

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE AMENDING THE WHEELING MUNICIPAL CODE RELATIVE TO  
CHARTERED TRANSPORTATION AND UNSCHEDULED STOPS**

**WHEREAS**, the Village of Wheeling is a home rule unit of local government pursuant Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois and thus may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt; and

**WHEREAS**, the Illinois Municipal Code, 65 ILCS 5/1-2-1, provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and

**WHEREAS**, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-1-1, municipalities are granted the authority to pass and enforce all necessary police ordinances; and

**WHEREAS**, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-20-5, municipalities are granted the authority to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of diseases; and

**WHEREAS**, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-60-1, municipalities are granted the authority to fix the amount, terms and manner of issuing and revoking licenses; and

**WHEREAS**, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-42-6, municipalities have the authority to license, tax and regulate omnibus drivers operating within their jurisdictions; and

**WHEREAS**, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-80-2, municipalities have the authority to regulate the use of the streets and other municipal property; and

**WHEREAS**, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-42-12, municipalities are granted the authority to license and regulate parking garages, lots, and ramps; and

**WHEREAS**, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-5-5, municipalities have the authority to prohibit the parking of motor vehicles on private property without the consent of the owner of the private property; and

**WHEREAS**, commercial motor vehicles operating as common carriers of passengers provide a vital transportation service to the public and are entrusted with the care and well-being of their passengers, including children; therefore, unscrupulous common carriers pose a significant threat to the health and safety of their passengers, as well as the public health, safety, morals and welfare of the Village and Village residents; and

**WHEREAS**, protecting the safety and well-being of bus passengers and of motorists and others in the vicinity of buses that are offloading and onboarding passengers by ensuring that that boarding and alighting from buses is performed under safe circumstances is an urgent matter pertaining to the government and affairs of the Village and the protection of the public health, safety, morals, and welfare; and

**WHEREAS**, the President and Board of Trustees of the Village of Wheeling believe and hereby declare that it is in the best interest of the Village, Village residents, and passengers of common carriers disembarking in the Village to amend and revise the Wheeling Village Code to provide for health and safety regulations related to chartered transportation and unscheduled bus stops within the Village;

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WHEELING, COOK AND LAKE COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION ONE:** The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

**SECTION TWO:** Title 4 of the Wheeling Municipal Code shall be amended to create a new Chapter 4.73, to read in its entirety as follows:

#### 4.73: CHARTERED TRANSPORTATION

##### 4.73.010: PURPOSE:

The general purpose of this chapter is:

To provide for the safe and sound disembarkment of passengers of privately chartered buses or other transportation services within the Village.

##### 4.73.020: APPLICABILITY:

- A. This section shall apply to commercial motor vehicles operating as common carriers when:
  - 1. The vehicle is engaged in a privately chartered service;
  - 2. The service includes disembarkation of ten (10) or more passengers within the Village who will not reboard; and
  - 3. The service does not include arrangements for round-trip transportation.

As used in this section, “privately chartered service” refers to services wherein a motor vehicle is engaged by a person or entity for specific transportation purposes, not including services that are part of regular, publicly available transportation routes or schedules or any transportation service offered by, or in cooperation with, the Village or Wheeling Township. “Privately chartered service” does not include courtesy shuttles transporting customers or guests to or from a fixed location as an incidental service provided by a business.

#### 4.73.030: PERMIT REQUIRED

It shall be unlawful for any person to offer or provide privately chartered services disembarking passengers in the Village without a valid chartered transportation permit issued in accordance with this chapter. A separate permit shall be required for each motor vehicle providing the services and shall be valid only for the date, time, and location specified in the permit.

#### 4.73.040: APPLICATION FOR PERMIT

- A. The owner, operator, or driver of any motor vehicle to which this chapter applies which proposes to allow passengers to disembark in the Village shall file an application with the Village Manager, or their designee. The completed application shall contain all required information set forth in subsection (2) below and shall be submitted at least five (5) calendar days prior to the date of the proposed disembarking date.
- B. The Village Manager, or their designee shall prepare an application form which shall, at a minimum, require an applicant to provide the following information:
  - 1. The full name, full address, full email address, and telephone numbers of the owner, operator, and driver of the motor vehicle. The mobile phone number of the driver of the vehicle shall also be provided.
  - 2. The full name, full address, full email address, mobile and land-line telephone numbers of the entity or individuals that have either directed, paid for, or financed the transport of persons who will disembark in the Village.
  - 3. The full name, full address, full email address, and telephone number of the applicant seeking the permit.
  - 4. The full name of all persons that are proposed to disembark in the Village along with copies of IDs for said persons to the extent such IDs exist or are in the possession of the passengers.
  - 5. The name, address, or location in the Village where the applicant proposes to allow passengers to disembark.
  - 6. The date and time at which the applicant's passengers will disembark in the Village, which shall be from 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding any federal, state, or Village holidays.
  - 7. The name and address of all locations from which the passengers will be picked up for transport to the Village.
  - 8. The full name, full address, mobile and land-line telephone numbers, and electronic mail addresses of all entities or individuals that shall be present to meet and receive the passengers disembarking in the Village.
  - 9. A detailed plan identifying how the disembarking passengers will be cared for, housed, and fed, upon disembarking in the Village. The plan shall be signed by the entity that agrees to be responsible for providing the actions detailed in the plan.
  - 10. Written confirmation from the owner of the property that contains the proposed disembarkment location that the owner of the property consents to the disembarkment of the specified passengers on the date, time and location included in the application.

11. Any additional information the Village Manager, or their designee, may require provided that such information is related to the purposes of this section.

- C. The person submitting an application shall swear or affirm that to the best of their knowledge and belief the information set forth in such application is true and correct, and such oath or affirmation shall be attested to by a person authorized to administer oaths or witness affirmations within the state or territory where the application is sworn to or affirmed.

#### 4.73.050: ISSUANCE OF PERMIT; CONDITIONS IMPOSED

- A. Upon receipt of an application pursuant to this section, the Village Manager, or their designee, shall review the same and undertake a review of the information contained in the application to verify its truth and authenticity. If the application is not complete, the Village Manager, or their designee, shall, in writing, advise the applicant of the additional items needed to complete the application. Within seven (7) calendar days after receiving a completed application, and upon payment of all required fees or fines due under this Chapter and compliance with all other applicable requirements of this Chapter, unless the Village Manager, or their designee, has determined that the applicant is disqualified as provided below, the Village shall issue a chartered transportation permit. Such chartered transportation permit shall contain the approved date, time, and location for disembarkment of passengers and may contain such conditions and limitations as are necessary to promote safe and sound passenger disembarkment.
- B. Upon approval of an application, the Village Manager, or their designee, shall inform the applicant that the application is approved and shall provide the applicant, or a person designated thereby, with a telephone number to coordinate the arrival of the motor vehicle in the Village.
- C. If the Village denies an application made under this section, the Village Manager, or their designee, shall reduce the findings to writing and transmit the same to the applicant within seven (7) calendar days. The applicant may submit a new application or seek relief from the determination by the Village Manager by submitting an appeal to the Village President, in writing, for a hearing. The Village President shall either grant or deny the appeal in writing within seven (7) calendar days of receiving the appeal.
- D. Disqualification. The Village Manager, or their designee, shall not approve an application for any person who:
  - 1. Has supplied materially false or misleading information in connection with an application under this section.
  - 2. Has failed to ensure the care, housing, transportation, or feeding of any passengers disembarking in the Village or otherwise failed to implement or perform the detailed plan pursuant to the terms of an approved application.

#### 4.73.060: NON-LIABILITY OF VILLAGE

The Village assumes no liability for any aspect of a chartered transportation service or for the failure or neglect of any person associated with the operation of such service.

#### 4.73.070: PUNCTUALITY

For any given approval, buses must arrive no sooner than, and no later than, thirty (30) minutes after the approved arrival time, otherwise the permit shall be considered invalidated. Any loading/unloading of passengers outside of this scheduled window shall result in a seven hundred and fifty dollar (\$750.00) fine per passenger to the bus operator.

#### 4.73.080: VIOLATION; PENALTY

Complaints alleging any violation of this section for which the Village may impose a fine upon the owner, operator, or driver of any motor vehicle to which this section applies to shall be brought in the name of the Village and adjudicated before an administrative adjudicator. The administrative adjudicator shall impose a fine of not less than seven hundred and fifty dollars (\$750.00) per passenger.

**SECTION THREE:** Title 9 of the Village of Wheeling Village Code shall be amended to create a new Chapter 9.39, to read in its entirety as follows:

#### 9.39: UNLAWFUL OPERATION OF BUSES

##### 9.39.010: DEFINITIONS

As used in this Chapter, the following definitions shall apply:

“Bus” means any type of commercial motor vehicle with a weight of at least 26,000 pounds, which is designed to carry, or is actually carrying, more than ten (10) individuals and operating as a common carrier.

“Regularly Scheduled Service” means bus service that operates trips involving passengers disembarking in the Village on a predictable and recurring basis, following a schedule that is published in advance and available to the general public, and provides service in exchange for paying a fare.

“Unscheduled bus stop” means the unloading or disembarking of passengers from a bus subject to the requirements of Chapter 4.73 of this code that is not operating pursuant to and in accordance with an application approved in accordance with that section.

##### 9.39.020: PROHIBITED CONDUCT

1. Unscheduled bus stops. No person, including, but not limited to, the owner, operator, or driver of any bus shall make an unscheduled bus stop in the Village. This section shall not apply to motor vehicles which are not subject to Title 4, Chapter 4.73 of this Code.

2. Operation of a bus without a Village license. Except as otherwise provided by law, it shall be unlawful for any person to operate a bus on any street, place or public highway in the Village without first having obtained a specific grant of authority to do so from the Village Board in the form of an ordinance designating the routes, terms and conditions under which such bus may be operated, and regulating such other matters pertaining to the bus as is within the scope of the powers granted to the Village.

#### 9.39.030: PENALTY

Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of, any of the provisions of this chapter, upon conviction thereof, shall be punishable by a fine of \$750 for each offense. The operation of each bus contrary to the provisions of this chapter shall be considered a separate offense for each day that the same is so operated. Additionally, any bus in violation of this chapter shall be subject to seizure and impoundment in the manner set forth in Title 9, Chapter 9.40 of this Code.

**SECTION FOUR:** Title 9, Chapter 9.40, Sections 9.40.010(A)(2) and 9.40.010(B) of the Wheeling Village Code are hereby amended as follows:

9.40.010(A)(2) is amended to read as follows:

“Motor vehicle” means every vehicle which is self-propelled, including, but not limited to, automobiles, trucks , vans, motorcycles, motor scooters and buses.

9.40.010(B) is amended to add Sections 9.40.010(B)(10) and (11) which will read as follows:

10. Operation or use of a motor vehicle in the commission of, or an attempt to commit, an offense in violation of section 12-5.5 of the Illinois Criminal Code of 2012 (Common Carrier Recklessness), shall subject the owner, operator, driver, or other person having personal management or control over the motor vehicle, to an administrative fee of six hundred dollars (\$600.00).

11. Operation or use of a bus in violation of Title 9, Chapter 9.39 of the Wheeling Village Code, which shall subject the owner, operator or driver of the bus to an administrative fee of six hundred dollars (\$600.00).

**SECTION FIVE:** Any policy, resolution, or ordinance of the Village that conflicts with the provisions of this Ordinance shall be and is hereby repealed to the extent of such conflict.

**SECTION SIX:** Each section, paragraph, clause and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such decision.

**SECTION SEVEN:** A full, true and complete copy of this Ordinance shall be published within ten (10) days after its passage in pamphlet form by authority of the corporate authorities.

**SECTION EIGHT:** Because protecting the safety and well-being of bus passengers, and of motorists and others in the vicinity of buses that are off-loading and onboarding passengers, is

a matter of urgency, pursuant to 65 ILCS 5/1-2-4, this Ordinance shall take effect immediately upon its passage and approval, if such passage is by a vote of at least two-thirds of the members of the Board of Trustees of the Village of Wheeling. In the event this Ordinance passes by a majority vote of less than two-thirds of the members of the Board of Trustees, it shall take effect ten (10) days after passage and publication.

Trustee \_\_\_\_\_ moved, second by Trustee \_\_\_\_\_  
that Ordinance No. \_\_\_\_\_ be passed.

President Horcher \_\_\_\_\_

Trustee Krueger \_\_\_\_\_

Trustee Lang \_\_\_\_\_

Trustee Papantos \_\_\_\_\_

Trustee Ruffatto \_\_\_\_\_

Trustee Vito \_\_\_\_\_

Trustee Vogel \_\_\_\_\_

**APPROVED** this 15<sup>th</sup> day of January 2024, by the President and Board of Trustees of the Village of Wheeling, Illinois.

\_\_\_\_\_  
Patrick Horcher, Village President

**ATTEST:**

\_\_\_\_\_  
Kathryn M. Brady, Village Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Village Attorney

**PUBLISHED** in pamphlet form this 16<sup>th</sup> day of January 2024, by order of the Corporate Authorities of the Village of Wheeling, Cook and Lake Counties, Illinois.