

ORDINANCE NO. 2023-29
AN ORDINANCE ADOPTING REGULATIONS RELATED TO HOME OCCUPATIONS

We the People, recognizing the importance of small businesses as a cornerstone of our economy and a source of innovation and opportunity, establish this framework to promote and protect the rights of home-based businesses and home occupations. It is our aim to strike a balance between individual liberties and the common good, the well-being of our community, and the preservation of our rural character.

It is hereby declared that residents of the City of Lake Point may operate home-based businesses and home occupations. All such businesses that were within Lake Point city boundaries before its establishment as a city on December 21, 2022, which businesses were established and in continuous operation in conformance with governing law prior to such date, shall be grandfathered in.

WHEREAS Lake Point is authorized to license for the purpose of regulation any business within Lake Point's municipal boundaries, may regulate all such businesses by ordinance, and may impose fees on business to cover costs of regulation, pursuant to Utah Code § 10-1-203;

WHEREAS, Lake Point acknowledges the importance of small home-based businesses as a cornerstone of our local economy and desires to promote entrepreneurship and economic growth while preserving the rural character of the community and residential appearance of the neighborhood;

WHEREAS, the City Council aims to enhance the well-being of our community and raise the standard of living, and we further recognize the value home-based businesses create as sources of innovation and opportunity for residents of our city;

WHEREAS the City Council desires to adopt specific regulations regarding the conditions and manner in which businesses located upon residential lots/parcels and residential dwelling units may be permitted;

NOW, THEREFORE, BE IT ORDAINED by the Lake Point City Council as follows:

Section 1. Purpose. The purpose of this Ordinance is to uphold the Vision and Core Values of Lake Point. It allows for the establishment and operation of modest home-based occupations/businesses upon residential lots and parcels in Lake Point. We aim to encourage entrepreneurship, foster economic growth, and promote responsible home-based businesses within the City of Lake Point while respecting the character of our community. These activities must remain incidental and secondary to the primary residential use of the property, ensuring they do not adversely affect neighboring properties, public health and safety, or the well-being of our community.

Section 2. Definitions:

2.1. **Daycare.** The care and supervision of children, other than children related to the adult resident(s) of a residential property, which is provided in place of care ordinarily given by a parent in the parent's home, for less than 24 hours a day, and for direct or indirect compensation.

- 2.2. **Home Occupation.** An occupation or other commercial or business activity conducted on a residential lot/parcel and within a residential dwelling unit, which is incidental and secondary to the primary residential use of the property, thus preserving its character. Home occupations have no or minimal off-site impacts beyond that of the primary residential use, and home occupations are further defined and regulated in Section 9.1. It does not include services rendered by an employee to an employer within a dwelling.
- 2.3. **Home-Based Business.** An occupation or other commercial or business activity conducted on a residential lot/parcel and within a residential dwelling unit, which is incidental and secondary to the primary residential use of the property, thus preserving its character. Home-based businesses have, or have the potential for, material off-site impacts that exceed the impact of the primary residential use alone, and home-based businesses are further defined and regulated in Section 9.2. It does not include services rendered by an employee to an employer within a dwelling.
- 2.4. **Residential Business.** A home occupation or home-based business.
- 2.5. **In-Home Instruction.** The provision of classes, lessons, training, practice, and organized instruction in various subjects, offered within a residence to individuals, including children, who do not live at the residence. This includes in-home preschools and adult instruction courses.
- 2.6. **Preschool.** An early childhood program that provides education and care to pre-elementary school-aged children, emphasizing learning and development rather than daycare services.

Section 3. Rights and Responsibilities

- 3.1. **Rights of Residents, including Residential Business Owners living within Lake Point:** They have the right to engage in business activities according to the Declaration of Independence and the US Constitution. Residential businesses may include office or professional services, arts and crafts, sales of goods, or other similar activities.
- 3.2. **Limitations on Residential Businesses:** Residential businesses are regulated by the City, as specified by this Ordinance.
- 3.3. **Neighboring Relations:** In the event of a complaint related to a residential business, complainants may resolve the issue with the business owner or with the City of Lake Point.

Section 4. Exemption. The following uses and businesses are exempt from the requirements of this Ordinance.

- 4.1. **In-Home Instruction:** In accordance with Section 8.2.
- 4.2. **Garage/Yard Sales:** In accordance with Section 8.3.

- 4.3. **Agriculture - Animals:** Farm animals (including 4-H) in accordance with City zoning regulations for the property. Greenbelt properties may have different regulations.
- 4.4. **Agriculture - Food (for Human or Animal usage and consumption):** Includes field crops (examples: hay, wheat, rye, straw), vegetable gardens, orchards, greenhouses, mutton, beef, pork, fowl, etc.
- 4.5. **Agriculture - Equipment:** Servicing and repairing equipment and vehicles used for agricultural purposes.
- 4.6. **Minor-operated Business:** Businesses operated by an individual who is under 18 years old.

Section 5. Prohibited Residential Businesses. The following are not permitted to be operated as a residential business.

- 5.1. Illegal businesses.
- 5.2. Animal hospital or clinic.
- 5.3. Junkyard, salvage yard, or scrapyard.
- 5.4. Medical or dental hospital, medical or dental clinic, or medical or dental office, provided that cosmetology, barbering, practice of esthetics, and similar professions are not prohibited.
- 5.5. Sales, leasing, or rental of motor vehicles, including ATVs, recreational vehicles, construction equipment, and similar motorized vehicles or equipment.
- 5.6. Sexually oriented or adult oriented business.
- 5.7. Funeral services.
- 5.8. Uses handling or disposing of toxic waste or biohazards.
- 5.9. Uses related to the creation or sale of alcohol or controlled substances.
- 5.10. Uses that interfere with or produce disruptive fluctuations in a utility service, including power, gas, water, and sewer, as determined by the servicing entity.
- 5.11. Uses that raise or process minks or animals in the same family.

Section 6. General Regulations. All residential businesses shall comply with the following:

- 6.1. The residential business shall be carried on by bona fide residents of the residential property, with the business employing individuals who are not residents of the property only in accordance with Section 9.
- 6.2. The residential business shall remain incidental and secondary to the residential use of the property and shall not occupy more than forty-nine percent (49%) of the

residential use of the main dwelling including any attached garage, and the lot or parcel on which the structure is located.

- 6.3. The residential business shall provide off-street parking spaces, in accordance with the City standards and ordinances, for each employee other than a resident of the property. These spaces shall be in addition to all off-street parking spaces otherwise required to be provided for the dwelling and lot, including all secondary or accessory dwelling units. Parking spaces shall be on a paved, gravel, or other similar hard surface, and parking on swales, yards, or sidewalks is not permitted. Off-street parking shall include or allow parking on a shoulder or other permitted areas off of the paved street. All vehicles with logos, advertising, or branding, and all other equipment related to the occupation shall be parked or located in an off-street parking space on the property associated with the occupation. A simple parking and traffic flow plan shall be submitted demonstrating adequate parking and access.
- 6.4. The residential business may have one sign, not larger than six (6) square feet, attached to or within the main dwelling unit, advertising or displaying the existence of the home occupation or one sign, not larger than two square feet, identifying the residential business that is not attached to the main dwelling unit within the property outside of the right of way. There shall be no other visible advertising of the home occupation. Signs shall be made of durable materials and maintained in good repair and shall not be flashing, excessively bright, distracting to motorists, or located within a prohibited sight triangle.
- 6.5. The residential business shall not create dust, smoke, vibrations, odors, or nuisances that trespass onto adjacent property.
- 6.6. The residential business shall have hours of operation between 7:00 AM to 7:00 PM.
- 6.7. The residential business shall not generate or require traffic, meaning deliveries, shipping, and customer visits, in excess of the amount established under Section 9. For permitted traffic, the residential business shall not generate traffic prior to 6:00 AM or after 8:00 PM, nor generate, require, or allow for commercial traffic or deliveries involving vehicles weighing in excess of twenty-six thousand (26,000) pounds, gross weight.
- 6.8. All buildings, structures, and property in or on which the occupation is located shall comply with all building, fire, health, zoning, land use, and safety codes and regulations.

Section 7. Residential Business Considerations

- 7.1. **Sales Tax:** Citizens engaged in residential businesses are responsible for reporting, collecting, and remitting all applicable sales taxes to the appropriate governing authority, if required. It is the responsibility of the residential business owner to comply with all state and local sales tax regulations.
- 7.2. **Insurance:** The City recommends that residential businesses consider obtaining liability insurance or other types of insurance to protect themselves and their business

from potential lawsuits or damages. The need for insurance may vary depending on the nature of the business and should be evaluated by the business owner.

- 7.3. **Accessibility Requirements:** Residential businesses open to the public and serving customers with disabilities may have additional requirements required by the Americans with Disabilities Act (ADA) requirements. This may include providing accessible parking spaces and accesses based on specific requirements, such as proximity to the entrance, sizing requirements, and having the appropriate and proper signage. Business owners are responsible for meeting these accessibility standards.
- 7.4. **Short-term Rentals:** Short-term rentals are allowed, subject to compliance with relevant regulations. The Transient Room Tax must be collected and allocated to the City. The responsibility for tax collection and remittance is placed upon the hosting site and owner, as applicable, for the short-term rental. Residential businesses engaging in short-term rentals should be aware of their tax obligations and comply with them as required by law.
- 7.5. **Inspections:** Residential businesses are entitled to one inspection per year for building, fire, health, and other safety or licensing code compliance if requested, with the cost of the inspection borne by the business owner as part of the licensing fee. Business owners may also request additional inspections during the year at their discretion, with each additional inspection incurring an additional cost to be borne by the business owner. In the absence of a request by the owner, no inspections shall be conducted.

Section 8. Regulations for Specific Residential Businesses

- 8.1. **Repair or Service of Vehicles, Equipment, Small Motors, and Appliances.** Any residential business that repairs or services motor vehicles, construction equipment, small motors, or appliances, shall comply with the following requirements in addition to the other regulations set forth in this Ordinance:
- 8.1.1. Such uses shall obtain a business license and comply with the regulations applicable to a home-based business under Section 9.2.
- 8.1.2. All vehicles, equipment, and appliances to be serviced or repaired must be stored, worked on, maintained, and repaired within a building or structure on the property, and storage and work outside of a structure is not permitted, provided that a residential business may work on and store items on the property outside of a building or structure in an area not exceeding 100 square feet, plus up to 2 large items such as motor vehicles, trailers, or construction equipment.
- 8.1.3. An inspection of the building or structure and all utility connections and installations is required to ensure compliance with building, fire, health, and other safety and construction codes, and the business owner shall pay the associated inspection fees. The business owner shall correct any deficiencies

identified by such inspection prior to issuance of a business license and the operation of the business.

8.2. In-Home Instruction and Daycare. Residential businesses consisting of in-home instruction and/or daycare are permitted, and are not subject to the other requirements of this Ordinance related to residential businesses, so long as such businesses comply with the following:

8.2.1. **General Requirements:** Residential businesses involving daycare or in-home instruction are permitted without any license from the city, unless required by the State.

8.2.2. **State Licensing:** When required by the State, daycare operators must receive and maintain applicable licensing from the Utah Department of Health and Human Services. A copy of the relevant license must be provided to the City as proof of compliance.

8.2.3. **Optional Business License:** An optional business license may be obtained from the City for operators who wish to formalize their home-based daycare or in-home instruction and take advantage of specific benefits or support provided by the city. Operators choosing to obtain a business license shall comply with all requirements under Section 6, except as otherwise provided in this Section 8.

8.2.4. **Optional Background Check:** Background checks are encouraged for caregivers, teachers, instructors, and other support staff for in-home instruction and daycare serving children or students younger than 18 years of age.

8.2.5. **Employees.** In-home instruction and daycares may employ any number of individuals who do not reside on the property, subject to the requirements and restrictions of state law.

8.2.6. **Yard Usage.** In-home instruction and daycares may use all areas of their yard or other property associated with the residential dwelling if such use does not significantly alter the residential nature of the property.

8.3. Garage/Yard Sales. A resident may conduct up to six garage or yard sales each year. Each sale shall last no longer than 48 hours. Operation of garage/yard sales are not limited by the regulations on traffic or parking set forth in this Ordinance.

Section 9. Home Occupations and Home-Based Businesses.

9.1. Regulations and Requirements for Home Occupations. All home occupations shall comply with the following regulations and requirements:

9.1.1. Home occupations shall comply with all regulations set forth under Section 6.

- 9.1.2. Home occupations shall register their business with the City. No fee shall be imposed for registration. A business license is not required, but is available upon request.
- 9.1.3. Home occupations shall be contained entirely within the residential property and associated buildings without any off-site impacts.
- 9.1.4. Home occupations may employ up to one individual who does not reside on the associated property, if parking is provided.
- 9.1.5. Home occupations shall not generate traffic, meaning deliveries (excluding residential-type delivery services such as USPS, FedEx, UPS, or similar services), shipping, and customer visits, except for traffic for the one non-resident employee.
- 9.1.6. The following are not permitted to be operated as a home occupation and must be operated as a home-based business:
 - 9.1.6.1. Any residential business with more than two employees who do not reside on the property.
 - 9.1.6.2. Any residential business with off-site impacts such as traffic or deliveries.
 - 9.1.6.3. Any residential business that sells goods to the public or that is required to collect and remit any sales, use, or other non-property tax.

9.2. Regulations and Requirements for Home-Based Businesses.

- 9.2.1. Home-based businesses shall comply with all regulations set forth under Section 6.
- 9.2.2. Home-based businesses shall obtain and maintain in good standing a business license from the City, provided that, if the home-based business has registered with the City, a business license is not required for the first year of the business's operation at any location.
- 9.2.3. Home-based businesses shall provide all information required by the City, including the following:
 - 9.2.3.1. A drawing indicating the area within the home, accessory structures, and yard where the home-based business will operate in comparison to the unused portion of the property.
 - 9.2.3.2. A detailed description of the proposed home-based business.
 - 9.2.3.3. A statement confirming compliance with all relevant regulations, including this Ordinance.

9.2.3.4. A written approval statement from the property owner, if different from the applicant.

9.2.4. Home-based businesses may employ up to five individuals who do not reside on the associated property, if parking is provided, unless approval is granted pursuant to Section 9.3.

9.2.5. Home-based businesses shall not generate traffic, meaning deliveries (excluding residential-type delivery services such as USPS, FedEx, UPS, or similar services), shipping, and customer visits, in excess of 10 vehicles per day.

9.2.6. Home-based businesses shall provide off-street parking for all customers, in accordance with the requirements set forth under Section 6.3.

9.3. Expanded Home-Based Business. The owner of a home-based business that seeks to employ more than five employees, up to eight employees, on the property who are not residents of the property may apply to the City Council to operate as an expanded home-based business. The City Council shall review the application, the conditions of the property, the proposed business and off-site impacts, and proposed mitigation efforts. The City Council may approve an application for an expanded home-based business if the City Council finds good cause therefor and finds that each of the following requirements are satisfied:

9.3.1. The operator of the home-based business complies with all requirements of this Ordinance, including all requirements set forth in Section 9.2 for home-based businesses.

9.3.2. Notice has been provided to all owners of property within a 1,000-foot radius of any portion of the subject property, with notice sent at least 10 days in advance of the City Council's consideration of the application. The owner shall bear all notice costs, and the City shall approve the form and type of the notice.

9.3.3. The size of the property is at least one acre, with adequate frontage and access to a public street.

9.3.4. The owner obtains Lake Point business license and all required state and other licenses.

9.3.5. Parking areas and accesses are provided in accordance with the City's commercial parking standards.

9.3.6. Fencing or other appropriate screening of sights, storage areas, equipment, inventory, and sounds are provided.

9.3.7. No other residential business, with more than five employees who are not residents of the property, currently exist within a 1,000-foot radius of any portion of the property.

- 9.3.8. No additional traffic beyond 10 vehicles per day is generated or required.
- 9.3.9. The property will maintain its character, appearance, and use as a residential property.
- 9.3.10. A site plan for the property is provided in accordance with the City's commercial site plan ordinance.
- 9.3.11. The expanded home-based business shall not be transferred to another person, shall not run with the land, and shall not continue from one owner of the associated property to another.
- 9.3.12. The expanded home-based business shall not be converted into a different type of use. Reapplication is required for a change in use.
- 9.3.13. The expanded home-based business shall not operate as an expanded home-based business for longer than a period set by the City Council, not to exceed twelve months. After such period, the business shall relocate to an appropriate commercial area or modify and reduce their operations to conform to the requirements of Section 9.2.

Section 10. Licensing and Enforcement.

- 10.1. **Approval.** Registrations and licenses for residential businesses shall be reviewed and approved by the Lake Point city recorder or designee. Disputes or appeals regarding the issuance of a license shall be resolved in accordance with the procedures outlined in the Lake Point business license ordinance.
- 10.2. **Fee.** An annual fee for a residential business license shall be charged in such amount as established by the City Council. Payment must be made within 30 days of the due date to maintain a valid Business License.
- 10.3. **Term.** A residential business license shall be valid for up to one fiscal year, from July 1 to June 30, and shall be renewed on or before June 30 each year.
- 10.4. **Other Laws.** Any license, permit, or authorization granted for a residential business shall be subject to compliance with this Ordinance and all other applicable Lake Point, State, and Federal licensing, land use, and business license ordinances, codes, and regulations.
- 10.5. **Denial and Revocation.** A business license for a residential business may be denied or revoked in accordance with the procedures outlined in the Lake Point business license ordinance.
- 10.6. **Compliance Period.** The city council may authorize the renewal or extension of a residential business license for a residential business that exceeds the operational limitations of this ordinance, such as number of employees, customer visits, or excessive commercial use of property, for a single period of up to six months for good

cause shown. Good cause may be shown by efforts or a plan to reduce the scope or impact of the residential business, to relocate the residential business to a commercial area, or other reasonable actions by the business owner to conform to the requirements of this ordinance.

Section 11. Conclusion. This ordinance provides the framework for the operation of residential businesses in the City of Lake Point, prioritizing individual liberties. By adhering to the City's Vision and Core Values and relevant state and local regulations, and by actively engaging and promoting residents and businesses within Lake Point, Lake Point aims to foster a vibrant and entrepreneur-friendly community.

Section 12. This ordinance shall take effect immediately upon its publication in accordance with law.

PASSED, APPROVED, AND ADOPTED on the 15 day of November, 2023

Lake Point

By
Chair



SEAL

ATTEST:

City Recorder

Voting:

Daniel Crawford
Doyle Garrard
Jonathan Garrard
Kathleen VonHatten
Ryan Zumwalt

Yea ☒ Nay ☐ Absent ☐
Yea ☒ Nay ☐ Absent ☐
Yea ☐ Nay ☒ Absent ☐
Yea ☐ Nay ☒ Absent ☐
Yea ☒ Nay ☐ Absent ☐