

Mayor
Kenneth Romney

**City Engineer/ Land
Use Administrator**
Kris Nilsen

**Community
Development**
Addison Jenkins

**City Council
Representative**
Dell Butterfield

WEST BOUNTIFUL PLANNING COMMISSION

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Chairman
Alan Malan

Commissioners
Laura Mitchell
Corey Sweat
Dennis Vest
Robert Merrick
Tyler Payne

**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING
AT 7:30 PM ON TUESDAY, JANUARY 23, AT THE CITY OFFICES.**

1. Prayer/Thought – Commissioner Mitchell;
Pledge of Allegiance – Chairman Malan
2. Confirm Agenda
3. Consider Recommendations to the City Council on Home Occupations Ordinance
4. Approve Meeting Minutes from January 9, 2023
5. Staff Reports (Engineering, Community Development)
6. Adjourn.

*This agenda was posted on the State Public Notice website (Utah.gov/pmn), the city website (WBCity.org),
and provided to the Davis Journal on January 22, 2024, Remington Whiting, City Recorder.*

MEMORANDUM



TO: Planning Commission
DATE: 01-23-2024
FROM: Addison Jenkins
RE: **Home Occupations – Updates**

The purpose of this memo is to assist the planning commission in their continued discussion of an update to the Home Occupations ordinance.

Background

Over the past year, the planning commission has engaged in multiple discussions about the Home Occupations ordinance, including a joint meeting with the city council in October 2023. Following additional review, the planning commission is now considering an updated “clean” draft ordinance (Exhibit A) with previous comments, edits, and red-lines incorporated and has been reviewed by legal counsel.

Considerations

It is up to the commissioners to discuss today whether they would like to add any additional requirements to the draft ordinance, or make any further changes, corrections, or edits before a final review and vote at this or a future meeting.

WBMC 5.04 BUSINESS LICENSES IN GENERAL

5.04.010 Definitions

“**Business**” means all activities engaged in within the incorporated limits of West Bountiful carried on for the purpose of gain or economic profit, except that employees rendering service to employers shall not be considered to be engaging in business unless otherwise specifically prescribed.

"**Engaging in business**" means the sale of tangible personal property or the rendering of personal services for others for a consideration by persons engaged in any trade, craft, business, occupation, profession or other calling, except the rendering of personal services by an employee to his or her employer under any contract of personal employment, but includes the operation of storage buildings or storage warehouses for the storing of motor vehicles, trailers, boats, and other household equipment or personal property.

“**Home occupation**” means a business operated in a dwelling, accessory structure, or both, on a residential property by a resident of the property.

5.04.040 License Fee Levied

The license fee payable by persons engaging in or carrying on any business within the city shall be periodically fixed by resolution of the city council and listed in the city’s Consolidated Fee Schedule.

WBMC 5.28 HOME OCCUPATIONS

5.28.010 Scope

5.28.020 Purpose

5.28.030 Application For License

5.28.040 Specific Businesses to be Conditional

5.28.050 Specific Businesses Prohibited

5.28.060 Requirements

5.28.070 Exemptions To License

5.28.080 Noncompliance; Revocation And Suspension Of Permit

5.28.090 Home Occupation Business License Renewal And Delinquency

5.28.100 License Not Transferrable

5.28.010 Scope

The requirements of this chapter shall apply to any home occupation conducted within the city. Home occupations may be conducted only in residential or agricultural zones, or within homes qualifying as a legal nonconforming use. The provisions of the chapter shall not be construed to limit or prohibit any other requirements of this title, the West Bountiful Municipal Code, or other applicable laws.

5.28.020 Purpose; License Required

The purpose of this chapter is to ensure that home occupations remain incidental and accessory to the residential use of the property on which a dwelling is located and that any adverse effects of the home occupation are confined to the property. To ensure compliance with this chapter, a home occupation business license is required before any property may be used for a home occupation.

5.28.030 Application For License

- A. A home occupation business license application may be obtained from the city offices or from the city website. Each application shall be submitted to the city recorder and accompanied by payment of the business license application fee.
- B. It is unlawful for any person to provide false information to the city in relation to the application for, issuance of, or continuation of, a business license, or to knowingly cause or permit the same to be done.
- C. The applicant shall give written notice of the nature and description of the home occupation to owners of property within 100 feet of the exterior boundaries of the property upon which the home occupation is to be conducted. Evidence of the required notice must be supplied to the city as part of the home occupation business license application.
- D. The city recorder may issue the home occupation business license when the requirements of this chapter have been satisfied.

5.28.040 Requirements

- A. A person who is not a resident of the dwelling shall not work on the property.
- B. The home occupation must be clearly incidental and secondary to the use of the dwelling or accessory structure in which it is located and may not change the purpose or character of the dwelling or accessory structure, or the residential character of the property on which the home occupation is located.

- C. The home occupation shall not involve the use of any part of a dwelling or structure for which, by reason of state, federal or local laws, special or extra entrances or exits or special rooms are required as a condition to the operation of such use.
- D. More than one home occupation business license may be issued for a property, if after review, the city recorder specifically determines that the total of all businesses on the property will not have an impact on the community greater than one business.
- E. The home occupation must be conducted entirely within no more than fifteen percent (15%) of the total used floor area of the dwelling, twenty-five percent (25%) of a garage or accessory structure on the same property as the dwelling, or both.
- G. Adequate off-street parking must be provided for both personal vehicles and business customers, except for drop-offs or pick-ups associated with group instructional services.
- H. Yard space may not be used for home occupation activities, except:
 - a. Outside private swimming pools may be used for swimming instruction if the swimming instruction is given by a resident of the dwelling.
 - b. Yard space may be used for day care provided the yard is entirely fenced.
 - c. Yard space may be used for other similar activities that will not alter the residential nature of the neighborhood in which the home occupation will be conducted.
- I. In no event shall outdoor storage be permitted for a home occupation.
- J. Business operation shall be limited to the hours between 7:00 am and 10:00 pm.
- K. The home occupation must comply with all fire, building, plumbing, electrical, and health codes and all federal, state and local laws.
- L. The home occupation may not cause or create a demand for municipal or utility services or community services, including traffic, in excess of those usually and customarily provided for residential uses.
- N. The home occupation may not alter the residential character of the premises or unreasonably disturb the peace and quiet of the neighborhood.
- O. Merchandise, goods, or customer services may not be advertised or otherwise visible from the exterior of the building in which the home occupation is operated.
- P. Signs, advertising or displays of any kind shall not be visible from the public streets or from the exterior boundaries of the property on which the home occupation is conducted.
- R. Home occupations requiring state or federal licensing must comply with all state and federal regulations before a home occupation business license is issued.

5.28.050 Specific Businesses Prohibited

Notwithstanding any provision of this chapter to the contrary, the following uses cannot qualify as home occupations:

1. Motor vehicle sales, rentals, or outdoor storage of vehicle inventory.
2. Repair of automobiles or trucks with a gross vehicle weight of 14,000 lbs. or more.

3. Body work, painting, detailing, or fiberglass repair of motor vehicles, including boats.
4. Funeral chapels and mortuaries.
5. Gift shops.
6. Restaurants.
7. Private schools.
8. Indoor storage facilities.
9. Kennels (except as permitted in A-1 and A-S zones), veterinary services, or animal daycare.
10. Mobile toilet businesses.
11. Sexually-oriented businesses.
12. Retail tobacco specialty businesses.
13. Retail e-cigarette specialty businesses.
14. Medical cannabis pharmacy (except as permitted in the A-S zone).
15. Cannabis production establishment (except as permitted in the A-S zone).
16. Any business that is prohibited in the city's commercial or industrial zones (except for daycares and preschools).
17. Any business which is illegal under State or Federal law.

5.28.060 Exemptions To License

The following uses are exempt from the provisions of this chapter:

1. Sale of goods or services by city residents aged 14 and under that does not conflict with other provisions of the municipal code;
2. Temporary home occupations such as garage sales, yard sales, or craft boutiques that occur not more than four (4) times a year with each event lasting not more than seventy-two (72) hours;
3. Promotional meetings for the purpose of taking orders for merchandise, by invitation only, which occur not more than once per month;
4. Community/neighborhood fund raisers that are sponsored and/or approved by city staff;
5. Engagement in business for solely religious, charitable, or other type of strictly nonprofit purpose who is tax-exempt in such activities under the laws of the United States and the State of Utah;
6. Engagement in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah;
7. Selling, offering for sale, or taking orders for or soliciting the sale of any farm products, but not including dairy products actually produced, raised, or grown by the person so selling, offering for sale or taking orders for, or soliciting the sale of any such farm products; and
8. Other exemptions as specifically approved in writing by the city council for good cause shown.

5.28.080 Home Occupation Business License Renewal

A home occupation business license is subject to annual renewal, with the license year being the calendar year.

5.28.090 Noncompliance; Revocation And Suspension Of Permit

The city recorder may revoke or suspend, or decline to renew, a home occupation business license for a violation of any requirement of this chapter, or for failure of the licensee to comply with the conditions of the license.

The planning commission may revoke, suspend, or modify the conditional use permit associated with a home occupation business license for violation of any of the requirements of this chapter or Chapter 17.60.

The planning commission may suspend the permit temporarily to give the permit holder a specified reasonable period of time to cure deficiencies. If such deficiencies are not cured within the specified period of time, the planning commission shall revoke the conditional use permit associated with the home

occupation business license. During the period of suspension, the planning commission may impose any restrictions or conditions upon the permit holder necessary to prevent further violation of the conditional use permit or applicable law, including cessation of all activities associated with the home occupation.

5.28.100 License Not Transferrable

No license granted or issued under the provisions of this chapter shall in any manner be assignable or transferable or authorize any person other than the licensee named therein to conduct the business specified in the license.

PENDING – NOT APPROVED

Posting of Agenda - The agenda for this meeting was posted on the State of Utah Public Notice website, on the West Bountiful City website, and at city hall on January 5, 2024 per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, January 9, 2024, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS ATTENDING: Chairman Alan Malan, Commissioners Corey Sweat, Dennis Vest, Laura Mitchell, and Council member Dell Butterfield.

MEMBERS EXCUSED:

STAFF ATTENDING: Kris Nilsen (City Engineer), Addison Jenkins (Community Development), and Debbie McKean (Secretary).

PUBLIC: Aimee Hinojosa, Dan McConkie, Richmond Thornley, Robert Merrick, Rod Wood, Kelly Enquist, Tyler Payne.

The meeting was called to order at 7:30 pm by Chairman Malan.

1. **Prayer by Commissioner Vest
Pledge of Allegiance- Commissioner Mitchell**
2. **Confirm Agenda**

Chairman Malan reviewed the proposed agenda. Corey Sweat moved to approve the agenda as presented. Dennis Vest seconded the motion. Voting was unanimous in favor among all members present.

3. **Consider Recommendations to the City Council on Home Occupations Ordinance**

Commissioner packets included a memorandum from Addison Jenkins on January 5, 2024, RE: Home Occupations – Land Use Updates, an updated clean copy of the draft Home Occupation Ordinance, and a list of Home Occupation Requirements for Consideration which included the past 5 years (2019-2023) of recurring conditions the planning commission has imposed. He noted that the commission should consider any additional requirements to the draft ordinance, or make any further changes, corrections, or edits before a final review and vote at this or a future meeting.

Chairman Malan led the discussion as they reviewed the document page by page.

The following changes were made:

WBMC 5.04 Business Licenses in General

“Business” - Change “corporate” to “incorporated”

5.28.030-Application for License Section “C” – Strike language the last sentence.

5.28.040-Requirements

Section "C"- Strike the entire section and replace it with "Upon reasonable notice, the city can inspect the premises periodically with the owner present as was a previous conditional use requirement.

Commissioners asked Addison to check with legal counsel to see if inspections could be done by city staff on an unannounced basis if a complaint were issued.

Section "N"- Delete language "by reasons of color, design, materials, construction, lighting, odors, sound, noise, or vibrations.

5.28.050 Specific Businesses Prohibited

Discussion took place regarding whether or not to add language including "Construction, Welding, and storage of yellow iron. After a lengthy discussion and review it was decided by the majority of the commission to not include that language.

Commissioners added the language "except daycare/preschools" to Item 16.

Addison Jenkins informed the commissioners that they have found some new tools that can help them enforce the ordinances.

Rod Wood stated that he feels that the commissioners have done a thorough review of this ordinance and have properly addressed any concerns that the former city council may have had.

Action Taken

Corey Sweat moved to table this item until legal counsel can review the changes and suggestions made to the document this evening. Laura Mitchell seconded the motion and voting was unanimous in favor.

4. Meeting Minutes from December 12, 2023

Action Taken:

Corey Sweat moved to approve the minutes from December 12, 2023. Dennis Vest seconded the motion and voting was unanimous in favor.

5. Staff Report

a. Engineering (Kris Nilsen)

- Google Fiber has been released and permit has been closed out with a 3-year extension for them to fix things back to original conditions if necessary.
- Capital Projects this year consist of 1200 North (Northside) and 1100 West. The project on 660 West has been moved to another year as far as construction, but preliminary design is still in the planning stage.
- Commissioners asked that the Sewer Department discussion providing a pedestrian pass way be addressed as part of their project/permit. Bountiful City owns the road by the Sewer Plant. Our city owns and maintains the road in front of the Sewer Plant. Our city will require improvements on site but will need to address with other entities regarding any other pedestrian trails.

b. Community Development (Addison Jenkins)

- City Council has a retreat next Friday. Some items discussed there may come back to the Planning Commission.
- South Davis annexation fell into the cracks, but it has been jump started again.
- UDOT has given the city an updated plan to accommodate the requests of our city.
- ULCT meeting presented updates to zonings regarding moderate income housing. Could be up to 8 lots per acre for consideration. Legislature recognizes the great need to provide more affordable housing.

6. Adjourn

Action Taken:

Corey Sweat moved to adjourn the regular session of the Planning Commission meeting at 9:08 pm. Laura Mitchell seconded the motion. Voting was unanimous in favor.

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The foregoing was approved by the West Bountiful City Planning Commission on January 23, 2024, by unanimous vote of all members present.
