

ORDINANCE NO. 01-2024

AN ORDINANCE OF WEST HAVEN CITY, UTAH, AMENDING THE CITY CODE REGARDING SECTION 10.99 GENERAL PENALTY; MAKING CERTAIN AND NECESSARY LANGUAGE CHANGES TO THE CITY CODE TO EFFECT THOSE CHANGES; AND ESTABLISHING AN EFFECTIVE DATE FOR THOSE CHANGES.

Section 1. Recitals:

WHEREAS, West Haven City (herein “City”) is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, in conformance with UCA § 10-3-707, the governing body of the city may revise, codify and compile from time to time and to publish in book, pamphlet or loose leaf form all ordinances of the municipality of a general and permanent character and to make such changes, alterations, modifications, additions, and substitutions as it may deem best; and,

WHEREAS, West Haven City has adopted and promulgated city ordinances and rules in Section 10.99 of the City Code regarding general penalties for violations of the City Code; and,

WHEREAS, the City Council finds that at this time certain changes to the City Code regarding the general penalties should be made to conform with the Utah State Code; and,

WHEREAS, the City Council finds that the public convenience and necessity, public safety, health and welfare is at issue in this matter and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WEST HAVEN CITY, UTAH that:

The West Haven Code “**SECTION 10.99 GENERAL PENALTY**” shall be repealed and shall be replaced with “**SECTION 10.99 GENERAL PENALTY**”, the new language attached as “Exhibit A” to this Ordinance.

The foregoing Recitals are fully incorporated herein.

Section 2. Repealer of Conflicting Enactments:

All orders, ordinances, and resolutions regarding the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which conflict with the

provisions of this Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 3. Prior Ordinances and Resolutions:

The body and substance of any prior Ordinances and Resolutions, together with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 4 - Savings Clause:

If any provision of this Ordinance shall be held or deemed to be or shall be invalid, inoperative or unenforceable for any reason, such reason shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed to be the separate independent and severable act of the City Council of West Haven City.

Section 5 - Date of Effect:

BE IT FURTHER ORDAINED this Ordinance will become effective on the 17th day of January 2024 and after publication or posting as required by law.

DATED this 17th day of January 2024.

WEST HAVEN, a municipal corporation

by: _____

Attested and Recorded

Emily Green

Mayor Rob Vanderwood
Councilmember Carrie Call
Councilmember Kim Dixon
Councilmember Nina Morse
Councilmember Ryan Saunders
Councilmember Ryan Swapp

Yes _____ No _____
Yes _____ No _____

EXHIBIT A

SECTION 10.99 GENERAL PENALTY

DRAFT

SECTION 10.99 GENERAL PENALTY

10.99.01 Sentencing.

A. Penalties for Violation of Ordinance.

1. Criminal Penalty for Violation of Ordinance:
 - a. Under Utah Code Ann. §10-3-703, the City Council may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum Class B misdemeanor fine under Utah Code Ann. §76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.
 - b. Notwithstanding Section 10.99.01(A)(1)(a) of this section, the City may not impose a criminal penalty greater than an infraction for a violation pertaining to an individual's pet, as defined in Utah Code Ann. §4-12-102, or an individual's residence unless the violation:
 - (i) is a nuisance as defined in Utah State Code Ann. §78B-6-1101(1); and
 - (ii) threatens the health, safety, or welfare of the individual or an identifiable third party; or
 - c. The City has imposed a fine on the individual for a violation that involves the same residence or pet on three previous occasions within the past twelve (12) months.
 - d. Section 10.99.01A(1)(b) of this section does not apply to municipal enforcement of a building code or fire code ordinance in accordance with Utah State Code Title 15A, State Construction and Fire Codes Act.
 - e. The City may not issue more than one infraction within a 14-day (fourteen day) period for a violation described in Section 10.99.01A(1)(b) that is ongoing.
2. Civil:
 - a. Except as provided in Section 10.99.01A(2)(b) of this section, the City Council may prescribe a civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Ann. §76-3-301.
 - b. The City may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

B. Term Of Imprisonment For Misdemeanors.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

1. In the case of a Class B misdemeanor, for a term not exceeding six (6) months;
2. In the case of a Class C misdemeanor, for a term not exceeding ninety (90) days.

C. Infractions.

1. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture, and disqualification, or any combination.
2. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined the same as for a Class C misdemeanor.

D. Fines Of Persons.

A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:

1. Class B Misdemeanor: One thousand dollars (\$1,000.00) when the conviction is of a Class B misdemeanor conviction; and
2. Class C Misdemeanor; Infraction: Seven hundred fifty dollars (\$750.00) when the conviction is of a Class C misdemeanor conviction or Infraction conviction.

E. Fines Of Corporations.

The sentence to pay a fine, when imposed upon a corporation, association, partnership, or governmental instrumentality for an offense defined in this Code, or the ordinances of the City, or for an offense defined outside of the City Code over which this City has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:

1. Class B Misdemeanor: Five thousand dollars (\$5,000.00) when the conviction is for a Class B misdemeanor conviction; and
2. Class C Misdemeanor; Infraction: One thousand dollars (\$1,000.00) when the conviction is for a Class C misdemeanor conviction or for an infraction conviction.

10.99.02 Offenses Designated; Classified.

A. Sentencing In Accordance With Chapter.

1. A person adjudged guilty of an offense under the City Code or the ordinances of the City shall be sentenced in accordance with the provisions of this Chapter.
2. Ordinances enacted after the effective date of the City Code which involve an offense should be classified for sentencing purposes in accordance with this Chapter, unless otherwise expressly provided.

B. Designation of Offenses. Offenses are designated as misdemeanors or infractions.

C. Misdemeanors Classified.

1. Misdemeanors are classified into two (2) categories:
 - a. Class B Misdemeanors;
 - b. Class C Misdemeanors.
2. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in the City Code or any ordinance of this City when no other

specification as to punishment or category is made, is a Class B misdemeanor.

D. Infractions.

1. Infractions are not classified.
2. Any offense which is made an infraction in the City Code or other ordinances of the City, or which is expressly designated an Infraction and any offense designated by the City Code or other ordinances of the City which is not designated as a misdemeanor and for which no penalty is specified is an Infraction.

E. Continuing Violation. In all instances where the violation of the City Code or any ordinance of the City hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

F. Issuing Citations.

1. Except as provided in Section 10.99.02(F)(2) below or Utah Code Ann. §77-7-18, a City officer or official who is not a law enforcement officer in accordance with Utah Code Ann. §53-13-103 or a special function officer described in Utah Code Ann. §53-13-105 may not issue a criminal citation for a violation that is punished as a misdemeanor.
2. Notwithstanding Section 10.99.01 or Section 10.99.02(F)(1) above, the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:
 - a. A fire officer described in Utah Code Ann. §53-7-102; or
 - b. An animal control officer described in Utah Code Ann. §11-46-102.

10.99.03 Prohibited Acts Include Causing and Permitting.

Whenever in the ordinances of the City any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, concealing, or attempting the fact of such act or omission.