

ORDINANCE NO. F-1185

**AN ORDINANCE AMENDING SECTIONS 22-202, 22-206 AND 22-208
OF ARTICLE XIV OF CHAPTER 22 OF THE WHEATON CITY CODE**

WHEREAS, the Mayor and City Council of Wheaton, DuPage County, Illinois deem it in the best interests of the public health, safety and welfare of the residents of the City of Wheaton to Amend sections 22-202, 22-206 and 22-208 of Article XIV of Chapter 22 of the Wheaton City Code related to the demolition of buildings; and

WHEREAS, the amendments contained within this Ordinance are necessary to provide the City of Wheaton with the ability to further monitor demolition activities that take place within the Corporate Limits of the City of Wheaton; and

WHEREAS, the amendments contained in this Ordinance are necessary to provide the City of Wheaton with the ability to further ensure that demolition activities are performed safely and so as to minimize the impact to surrounding properties; and

WHEREAS, the amendments contained within this Ordinance are necessary to provide the City of Wheaton with the ability to seek assessment of fines upon those failing to adhere to the City's Ordinances controlling the demolition of buildings; and

WHEREAS, based upon all of the foregoing, it is appropriate to adopt the amendments to Article XIV, Chapter 22 of the Wheaton City Code related to the demolition of buildings.

NOW THEREFORE be it Ordained by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois that Sections 22-205(e), 22-205(e)(1), 22-205(e)(2), 22-206(b), 22-206(c), 22-206(d), 22-206(e), 22-206(f), 22-206(g) and 22-208 including all of their sub-sections, of the Wheaton City Code, are hereby repealed and rescinded in their entirety and replaced with new Sections 22-205(e), 22-205(e)(1), 22-205(e)(2), 22-206(b), 22-206(c), 22-206(d), 22-206(e), 22-206 (f), 22-206(g), 22-206(h), 22-206(i), 22-206(j) and 22-208 of Article XIV of Chapter 22 which shall read as follows:

SECTION 1

Section 22-205. Procedures for permit approval.

"(e) Meeting with neighbors."

"(e)(1) Applicability: A meeting with abutting neighbors shall be undertaken by any property owner seeking a permit pursuant to article XIV of this chapter authorizing demolition of an existing house (the "applicant")." For purposes of this ordinance an "abutting" property shall be any property having any common boundary with the property owners property and property which would have a common boundary if not interrupted by a street, alley or other right of way.

“(e)(4) Scope of meeting: During the meeting, the applicant shall show the abutting owners a copy of the proposed site plan, building elevation plan for the project and traffic control plan. The applicant shall explain to the abutting owners, in general terms, the scope of work, the timetable for the work, any special measures such as those being made to protect property, and other matters that may be relevant to the abutting owners. The applicant shall also provide the abutting owners with a city-prepared packet of information including, among any other things, a summary of construction regulations and procedures.”

Section 22-206. Review standard, requirements

"(b) General requirement. If a building demolition permit application is approved by the Building and Code Enforcement Department, any demolition which takes place shall be done in accordance with the provisions of the ICC International Building Code in force at the time, the requirements of this Code, and any additional requirements or conditions as placed on the applicant by the Wheaton Building and Code Enforcement Department. The applicant shall also be required to submit to the City proof of disconnection of utilities prior to commencing demolition of the building.

(c) IEPA approval. If the application includes demolition of a building subject to Illinois Environment Protection Agency (the "IEPA") regulations the demolition permit application to the City shall include completed copies of any applications or other documents required by the IEPA.

(d) All single family dwellings and multi-family dwellings containing 3 units or less proposed for demolition shall be examined by an Illinois-Licensed Asbestos Building Inspector at the owners expense who shall inspect all accessible areas of the dwelling proposed for demolition to determine if asbestos containing building materials are present. The inspection shall include, but not be limited to, pipes, beams, walls, ceilings, floors, furnace, boiler, water storage tanks, wall panels, insulation, siding, roofing and other potential asbestos containing materials. A copy of the inspector's license and report certifying the condition of the premises shall be submitted with the demolition permit application. In the event that suspect asbestos is found at the property, laboratory testing shall be performed, and if regulated friable asbestos material is present, removal and disposal of the asbestos shall be undertaken in conformance with all applicable laws, rules and regulations. Any plan for removal and disposal shall be confirmed in a report submitted to the City by the applicant's Illinois-Licensed Asbestos Building Inspector. The City Director of Building and Code Enforcement may in his/her discretion submit the findings of any such inspector for review by an environmental consultant of its choice prior to approval of demolition permit. The review costs by any environmental consultant retained by the City shall be paid by the demolition permit applicant prior to issuance of the demolition permit.

(e) Particulate control. Airborne particles shall be controlled at all demolition sites at all times during the work by thoroughly saturating all portions of the structure and areas surrounding the structure with water. Such spraying shall be undertaken to thoroughly control creation and migration of airborne particles, including, without limitation, dust from the subject property during the demolition and removal of material from the subject property. The water source for control of airborne particles shall be either a water tanker truck with a pump capacity of 100

gallons per minute at the nozzle or a hydrant connection to the City's water system. If the City's water system is used the demolition contractor shall obtain a hydrant meter and the permit/applicant shall pay the City for the retail value of the water used. The water shall be delivered from the water source by a hose with a minimum diameter of one and one-half inches. The water source for controlling airborne particles shall be identified on the demolition permit application. In the event that a water tanker truck is utilized to provide the water source, the name, address and telephone number of the entity providing such service shall be identified on the demolition permit.

(f) Safety fencing. The demolition permit applicant and/or owner of the subject property shall install and maintain a six foot (6') high temporary chain link safety fence, without barbs, around any and all structures being demolished. This safety fencing shall be installed no more than seven days prior to demolition. Such fence shall be removed no later than the completion of restoration as required by sub section (g) of this ordinance or upon completion of rough grading as may be allowed in conformance sub section (g) of this Ordinance. Required restoration or rough grading, when allowed by the Code Official, shall be completed no later than 45 days after completion of the demolition. Gates to the safety fencing shall be closed at the end of each day and secured with lock.

(g) Restoration. If construction of a new principal structure has not commenced within 30 days of demolition, the property shall be restored within 15 days thereafter. Restoration of the property shall include without limitation: permanent disconnection of sewer and water at mains, final grading and seeding, the removal of dangerous conditions, rubbish and debris, restoration of damaged public property and removal of safety and tree protection fencing. If weather does not allow final grading and seeding the Code Official may allow rough grading until weather conditions permit final grading. Silt fencing and other stormwater measures shall remain in place in accordance with city stormwater ordinance.

(h) Demolition bond. The applicant shall post with the city, at time of issuance of permit for the demolition of a principal structure, a cash demolition bond or a letter of credit in the form as attached as exhibit A to Ordinance Number F-0197 and incorporated herewith, in the amount of three percent of the cost of demolition or \$10,000.00 whichever is greater. Such bond shall be in addition to all other application and processing fees, costs, escrows, bonds, and performance securities required by codes or ordinances of the city.

(1) The city shall have the right at all times, at its option, to draw on the cash demolition bond for the costs, including legal fees and administrative expenses, incurred or to be incurred by the city in exercising any of its rights under this article in the event the applicant undertakes any work in violation of any provisions of this article or of any permit issued or plan approved pursuant to this article, or the applicant fails or refuses to complete any work authorized by any permit issued under this article in accordance with all plans approved in connection with said permit.

(2) Replenishment of bond. If the city draws on the bond, then the applicant shall replenish the bond to the full amount required by this subsection (g) immediately after demand therefor is made to the applicant in writing by the city. Any failure of the applicant to replenish the bond shall result in cancellation of the related permit, which permit shall not be reissued thereafter

except after the filing of a new application therefore, payment of the permit fee, and establishment of a new bond.

(3) Return of unused bond. Upon the completion of demolition the permit holder shall submit written request for refund of demolition bond or release of demolition letter of credit. The city shall return any unused portion of the demolition bond to the applicant, without interest, within 30 days after final demolition inspection of the subject property and approval of the completed demolition by the Director of the Building and Code Enforcement Department of the City of Wheaton. Properties where construction of a new principal structure has not commenced within 30 days of demolition, shall be restored as required by 22-206 (g) before the demolition bond can be returned. For those properties that have been issued a building permit for a new structure and construction has begun within 30 days of completion of demolition, items to be complete prior to return of demolition bond shall include but not be limited to removal of all debris, rough grading of site, safety, tree and silt fencing in place and maintained, temporary disconnection of sewer and water services, sidewalk street and parkway clean and clear of obstructions. Where construction has not commenced within 30 days of the completion of demolition and the Code Official has allowed rough grading due to weather conditions the demolition bond shall not be returned until final grading and seeding has been completed.

(i) Notification of Demolition Activities. The person/entity obtaining a demolition permit shall contact the Wheaton Building and Code Enforcement Department at least 1 business day prior to the commencement of any approved demolition activities and identify the date(s) and time(s) of all scheduled demolition. In the event that the schedule is altered in any way, the City shall be provided notice of any and all such alterations, at least 1 business day prior to the alteration, in the same manner provided herein. The person/entity referenced above shall also notify the City on the day that demolition has been completed, in the same manner provide herein. A failure to comply with this section results in a separate violation for each day in which demolition activities proceed without proper notice.

Two brightly colored placards shall be provided by the city and posted in a conspicuous location by the permit holder or property owner. The placard shall identify the scheduled date of the demolition and shall be posted no more that ten days prior and not less than three days prior to the scheduled demolition date.

(j) Portable Toilet: During demolition, the site shall be provided with portable temporary restroom facilities in the manner provided by the Illinois Construction Site Temporary Restroom Facility Act, 410 ILCS 37/10. The location of the portable toilet(s) shall be located as close to the center of the lot as possible and away from the adjacent properties, and shall not be placed on City right-of-way, including but not limited to, parkways or sidewalks."

Sec. 22-208. Penalty for violation of article.

"Sec. 22-208. Penalty for violation of article.

If any structure is demolished without complying with this article:

(1)The owner of the subject property, demolition permit applicant and any other person or entity participating in any demolition activities on the subject property, including those involved in

particulate control, shall each be subject to a separate fine of not less than \$2,000.00 or more than \$5,000.00 for each separate violation; and

(2) Until the owner of the subject property pays any and all fines for violations of the provisions of this article no building permits shall be issued for the construction of any improvement on the subject property and any active permits shall be suspended."

SECTION 2

Further be it Ordained by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois that Article XIV of Chapter 22 is further amended by the adoption of two new sections 22-202(a)(10), 22-206(a)(5) which shall read as follows:

Section 22-202.Application.

"(a)(10) Traffic Control Plan: A traffic control plan that depicts subject property, surrounding roads, lots, and parking lots that indicates where construction vehicles and workers will be parking during the duration of the demolition /construction of the structure shall be submitted to the City with the demolition permit application. The City may make revisions to the traffic control plan based upon the volume of traffic on road, width of road, existing no-parking restrictions, location of drive approaches and the time of work.

Section 22-206. Review standard. requirements.

"(a) (5) Meeting Requirement: Prior to the issuance of a demolition permit, a meeting shall be conducted between City Director of Building and Code Enforcement or his designee and the demolition contractor to review the requirements for demolition."

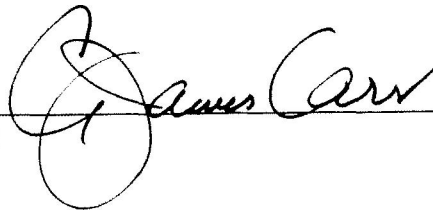
SECTION 3: That all ordinances and parts of ordinances in conflict with or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of any such conflict or inconsistency.

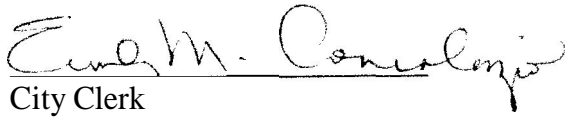
SECTION 4: That if any part of part or portion of this Ordinance shall be declared invalid by a court of competent jurisdiction, such partial invalidity shall not affect the remainder of this Ordinance.

SECTION 5: This Ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law. Any property which has a completed demolition but which has not commenced construction of a new structure or which has not been final graded as of the date of the adoption of this Ordinance shall install the fencing required by subsection (f) of Section 22-206 no later than ten business days from the effective date of this ordinance.

ATTEST:

Mayor




City Clerk

Ayes:

Roll Call Vote:

Councilman Sues

Councilman Bolds

Councilwoman Corry

Mayor Carr

Councilman Levine

Councilman Mouhelis

Nays:

None

Absent:

Councilman Johnson

Motion Carried Unanimously

Passed: July 5, 2006

Published: July 6, 2006