

# CITY ORDINANCES

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*Ordinance No. 1004-1173*

**AN ORDINANCE OF THE  
CITY OF WHEATON  
COUNTY OF BARRY  
STATE OF MISSOURI**

**NUISANCES**

**Article I – IN GENERAL**

- Sec. 1 – Nuisances prohibited.
- Sec. 2 – Penalties for violation of section 1,
- Sec. 3 – Illustrative nuisances enumeration.
- Sec. 4 – Construction sites.
- Sec. 5 – Right of entry for purposes of inspection and enforcement.
- Sec. 6 – Notice to owner, occupant or person in charge to abate or remove nuisance.
- Secs. 7 – 9 – Reserved.

**Sec. 1 – Nuisances prohibited.**

No person shall cause, maintain or permit on public property or on premises owned or controlled by such person a nuisance as defined by the laws of this state or this chapter. For purposes of this section a “person” shall include individuals, private corporations, firms, partnerships, associations, executors, administrators, trustees, receivers, or other representative appointed according to law.

**Sec. 2 – Penalties for violation of section 1.**

Notwithstanding any other provision of the Wheaton City Code to the contrary, any person who has been found guilty of violating section 1 shall be required to pay a minimum fine of ten dollars (\$10.00) for the first offense. Any person who has been found guilty of violation section 1 a second time during a twelve-month period shall pay a minimum fine of one hundred dollars (\$100.00). Any person who is found guilty of violation section 1 of the Wheaton City Code a third time within a twelve-month period shall be fined a minimum of two hundred (\$200.00) Any person who is found guilty of violation section 1 of the Wheaton City Code four (4) times or more within a twelve-month period shall be fined a minimum of five hundred (\$500.00) for the fourth offense and each subsequent offense within a twelve-month period. If a person is charged and found guilty of more than one (1) offense on the same day, then all such offenses on that day for purposes of this section shall be counted as one (1) violation.

**Sec. 3 – Illustrative nuisances enumeration.**

The following things are hereby declared to be nuisances, provided, that such listing shall not be deemed exclusive:

- (1) Trash, debris, waste, filth, cinders, sawdust, old lumber, stones, rocks, refuse, ashes, slops, filth, excrement, stones, straw, soot, rubbish, manure, offal, stagnant water, all sorts of decaying animal matter, animal waste, decaying fruit or vegetables or other vegetable matter, broken kitchenware, wrecks or parts of worn-out automobiles or other machines, scrap iron or other metals, cans, old bottles, broken glass, discarded wearing apparel, dead animals, scrap lumber, tires, or any other offensive or disagreeable substance or thing left, deposited or caused or permitted to remain in such quantity or in such condition as to be offensive to the sight or smell or a menace to health, safety, peace or comfort, or of such a nature as to be or become harborers or breeding places for mosquitoes, ants, flies, rats, mice or other insects, animals, reptiles, vermin, or birds or so as to provide shelter, food or protection for rodents, thus favoring rodent multiplication and continued existence, whether left or deposited upon private premises owned, occupied or controlled by persons causing or permitting the same or upon any public street, sidewalk, alley, parkway, public enclosure or vacant lot; and all water, steam and condensation drained from, emitted from or thrown upon any sidewalk, parkway, alley or street from any place occupied as a residence or by a commercial or business structure or any appurtenances belonging thereto.
- (2) Accumulating, storing, piling, stacking or placing of paper, magazines, rags, sawdust, boxes, cans, straw, or other similar substances on residential or business property by the owner or the person in charge of said property, whether through their agent, servants, employees or otherwise, when such substances are accumulated, stored, piled, stacked or placed so that they may, by nature causes such as wind or storm, escape from the property where so stored, accumulated, piled, stacked or placed onto the property of others, the streets, sidewalks or alleys.
- (3) The accumulation upon any premises or the discharge thereof upon any public way or public place or private property of any dirty or stagnant water, foul or dirty liquid, sewage, liquid waste, wash water, waste water, or filthy water or liquid of any type.
- (4) Factories, slaughterhouses or the exercise of any activity, business, manufacture or trade which shall cause any offensive odor or noxious exhalations which are discomforting, offensive or detrimental to the health of individuals or of the public.
- (5) Any open, uncovered or unprotected hole, well or cistern on any premises, or any hold, well, cistern or pool of water which is impure or unwholesome in nature.
- (6) The maintenance upon any premises in this city of a building, structure or other condition apt to cause injury to the traveling public, or apt to obstruct, injure or destroy the public ways of the city.
- (7) The existence of any tree or shrub, or limb or branch thereof which shall overhang any street, sidewalk, alley or other public place in such a way as to impede or interfere with traffic or travel on such street, sidewalk, alley or public way, or which has become likely to fall on or across any public street, sidewalk, alley or public way.

- (8) The existence of any tree or shrub which by reason of disease, injury, age or any other condition has become likely to fall on some person, automobile, structure or improvement.
- (9) Rodent harborage: Any condition providing shelter, food or protection for rodents, thus favoring rodent multiplication and continued existence.

#### **Sec. 4 – Construction sites.**

Each contractor, owner and/or the person in whose name a building permit is issued, shall all be responsible for the job site in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises. Litter or any other debris, including dirt, mud, paper, cardboard or other scrap materials, deposited as a result of the normal construction process upon any public place or private premises shall be removed by the said contractor, owner or permittee.

#### **Sec. 5 – Right of entry for purposes of inspection and enforcement.**

- (a) All complaints alleging the existence of a public nuisance shall be filed with the Chief of Police who shall promptly inspect the premises and with the consent of the owner, occupant or person in possession thereof. In the event consent cannot be obtained, the code enforcement official shall have the right to seek the appropriate warrant as outlined in section 41(a).
- (b) The code enforcement official of the city is hereby authorized and required to go in and upon any house, building, lot or premises, whether public or private, for the purpose of removing or abating any nuisance, when abatement of a nuisance is ordered under the provisions of this chapter.
- (c) The term “code enforcement official” shall include any police officer of the City of Wheaton or any other person designated by the city council to assume the duties and responsibilities of this chapter.

#### **Sec. 6 – Notice to owner, occupant or person in charge to abate or remove nuisance.**

Whenever the code enforcement official received a complaint or is otherwise informed and believes that a nuisance exists, the notice and abatement procedure outlined in section 40 may be used in lieu of or in addition to any other procedures available under this chapter. Such notice shall not be required as a prerequisite for a violation of section 1.

#### **Secs. 7 – 9 – Reserved.**

## **Article II – WEEDS AND OTHER RANK VEGETATION**

Sec. 20 – High weeds, etc., declared menace to public health, safety and welfare.

Sec. 21 – Code enforcement official to determine when weeds, etc., constitute public nuisance.

Sec. 22 – Weeds, etc., over twelve inches in height declared nuisance per se.

Sec. 23 – Permitting growth of high weeds, etc., prohibited.

Sec. 24 – Permitting growth of high weeds, etc., in sight triangle, prohibited.

Secs. 25 – 29 – Reserved.

### **Sec. 20 – High weeds, etc., declared menace to public health, safety and welfare.**

The presence of weeds, grass, brush and other rank vegetation, of an excessive height, hereinafter referred to as weeds, excluding shade trees, ornamental shrubs, fruit trees, domesticated berry bushes and vines regularly maintained, cover crops and domestic grains and plantings on lots and pieces of land within the city, except as prohibited in section 24, constitute a menace to the public safety, health and welfare by reason that such conditions may:

- (1) Cause a fire hazard;
- (2) Furnish cover for prowlers;
- (3) Create a nuisance with potential danger of injury on rocks, debris, holes, etc., covered by excess growth;
- (4) Obstruct visibility at street intersections;
- (5) Result in the aggravation of allergies;
- (6) Furnish a potential harborage or breeding place for disease-carrying insects, arthropods, animals and poisonous snakes.

### **Sec. 21 - Code enforcement official to determine when weeds, etc., constitute public nuisance.**

The growth of weeds shall constitute a public nuisance when, in the opinion of the code enforcement official, any such growth on a lot or piece of land may substantially endanger the health, safety or welfare of the public, having considered those hazards enumerated in section 20.

### **Sec. 22 – Weeds, etc., over twelve inches in height declared nuisance per se.**

The growth of weeds in excess of nine (9) inches in heights except on land used for agricultural purposes, as defined in section 12-23(b), is declared to be a public nuisance, per se, detrimental to the health, safety and welfare of the public.

### **Sec. 23 – Permitting growth of high weeds, etc., prohibited.**

- (a) It shall be unlawful for the owner, occupant, lessee, agent or corporation in control of any lot or piece of land within the city, except on land two (2) acres or more in size regularly used for agricultural purposes, to allow weeds to attain a height greater than twelve (12) inches on such land.

- (b) For the purpose of this subsection and section 22 above, land regularly used for agricultural purposes shall not include a lot or piece of land of any size located in a platted subdivision.
- (c) On lots or pieces of land two (2) acres or more in size used for agricultural purposes, no weeds in excess of twelve (12) inches in height shall be permitted within fifty (50) feet of any residence or any other structure or within twenty-five (25) feet of any public street, alley or sidewalk.

**Sec. 24 – Permitting growth of high weeds, etc., in sight triangle, prohibited.**

- (a) It shall be unlawful for the owner, occupant, lessee, agent or corporation in control of any lot of piece of land within the city to allow or plant any weeds, vegetation, trees or bushes or to construct, park or otherwise position any obstacle that obstructs the view of the operator of a vehicle which is defined to include non-motorized cycles and any other motor vehicle; in no event shall any weeds, brush or other rank vegetation equal to or in excess of twelve (12) inches be permitted within a sight triangle which is defined below. In the event any of the other aforesaid plants, vehicles, structures or other obstructions which are otherwise permitted in this chapter equal or exceed eighteen (18) inches or more in height, then it shall be presumed that the same obstructs the view to the operator of the aforesaid vehicles in which case the city shall determine on a case-by-case basis whether or not the said obstruction shall be permitted in the sight triangle. This determination shall be based upon the geometry of the land taking safety factors into account; the purpose of this section is to prohibit objects in the sight triangle that obstruct the view of the operators of vehicles. It is intended that the sight triangles will serve to provide a viewing distance of one hundred fifty (150) feet from the intersecting street, alley, drive and/or other entrance.
- (b) A “sight triangle” is defined as a triangle formed by the intersection of public streets, alleys, drives and/or other entrances to through streets where the triangle area is that area encompassed within two intersecting lines formed by the edge of the pavement, curb, roadway, or projection thereof, and extending sixty (60) feet down the through street from the right edge of the intersecting street, drive and/or entrance, when standing in the street, alley, drive, and/or other entrance facing the through street and extending fifteen (15) feet from the edge of the pavement, curb, roadway or projection thereof of the intersecting street, alley, drive and/or other entrance and the third imaginary line connecting the extremities of the other two (2).
- (c) On the left side of the intersecting street, alley, drive, and/or other entrance, the triangle shall be calculated by measuring one hundred (100) feet down the through street from the edge of the intersecting street, alley, drive, and/or other entrance and measuring fifteen (15) feet down the intersecting street, alley, drive, and/or other entrance from the edge of the through street, and a third imaginary line connecting the extremities of the other two.
- (d) Illustration of sight triangle. See Exhibit A [as attached to Ordinance No. 3786, which has not been included herein but may be found on file in the office of the city clerk/finance director.]

**Secs. 25 – 29 – Reserved.**

### **Article III – ABANDONED, WRECKED AND DISMANTLED VEHICLES**

Sec. 30 – Nuisance declared.  
Secs. 31 – 35 – Reserved.

#### **Sec. 30 – Nuisance declared.**

- (a) No person shall park, store, leave or permit the parking, storing or leaving of any motor vehicle or trailer (hereinafter referred to as vehicle) of any kind which is in an abandoned, wrecked, dismantled, unlicensed, junked or partially dismantled condition or which has the appearance of not being roadworthy whether attended or not, upon any public or private property within the city, and the same is hereby declared to be a nuisance. For the purposes of this section, race cars shall be required to comply and a vehicle which is located on a trailer shall be considered “parked” or “stored”.
- (b) No person shall permit weeds as defined in this chapter to grow around or under any vehicle nor shall any person allow any animal to be kept in or under any vehicle, and the same is hereby declared to be a nuisance.
- (c) Exceptions:
  - (1) This section shall not apply to any vehicle which is totally enclosed within a building on private property within any district.
  - (2) This section shall not prohibit the temporary parking or storage of an inoperative, wrecked, or damaged vehicle at a location within a business, commercial, or industrial district at a place of business engaged in the servicing, repairing, or rebuilding of vehicles if the vehicle is there for the purpose of being serviced, repaired, or rebuilt. For the purposes of this subsection (c)(2), a new or used dealership shall not be permitted to temporarily park or store inoperative, wrecked, or damaged vehicles at the dealership unless the said vehicle is located there to be serviced, repaired, or rebuilt and the dealership is also engaged in the business of servicing, repairing or rebuilding vehicles.
  - (3) This section shall not prohibit the storage of wrecked, dismantled, partially dismantled, or junked vehicles at a vehicle salvage yard in any business, commercial, or industrial district if the presence of the vehicle does not otherwise violate the use restrictions of the district or any other city ordinance or any statute, law, or regulation of the federal or state government.
- (d) Any abandoned, wrecked, dismantled, unlicensed, junked, or partially dismantled vehicle not covered by the exceptions contained in subsection (c)(1), (2) or (3) shall not be left, parked or stored in any business, commercial, or industrial district unless the presence of the vehicle is necessary due to the use being made of the premises and the vehicle is located to the rear of the premises behind any improvements erected and maintained thereon, inside an enclosure six (6) feet high which renders it not visible from anywhere off the premises. This subsection shall not be deemed to permit the operation of a salvage yard business on the premises and the sale or exchange of salvage vehicles or salvage vehicle parts is prohibited.

## Article IV – DEFACEMENT OF PUBLIC OR PRIVATE PROPERTY

Sec. 36 – Graffiti.

Secs. 37 – 39 – Reserved.

### Sec. 36 – Graffiti.

- (a) *Intent and purpose.* Graffiti on public and private property is a blighting factor which not only depreciates the value of the property which has been the target of such malicious vandalism, but also depreciates the value of the adjacent and surrounding properties, and in so doing, negatively impacts upon the entire community. The city has in the past undertaken to remove graffiti from public property but has been unable to mount a successful program for encouraging the owners of private property to undertake to remove graffiti and other inscribed materials from walls, structures, etc. The legislation of the State of Missouri has authorized the city to define, regulate, suppress and prevent nuisance and to declare what shall constitute a nuisance and to abate and remove the same.
- (b) *Legislative determination.* The city council finds and determines that graffiti is a nuisance and unless it and other inscribed material is removed from public and private properties, it tends to remain; and other properties are then in the target of the graffiti with the result that entire neighborhoods and indeed the community is depreciated in value and made a less desirable place to be. The city council therefore determines that it is appropriate that the city develop procedures to implement an ordinance and to provide for the removal of graffiti and other inscribed material from both public and private property under the circumstances set forth hereinafter.

The city council hereby declares as a matter of legislative determination that:

- (1) The increasing incidents of the defacement of public and private property through the application of graffiti upon walls, rocks, bridges, buildings, fences, gates other structures, trees and other real and personal property within the corporate boundaries of the city constitutes a blight on this community, and, in the interest of the health, safety and general welfare of the residents and taxpayers of the city, immediate steps must be taken to remove this blight.
  - (2) When appropriate, the courts should require those who commit acts of defacement of public or private property through the application of graffiti to restore the property so defaced, damaged or destroyed.
  - (3) Obtaining convictions for the application of graffiti is difficult to the fact that the offense can be committed so very quickly and secretly that witnesses to the act are frequently nonexistent.
- (c) *Definitions.* Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

- (1) "Graffiti" means the defacing, damaging, or destroying by spraying of paint or marking of ink, chalk, dye or other similar substances on public and private buildings, structures, and places.
  - (2) "Graffiti abatement procedure" means an abatement procedure which identifies graffiti, issues notice to the landowner to abate the graffiti, and cures in absence of response.
  - (3) "Private contractor" means any person with whom the City shall have duly contracted to remove graffiti.
- (d) *Graffiti – Prohibited.* It shall be unlawful for any person to write, paint or draw upon any wall, rock, bridge, building, fence, gate, other structure, tree or other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as "graffiti" within the city.
- (e) *Same – Violation; penalty.* Any person who is convicted of violating subsection (d) above shall be punished by a fine of not exceeding five hundred dollars (\$500.00) or by imprisonment not to exceed there (3) months or both such fine and imprisonment. In addition to such punishment, the court may, in imposing sentence, order the defendant to restore the property so defaced, damages or destroyed.
- (f) *Same – Notice of removal.* Whenever the code enforcement official or his/her designated representative determines that graffiti exists on any public and private buildings, structures and places which are visible to any person utilizing any public right of way in this city, be this road, parkway, alley, or otherwise, the code enforcement official or his/her designated representative shall cause a notice to be issued to abate such nuisance. In the event painting of exterior surfaces is the only means by which abatement can be accomplished, additional time may be granted by the code enforcement official if seasonal temperatures would preclude abatement within the usual time frame outlined in section 40. Notice and abatement procedure outlined in section 40 may be used in lieu of or in addition to any other procedure available under this chapter. Such notice shall not be required as prerequisite to a violation of section 1.

**Secs. 37 – 39 – Reserved.**

## Article V – ABATEMENT AND PENALTY PROCEDURES

- Sec. 40 – Abatement procedure
- Sec. 41 – Additional remedies for abatement of nuisances
- Sec. 42 – Assessment of court costs upon finding of violation
- Sec. 43 – Minimum charges to abate nuisance
- Sec. 44 – Penalties and procedures cumulative, not exclusive
- Sec. 45 – Office of hearing officer

### Sec. 40 – Abatement procedure.

- (a) *Notice to owner, occupant or person in possession to abate.* Whenever the code enforcement official received a complaint or is otherwise informed and believes that a nuisance exists under this chapter, he shall notify the owner, occupant and person in possession, (if the same is a person different than the owner), of the property that a hearing before the hearing officer shall be held in the council chambers at the city hall ten (10) days after notice of the same is personally delivered, mailed or posted as provided below at which hearing, the hearing officer may declare that a nuisance exists and order the same to be abated within five (5) days after the hearing. If the nuisance is on private property, proof that a person occupies the property or that a person has possession or right of possession of the property shall constitute prima facie evidence for purposes of this chapter that such person has caused, maintained or permitted the nuisance; and such person and the owner, if difference from the occupant or person in possession, shall be responsible for its abatement.

Such notification may be made by any one (1) of the following methods:

- (1) Delivery of the notice to the owner and the person occupying or having possession of the property if different than the owner; or
- (2) Depositing in the United States mail, postage prepaid, the notice addressed to the owner and the person occupying or having possession or the right to possession of the property if difference than the owner; or
- (3) If such property is not occupied, the code enforcement official shall notify the owners by posting a notice of his request to abate or remove such nuisance within a time to be specified in such notice upon such property and shall send a copy of such notice by registered mail to the last known address of the owners; or
- (4) If such property is not occupied and the owner is unknown or cannot be located, then the code enforcement official shall post a notice containing an order to abate the nuisance on the property where such nuisance exists; or
- (5) By delivery of a notice or by depositing in the United States mail, postage prepaid, a notice to the person causing, maintaining or permitting a nuisance.

- (b) *Order to abate.* If, upon a hearing for the violation of this article, the hearing officer finds that a violation exists and that proper notice has been given as provided for in this article, and that there has been a failure to abate the nuisance, the hearing officer shall make an order directing the code enforcement official to abate such nuisance forthwith.
- (c) *Abatement by city upon failure of owner, occupant or person in possession to comply.* If an order to abate is issued as provided above in the previous subsection and the abatement has not occurred within five (5) days from the date of the order, then the code enforcement official shall effect the abatement of such nuisance by whatever reasonable means are necessary.
- (d) *Liability for costs; lien.* The cost for abating the said nuisance shall be computed by the code enforcement official, who shall certify all costs of the same to the city clerk who shall cause a special tax bill therefore to be prepared and issued against the real estate involved and to cause the same to be collected by the collector of the County of Barry, together with other taxes assessed against the said property; each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year and such tax bill shall bear interest at the rate of eight (8) percent per annum pursuant to the provisions of Section 71.285 R.S.Mo. Said tax bill shall be a first lien on the said real estate until paid and shall be prima facie evidence of the recitals therein and of its validity and no mere clerical error or informality in the same or in the proceedings leading up the issuance shall be a defense thereto.

#### **Sec. 41 – Additional remedies for abatement of nuisances.**

- (a) *Warrants issued by municipal court.* The judge of the municipal court, upon application of the city attorney or the code enforcement official and upon a showing that there is probable cause to believe that a violation of any provision of this chapter exists, and that said violation constitutes a threat to public health, welfare or safety and that there is probable cause to believe that evidence of such violation may be found at a specified location, may issue a warrant, which shall be served by the code enforcement official. If the code enforcement official is not a police officer, he shall serve the warrant in the company of a uniformed officer of the city police department. The warrant shall specify what, if anything, may be seized on the property.
- (b) *Injunctive powers.* In addition to the penalties set forth in this chapter, the code enforcement official is hereby authorized to file and obtain injunctions on behalf of the city against persons who are violating provisions of this chapter. In the event the city seeks injunctive relief from the circuit court for violations of this chapter, penalty provisions set forth in this chapter shall not apply. The city council finds and declares that the remedies set forth in this chapter may be inadequate to protect the public health, safety and welfare from violations which are continuous or violations that are repeated.

#### **Sec. 42 – Assessment of court costs upon finding of violation.**

Notwithstanding any other provision of this chapter, if, upon a trial for the violation of this article, the judge of the municipal court shall find that a violation exists and that the defendant has had proper notice, as provided in this chapter, and the defendant has failed to abate the nuisance, the judge of the municipal court shall have the right, in addition to the penalty for violating this chapter, to enter

an order directing the code enforcement official to abate such nuisance forthwith, and immediately report the expense thereof to the judge of the municipal court, who shall, as a part of the costs of such prosecution, render judgment against the defendant for the amount of such expense, which shall be collected as other fines and costs.

**Sec. 43 – Minimum charges to abate nuisance.**

Whenever the city is required to abate a nuisance under the provisions of this chapter, there shall be a minimum charge of one hundred dollars (\$100.00) for the expenses incurred by the city for the abatement of the nuisance. In addition to the minimum charge of one hundred dollars (\$100.00) the city shall charge the actual cost of abatement of the nuisance.

In the event abnormal abatement procedures are required to abate a nuisance under the provisions of this article, the actual expenses incurred by the city for the abatement of the nuisance shall be charged to the owner, occupant or person in possession of the parcel of land as set out in this article or assessed against the land as provided in section 40.

“Abnormal abatement procedures” shall be deemed to mean the required use of heavy construction equipment such as motor graders, crawler-tractors, wheel loaders, and/or track-type loaders. “Actual expenses” shall be deemed to include all administrative costs, including costs incurred in renting such equipment; the cost of fuel, oil, lubrication, filters, and repair or replacement of parts, including tires, when such repair or replacement is not a result of normal wear and tear; the per-mile cost of dump trucks used in hauling away the rank vegetation; and all labor costs.

**Sec. 44 – Penalties and procedures cumulative, not exclusive.**

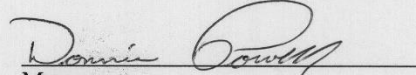
No proceeding in municipal court for prosecution of a violation of any section of this chapter shall prohibit or be any bar to a proceeding by the city under any other of the proceedings available in this chapter. For example, the city may prosecute a violation of this chapter by seeking the sanctions provided for in section 1-12, may process an abatement proceeding or may seek injunctive relief or a combination of any one or more of the foregoing.

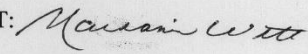
**Sec. 45 – Office of hearing officer.**

- (a) The office of the hearing officer for the city is hereby created and established.
- (b) The mayor shall, with approval of a majority of the city council, select and appoint a person as hearing officer.
- (c) The hearing officer shall serve at the pleasure of the appointing authority. The mayor, with the approval of a majority of the city council, remove the hearing officer from the office at will.
- (d) The hearing officer shall be compensated for his services in an amount to be determined by the mayor and the city council.

- (e) The hearing officer shall perform all the duties and responsibilities prescribed for the officer in this article and to conduct hearings and issue nuisance abatement orders for the violations of the provisions of this article.

This ordinance shall be in full force and effect from and after the date of its passage and approval. Read two times, passed and approved on the 14th day of October, 2011.

  
Mayor

ATTEST:   
Marianne Witt, City Clerk

## CITY OF WHEATON, MISSOURI

## ZONING REGULATIONS

**"R-1" SINGLE-FAMILY DWELLING DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT.** The "R-1" Single-Family Dwelling District is established for the purpose of low-density, single-family and two-family dwelling control and to allow certain public facilities. It is intended that no uses be permitted, in this district that will tend to interfere with the health, safety, order, or general welfare of persons residing in the district or to devalue property for residential purposes. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes. This district varies from "R-M" primarily by not allowing manufactured homes.

**SECTION 2. DISTRICT REGULATIONS.** In District "R-1", no structure or land shall be used, and no structure shall be erected, altered, or enlarged which is arranged, intended, or designed for other than one of the uses listed in Section 3.

**SECTION 3. PERMITTED USES.**

Dwelling Single-Family

Dwelling Two-Family

Churches

Publicly owned and operated community buildings.

Public Parks and Playgrounds

Public Schools and Private Schools

Gardens (Non-Commercial)

Accessory Use and Buildings, as defined.

Multiple-family Dwellings (Only by Special Use Permit)

**CITY OF WHEATON, MISSOURI**

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**ZONING REGULATIONS**

Home Occupations, as set forth in Article IV,  
Section C.

Day Care Home

Day Care Center (Only by Special Use Permit)

Manufactured Homes are prohibited in this District  
however, Modular Homes are allowed as single  
family dwellings only.

**SECTION 4. INTENSITY OF USE REGULATIONS.** Every lot or tract of land shall have an area of not less than 7500 square feet with an average width of not less than 60 feet. (Corner lots shall be not less than 80 feet in width.)

**SECTION 5. HEIGHT REGULATIONS.** No building shall exceed 35 feet in height.

**SECTION 6. YARD REGULATIONS.**

**1. Front Yard:**

a. The front yard shall be a minimum of 25 feet in depth measured from the front lot line on any street.

b. Where lots have double frontage, the required yard shall be provided on both streets.

c. Where a lot is located at the intersection of two or more streets, there shall be a front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record at the time of the passage of this Regulation need not be reduced to less than 35 feet, except where necessary to provide a yard along the side street with a depth of not less than five feet. No accessory building shall project beyond the front yard line on either street.

**2. Side Yard:**

a. There shall be a side yard having a width of not less than eight feet on each side of the principal and accessory residential buildings.

b. Whenever a lot of record existing at the time of the passage of this Regulation has a width of 50 feet or less, the side yard on each side of a building may

## CITY OF WHEATON, MISSOURI

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ZONING REGULATIONS

be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than three feet.

3. Rear Yard: There shall be a rear yard having a depth of not less than 20 feet or 20 percent of the depth of the lot, whichever is smaller.

**SECTION 7. PARKING REGULATIONS:** Off-street parking is not required in this district for existing structures. Any new structures shall have at least 2 off street parking spaces.

**SECTION 8. SQUARE FOOTAGE AND FOUNDATIONS:** No structure, except Assessor Use Buildings shall be allowed in this district unless it meets the following minimum requirements:

- a) It shall have at least 800 Square feet of Floor Area.
- b) It shall have a pitched roof with a slope of at least 5/12.
- c) It's width cannot be less than 40 percent of its length or its length cannot be less than 40 percent of its width.
- d) It must have a permanent foundation.

## CITY OF WHEATON, MISSOURI

## ZONING REGULATIONS

**"R-3" MULTIPLE-FAMILY DWELLING DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT.** The "R-3" Multiple-Family Dwelling District is intended for the purpose of allowing high residential density land use with the co-mingling of compatible single-family and two-family dwellings, apartments, home occupations, community facilities and certain uses, yet retain the basic residential quality.

**SECTION 2. DISTRICT REGULATIONS.** In District "R-3", no structure or land shall be used, and no structure altered, enlarged, or erected which is arranged, intended, or designed for other than one of the uses listed in the Use Regulations.

**SECTION 3. PERMITTED USES.** Single-, two-, and multi-family dwellings, nursing homes and boarding houses are permitted. For a specific listing of permitted and conditionally permitted uses, see Appendix A of these Regulations.

**SECTION 4. INTENSITY OF USE REGULATIONS.** Except as hereinafter provided, all dwellings hereafter erected, enlarged, relocated, or reconstructed shall be located upon lots containing the following areas:

1. A lot on which there is erected a single-family dwelling shall contain an area of not less than 6,500 square feet. No lot shall be less than 50 feet in width; corner lots shall be not less than 70 feet in width.
2. A lot on which there is erected a two-family dwelling shall contain an area of not less than 3,000 square feet per family. No lot shall be less than 60 feet in width; corner lots shall be not less than 80 feet in width.
3. A lot on which there is erected a multiple-family dwelling shall contain an area of not less than 5,000 square feet, or 2,500 square feet per family, whichever area is the larger. The Board of Adjustments may increase the intensity of use for multiple-family dwellings by one residential unit, if all of the following conditions can be met:
  - a. There is sufficient land area on the site to meet all other requirements, including parking and setbacks;
  - b. The additional unit permits a more economical design (e.g., an eight-plex rather than a seven-plex); and

## CITY OF WHEATON, MISSOURI

## ZONING REGULATIONS

c. The variance may be used to achieve an even number of units, only.

4. Where a single lot of record, as defined in the Definitions section of this Regulation, has less area than herein required and was recorded prior to the effective date of this Regulation, that lot may be used only for single-family dwelling purposes.

5. Multiple-family uses shall not cover more than 40 percent of the lot area.

**SECTION 5. HEIGHT REGULATIONS.** No building shall exceed 45 feet in height, except that for each one foot of additional front yard provided, two additional feet of height will be permitted.

**SECTION 6. YARD REQUIREMENTS.****1. Front Yard:**

a. The front yard shall be a minimum of 25 feet in depth measured from the front lot line or, on collector streets, measured 70 feet from the centerline of the street or, on arterial streets, measured 80 feet from the centerline of the street, whichever front yard setback would be greater.

b. Where a lot or lots have double frontage, the required front yard shall be provided on both streets.

c. Where a lot is located at the intersection of two or more streets, there shall be a front yard on each street side of the corner lot, except the buildable width of such lot shall not be reduced to less than 28 feet, except where necessary to provide a yard along the side street with a depth of not less than five feet. No accessory building shall project beyond the front yard line of either street.

**2. Side Yard:**

a. There shall be a side yard on each side of a building 35 feet high or less having a width of not less than five feet.

b. There shall be a side yard having a width of not less than ten feet on each side of a building in excess of 35 feet in height.

3. **Rear Yard:** There shall be a rear yard for buildings in this district which shall have a depth of not less than 20

**CITY OF WHEATON, MISSOURI**

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**ZONING REGULATIONS**

feet or 20 percent of the depth of the lot, whichever is the smaller.

**SECTION 7. PARKING REGULATIONS.** Off-street parking is not required in this district for existing structures. Any new structures shall provide at least 2-1/2 off street parking spaces for each dwelling unit.

**SECTION 8. SIGN REGULATIONS.** Not more than one sign, not to exceed 24 square feet in display area shall be allowed on premises of multiple family dwelling units for advertising of the multiple family dwelling unit on which the sign is located.

## CITY OF WHEATON, MISSOURI

## ZONING REGULATIONS

ARTICLE IV

## SUPPLEMENTARY REGULATIONS

**A. Accessory Uses and Structures:** Accessory uses and structures shall be subject to setback requirements as prescribed in the district regulations except as provided in this section. The following permitted accessory uses and structures shall be allowed in any zoning district in connection with any permitted principal use:

1. Permitted accessory uses and structures include, but are not limited to, the following:

a. A structure for storage incidental to a permitted use; provided, however, that no storage structure that is accessory to a residential building shall exceed 200 square feet in gross floor area, the use shall be in keeping with the principal structure, and no part of such structure shall be located in the front yard setback.

b. A child's playhouse, provided it shall not be more than 120 square feet in gross floor area, and it shall not be located in the front yard setback.

c. A detached garage or other accessory structure, provided that no part of such structure exceeds 800 square feet in gross floor area, or ten percent of the lot area, whichever is greater.

d. A private swimming pool and bathhouse, provided that a swimming pool shall be allowed within required rear and side yards, and it shall be fenced with a chain link or privacy fence at least 4 feet in height.

e. Statuary, arbors, trellises, flagpoles, fences; walls and hedges shall be allowed within the required setback areas.

f. Signs in C-1 or C-2 Districts and those allowed for home occupations.

g. Off-street parking and loading spaces.

h. Restaurants, drug stores, gift shops, clubs, lounges and newsstands, when located in a permitted hotel, motel, or office building.

## CITY OF WHEATON, MISSOURI

## ZONING REGULATIONS

i. Employee restaurants and cafeterias, when located in a permitted business, manufacturing or industrial building.

j. Storage or use of accessory uses, such as boats, boat trailers, camping trailers, or converted buses or trucks; except that such uses shall be allowed within required rear yards and within established side and front yards if placed upon a hard surface as defined in the off-street parking regulations. Such uses shall not include the outdoor storage or parking of commercial trucks or buses which exceed a three ton manufacturer's rating hauling capacity in a residential district.

k. Satellite dish antennas, except that such accessory structures shall not be allowed within established front yards.

l. Television antennas, provided they do not exceed 50 feet in height. Antennas which exceed 50 feet in height not permitted except with special use permit.

m. home occupations subject to limitations set forth in Section C of this Article.

2. Bulk Regulations Applicable to Accessory Structures and Uses:

a. No accessory structures or uses shall be located within a required or established front yard, nor closer than five feet from any side or rear lot line.

b. No accessory structure shall be located closer than ten feet to a principal structure on the same lot;

c. All accessory structures and uses on corner lots shall be set back from the side street a distance not less than that required for the principal structure.

d. A garage, whether it is accessory or detached, shall maintain a 20-foot setback when entered from a street side yard or alley.

e. The maximum sidewall height for all accessory structures shall not exceed 12 feet.

3. Use Limitations:

## CITY OF WHEATON, MISSOURI

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ZONING REGULATIONS

a. Accessory structures and uses shall comply with the use regulations applicable in the zoning district in which they are located, but no accessory structure shall be constructed and occupied on any lot prior to the completion of the construction of the principal structure to which it is accessory.

b. No accessory structure shall be used for dwelling purposes.

**B. Temporary Uses:** The following temporary uses of land are permitted subject to the specific regulations and time limits which follow, and to the other applicable regulations of the district in which the use is permitted:

1. Christmas tree sales in any commercial or industrial district for a period not to exceed 60 days. Display of such trees need not comply with the yard and setback requirements of these Regulations, provided that no tree shall be displayed within 30 feet of the intersection of the curb line of any two streets.

2. Contractor's office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project, and to continue only during the duration of such project.

3. Real estate offices (containing no sleeping or cooking accommodations) incidental to a new housing development to continue for no more than six months, unless an extension is granted by the Board of Adjustment.

4. Seasonal sale of farm produce (including Christmas trees) grown on the premises in districts where permitted, to continue for not more than four months per year. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.

**C. Home Occupations:** Permitted home occupations are considered accessory uses and are subject to the following limitations:

1. Structure and Use Limitations:

a. No home occupation sales or deliveries shall generate vehicular traffic which is abnormal to a residential district, or which alters the

## CITY OF WHEATON, MISSOURI

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ZONING REGULATIONS

character thereof, or creates the need for additional parking.

b. No alteration of the principal residential structure shall be made which changes its residential character or appearance, as viewed from the public right-of-way or adjacent parcels.

c. The home occupation shall be subordinate to the residential use of the dwelling and permitted accessory structures.

d. No mechanical or electrical equipment greater than one horsepower shall be used, nor any business activity permitted which creates a nuisance from noise, smell, dust or other disturbance uncharacteristic of a residential district.

e. No outdoor storage of equipment or materials used in the home occupation shall be permitted.

f. The home occupation shall be conducted by and involve the employment of only the residents of the dwelling unit and not more than one non-resident.

g. The home occupation may display one sign not to exceed 6 square feet in size.

2. Permitted Home Occupations: In particular, home occupations may include, but are not limited to:

a. Dressmaker, seamstress, tailor.

b. Teaching of music and dancing limited to a single pupil at a time, except for occasional groups.

c. Artists, sculptors, authors, composers, photographers.

d. Ministers, rabbis, priests.

e. Office for lawyer, planner, engineer, architect, accountant, or other professional service.

## CITY OF WHEATON, MISSOURI

## ZONING REGULATIONS

f. Office facility for sales representative or manufacturer's representative, when no wholesale exchange of goods is transacted on the premises.

g. Home crafts.

h. Day care home subject to additional provisions (may be subject to Special Use Permit as well).

i. Barber and beauty shops allowed by special use permit only.

3. Prohibited Home Occupations: Home occupations shall not be deemed to include:

a. Automobile repair service.

b. Funeral homes.

c. Restaurants.

d. Commercial stables, kennels or animal hospitals.

e. Tourist homes, unless specifically permitted by district regulations.

f. Equipment rental.

g. Medical or dental clinics or hospitals.

h. Retail or wholesale sales of antiques or used furniture and furnishings. Manufacturing of goods.

i. Professional offices for health care service.

4. Day Care Home Provisions: Day care homes shall be permitted by right as accessory uses in all zoning districts permitting residences, provided that:

a. Lot size, building size, setbacks, and lot coverage conform to those applicable to the zoning district.

b. Signage, one sign shall be permitted not to exceed 6 square feet in size.

c. A copy of the Child Care License form, if applicable, is filed with the City.

## CITY OF WHEATON, MISSOURI

## ZONING REGULATIONS

d. No structural or decorative alteration is made to the residential structure which will alter its single-family character or make it incompatible with surrounding residences.

e. Day care for more than six children in a family residence, as provided in these Regulations, shall be subject to special use permit requirements, as provided in Article V of these regulations.

**D. Day Care Center:** Day care centers shall be allowed as permitted uses in C"2" districts. Also, as accessory uses only, in all districts permitting residences, if located on the premises of an operating community service activity, such as, but not limited to, a private or public school, place of worship, community center, or library; or, as part of an employer-sponsored day care service. Day care centers, whether principal or accessory uses, shall be permitted provided that:

1. State licensing standards and requirements are met, including those pertaining to building, fire safety, and health codes.

2. Setbacks, screening and landscaping shall conform to the pertinent portions of the zoning code.

3. Structure shall meet building, sanitation, health, traffic safety and fire safety code requirements.

4. A minimum of one-street parking space shall be provided for each employee, plus an off-street drop-off/pick-up area.

5. A copy of the Child Care License form, if applicable, is filed with the city.

CITY OF WHEATON, MISSOURI

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ZONING REGULATIONS

ARTICLE VII

ABANDONED VEHICLES

A. No person shall own, operate or store a Motor vehicle within the city limits which is not currently licensed, unless said vehicle is part of the inventory of a retail business which maintains a automobile dealers' license within a C-2 District.

B. No person shall keep in any District a motor vehicle which has been inoperable for more than 14 days, unless said motor vehicle is completely within an enclosed structure.

BILL NO: \_\_\_\_\_

ORDINANCE NO. 30717

AN ORDINANCE FOR THE CITY OF WHEATON, MISSOURI FOR THE REGULATION, CONTROLLING  
AND KEEPING OF ANIMALS WITHIN THE CITY LIMITS

BE IT ORDAINED AND IT IS ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF  
WHEATON, MISSOURI AS FOLLOWS:

**Section One:** It shall be unlawful for any person keep, harbor or possess any livestock, including fowl, except domestic chickens pursuant to the ordinance regulating the same, and cattle and horses in an agricultural zone pursuant to zoning ordinances.

**Section Two:** It shall be unlawful for any person to keep, harbor or possess in total, more than three dogs and/or cats within the corporate limits of the city.

**Section Three:** Any person found to be in violation of any provision of this ordinance shall be subject to a fine of up to three hundred dollars (\$300.00). A separate offense shall be deemed committed on each day during which a violation occurs or continues.

**Section Four:** Any provisions of previously enacted ordinances of the City of Wheaton, Missouri that are in conflict with the provisions of the ordinance are hereby repealed.

**Section Five:** This ordinance is necessary for protecting the public welfare and safety and shall be effective immediately upon its passage.

Passes and approved by the Board of Aldermen of the City of Wheaton on this 7<sup>th</sup> day  
of January, 2017

*March*

David Shockley  
Mayor, David Shockley

ATTEST:

Marianne Witt  
Marianne Witt, City Clerk

BILL NO: \_\_\_\_\_

ORDINANCE NO: 30614

AN ORDINANCE FOR THE CITY OF WHEATON, MISSOURI, FOR THE REGULATION,  
CONTROLLING AND KEEPING OF DOGS WITHIN THE CITY

BE IT ORDAINED AND IT IS ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WHEATON, MISSOURI AS FOLLOWS:

Section One: It shall be unlawful for any person inhumanely or cruelly, to beat or abuse any animal within the corporate limits of the city.

Section Two: It shall be unlawful to permit dogs to run at large that is without either being in a securely fenced yard or secured with a leash, rope or chain at any time at any place within the corporate limits of the city. A warning ticket will be issued for the first offense under this section, at the discretion of the city employee or officer of the city observing or investigation the offense.

Section Three: It shall be unlawful to permit any animal to create an "Animal Nuisance". "Animal Nuisance" is created when an animal:

1. Molests or disturbs persons or vehicles by chasing, barking or biting.
2. Attacks other animals.
3. Damages property other than that of the owner or harborer.
4. Defecates upon any public place or upon premises not owned or controlled by the owner or harborer unless promptly removed by the animal owner or harborer.

Section Four: It shall be unlawful for any person or persons to keep more than three (3) dogs or three (3) cats within the corporate limits of the city.

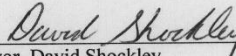
Section Five: It shall be unlawful for any person or persons to maintain a kennel within the corporate limits of the city. "Kennel" is any person or persons, who harbor, shelter, feed, water or care for more than three (3) dogs or three (3) cats at any time.

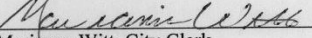
Section Six: Any person, firm, or corporation violating any provision of this Ordinance shall be fined not less than One Dollar (\$1.00) or more than a Thousand (\$1,000.00) and a separate offense shall be deemed committed on each day during on which a violation occurs or continues.

Section Seven: That all Ordinances of the City of Wheaton, Missouri wherein conflicting with the provisions of this Ordinance are hereby repealed.

Section Eight: This Ordinance is necessary for protecting the public welfare and safety and shall be effective immediately upon its passage.

Passed and approved by the Board of Aldermen of the City of Wheaton on this 7th day of March, 2014

  
Mayor, David Shockley

ATTEST:   
Marianne Witt, City Clerk

**AN ORDINANCE OF THE CITY OF WHEATON**  
**COUNTY OF BARRY**  
**STATE OF MISSOURI**

Ordinance # 60716

AN ORDINANCE OF THE CITY OF WHEATON, MISSOURI, DEFINING AND REGULATING THE MAINTAINING OF DOMESTIC FOWL WITHIN THE CORPORATE LIMITS OF THE CITY OF WHEATON, MISSOURI, TO PROTECT THE COMFORT, HEALTH, MORALS, SAFETY AND THE GENERAL WELFARE OF THE RESIDENT OF THE CITY OF WHEATON.

**WHEREAS**, the Board of Alderman of the City of Wheaton desires to address the need to define and regulate the maintenance of domestic fowl within the corporate limits of the City of Wheaton in order to protect the comfort, health, morals, safety and the general welfare of the residents of the City, therefore;

**BE IT ORDAINED BY THE BOARD OF ALDERMEN IN THE CITY OF WHEATON, MISSOURI AS FOLLOWS:**

**Section One:** It shall be unlawful for any person to keep chickens within the City, unless and except in accordance with this ordinance.

**Section Two:** Any person may keep up to six (6) chickens per tract of land regardless of the number of dwelling units on said tract of land, provided they comply with the following:

- a) Female chickens only, roosters are prohibited;
- b) No breeding or fertilizer production for commercial purposes;
- c) No at-large (free-roaming) chickens allowed. Chickens must be kept in an enclosure or fenced area at all times. Chickens shall be secured in a henhouse or chicken tractor during non-daylight hours;
- d) Enclosures must be kept in a clean, dry, odor-free, neat and sanitary condition at all times so as not to cause odor or noise problems with neighbors;
- e) Enclosures must comply with all set-back requirements found in the zoning ordinances previously enacted, and be at least 25 feet from another residence or business. Enclosures must provide adequate ventilation and adequate sun and shade and must be impermeable to rodent, wild birds and predators, including dogs and cats;
- f) The chicken owner shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites;
- g) Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation shall be removed by the owner; The chicken owner must provide for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed structure with a roof or lid over

BILL NO: \_\_\_\_\_

ORDINANCE NO: 905-12

AN ORDINANCE FOR THE CITY OF WHEATON, MISSOURI ESTABLISHING  
CURFEW HOURS OF MINORS

BE IT ORDAINED AND IT IS ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF  
WHEATON, MISSOURI AS FOLLOWS:

**Section One:** DEFINITIONS: As used in the Ordinance, the following terms shall have these  
prescribed meanings:

**Curfew hours**

1. 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday or Thursday until  
5:00 A.M. of the following day.
2. 12:00 Midnight on any Friday or Saturday until 5:00 of the following day.

**Emergency**

An unforeseen combination of circumstances of the resulting state that calls for  
immediate action. The term includes, but is not limited to, a fire, a natural  
disaster or automobile accident.

**Establishment**

Any privately owned place of business operated for a profit to which the public is  
invited.

**Guardian**

A person who, under court order, is the guardian of the person of a minor.

**Minor**

Any person under seventeen (17) years of age.

**Public Place.**

Any place to which the public has access and includes, but is not limited to,  
streets, highways, and the common areas of schools, parks, apartment buildings  
and shops.

**Section Two:** OFFENSES:

1. A minor commits the offense of curfew violation if he/she is in any public place or on  
the premises of any establishment within the corporate limits of the City of Wheaton  
during curfew hours.

2. A parent or guardian of a minor commits the offense of allowing a minor to commit curfew violation if he/she knowingly permits, or by criminal negligence allows, the minor in any public place or on the premises of any establishment within the corporate limits of the City of Wheaton during curfew hours.

**Section Three:** Exceptions: An offense is not committed under Section Two if the minor was:

1. Accompanied by the minor's parent or guardian.
2. Engaged in an employment activity, or going to or returning home from employment activity, without any detour or stop.
3. Attending an official school, religious or recreational activity supervised by adults, or going to or returning home from same, without any detour or stop.
4. Acting in an emergency situation.

**Section Four:** PENALTIES AND ENFORCEMENT:

1. Any minor violating the provisions of this Ordinance shall be dealt with in accordance with the laws and procedures applicable to minors.
2. Any parent, guardian or other adult person having the care and custody of a minor who violates the provision of this Ordinance shall be subject to a fine of up to three hundred dollars (\$300.00). A separate offense shall be deemed committed on each day a violation occurs or continues.

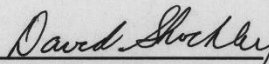
**Section Five:**

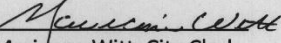
Any provisions of previously enacted Ordinances of the City of Wheaton, Missouri that are in conflict with the provisions of the Ordinance are hereby repealed.

**Section Six:**

This Ordinance is necessary for protecting the public welfare and safety and shall be effective immediately upon its passage.

Passed and approved by the Board of Aldermen of the City of Wheaton on this 5<sup>th</sup> day of September, 2017

  
Mayor, David Shockley

ATTEST:   
Marianne Witt, City Clerk

BILL NO: \_\_\_\_\_

ORDINANCE NO: 10317A

AN ORDINANCE FOR THE CITY OF WHEATON, MISSOURI ADDRESSING UNLAWFUL USE OF  
WEAPONS WITHIN THE CORPORATE LIMITED OF THE CITY

BE IT ORDAINED AND IT IS ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF  
WHEATON, MISSOURI AS FOLLOWS:

**Section One:**

A person commits the offense of Unlawful Use of a weapon, if said person discharges a  
gun, rifle, pistol or any other firearm within the corporate limits of the City.

**Section Two:**

Any provisions of previously enacted Ordinances of the City of Wheaton, Missouri that  
are in conflict with the provisions of the Ordinance are hereby repealed.

**Section Three:**

This Ordinance is necessary for protecting the public welfare and safety and shall be  
effective immediately upon its passage.

Passed and approved by the Board of Aldermen of the City of Wheaton on this 3<sup>rd</sup> day of  
October, 2017

ATTEST:

Marianne Witt  
Marianne Witt, City Clerk

David Shockley  
Mayor, David Shockley

BILL NO: \_\_\_\_\_

ORDINANCE NO: 10317

AN ORDINANCE FOR THE CITY OF WHEATON, MISSOURI ADDRESSING TRESPASSING WITHIN  
THE CORPORATE LIMITS OF THE CITY

BE IT ORDAINED AND IT IS ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF  
WHEATON, MISSOURI AS FOLLOWS:

**Section One:**

1. A person commits the offense of Trespass in the first degree if he/she knowingly enters unlawfully or knowingly remain unlawfully in a building or inhabitable structure or upon real property.

2. A person does not commit the offense of Trespass in the first degree by entering or remaining upon real property unless the real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given by actual communication to the actor or posting in a manner reasonably likely to come to the attention of intruders.

3. Trespass in the first degree is a misdemeanor.

**Section Two:**

1. A person commits the offense of Trespass in the second degree if he/she enters unlawfully upon real property of another. This is an offense of absolute liability.

2. Trespass in the second degree is an infraction.

**Section Three:**

Any provisions of previously enacted Ordinances of the City of Wheaton, Missouri that are in conflict with the provisions of the Ordinance are hereby repealed.

**Section Four:**

This Ordinance is necessary for protecting the public welfare and safety and shall be effective immediately upon its passage.

Passed and approved by the Board of Aldermen of the City of Wheaton on this 3<sup>rd</sup> day of October, 2017

David Shockley  
Mayor, David Shockley

ATTEST: Marianne Witt  
Marianne Witt, City Clerk

Ordinance No: 2414**AN ORDINANCE FOR THE CITY OF WHEATON, MISSOURI ADOPTING A  
POLICY AGAINST SEXUAL HARASSMENT**

1. Policy – It is the policy of City of Wheaton to maintain a working environment free of all inappropriate conduct of a sexual nature. Sexual harassment in any form is expressly prohibited. Any employee or volunteer who engages in any conduct that constitutes sexual harassment or that creates a sexually offensive and/or hostile work environment will be subject to appropriate action, up to and including disciplinary action, immediate termination or denial of the opportunity to participate in voluntary services.

Any individual who is aware of sexual harassment or sexually offensive conduct has a duty to report that conduct to the Mayor and/or Chief of Police.

A representative of the City of Wheaton will insure and investigation is conducted promptly and thoroughly.

2. Definition – Sexual harassment includes but is not limited to:
  - a. Unsolicited and unwelcome demands or requests for sexual favors or social or sexual encounters.
  - b. Engaging in conduct of a sexual nature in the workplace, such as verbal comments, jokes, physical gestures, inappropriate touching or displaying sexually explicit photographs or objects that a reasonable person would find interferes with the performance of work or creates a sexually hostile working environment.
3. Third Party Conduct – Although the City of Wheaton obviously cannot or be responsible for the actions of individuals not in our employment with whom our employees or volunteers interact, conduct by such individuals which constitute sexual harassment or creates a sexually offensive environment should be reported to the Mayor or another member of management for investigation and appropriate response.

READ AND PASSED ON 4 DAY OF FEBRUARY, 2014

ATTEST:

Marianne Witt  
Marianne Witt, City Clerk

David Shockley  
MAYOR, DAVID SHOCKLEY

AN ORDINANCE OF THE CITY OF WHEATON  
COUNTY OF BARRY  
STATE OF MISSOURI

Bill No. 12Ordinance No. 0609041

AN ORDINANCE REGULATING AND DEFINING THE CRIME OF ASSAULT

BE IT ORDAINED BY THE WHEATON CITY COUNCIL, AS FOLLOWS:

**SECTION 1:** Any other ordinance currently in existence which is within the scope of the subject matter of this ordinance is hereby repealed.


**SECTION 2:** A person commits the offense of assault if:

1. He/she attempts to cause or recklessly causes physical injury to another person; or
2. With criminal negligence he/she causes physical injury to another person by means of a deadly weapon; or
3. He/she purposely places another person in apprehension of immediate physical injury; or
4. He/she recklessly engages in conduct which creates grave risk of death or serious physical injury to another person; or
5. He/she knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

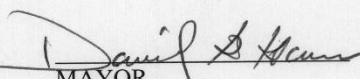
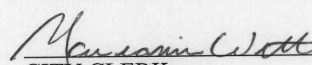
**SECTION 3:** A violation of this ordinance shall be a misdemeanor.

**SECTION 4:** This ordinance shall be in full force and effect from and after the date of its passage and approval. Read three times, passed and approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

APPROVED AS TO FORM:

  
CITY ATTORNEY

ATTEST:

  
MAYOR  
  
CITY CLERK

03/14/2006 11:40 FAX 4178475643

ELLIS-CUPPS

002

**AN ORDINANCE TO REGULATE THE USE OF VISION-REDUCING  
MATERIALS ON MOTOR VEHICLES UPON THE PUBLIC STREETS WITHIN  
THE CITY OF WHEATON, MISSOURI**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEATON,  
MISSOURI, AS FOLLOWS:**

**SECTION ONE (1)**

Except as provided in Subsection (B) of this Section, no person shall operate any motor vehicle on any public highway or street of this City with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield, side-wings or windows located immediately to the left and right of the driver which reduces visibility from within or without the motor vehicle. This Section shall not prohibit labels, stickers, decals or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in Section 700.010, RSMo., provided that such material does not interfere with the driver's normal view of the road. This Section shall not prohibit factory installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

**SECTION TWO (2)**

A permit to operate a motor vehicle with a front side-wing vent or window that has a sun screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five percent (35%) or more plus or minus three percent (3%) and a luminous reflectance of thirty-five (35%) or less plus or minus three percent (3%) may be issued by the Department of Public Safety to a person having a physical disorder requiring the use of such vision-reducing material. If according to the permittee's physician the physical disorder requires the use of a sun screening device which permits less light transmission and luminous reflectance than allowed under the requirements of this Subsection, the limits of this Subsection may be altered for the permittee in accordance with the physician's prescription. The permit shall allow operation of the vehicle by immediate family members who are husband, wife and sons and daughters who reside in the household.

**SECTION THREE (3)**

A motor vehicle in violation of this Section shall not be approved during any motor vehicle safety inspection required pursuant to Sections 307.350 to 307.390, RSMo.

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ELLIS-CUPPS

003


**SECTION FOUR (4)**

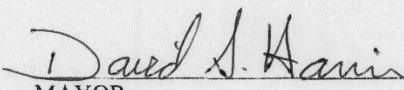
Any person who violates the provisions of this Section is guilty of a misdemeanor.

**SECTION FIVE (5)**

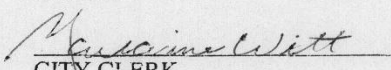
This ordinance shall be in full force and effect from and after the date of its passage and approval. Read three times, passed and approved on the 15 day of March, 2006.

APPROVED AS TO FORM:

  
CITY ATTORNEY

  
MAYOR

ATTEST:

  
CITY CLERK

Ordinance #: 040400

**AN ORDINANCE ACTING UNDER AUTHORITY GRANTED BY SECTION 304.120 R.S.M.O. 1986, REGULATING THE MOVEMENT OF TRAFFIC UPON THE STREETS, ALLEYS AND HIGHWAYS OF THE CITY OF WHEATON, MISSOURI, AND PROVIDING A PENALTY AND PUNISHMENT FOR THE VIOLATION THEREOF.**

**BE IT ORDAINED BY THE WHEATON CITY COUNCIL, AS FOLLOWS:**

**GENERAL PROVISIONS**

**SECTION ONE (1)**

Any other ordinance currently in existence which is within the scope of the subject matter of this ordinance is hereby repealed.

**SECTION TWO (2)**

It is unlawful, and unless otherwise declared herein with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden, or fail to perform any act required in this ordinance.

**SECTION THREE (3)**

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic.

**SECTION FOUR (4)**

The provisions of this ordinance shall apply to the driver of any vehicle owned by, or used in the service of the United States Government, this state, county or municipality, or any other driver of a vehicle, and it shall be unlawful for any said driver to violate any of the provisions, regulation or regulations of this ordinance, except as otherwise permitted in this ordinance or by state law.

**SECTION FIVE (5)**

R.S.Mo. Chapter 300, consisting of Sections 300.010 through 300.600, commonly known as the "model traffic ordinance", is hereby adopted with like effect as if recited at length in this section.

**SECTION SIX (6)**  
**TYPES OF TRAFFIC SHALL OBEY TRAFFIC REGULATIONS**

(a) Every person propelling any push care or riding or driving any animal or animals upon a roadway, and any person driving an animal-drawn vehicle shall be subject to the provisions, regulation or regulations applicable to the driver of any vehicle, except those provisions, regulation or regulations of this ordinance which by their very nature can have no application.

(b) All persons, riding or driving upon any motor scooter, motor bike, motorcycle, coaster sled, roller skates, bicycle, or any toy or diminutive vehicle shall not at any time attach the same or himself or themselves to any street car, bus, truck, motor vehicle or any moving vehicles upon any highway, street or alley; and while so riding or driving shall be subject to the same provisions, regulation or regulations applicable to any applying to the driver of any vehicle, or to the regulation or regulations of pedestrians.

**SECTION SEVEN (7)**  
**REMOVING AND TOWING ILLEGALLY OBSTRUCTING VEHICLES**

On all highways, streets or alleys within the corporate limits, any motor vehicle or other movable object which by parking, unparking, stopping, standing, or driving in an illegal manner, the same attempts to, or does, congest, obstruct or unduly restricts a free, clear and unimpeded movement of traffic shall, in the discretion of the enforcement officer having jurisdiction, be removed to such place, property or destination remote from such traffic movement and thereby impounded until such time as the registered owner thereof shall claim the same by the full payment of costs accrued for towing, storage while so impounded, court costs and fines assessed as a misdemeanor, or upon the posting of a bond or bonds as decreed, by the court having jurisdiction. Provided further that the provisions of this section shall be applicable to private parking lots or for limited time parking for customers, or where parking is regulated by a fee payment either by parking meter or personal administration, all when duly posted as such.

**SECTION EIGHT (8)**  
**USE AND RESULTS OF SPEED METERS PRIMA FACIE EVIDENCE**

The use of, and results determined, by any speed meter, machine or mechanism which seeks to reduce the error of manual operation to a minimum, shall be acceptable as evidence where driving in excess of posted speed limits is the cause of action; except the use thereof shall not be construed to exclude any competent evidence secured by any other manner or means.

**SECTION NINE (9)**  
**CARELESS AND RECKLESS DRIVING**

Whenever in this ordinance or state law regulating traffic, or any subsequent or previous enactment of any provisions, regulation or regulations relating to the same intent or subject matter thereof, any driver who shall recklessly and carelessly disregard by non-compliance those provisions, regulation or regulations authorized to protect person, property, life and limb, such reckless and careless disregard, and non-compliance within the meaning of this ordinance shall be regarded as prima facie evidence of careless and reckless driving and so punished.

**SECTION TEN (10)**  
**AUTHORITY GRANTED HEREUNDER**

The proper officials of this municipality and the Missouri State Highway Commission of their legal agents, are and shall be authorized to paint, mark, place, erect and maintain official signs, signals and markings or traffic control devices as authorized herein or by state law, on the surface, suspended over with legal clearance, or by the side of the traveled highway, as informational to the traveling public, and as a warning to all vehicle operators and pedestrians.

**SECTIONS ELEVEN (11)**  
**ADDITIONAL AUTHORIZATION**

The proper officials of this municipality and the State Highway Commission for the state and federal marked highways, or their legal agents, are hereby authorized.

- (1) To designate and establish speed, safety and hazard zones of such kind, character and number, and at such places as deemed warranted and necessary, and which will be of the greatest benefit to the general public.
- (2) To erect warning and informational signs or markings at a distance from certain locations which are deemed by them to be dangerous and hazardous and such other informational signs deemed beneficial to the general public or as a warning to the general public.
- (3) To designate and mark lanes for traffic and no passing zones, as they are deemed warranted and beneficial to the general public, consistent with state laws and this ordinance.
- (4) To erect or place signs and markings establishing crossovers or crosswalks or prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in their opinion such stopping, standing and parking of any vehicle or obstruction would unduly interfere with the free movement of traffic thereon. Every person shall legally observe such signs and markings as authorized hereunder or by state law.

- (5) To designate, establish, and prescribe rules and regulations for the operation thereof of bus stops, loading and unloading zones and taxicab stands, and in such places and in such manner as they shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, loading and unloading zones and taxicab stand shall be designated by appropriate signs. Every person shall legally observe the rules so authorized hereunder.
- (6) To prescribe rules and regulations for the vending, display or sale of merchandise and other wares or products upon any portion of the highways, streets and alleys in this municipality, and when signs and markings are placed depicting "No vending" or words to that effect, every person shall legally observe such signs, markings, rules, regulation or regulations.
- (7) To designate, post and mark one way roadways, rotary traffic islands, and city squares for one-way traffic to the right.
- (8) To designate certain highways, streets and alleys in this municipality as throughways or through streets and highways, and all traffic shall come to a complete STOP before entering or crossing such, when properly sign posted and marked.

#### **RULES, REGULATION OR REGULATIONS**

##### **SECTION TWELVE (12) SPEED, SPEED LIMITS, SPEED ZONES**

- (a) BASIC RULE - Every person operating a vehicle on the highways, streets or alleys of this municipality, shall be so controlled as under the conditions and having due regard to the actual and reasonable hazards existing at the time and place shall be (1) reasonable, careful and prudent, and (2) necessary so as not to endanger any person, property, life and limb.
- (b) No person shall drive a motor vehicle at such a slow speed as to impede, congest or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with the law. Police officers are hereby authorized to enforce this provision and refusal to comply with the direction of an officer in accordance therewith the continued slow operation by a driver shall be a misdemeanor.
- (c) The speed limitations duly posted in speed limit zones, or otherwise, shall not apply to authorized emergency vehicles when responding to emergency calls (and not upon their return therefrom), and the drivers thereof sound audible signal by bell, siren or exhaust whistle. This provision shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highways, streets or alleys, not shall it protect the driver of any such vehicle from the consequences of

a reckless disregard of the person, property, life and limb of others. Legally authorized emergency vehicles operating in and through this municipality shall only be those stipulated and defined by law under Section 304.022 R.S.Mo. Supp. 1986.

(d) Violation of the provisions of this section specifying speed limitations shall not be construed to relieve the parties in any civil action or any claim or counter claim from the burden of proving negligence or contributory negligence as the proximate cause of an accident or as the defense to a negligence action.

(e) The operation of a vehicle at a speed in excess of the following (posted speed limits) shall be considered evidence of driving at a rate of speed which is not reasonable, careful, prudent and lawful, and considered dangerous to person, property, life and limb:

**STATE ROUTE 86**

From the North City limit to the South City limit, 45 miles per hour.

**STATE ROUTE W**

From the intersection of State Route 86 and State Route W to the East city limit, 35 miles per hour.

**STATE ROUTE A**

From the West City limit to the intersection of State Route 86 and State Route A, 45 miles per hour.

**MAIN STREET**

From Highway 86 east to McCall Street, 15 miles per hour.

**REMAINDER OF CITY**

All other streets, alleys and public places within the city limits of Wheaton, Missouri, 25 miles per hour.

(f) The Mayor of the municipality aforesaid, is hereby authorized to establish and post (except on state and federal marked highways and then only where approved by the State Highway Commission), critical zones of hazard where the foregoing declared speeds are considered hazardous to person, property, life and limb, and may post a reduced prima facie speed limit not more than 10 miles per hour less than the existing speed limits so declared under subsection (e) of this section.

**SECTION THIRTEEN (13)  
THROUGHWAYS**

By this ordinance all state and federal marked highways within this municipality are hereby declare throughways and all traffic operating in such municipality shall come to a complete stop, before operating onto or across such declared throughways.

**SECTION FOURTEEN (14)  
NO "U" TURNS, LEFT TURNS OR RIGHT TURNS**

Where signs are duly posted stating NO "U" TURNS, NO LEFT TURNS, NO RIGHT TURNS, or words to that effect, it shall be unlawful for the driver of any vehicle to make such forbidden traffic movements within any intersection or on any portion of a highway, street or alley adjacent to or between any intersection.

**SECTION FIFTEEN (15)  
OBSTRUCTING FREEWAY**

Parking, unparking, stopping, standing, manner of driving or otherwise obstruction, shall be so regulated and controlled, and in such manner as to permit of a clear, free and unimpeded freeway, travelway, or throughway of such certain widths for certain streets, alleys and state and federal marked highways, or portions thereof, as described and set forth in Schedule B, attached hereto and made a part of this ordinance, and any person so parking, unparking, stopping standing, manner of driving or otherwise obstructing as herein forbidden shall be guilty of a misdemeanor and have such obstruction removed as provided herein. It is further provided, within the meaning of this ordinance, that not less than 22 feet in width shall constitute an unobstructed freeway, travelway or throughway on all state and federal marked highways in this municipality.

**SECTION SIXTEEN (16)  
STOP, STOPPING, STOP SIGNS**

(a) The driver of a vehicle shall stop as required by this ordinance at the entrance to a throughway, or at any other location where stop signs are located, and shall yield the right of way to other vehicles which have entered the intersection on the throughway or other opposing roadway, or which are approaching so closely on such as to constitute an immediate hazard.

(b) When school, church or pedestrian crossing stop signs or markings are in place and clearly visible to the driver, every driver of a vehicle shall come to a complete stop.

(c) Where school or church zone signs, markings or devices are posted, erected or marked, every person driving a vehicle shall slow down observing all regulations relating to pedestrian traffic.

(d) Non-compliance and careless and reckless disregard of the provisions of this section shall be deemed within the meaning of this ordinance and the judgment of the police officer enforcing as prima facie evidence of careless and reckless driving and so punished.

#### **SECTION SEVENTEEN (17) PEDESTRIANS**

(a) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk.

(b) Whenever any vehicle is stopped at a marked crosswalk or at any other crossing of the roadway to permit a pedestrian to cross such roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(c) Notwithstanding the foregoing provisions of this ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn, when necessary and shall exercise proper precaution upon observing any child or any aged, confused, incapacitated person, or blind person with white cane or seeing eye dog upon or crossing a roadway.

#### **SECTION EIGHTEEN (18) ONE-WAY STREETS**

Upon all highways, streets or alleys or portions thereof, within this municipality, where directional signs or markings are placed, or signs or markings reading "One Way" or words to that effect, vehicular traffic shall move only in the indicated direction, and when such indicating signs or markings are plainly visible at any place, movement in the opposite direction is prohibited.

#### **SECTION NINETEEN (19) PASSING SCHOOL BUSES**

(a) Any driver of a vehicle upon any street, alley or highway within this municipality, upon meeting or overtaking from either direction, any school bus which has stopped for the purpose of receiving or discharging any school children or other passengers when the driver of said school bus has in the manner prescribed by law given a signal to stop, shall stop such vehicle before reaching such school bus and shall not proceed until such school bus resumes motion or until signaled by its driver to proceed.

(b) Every such school bus operating within this municipality shall comply with all rules, regulation or regulations of the State Board of Education in and for the operation thereof.

## **SECTION TWENTY (20)**

### **SEAT BELT REGULATIONS**

Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which required the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirement; except that, a child less than four years of age shall be protected as required in Section 21 of this ordinance. Each driver of a motor vehicle transporting a child four years of age or more, but less than sixteen years of age, in the front seat of the motor vehicle shall secure the child in a properly adjusted and fastened safety belt. No person shall be stopped, inspected, or detained solely to determine compliance with this subsection. The provisions of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about his or her body.

## **SECTION TWENTY-ONE**

### **PASSENGER RESTRAINT SYSTEM FOR CHILDREN UNDER FOUR YEARS OF AGE**

Every person transporting a child under the age of four years shall be responsible, when transporting such child in a motor vehicle operated by that person on the streets or highway of this state, for providing for the protection of such child. When traveling in the front seat of a motor vehicle, the child shall be protected by either a child passenger restraint system approved by the Department of Public Safety of the vehicle's seat belt. When the number of child passengers exceeds the number of available passenger positions, and all passenger positions are in use, remaining children shall be transported in the rear seat of the motor vehicle.

## **SECTION TWENTY-TWO**

### **GENERAL PARKING REGULATIONS**

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the direction of a police officer or traffic control devices, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen (15) feet of a fire hydrant;
- (5) On a crosswalk;

- (6) Within 20 feet of a crosswalk at an intersection;
- (7) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal, unless the traffic authority shall indicate a different length by signs or markings and warranted for stopping storage;
- (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic authority shall indicate a different length by signs or markings;
- (9) Within 50 feet of the nearest rail of a railroad crossing;
- (10) Within 20 feet in either direction of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance (when properly sign posted or marked);
- (11) Along side or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street or highway;
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (14) At any place where official signs prohibit stopping, standing, or parking;
- (15) Within 10 feet in each direction from any mailbox used for rural delivery.

(b) Except as otherwise provided in this section every vehicle stopped or parked upon any roadway or street where there are adjacent curbs shall be stopped or parked with the right hand wheels of such vehicle parallel to and within 18 inches of the right hand curb. And where curbs do not exist such stopping or parking shall be completed in such manner as to leave the necessary paved travel way plus one foot on each side available as a freeway.

#### **SECTION TWENTY-THREE (23)** **ANGLE PARKING, WHERE PERMITTED**

Angle parking within the corporate limits of this municipality in contradiction to Section Twenty-two (22) of this ordinance will be permitted on such highways, streets or alleys or portions thereof, and for such periods of time as described and listed in Schedule M attached hereto and made a part of this ordinance.

#### **SECTION TWENTY-FOUR (24)**

##### **WEIGHT REGULATIONS**

(a) No vehicle or combination of vehicles shall be moved or operated on any highway, street or alley in this municipality having a greater weight than that described under Section 304.180 R.S.Mo. Supp. 1986.

(b) Provided further that the local officials and State Highway Commission or their legal agents for their respective jurisdiction, whenever by thawing of frost, rains, or soft conditions due to construction, reconstruction and maintenance, adverse critical weather conditions, or other causes detrimental to the surface or physical condition of such highways, streets and alleys in this municipality, are hereby authorized to limit such weights described under (a) to such amount and in such manner as will preserve their economical use by the general public. When posted or marked it shall be unlawful to transport any gross load in excess of the posted notice, and in addition to conviction and punishment for a misdemeanor the registered owner thereof shall be held liable in any court of competent jurisdiction for destructive damages to the surface and physical conditions pertaining, by an action of the state, county or other interested person.

(c) Any person, firm, corporation, partnership or association violating any of the provisions, regulation or regulations of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with the provision of Section 304.240 R.S.Mo. Supp. 1986, and the same rates of punishment shall apply where weights are limited in excess of those posted as apply to those exceeded under Section 304.180, R.S.Mo. Supp. 1986.

#### **SECTION TWENTY-SIX (26)**

Any part of this ordinance declared invalid because of conflict with similar provisions and regulations under the laws of this state, or for any other reason, shall not invalidate or in any way effect the remainder of this ordinance and the City Council hereby declare it would have enacted the remainder of this ordinance regardless of the part or parts that may have been declared invalid.

#### **SECTION TWENTY-SEVEN (27)**

Any person who violates any of the provision of this ordinance or of the duly authorized rules, regulation or regulations made thereunder, and unless otherwise stated herein, shall be punished by a fine of not less than five dollars or more than five hundred dollars or by imprisonment in the city or county jail not exceeding one year or by both such fine and imprisonment.

#### **SECTION TWENTY-EIGHT (28)**

All ordinances or parts of ordinances, inconsistent with, contrary to, or in any manner conflicting with this ordinance are hereby repealed.

**SECTION TWENTY-NINE (29)**

This ordinance shall be in full force and effect from and after the date of its passage and approval. Read two times, passed and approved on the 4<sup>th</sup> day of April, ~~19~~ 2000

David L. Hamm  
Mayor

ATTEST:

Pam Pogue  
City Clerk

Ordinance No.: 081596

**AN ORDINANCE TO REGULATE THE USE OF ALL-TERRAIN  
VEHICLES UPON THE PUBLIC STREETS WITHIN THE  
CITY OF WHEATON, MISSOURI**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEATON,  
MISSOURI, AS FOLLOWS:**

**SECTION ONE (1)**

For the purposes of this ordinance the phrase "all-terrain vehicle" shall mean any motorized vehicle manufactured and used for off-highway use which is fifty (50) inches or less in width, traveling on three (3), four (4) or more low pressure tires, with seat designed to be straddled by operator, and handlebars for steering control.

**SECTION TWO (2)**

A. No person shall operate an all-terrain vehicle, as defined in Section One, upon the streets and highways of this City, except as follows:

1. All-terrain vehicles owned and operated by a Governmental entity for official use:
2. All terrain vehicles operated for agricultural purposes or industrial on-premise purposes between the official sunrise and sunset on the day of operation.

B. A person operating an all-terrain vehicle on a street or highway pursuant to an exception covered in this Section shall have a valid operator's or chauffeur's license, but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than thirty (30) miles per hour. When operated on a street or highway, an all-terrain vehicle shall have a bicycle safety flag, which extends not less than seven (7) feet above the ground, attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be dayglow in color.

C. No person shall operate an all-terrain vehicle:

1. In any careless way so as to endanger the person or property of another:
2. While under the influence of alcohol or any controlled substance:

3. Without a securely fastened safety helmet on the head of an individual who operates an all-terrain vehicle or who is being towed or otherwise propelled by an all-terrain vehicle, unless the individual is at least eighteen (18) years of age.

D. No operator of an all-terrain vehicle shall carry a passenger.

E. A violation of this Section shall be a misdemeanor.


**SECTION THREE (3)**

This ordinance shall be effective on passage.

PASSED ON THIS THE 15<sup>th</sup> DAY OF August, 1996.

  
Jackie Modlin, Mayor

ATTEST:

  
Pam Pogue, City Clerk

Ordinance No. 06-06-85

An Ordinance Prohibiting the Manufacture  
Delivery or Sale of Drug Paraphernalia,  
Drugs, and Drug Related Offenses.

That the following be added to the city ordinances for  
Wheaton, MO, 1994.

Section 1. Drug Paraphernalia-definitions.

A. "Controlled Substance" as used herein shall be  
defined and include the following:

(1) Cannabis which included marijuana, hashish and  
other substances which are identified as including any parts  
of the plant cannabis sativa, whether growing or not; the  
seeds thereof, the resin extracted from any part of such  
plant; and any compound, manufacture, salt, derivative,  
mixture, or preparation of such plant, its seeds, or resin  
including tetrahydrocannabinol (THC) and all other cannabinol  
derivatives, including its naturally occurring or  
synthetically produced ingredients, whether produced directly  
or indirectly by extraction, or independent by means of  
chemical synthesis or by a combination of extraction and  
chemical synthesis; but shall not include the nature stalks  
of such plant, fiber produced from such stalks, oil or cake  
made from the seeds of such plant, any other compound,  
manufacture, salt, derivative, mixture or preparation of such  
mature stalks (except the resin extracted therefrom), fiber,  
oil or cake, or the sterilized seed of such plant which is  
incapable of germination; and

(2) "Controlled Substances" as defined and enumerated  
in the controlled substances act of Chapter 195 of the  
Missouri Revised Laws in effect upon the passage of this  
ordinance.

B. "Drug Paraphernalia" as used herein shall be  
defined and include all equipment, products and materials of  
any kind which are used, intended for use, or designed for  
use, in planting, propagating, cultivating, growing,  
harvesting, manufacturing, compounding, converting,  
producing, processing, testing, analyzing, packaging,  
repackaging, storing, containing, concealing, injecting,  
ingesting, inhaling, or otherwise introducing into the human  
body a controlled substance in violation of this ordinance.  
It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in  
planting, propagating, cultivating, growing or harvesting of  
any species of plant which is a controlled substance or from  
which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighting or measuring controlled substances;

(6) Diluent and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as;

- (a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- (b) water pipes;
- (c) carburetor tubes and devices;
- (d) smoking and carburetion masks;
- (e) roach clips: meaning objects used

to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

- (f) miniature cocaine spoons, and cocaine vials;
- (g) chamber pipes;
- (h) carburetor pipes;
- (i) electric pipes;
- (j) air-driven pipes;
- (k) chillums;
- (l) bongs; and
- (m) ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;

(3) The proximity of the object, in time and space, to a direct violation of this ordinance;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object;

(6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this ordinance; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this ordinance shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a dicensed distributor or dealer of tobacco products;

(12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(13) The existence and scope of legitimate uses for the object in the community;

(14) Expert testimony concerning its use.

#### Section 2. Manufacture or Delivery of Drug Paraphernalia.

It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, pack, repack, store, contain conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this ordinance.

#### Section 3. Delivery of Drug Paraphernalia to Minors.

. Any person eighteen (18) years of age or over who violates section 2 by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior is guilty of a separate and special offense and upon conviction shall be confined in the county prison for not more than one year or be find not less than fifty dollars (\$50.00) nor more than one-thousand dollars (\$1,000.00) or both.

#### Section 4. Advertisements of Drug Paraphernalia.

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

#### Section 5. Penalty.

Any person who shall violate Sections 2 or 4 and no penalty is otherwise provided, shall pay a civil penalty as follows:

| <u>SECTION</u> | <u>OFFENSE</u>                                      | <u>FIRST<br/>OFFENSE</u> | <u>SECOND<br/>OFFENSE</u> | <u>THIRD<br/>OFFENSE</u> |
|----------------|---|--------------------------|---------------------------|--------------------------|
| 2              | Manufacture or<br>delivery of drug<br>paraphernalia | \$100.00                 | \$300.00                  | \$500.00                 |
| 4              | Advertisement of<br>Drug paraphernalia              | \$100.00                 | \$300.00                  | \$500.00                 |

#### Section 6. Prohibited Acts.

1. It is unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, ~~distribute, or compound~~ any controlled or counterfeit substance except as authorized by the laws of the United States or of the State of Missouri.

2. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this ordinance.

3. It is unlawful for any person to use, or to possess with intent to use, any imitation controlled substance in violation of this ordinance.

4. It is unlawful for any person to deliver, possess with intent to deliver, or cause to be delivered any imitation controlled substance.

5. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances.

#### Section 7. Burden of Proof of any exception or exemption.

In any action brought under this ordinance it shall not be necessary to negative any exception, excuse, proviso, or exemption contained in the laws of the United States or of the State of Missouri and the burden of proof of any such exception shall be upon the defendant.

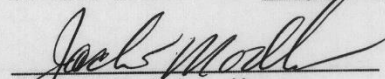
#### Section 8. Penalty.

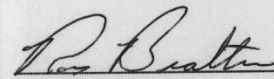
Penalty ranges for possession or control, sale attempt to sell, delivery, distribution, manufacturing, use, purchase, or attempts to purchase. Any person who shall violate

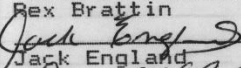
section 5 and no penalty is otherwise provided, shall pay a civil penalty of \$300.00 to \$1,000.00 plus costs.

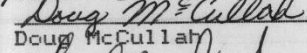
All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

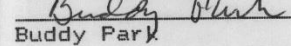
This ordinance shall be in effect on and after the 6<sup>th</sup> day of June, 1995.

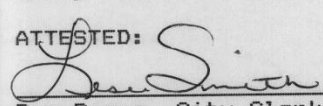
  
Jackie Modlin, Mayor

  
Rex Brattin

  
Jack England

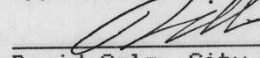
  
Doug McCullah

  
Buddy Park

ATTESTED:  
  
Pam Pogue, City Clerk

Lesli Smith

Approved as to form:

  
David Cole, City Attorney