

RESOLUTION R-68-09

A RESOLUTION AUTHORIZING THE EXECUTION OF AN
AGREEMENT FOR THE ENFORCEMENT OF TRAFFIC REGULATIONS
ON PRIVATE STREETS WITHIN THE
WHEATON OAKS TOWNHOUSE OWNERS ASSOCIATION

WHEREAS, Division 5, Chapter 70 of the Wheaton City Code provides for enforcement of Traffic Regulations on Private Streets in Planned Unit Developments; and

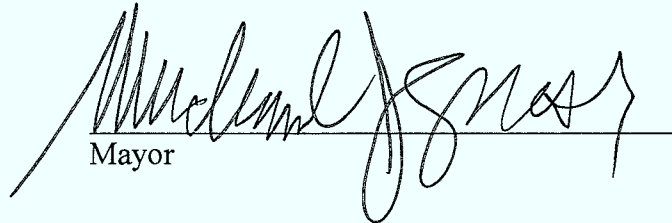
WHEREAS, the City of Wheaton and the Wheaton Oaks Townhouse Owners Association is desirous of entering into an Agreement for the Enforcement of Traffic Regulations on Private Streets Within the Wheaton Oaks Townhouse Planned Unit Development.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the city of Wheaton, Illinois, that the Mayor is authorized to execute the agreement for the enforcement of traffic regulations on private streets within the Wheaton Oaks Townhouse Planned Unit Development, dated October 5, 2009.

ADOPTED this 5th day of October, 2009.

ATTEST:


City Clerk


Mayor

Ayes: Roll Call Vote:
Councilman Prendiville
Councilman Scalzo
Councilman Sues
Councilwoman Corry
Councilman Levine
Councilman Mouhelis
Mayor Gresk

Nays: None
Absent: None

Motion Carried Unanimously

Adopted: October 6, 2009

**AGREEMENT FOR THE ENFORCEMENT OF TRAFFIC
REGULATIONS ON PRIVATE STREETS WITHIN THE
WHEATON OAKS TOWNHOUSE PLANNED UNIT DEVELOPMENT**

THIS AGREEMENT is made and entered into this 6th day of October, 2009 by and between the City of Wheaton, an Illinois Municipal Corporation (hereinafter referred to as "City") and The Wheaton Oaks Townhouse Owners Association (hereinafter referred to as "Owner").

WITNESSETH

WHEREAS, THE Owner is the owner of certain property located in the Townhouse Planned Unit Development (PUD) within the corporate limits of the City and which is legally described below (hereinafter referred to as the "Property"):

Legal Description Attached as Exhibit A

WHEREAS, the Owner has filed with the City a written request (attached as Exhibit B) for the City to enforce certain traffic regulations on the private streets located within the Property and owned by the Owner;

WHEREAS, the Owner is desirous of entering into an Agreement with the city, pursuant to Chapter 95 1/2, Section 11-209.1 of the Illinois Revised Statutes, Chapter 70 of the Wheaton City Code, and the Home Rule Powers of the city, for the purpose of enforcing certain traffic regulations identified within this Agreement on the private streets located within the Property and owned by the Owner; and

WHEREAS, the City Council of the city and the Owner have each authorized and executed the terms, provisions, and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereto agree as follows:

1. The City hereby agrees to establish and enforce the following traffic regulations contained in Chapter 70 of the Wheaton City Code on the streets located within the Property:
 - a. Article IX (Abandoned and Inoperable Vehicles) and Article X (Adoption of Motor Vehicle Code);
 - b. Section 70-341 (Parking Not to Obstruct Traffic); Section 70-343 (Parking at Night); and Section 70-355 (Standing, Parking in Fire Lane) contained in Article IV Stopping, Standing and Parking.
2. The Chief of Police of the City, or designated representative, and the Owner, or designated representative, shall identify the specific locations within the Property which shall, pursuant to the terms of this Agreement, be regulated, as well as a designation of the exact

regulations to be imposed thereon. The Chief of Police of the City, or designated representative, and the Owner may from time to time agree to amend the above referenced locations. The initial specific locations of the regulations to be enforced shall be as set forth on the Site Plan ("Plan") attached as Exhibit "C."

3. The Owner does hereby authorize the City to erect and maintain signs relating to the regulations provided for by this Agreement, at appropriate places on the Property as designated on the Plan and in accordance with applicable City and State of Illinois regulations and specifications.

4. The Owner does hereby agree to reimburse the City for any costs and expenses associated with the obtaining, erecting, and maintenance of any and all signs necessary for enforcement of the regulations contained in this Agreement.

5. Where any owner or user of a vehicle shall use or permit the use of a vehicle in a manner contrary to the regulations contained within this Agreement, the City will enforce the regulations contained in this Agreement against such person as if the action had taken place on a public street.

6. The term of this Agreement shall continue for a period of one (1) year from the date of this Agreement, and may, by further Agreement of the parties, be continued for additional periods. Notwithstanding any provisions contained herein to the contrary, this Agreement may be canceled by providing not less than thirty (30) days written notice by either party to the other of its intention to cancel this Agreement.

7. The Owner shall be required to notify in writing all of its members/tenants of the provisions of this Agreement.

8. The Owner hereby agrees to release and hold harmless, indemnify and defend (including the payment of all costs and attorney's fees) the City, its Officers, Agents and Employees, in connection with any and all actions or claims for any loss, damage, personal injury or death occurring as a consequence of the performance of this Agreement and shall procure insurance to protect, save, harmless and indemnify the City pursuant thereto. Such insurance shall be in such amount, form, and with such company as shall be approved by the City. Upon the execution of this Agreement, the parties hereto do hereby certify that each has taken proper action authorizing the execution ratification of the terms, provisions, and conditions of this Agreement.

9. The sole remedy available to the Owner, upon any breach of this Agreement by the City, shall be the cancellation of the Agreement. It is of the essence of this Agreement that the City shall not be liable in money damage for any breach of this Agreement.

10. No regulations made pursuant to this Agreement shall be effective and enforceable until three (3) days after the posting of signs or signals as may be required pursuant hereto.

11. Whenever notice to the City is required, it shall be addressed to:

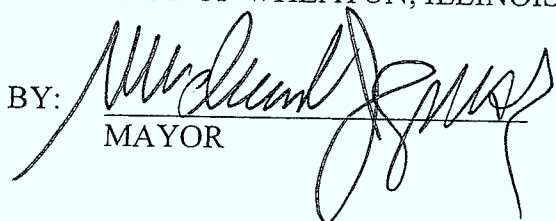
City Clerk
City of Wheaton
303 West Wesley Street
Wheaton, IL 60189-0727

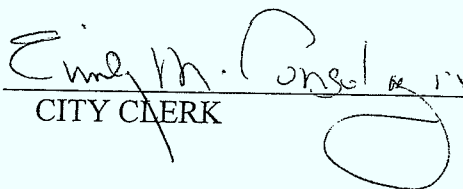
Whenever notice to the Owner is required, it shall be addressed to:

The Wheaton Oaks Townhouse Owners' Association
25W560 Geneva Road, Ste. 16
Carol Stream, IL 60188

IN WITNESS WHEREOF, the parties hereto have executed this instrument by their duly authorized officers the day and year first above written.

CITY OF WHEATON, ILLINOIS, a Municipal Corporation

BY: 
MAYOR

ATTEST: 
CITY CLERK

THE WHEATON OAKS TOWNHOUSE OWNERS ASSOCIATION

BY: _____
PRESIDENT

ATTEST: _____
SECRETARY