

ORDINANCE NO. O-2020-31

**AN ORDINANCE AMENDING ARTICLE 2 -DEFINITIONS AND ARTICLE 24 - ACCESSORY USES AND HOME OCCUPATIONS OF THE WHEATON ZONING ORDINANCE
SHORT-TERM RENTALS**

WHEREAS, the City of Wheaton, Illinois ("City"), has determined it to be appropriate to amend the City Zoning Ordinance to address the public safety problems encountered by the City associated with Short-term rentals of an entire home where the homeowner or "host" is not present, and

WHEREAS, the proposed text amendment modernizes the Zoning Ordinance by permitting short-term rentals of individual rooms in homes that are made available through hosting platforms such as Airbnb where the homeowner or "host" is present, and

WHEREAS, the Zoning Ordinance (24.11 - Particular Home Occupations Prohibited) currently prohibits short-term rentals (tourist homes), and

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the City Zoning Ordinance, a public hearing was conducted by the Wheaton Planning and Zoning Board, acting as a hearing body on February 25, 2020 and August 11, 2020, to consider said amendment to allow short-term rentals of individual rooms where the homeowner or "host" is present and not allow the short-term rental of an entire home.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Wheaton Zoning Ordinance text is amended by adding to Article 2, Definitions, the following:

"Guest or Visitor - A person who rents or occupies a Short-Term Home Sharing Rental.

Short-Term Home Sharing Rental - An activity whereby Owners of a Dwelling Unit, utilizing a Hosting Platform or other means, host Guest(s) or Visitor(s) in their homes, for compensation.

Host - An Owner engaged in providing Short-Term Home Sharing Rentals.

Hosting Platform - A market place entity, in whatever form or format, which facilitates Short-Term Home Sharing Rental through advertising, matchmaking, or any other means, using any medium of facilitation, or from which the operator of the Hosting Platform derives revenue, including booking fees or advertising revenues for providing or maintaining the market place.

Lives on Site - Being present on the property where the Short-Term Home Sharing Rental is being offered, which includes but is not limited to sleeping overnight, preparing and eating meals, entertaining and engaging in other typical activities enjoyed by a homeowner.

Owner - A person holding title or co-title of a dwelling unit.

Section 2: The Wheaton Zoning Ordinance text is amended adding the following additional language and omitting some existing language from Article 24 - Accessory Uses and Home Occupations:

"24.8 Home Occupations. It is the intent of this section to allow as home occupations only those uses that conform to the standards of Section 24.9. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence.

The standards for home occupations are intended to ensure compatibility with the permitted uses and the residential character of the neighborhood and to maintain the subordinate and incidental status of the home occupation.

24.9 Standards for Home Occupations.

In addition to all the standards applicable to the district in which it is located, any home occupation shall comply with the following standards:

1. Not more than one (1) person other than members of the immediate family occupying such dwelling shall be employed or report to work on the premises.
2. No stock in trade (except articles produced by the members of the immediate family residing on the premises) shall be displayed or sold upon the premises.
3. No alteration of the principal building shall be made which changes the character thereof as a dwelling.
4. No more than twenty-five percent (25%) of the gross floor area of the residential dwelling unit shall be devoted to any home occupation except the letting of rooms to roomers or boarders, Short-Term Home Sharing Rentals, or the operation of a day care home.
5. The home occupation shall be conducted entirely within the principal building that is used as the residential dwelling. A special use permit shall be required for any home occupation conducted in an accessory building.
6. No outdoor storage shall be permitted.
7. There shall be no noise, odor, dust, vibration, smoke, glare, television and radio interference, electrical interference, fire hazard or any other hazard emanating from the dwelling relating to the home occupation. No home occupation shall involve the use or production of toxic or harmful materials. The purpose of this standard is to ensure that the home occupation has no adverse environmental impact on adjoining properties.
8. The home occupation shall not involve the receipt or delivery of merchandise, goods, or equipment other than by U.S. Mail, United Parcel Service, Federal Express, or similar carriers that typically deliver packages to residences. No deliveries by semi-tractor/trailer trucks shall be permitted.
9. The home occupation shall not result in the simultaneous presence on the zoning lot

and adjoining street of more than three motor vehicles in excess of the number of vehicles attributable to the residential use of the premises.

10. The distribution of articles, products, or equipment from the dwelling by commercial contractors to independent contractors or other employees shall be prohibited.
11. No visitors, clients, patrons, pupils, etc., of the home occupation, except those in conjunction with the letting of rooms to roomers or boarders, Short-Term Home Sharing Rentals, or day care homes, shall be permitted between the hours of 10:00 p.m. and 7:00 a.m.

24.10 Particular Home Occupations Permitted.

Permitted home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation shall be subject to the requirements of Section 24.9 hereof, as well as to any limitations specifically imposed on such occupation by this Section 24.10.

1. Day Care Homes licensed by the State of Illinois.
2. Dressmakers, seamstresses, tailors.
3. Private tutoring provided that the instruction shall be limited to one pupil at a time except for occasional groups.
4. Artists, sculptors, photographers, authors or composers.
5. Physicians, dentists, or other licensed medical practitioners.
6. Architects, attorneys, engineers, real estate professionals, insurance agents, brokers, and members of similar professions.
7. Ministers, rabbis, priests, or members of religious orders.
8. The letting for hire of rooms for rooming or boarding use for a lease term of greater than fourteen (14) days to not more than four (4) persons unrelated to the owner of the property or lessor who lives on site. Provided, however, that this provision shall not allow the occupancy of a dwelling unit by more than five (5) unrelated individuals. Prior to the initial use of letting for hire of rooms for rooming or boarding use, the operator of the home occupation shall obtain a letter approving the occupancy from the Director of Planning & Economic Development, certifying that all applicable life safety ordinances and codes have been satisfied.
9. Offices of salespeople, sales representatives, or manufacturers' representatives; provided that no retail transactions shall be made on the premises except through telephone, e-mail, facsimile or mail, and that no wholesale transactions shall include the acceptance or delivery of merchandise on the premises.
10. Home Kitchen and Cottage Food Operations as defined by the State of Illinois Food Safe Handling Regulation Act.

11. Short-Term Home Sharing Rentals, subject to the following conditions and requirements:

- A. Short-Term Home Sharing Rental Hosts shall provide the City with their contact information in a form provided by the City.
- B. All Short-Term Home Sharing Rentals shall comply with the terms and conditions of this Article and the zoning district they are located in.
- C. No Short-Term Home Sharing Rental shall be allowed unless an Owner Lives on Site during the entire short-term rental period.
- D. No persons shall provide a Short-Term Home Sharing Rental to any person or persons for a period of more than fourteen consecutive nights.
- E. Prior to the initial operation of the home occupation for a Short-Term Home Sharing Rental, the Host shall obtain a letter approving the occupancy from the Director of Planning & Economic Development, certifying that all applicable life safety ordinances and codes of the City have been satisfied.
- F. Short-Term Home Sharing Rental Hosts shall provide Guests the following disclosure:

"On September 21, 2020, the City of Wheaton Council adopted the Short-Term Home Sharing Ordinance reiterating its ban on the rental of entire units as vacation rentals. The Short-Term Home Sharing Ordinance also legalized the short-term rental of a portion of a person's home but only when the host lives on site throughout the visitor's stay."

24.11 Particular Home Occupations Prohibited.

1. Nonconforming Uses.

All home occupations which do not comply with the provisions of this Ordinance (Ordinance No. F- 0119, adopted March 17, 1997) shall comply with all such provisions prior to (a date one year from the date of adoption).

2. Permitted home occupations shall not in any event be deemed to include:

- a. Animal hospitals.
- b. Clinics or hospitals.
- c. Dancing schools, except as permitted above.
- d. Mortuaries.
- e. Nursery schools.
- f. Private clubs.

- g. Renting of trailers
- h. Repair shops or service establishments, except the repair of computers, cameras, locks, clocks, or other similar small items.
- i. Restaurants.
- j. Stables or kennels.
- k. Towing companies.
- l. The sale of firearms and/or ammunition.”


Section 3: This ordinance shall be cumulative of all provisions of the ordinances of the City of Wheaton, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 4: If any phrase, clause, sentence, paragraph or section of this ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections 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.



Mayor

ATTEST: 

City Clerk

Roll Call Vote:

Ayes:

Councilwoman Fitch
Mayor Sues
Councilwoman Robbins
Councilman Rutledge
Councilman Zaruba
Councilman Barbier
Councilwoman Bray-Parker

Nays:

None

Absent:

None

Motion Carried Unanimously

Passed: September 21, 2020

Published: September 22, 2020

