.

(6) A valid city license must be displayed on the cart.

(7) Operation of carts shall only be in the central business district, which shall be defined as the area from West Street to Washington Street and Seminary Avenue to Illinois Street.

(8) For the purpose of this section, a cart or non-motorized trailer shall be no larger than 72 inches high, 60 inches wide, and 72 inches long. Carts and trailers shall be self-contained and require no external power source.

(9) Said business shall provide a certificate of insurance, subject to the reasonable approval of the city attorney, naming the city as an additional insured for the term of the license and including a liability insurance policy of not less than \$2,000,000.00 per occurrence.

(10) Said business shall provide a signed indemnification statement on a form provided by the city.

(11) Carts shall not conduct business along streets that are closed by authority of the city council.

(Code 1968, § 15-29; Code 1996, § 26-6; Ord. No. F-1417, § 2, 2-17-2009; Ord. No. F-1854, §§ 1, 2, 4-6-2015)

**SECTION 11:** That Chapter 26 (Businesses), Article VII (Massage Businesses) is hereby amended as follows:

**Sec. 26-182. Application for massage business license.**

All massage businesses required to obtain a business license to operate a massage business shall make application to the city clerk. The city clerk shall have the right to confirm any of the information asked for, or provided in the application. Applications shall include the following:

- (1) The name (including nicknames or aliases) and address, telephone number, a copy of birth certificate and copy of naturalization certificate, driver's license number, and age of the applicant and all owners. If the birth certificate is in a language other than English, the applicant shall provide, at their own expense, a translation of the birth certificate into English and a certificate that the translation is true and correct.
- (2) The location of the massage business.
- (3) For the owners of 20 percent or more interest in any massage business, such listing shall include:
  - a. Any offense involving sexual misconduct with children or other sex offenses as defined in 720 ILCS 5/11-01—5/11-30, as amended.
  - b. Any felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past ten years; or
  - c. Any felony unrelated to conduct or involvement in such business or activity or related or similar business or activity, but which felony involved the use of a deadly weapon, traffic in narcotic drugs, or violence against another person, including rape, within the past five years; or
  - d. Any misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past year.
- (4) A description of the proposed massage business, including the number of massage therapists or Asian bodywork practitioners, other activities or business conducted at the same location, and the physical facilities to be used.
- (5) A statement of whether the massage business will be conducted by a manager. In such case, the manager's name, address, telephone number and age shall be provided along with a statement of any convictions as set forth under subsection (3) of this section.
- (6) A current certificate of inspection of the premises from an applicable county board of health, if required.
- (7) The license fee as provided in section 26-188.
- (8) Business, occupation, or employment of the applicant for five years immediately preceding the date of application.
- (9) In the event the applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, the applicant shall immediately notify the city clerk and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information may delay the processing of such application or result in its denial or result in the revocation of an existing license.
- (10) The applicants shall submit their fingerprints to be used in completing the investigation. Applicants are required to present themselves for fingerprints to be taken by the city police department. If the applicant is a corporation, fingerprints shall be required of each of the applicant's officers, directors, and any stockholder owning in the aggregate more than twenty percent (20%) of the stock of such corporation. If the applicant is a partnership, fingerprints shall be required of all general partners, and any limited partner owning more than twenty percent (20%) of the aggregate limited partner interest in such partnership. Applicant shall pay the fingerprint fee as provided in Section 26-188(b) for each person required to submit fingerprints. Provided, in the case of a renewal application, fingerprints and the fingerprint fee shall not be required from a renewal applicant whose fingerprints are on file unless the city determines that there may be reason to believe that the renewal applicant may have unreported convictions.

(11) Two passport size photographs (one inch by 1.5 inches) of the applicant (head and shoulders area, face forward) shall be provided by the applicant to be used in the investigation of the applicant, the preparation of a photo identification license card, and the identification of the license holder following issuance; provided, in the case of a renewal application, the city clerk may waive the requirement for photographs if the applicant's photographs are on file and new photo identification permit cards are not to be issued.

(12) The identity and address of a manager or owner designated by the massage business to receive any notice provided for in the article.

(13) The name of each and every employee who will perform Asian bodywork approaches on the licensed premises.

(14) A copy of a state massage license or city Asian bodywork approach exemption certificate for each and every person performing Asian bodywork approaches on the licensed premises shall be openly displayed.

(Code 1996, § 26-182; Ord. No. F-1716, § 1, 6-17-2013)

**SECTION 12:** That Chapter 54 (Solid Waste), Article III (Removal of Garbage and Debris) is hereby amended as follows:

**Sec. 54-81. Failure to remove prohibited.**

It shall be unlawful for any person who is the owner of private property upon which there exists an accumulation of garbage, rubbish, or construction debris, so as to constitute a danger to public health, to fail to remove such garbage, rubbish, or construction debris after receipt of 48 hours' notice from the director of building and code enforcement.

(Code 1968, § 14-47; Code 1996, § 54-81; Ord. No. F-1974, § 3, 11-21-2016)

**Sec. 54-82. Removal by city.**

If any person owning private property within the city shall refuse or neglect to remove garbage, rubbish or construction debris after ten days' written notice to do so, the director of building and code enforcement may cause such garbage, rubbish or construction debris to be removed.

(Code 1968, § 14-48; Code 1996, § 54-82)

**Sec. 54-83. Filing of notice of lien.**

Upon removal of any garbage, rubbish or construction debris from private property by the city as prescribed in this article after the failure of the owner of such property to do so, the cost of such removal shall be paid within ten days after mailing of a statement of such costs to the owner. Within 60 days after such cost and expense is incurred and upon failure of the owner of private property to reimburse the city for expenses in removal of garbage, rubbish, or construction debris, the city clerk, in the name of the city, shall file a notice of lien in the office of the recorder of deeds of the county, which shall be a lien against the real estate superior to all other liens and encumbrances except tax liens. However, such lien shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to removal of the garbage, rubbish or construction debris and prior to the filing of notice of lien, and such lien shall not be valid as to any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arise prior to the filing of such notice. The notice shall consist of a sworn statement setting out a description of the real estate sufficient for identification thereof, the amount of money representing the cost and expense incurred or payable for the service, and the date or dates when such cost and expense was incurred.

(Code 1968, § 14-49; Code 1996, § 54-83)

**SECTION 13:** That Chapter 58 (Streets, Sidewalks and Other Public Places), Article I (In General) is hereby amended by adding a new section 58-34 Block Parties as follows:

**Sec. 58-34. Block Parties.**

- (a) *Definition.* The closing of one block or portion thereof of a public street or alley, from one cross street to the next closest cross street, for no longer than an eight (8) hour period, that is entirely residential for community activities sponsored by the residents of such block.
- (b) *Permit required.* It shall be unlawful to conduct or attend a block party which disrupts or blocks pedestrian or vehicular traffic on any public right-of-way unless a permit has been issued for such block party with this section.
- (c) *Application.* All applications for permits required by this section shall be on forms furnished for that purpose and shall include the date, hours and location of the block party, and the name, address, phone number and email address of the contact person. Applications shall be submitted to the Wheaton Public Works Department no later than three (3) weeks prior to the date of the block party. As part of the application the contact person shall submit a sheet containing the signatures of at least sixty percent (60%) of the residents within the blocked area.
- (d) *Requirements.* A block party shall comply with the following requirements:
  - (1) The contact person shall notify all residents within the blocked area in writing of the date and time of the block party.
  - (2) The contact person is responsible for removing all litter, refuse and property from the public right-of-way as a result of the block party.
  - (3) The contact person is responsible for any damage to City property.
  - (4) The contact person shall obtain any other permits that may be required for activities at the block party, such as sound amplification, etc.
- (e) *Restrictions.* Any permit issued pursuant to this section shall be subject to the following restrictions:
  - (1) No block party shall extend beyond midnight upon any portion of the public street or alley.
  - (2) A block party is not allowed on public streets, with higher traffic volume, such as collectors and arterials.
  - (3) No public street or alley can be completely blocked by any block party. Access must be available for anyone who needs to get to or from their property within the blocked area.
  - (4) No alcoholic liquor may be sold at any block party.
  - (5) Items such as amusement rides, animal rides, tents, etc. are not allowed in the public street or alley.
- (f) The police chief or fire chief, or their designees, upon determining that the block party or participants thereof pose a threat to the public health, safety or welfare, shall have the power and authority to immediately revoke the block party permit and terminate the block party.

**SECTION 14:** That Chapter 62 (Subdivisions), Article II (Plat Approval Procedure), Division 3 (Final Plat) is hereby amended as follows:

**Sec. 62-111. Details required.**

The final plat shall be drawn with nonfading black ink on linen tracing cloth or transparent plastic, not larger than 30 inches wide by 36 inches long, and it shall show the following:

- (1) *Identification and description.*
  - a. Proposed name of subdivision.
  - b. A full and detailed description of the land embraced in the plat, showing the township and range in which such land is situated and the sections and parts of sections platted, and in the case of replatting or

resubdividing, a description of the part of, and the name of, the original plat, which is replatted or resubdivided, containing the name of the town, city, village or addition platted, the name of the proprietor required to sign the plat and the surveyor making it. If there is any excepted parcel within the plat boundary it must be accurately described by metes, bounds and courses.

- c. Scale of plat, not smaller than one inch equals 100 feet.
- d. North point, indicating true north.
- e. Date of preparation.

(2) *Delineation of final plat.*

- a. Boundary of the plat based on an accurate traverse, with all angular and linear dimensions shown.
- b. All blocks, lots, streets, alleys, crosswalks, easements and setback lines within or adjacent to the plat, all of which shall have all angular and linear dimensions given and all radii, internal angles, points of curvature, tangents, bearings and lengths of all curves so that no dimensions or data are missing which are required for the future relocation of any of the corners or boundaries of blocks, lots, streets, etc., as listed in this subsection (2). All dimensions shall be given to the nearest hundredth of a foot.
- c. True angles and distances to the nearest established official monuments, not less than three of which shall be accurately described on the plat.
- d. Municipal, township, or section lines accurately tied to the lines of the subdivision by distances and angles.
- e. Block and lot numbers of all blocks and lots. Names of all existing streets and all streets in the subdivision.
- f. Designation of all areas being dedicated to public use, with the purposes indicated thereon.
- g. Location of all iron stakes and all permanent monuments required by this chapter.
- h. Any protective covenants.
- i. Statements covering easement provisions.
- j. All other information required by state statutes.

(3) *Certificates.* The following certificates shall accompany the final plat when submitted:

- a. Owner's certificate of plat and dedication.
- b. Notary's certificate of owners.
- c. Surveyor's certificate.
- d. County clerk's certificate on unpaid taxes.
- e. City clerk's certificate on unpaid special assessments.
- f. Director of engineering's certificate on required improvements.
- g. Certificate of approval by city council.

(4) *Supporting documents.* The final plat shall be accompanied by the following supporting documents when submitted:

- a. Complete plans, specifications and cost estimates of the improvements to be installed, prepared by a registered professional engineer.
- b. An agreement signed by the subdivider listing the public improvements he proposes to make at his expense in the subdivision, the time of completion of such improvements and the method of payment for the improvements. This agreement shall provide for the method of selection of the contractors engaged to construct the improvements and require them to submit evidence of insurance covering their employees and indemnifying the city against any loss or damage to persons or property during the course of the work.
- c. Director of engineering's checklist to be attached by him, listing the improvements required by this chapter.
- d. Written evidence from the proper governmental agencies, if other than the city, of their willingness and ability to accept and maintain all dedicated areas.
- e. An application for a site development permit in accordance with the requirements of the stormwater runoff control and erosion control regulations, as set out in chapter 34 of this Code.
- f. A storm drainage plan based upon a competent storm drainage study.

g. The topographical and profile studies submitted with the subdivision plat shall have on their face the certificate of a registered professional engineer, and the owner of the land or his duly authorized agent, to the effect that to the best of their knowledge and belief the drainage of surface waters will not be changed by the construction of such subdivision or any part thereof, or that if such surface water drainage will be changed, adequate provision has been made for the collection and diversion of surface waters into public areas, or into drains which the subdivider has a right to use, and that such surface waters will not be deposited on the property of an adjoining landowner in such concentrations as may cause damage to the adjoining property because of the construction of the subdivision.

(Code 1996, § 62-111; Ord. No. F-0663, § 3, 11-19-2001)

**SECTION 15:** That Chapter 78 (Vegetation), Article I (In General) is hereby amended as follows:

**Sec. 78-5. Planting standards.**

- (a) Trees shall be planted using best management practices, and shall have a minimum diameter of two inches measured at a distance of six inches above the ground and shall have a continuous single trunk. All trees shall be free from deformity and indication of undesirable growth characteristics.
- (b) Trees, when planted, shall be free of infectious disease or insect infestation.
- (c) Placement and location of trees in the public way less than eight feet in width as measured between the sidewalk and curb or edge of pavement, or 14 feet between the property line and curb or edge of pavement, shall be subject to the approval of the director of public works or his designee.
- (d) Trees within the public way or within private property for corner lots shall not be planted closer than 30 feet from the property corner adjacent to the street intersection.
- (e) Spacing of trees shall be as follows unless otherwise approved by the director of public works or his designee. Trees shall be planted:
  - (1) At 30-foot intervals from existing trees;
  - (2) A minimum distance of five feet from driveway aprons measured at the curb or edge of pavement, sidewalks, utility mains and their appurtenances, and utility service lines;
  - (3) A minimum distance of ten feet from alleyways, streetlight poles and utility poles; and
  - (4) A minimum distance of 15 feet from any crosswalks or traffic control device.
- (f) No tree shall be planted where the soil is too poor to ensure the growth of such tree.
- (g) Only low growing trees that do not exceed 20 feet at maturity shall be planted within the public way under overhead utility lines, including service lines.
- (h) Approved species. Tree species planted in the public way must conform to the public way tree planting list as approved by the director of public works or his designee which are included in planting standards on file with the city.
- (i) No two (2) trees of the same species shall be planted next to one another.
- (j) The following trees are approved to be planted in the public way:

Scientific Name:	Common Name:
Acer x freemanii	Freeman Maple
Acer griseum	Paperbark Maple
Acer miyabei	Miyabe Maple
Acer platanoides	Norway Maple
Acer rubrum	Red Maple

<i>Acer saccharum</i>	Sugar Maple
<i>Acer triflorum</i>	Three-flowered Maple
<i>Aesculus glabra</i>	Ohio Buckeye
<i>Betula nigra</i>	River Birch
<i>Betula platyphylla</i>	White Birch
<i>Carpinus caroliniana</i>	American Hornbeam
<i>Catalpa</i>	Catalpa species
<i>Celtis occidentalis</i>	Hackberry
<i>Cercidiphyllum japonicum</i>	Katsura Tree
<i>Cladrastis kentukea</i>	Yellowwood
<i>Fagus grandifolia</i>	American Beech
<i>Ginkgo biloba</i>	Ginkgo (Male Only)
<i>Gleditsia triacanthos</i> var. <i>inermis</i>	Honeylocust (Thornless)
<i>Gymnocladus dioicus</i>	Kentucky Coffeetree
<i>Liquidambar styraciflua</i>	Sweetgum
<i>Liriodendron tulipifera</i>	Tuliptree
<i>Metasequoia glyptostroboides</i>	Dawn Redwood
<i>Nyssa sylvatica</i>	Tupelo
<i>Ostrya virginiana</i>	Ironwood
<i>Platanus x acerifolia</i>	London Plantetree
<i>Platanus occidentalis</i>	Sycamore
<i>Quercus alba</i>	White Oak
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus coccinea</i>	Scarlet Oak
<i>Quercus imbricaria</i>	Shingle Oak
<i>Quercus macrocarpa</i>	Bur Oak
<i>Quercus montana</i>	Chestnut Oak
<i>Quercus muhlenbergii</i>	Chinkapin Oak
<i>Quercus robur</i>	English Oak
<i>Quercus rubra</i>	Red Oak
<i>Styphnolobium japonica</i>	Japanese Pagodatree
<i>Taxodium distichum</i>	Bald Cypress
<i>Tilia americana</i>	American Linden
<i>Tilia cordata</i>	Littleleaf Linden
<i>Ulmus</i> (Hybrid)	Hybrid Elm
<i>Zelkova serrata</i>	Zelkova species

\*All trees are to be single stemmed

\*All trees must be at least 2" trunk diameter

\*Other tree species are subject to the approval of the City of Wheaton

(k) The following trees are approved to be planted only where overhead utility wires exist:

Scientific Name:	Common Name:
<i>Acer ginnala</i>	Amur Maple
<i>Amelanchier</i>	Serviceberry species
<i>Cercis canadensis</i>	Redbud
<i>Cornus alternifolia</i>	Pagoda Dogwood
<i>Cornus mas</i>	Cornelian Cherry Dogwood
<i>Crataegus crusgalli</i> var. <i>inermis</i>	Thornless Hawthorn
<i>Hamamelis vernalis</i>	Vernal Witchhazel
<i>Hamamelis virginiana</i>	Common Witchhazel
<i>Magnolia</i>	Magnolia species
<i>Malus</i>	Crabapple species
<i>Syringa pekinensis</i>	Peking Lilac
<i>Syringa reticulata</i>	Japanese Tree Lilac
<i>Viburnum prunifolium</i>	Blackhaw Viburnum

\*All trees are to be single stemmed

\*All trees must be at least 2" trunk diameter

\*Other tree species are subject to the approval of the City of Wheaton

(Code 1996, § 78-5; Ord. No. F-1739, § 1, 12-2-2013)

#### Sec. 78-6. Prohibited species.

It shall be unlawful to plant any of the following trees within the public way:

Common Name	Botanical Name
Fir	<i>Abies</i> (all species)
Box Elder	<i>Acer Negundo</i>
Tree of Heaven	<i>Ailanthus gladulosa</i>
Hawthorn	<i>Crataegus</i> (var. w/ thorns)
Russian/autumn	<i>Olive Elaeagnus</i> (all species)
Ginkgo (female var.)	Ginkgo (female var.)
Walnut	<i>Juglans</i> (all species)
Juniper	<i>Juniperus</i> (all species)
Ash	<i>Fraxinus</i> (all species)
Osage orange	<i>Maclura pomifera</i>
Mulberry	<i>Morus</i> (all species)
Spruce	<i>Picea</i> (all species)

Pine	Pinus (all species)
Poplar	Populus (all species)
Black cherry	Prunus serotina
Douglas fir	Pseudotsuga menziesii
Callery pear	Pyrus calleryana
Buckthorn	Rhamnus (all species)
Sumac	Rhus (all species)
Black locust	Roninia Pseudoacacia
Willow	Salix (all species)
Yew	Taxus (all species)
Arborvitae	Thuja (all species)
Hemlock	Tsuga (all species)
Siberian elm	Ulmus pumila
Fruit bearing trees	Apple, peach, pear, plum, etc.

(Code 1996, § 78-6; Ord. No. F-1739, § 1, 12-2-2013)

**SECTION 16:** In all other respects, the terms and provisions of the Wheaton City Code are ratified and remain in full force and effect.

**SECTION 17:** All ordinances or parts of ordinances in conflict with these provisions are hereby repealed.

**SECTION 18:** 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 19:** This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

  
Philip J. Sauer  
Mayor

ATTEST:

  
Andrea Rosedale

City Clerk

Ayes: Roll Call Vote:  
Councilwoman Robbins  
Councilman Weller  
Councilman Barbier  
Councilwoman Bray-Parker  
Mayor Suess  
Councilman Clousing

Nayes: None  
Absent: Councilman Brown  
Motion Carried Unanimously

Passed: August 21, 2023

Published: August 22, 2023

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