

ORDINANCE NO. F-0628

**AN ORDINANCE IN CONNECTION WITH RIGHTS AND RESPONSIBILITIES
RELATED TO LOCALLY IMPOSED AND ADMINISTERED TAXES
OF THE CITY OF WHEATON, ILLINOIS**

WHEREAS, the State of Illinois pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*, has determined it reasonable and necessary to create the Local Government Taxpayers' Bill of Rights Act; and

WHEREAS, the Local Government Taxpayers' Bill of Rights Act requires that a municipality adopt tax processes and procedures to provide all necessary due process rights to a taxpayer in the collection and enforcement of local tax laws; and

WHEREAS, the City of Wheaton, Illinois (the "City") has determined it reasonable and necessary to establish certain procedures in regard to locally imposed and administered taxes.

WHEREAS, the General Assembly of the State of Illinois has mandated that all municipalities, including home-rule municipalities, enact an ordinance in conformance with the "Local Government Taxpayer's Bill of Rights" (50 ILCS 45/5 *et seq.*)

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, in the exercise of its home rule powers as follows:

Section 1. **DEFINITIONS**

For purposes of this ordinance, the following terms shall have the following meanings:

- A. "*Locally imposed tax*" shall mean a tax or infrastructure maintenance fee imposed, collected and administered by the City of Wheaton excluding; taxes imposed, collected or administered by an agency or department of the State of Illinois; taxes imposed upon real property by the real property tax codes; or non-infrastructure maintenance fees collected by the City of Wheaton.
- B. "*Local tax administrator*" shall mean the Director of Finance or the Assistant Director of Finance;
- C. "*Taxpayer*" shall mean any person or entity subject to the imposition of a locally imposed tax as defined herein.

Section 2. **APPLICATION OF LOCAL TAX PAYMENTS**

Upon receipt of payment of a local tax, the local tax administrator shall apply the payment first to the tax for the tax period; then to interest dues; and then to penalties due.

Section 3. **NOTICE OF TAX DUE**

Upon issuance of a protestable notice of local tax due, a bill, claim denial or notice of claim reduction regarding any local tax, the local tax administrator shall provide the local taxpayer with a written statement explaining the reason for the assessment; the amount of tax liability proposed; the procedure for appealing the assessment; and the obligation of the City during audit, appeal, refund and collection processes.

Section 4. **APPEAL RIGHTS**

The local taxpayer may appeal an appealable determination of local tax due or an assessment by filing a written notice of appeal no less than twenty-one (21) days from the date the appealable notice of a tax determination or a tax liability is mailed to the local taxpayer. The period for filing an appeal to the local tax administrator may be extended upon a showing of reasonable cause by the local taxpayer as to why the appeal was not filed within twenty-one (21) days and only upon the local taxpayer's full payment of the contested tax liability along with interest accrued as of the due date of the tax.

Section 5. **APPEAL PROCESS**

The Notice of Appeal filed by any local taxpayer, pursuant to Section 4 of this ordinance, shall specify in writing the basis of the appeal. The appeal shall be heard within forty-five (45) days of the filing of the notice by the City Manager or his designee. The local taxpayer shall have the burden during the hearing of establishing, by a preponderance of the evidence, that the imposition of the local tax is legally improper or that the amount of the tax is incorrect. The decision of the City Manager or his designee regarding any local tax appeal shall be in writing and shall be final.

Section 6. **INTEREST AND PENALTY PAYMENTS**

The following interest payments and penalties shall apply to local taxes:

- a. Late payment, under payment or non-payments shall incur ten percent (10%) interest per annum from the due date of the tax;
- b. Any late filing or late deposit of a local tax shall incur a penalty of five percent (5%) of the tax shown on the due date of the return;
- c. Any failure to file shall incur a penalty of twenty-five (25%) of the amount of the tax which should have been shown on a timely return. For purposes of this ordinance, failure to file shall mean that the local taxpayer does not file a local tax

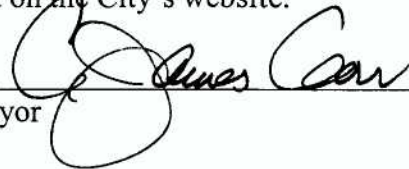
return until after receiving notice from the local tax administrator of a failure to file.

Section 7. All ordinances and parts of ordinance in conflict with or inconsistent with the provisions of this ordinance are hereby repealed to the extent of any such conflict or inconsistency.

Section 8. That if any part or portion of this ordinance shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of this ordinance.

Section 9. This ordinance shall become effective after its passage, approval and publication in pamphlet form in the manner described by law.

Section 10. This ordinance shall be published on the City's website.



Mayor

ATTEST:



City Clerk

Roll Call Vote

Ayes: Councilman Mouhelis
Councilman Eckhoff
Councilman Gresk
Councilman Johnson
Mayor Carr
Councilwoman Johnson
Councilman Mork

Nays: None

Absent: None

Motion Carried Unanimously

Passed: August 20, 2001
Published: August 21, 2001