

ORDINANCE NO. O-2023-07

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WHEATON CHAPTER 26 (BUSINESS), ARTICLE VI (GROUP CARE HOMES)

WHEREAS, the City of Wheaton ("City") is an Illinois Home Rule Municipality pursuant to provisions of Article VII, Section 6 of the Illinois Constitution, and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the subject matter of this ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, the Mayor and City Council and City Staff have carefully evaluated the City Code and believe certain amendments are appropriate.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, Illinois by its home rule authority, that the Wheaton City Code, Chapter 26 "Business", Article VI "Group Care Homes" is hereby amended to provide as follows:

SECTION 1: That Chapter 26 (Business) Article VI (Group Care Homes) is hereby repealed and rescinded in its entirety and replaced with a new Article VI which shall read as follows:

ARTICLE VI. GROUP CARE HOMES

Sec. 26-166. Legislative findings.

It is hereby found that there presently, and may in the future, exist within the city, facilities which provide a program structured to meet the social, habilitative, and respite needs for persons residing therein, in a residential community setting, with no federal, state or county license being required to operate such a facility. In order to protect and promote the public health, safety and general welfare of residents in the community, and the residents and employees of the facility, it is further found that the establishment and enforcement of a group care home license for those facilities which have no license available from a federal, state or county agency shall be required.

Sec. 26-167. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Facility means the building or premises, including the grounds and other accessory structures which are used for the purposes of a group care home.

Group care home means a residential facility maintained as a single housekeeping unit occupied by unrelated individuals where qualified professional staff provide a program structured to meet the social, habilitative and respite needs of persons residing therein, in a residential community setting.

Group care home license review committee means a committee formed to review group care home license applications which shall include the director of finance or designee from within the finance department, the director of building and code enforcement or designee from within the building and code enforcement department, and the city social worker.

Sec. 26-168. License required.

It shall be unlawful for any person or entity to conduct, keep, manage or operate a group care home without a valid license from a state, federal or county agency unless the group care home conforms to the ordinances of the city and in particular this article. If no valid state, federal, or county license is available or applicant chooses not to apply for a state, federal or county license a city license shall be required. Notice shall be given to the city upon revocation of a state, federal, or county agency license and such revocation shall constitute noncompliance with this article.

Sec. 26-169. Group Care Home Standards.

- (1) The residents of group care homes shall meet the definition of a "family" as set forth in the zoning ordinance.
- (2) No more than a total of 15 persons, including qualified professional staff and/or support staff, shall reside in one residential dwelling or two residential dwellings in combination with each other on a single zoning lot.
- (3) A group care home of two dwellings on a single zoning lot shall satisfy the bulk regulations, parking requirements, and other requirements and standards applicable to the zoning district and zoning lot as if the two dwellings were one.
- (4) A group care home may have separate bath and kitchen facilities for residential staff.

Sec. 26-170. License applications.

A written application for a license under this article shall be made to the Director of Planning. The license application shall be filed upon forms furnished by the Director of Planning in accordance with this article. The license application shall set forth, but not be limited to, the following information:

- (1) Name and address of legal owner of property; if a corporation, submit copies of articles of incorporation, annual report, and any amendments thereto, all bearing evidence of filing with the secretary of state, with disclosure of directors and officers; and if a partnership, the names and addresses of all partners; and
- (2) Number of group care home residents; and
- (3) Number of full-time staff to reside in the group care home; and
- (4) Resume relating relevant experience of person who will be known as the authorized program representative; i.e., the person who has vested authority for the organization management, control and operation of the facility; and
- (5) Floorplan and/or physical description of the group care home; and
- (6) List of support staff, their job descriptions, and qualifications; and
- (7) List of professional staff, their job descriptions, and qualifications; and
- (8) Description of financial support; and
- (9) Copy of a written plan for services, including professional services and staff care plan; and

- (10) Approved license application, or license, from state, federal or county agency. If the applicant has been denied any federal, state or county license, the applicant shall provide any and all federal, state or county records pertaining to the denial of the license.

Sec. 26-171. Issuance or denial of license.

- (a) After receipt of the license application by the Director of Planning, the Director of Planning will schedule a meeting of the group care home license review committee to review the license application. The group care home license review committee shall, within 30 days of receipt of the license application, meet and review the license application for completeness, accuracy, and compliance with applicable federal, state and city laws, ordinances, and regulations, and shall make a determination to grant or deny the license. As soon as practicably possible, the group care home license review committee shall communicate its determination to the Director of Planning.
- (b) If the group care home license review committee determines that a license should be issued, the Director of Planning shall, within ten days of the determination, issue a group care home license.
- (c) If the group care home license review committee determines that a license should not be issued, the Director of Planning shall, within ten days of the determination, notify the applicant of such determination, in writing, setting forth specifically the grounds for denial. A license applied for under this article may be denied if the application is incomplete or inaccurate, or if the applicant or sponsoring organization or agency fails to comply with applicable federal, state, and city laws, ordinances, and/or regulations, and such deficiency cannot be eliminated or sufficiently mitigated.

Sec. 26-172. Duration of license.

Except as provided in this article, every license granted under this article shall be granted for a period of one year.

Sec. 26-173. License renewal.

Applications for renewal of a group care home license shall be made to the Director of Planning upon forms furnished by the Director of Planning. Applications for renewal shall be received by the Director of Planning 60 days prior to the expiration of the license. If there are no changes to a group care home licensee's most recent group care home application or renewal application filed with the city, except for changes in staff or an increase in the number of qualified occupants, and if such group care home licensee or the group care home's sponsoring organization or agency has not been cited for, charged with or convicted of any violations of federal, state or city laws, ordinances, and regulations pertaining to the group care home in the past year, including violations of this article due to providing incorrect or inaccurate application information, then the group care home license shall be approved administratively by the Director of Planning and shall be referred to as an "administrative renewal." If there are changes in the information provided in the most recent group care home license application or renewal application filed with the city by a group care home licensee other than changes in staff or if the group care home licensee or group care home's sponsoring agency has been cited for, charged with or convicted of any violations of federal, state, or city laws, ordinances, and regulations pertaining to the group care home in the past year, including violations of this article due to providing incorrect or inaccurate application information, then the application for license renewal shall be reviewed by the group care home license review committee. Any cause for revocation of a license as set forth in section 26-176 may also be a cause for nonrenewal of a license. The procedure for a non-administrative renewal of a license shall be the same as recited in section 26-170.

Sec. 26-174. Appeals.

- (a) *By applicant/licensee.* If the group care home license review committee denies a license application, renewal license application, or revokes a group care home license, the applicant/licensee may file a written appeal with the city council. The written appeal shall be filed within 15 days of the applicant's receiving notice from the Director of Planning that the license has been denied, not renewed, or revoked. The appeal shall clearly describe the facts and law explaining why the license should be granted, renewed or not revoked. The appeal shall be filed with the city manager, who will then forward such appeal to the city council, along with any and all records relating to the action from which the appeal is taken. The city council shall limit its consideration to the record created during the group care home license review committee's license review process. The licensee may continue with group care home activities on the subject property pending final action on the appeal by the city council.
- (b) *Notice requirements; action by council.* Notice of the time and place of the meeting of the city council to consider any appeal under this section shall be given by the city clerk to the applicant, not more than 30 days or less than 15 days before the meeting. The city council may, upon the majority vote of the members of the city council qualified to vote, affirm, reverse, wholly or in part, or modify, the action of the group care home license review committee. The city council shall render a written decision to the applicant/licensee of the appeal within 30 days of its meeting authority.
- (c) *Provisions of state law applicable.* Any appeal from, or judicial review of, the decision of the city council pertaining to the issuance, denial, nonrenewal or revocation of the license provided for in this article shall be subject to, and be in accordance with, the Illinois Administrative Procedure Act (5 ILCS 100/1 et seq.), exclusively.

Sec. 26-175. Change of ownership.

- (a) A license issued under this article shall become null, void, and of no further effect when any of the following occurs:
 - (1) Change in ownership of the sponsoring organization or agency involving more than ten percent of the aggregate ownership interest in the sponsoring organization or agency within a one-year period; or
 - (2) Change in the members of the board of directors of a corporate licensee involving 50 percent or more of the board members within a one-year period; or
 - (3) Takeover by another legal entity; or
 - (4) Dissolution of the corporation.
- (b) A license issued under this article to a corporation which is subsequently dissolved shall not be reactivated upon reinstatement of the corporation. Such a corporation shall apply for a new license.

Sec. 26-176. Revocation of license.

- (a) *Generally.* The license issued under this article may be revoked by the group care home license review committee after notice and hearing as provided for in subsection (c) of this section. Such revocation shall be for cause as provided in subsection (b) of this section.
- (b) *Cause for revocation.* Cause for revocation shall be as follows:

- (1) A determination that any material information furnished by the applicant/licensee had been falsely stated; or
 - (2) The group care home does not comply with the provisions of this article or any of the ordinances of the city; or
 - (3) The management, owners or occupants of the group care home conduct, maintain or allow to exist conditions or activities upon the licensed premises which are unlawful or may constitute a public nuisance, a breach of the peace or which are a menace to the health, safety or general welfare of the public; or
 - (4) The applicant, licensee or owner of the property is a defaulter of the city. For the purposes of this subsection, the term "defaulter" shall mean the applicant, licensee or owner of the property having any outstanding financial obligations to the city, including, but not limited to, past due water bills, past due special assessment payments, past due property tax payments, parking ticket violations, weed and nuisance abatement liens, or any other past due loan payment owing to the city.
- (c) *Notice of revocation.* Upon a determination by the group care home license review committee that there exists probable cause for revocation of a license under this section, the licensee shall be given written notice that a hearing will be held to determine if there is cause as listed in subsection (b) of this section for the revocation of the license. Such notice shall be issued to the licensee not more than 30 days or less than 15 days prior to such hearing and shall be mailed to the licensee's last known address or delivered in person and shall state the following:
- (1) Specific grounds for the revocation; and
 - (2) Date, time and place of the hearing; and
 - (3) Right of the licensee to participate and be represented at such hearing.

Sec. 26-177. License fees.

A nonrefundable fee as established in appendix B to this Code shall be required for a group care home license, and the fee must be submitted with the group care home application required by section 26-170. A nonrefundable annual fee of \$100.00 shall be required for renewal of a group care home license.

Sec. 26-178. Penalty for violation of article.

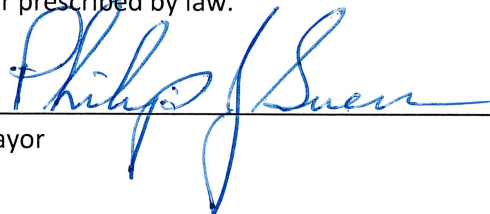
Any person or entity who conducts, keeps, manages or operates a group care home without a valid license from the City or a state, federal or county agency shall be subject to a fine of not less than \$500.00 or more than \$1,000.00 for each day of the violation. Such fine shall not be the exclusive relief for the city to ensure compliance with this article. Violations of this article may bar future consideration for a group care home license.

SECTION 2: In all other respects, the terms and provisions of the Wheaton City Code are ratified and remain in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict with these provisions are hereby repealed.

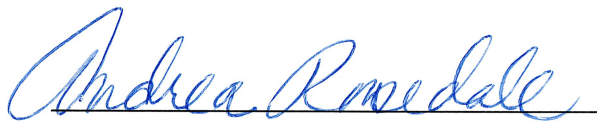
SECTION 4: In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

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: Councilman Brown
Mayor Suess
Councilwoman Fitch
Councilwoman Robbins
Councilman Weller
Councilman Barbier
Councilwoman Bray-Parker

Nays: None

Absent: None

Motion Carried Unanimously

Passed: February 21, 2023

Published: February 22, 2023