

ORDINANCE NO. 23-2024

AN ORDINANCE OF WEST HAVEN CITY AMENDING THE ACCESSORY DWELLING UNIT (ADU) REQUIREMENTS; AND PROVIDING AN EFFECTIVE DATE FOR THESE CHANGES.

Section 1 – Recitals

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

WHEREAS, the City Council finds that in conformance with UC §10-3-702, the governing body of the City may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by the laws of the State of Utah or any other provision of law; and,

WHEREAS, West Haven City has adopted and promulgated city ordinances and rules regarding zoning and acceptable uses within those zones in the City; and

WHEREAS, the City Council finds that certain changes to the West Haven City Zoning Code in regards to amending the language for §157.310-315 should be made; 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 following portions of the West Haven City Zoning Code be, and the same is, changed and amended to read as follows:

- a. **§ 157.455 through and including §157.480 - “Accessory Dwelling Unit (ADU)” is amended as found in the attached Exhibit A.**

The forgoing Recitals are fully incorporated herein.

Section 2 – Prior Ordinances and Resolutions

That the above changes, where they may have been taken from prior City Ordinances and Resolutions, are listed here for centralization and convenience; and that the body and substance of those prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 3 – Repealer of Conflicting Enactments

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts thereof, which conflict with this Ordinance are, for such conflict, repealed, except that this repeal will not be construed to revive any act, order or resolution, or part.

Section 4 – Savings Clause

If any provision of this Ordinance be held or deemed invalid, inoperative or unenforceable, such will render no other provision or provisions invalid, inoperative or unenforceable to any extent whatsoever, this Ordinance being deemed the separate independent and severable act of the City Council of West Haven City.

Section 5 – Date of Effect

This Ordinance shall be effective as of the date of signing and after being published or posted as required by law.

DATED the 3rd day of July, 2024

WEST HAVEN CITY

Nina Morse
Pro Tem

ATTEST:

Emily Green, City Recorder

ACCESSORY DWELLING UNIT (ADU)

§ 157.455 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates, or requires, a different meaning.

ACCESSORY DWELLING UNIT (ADU). A subordinate dwelling, which has its own eating, sleeping, and sanitation facilities which is:

- (1) Within or attached to a single-family residential building; or
- (2) Within a detached accessory structure associated with a single-family dwelling.

(Prior Code, § 33.02) (Ord. 11-2020, passed 5-6-2020)

§ 157.456 PURPOSE AND INTENT.

(A) The purpose and intent of this subchapter is to recognize the residential character of the city and to provide for supplementary living accommodations in the community, as well as provide for supplementary income opportunities of property owners.

(B) These provisions are intended to provide for affordable housing with reasonable limitations to minimize the impact on neighboring properties and neighborhoods, and to promote the health, safety, and welfare of the property owners and residents of accessory dwelling units.

(Prior Code, § 33.04) (Ord. 11-2020, passed 5-6-2020)

§ 157.457 OWNER OCCUPIED.

(A) No accessory dwelling unit shall be created, established, or occupied in a single-family dwelling unless the owner of the property occupies either a portion of the main dwelling or a detached accessory unit on the same single-family lot. For the purpose of this section, the term OWNER OCCUPIED shall be defined as full-time residency within the home by the bona fide property owner(s) for more than 275 days in every calendar year.

(B) Owner occupancy for a dwelling with an accessory dwelling unit shall not be required when:

- (1) The owner cannot live in the dwelling because of a bona fide temporary absence of three years or less for a temporary job assignment, sabbatical, or voluntary service;

(2) The owner was living in the dwelling immediately prior to leaving for the temporary job assignment, sabbatical, or voluntary service; and

(3) The owner intends to make the dwelling his or her primary place of residence upon returning from the temporary job assignment, sabbatical, or voluntary service.

(Prior Code, § 33.06) (Ord. 11-2020, passed 5-6-2020)

§ 157.458 DWELLING UNIT OCCUPANCY.

The occupants of an accessory dwelling unit shall be limited by one of the following family categories:

(A) One person living alone;

(B) Two or more persons all related by blood, by marriage, by adoption, by legal guardianship, or foster children;

(C) Up to four unrelated persons living as a single housekeeping unit;

(D) Any of the above categories plus a temporary guest. A TEMPORARY GUEST is defined as a person who stays with a family for a period of less than 14 days within any rolling one-year period and does not utilize the dwelling as a legal address for any purpose; and

(E) For purposes of the definition of family, the term RELATED shall mean a spouse, parent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, first cousins, great-grandparent, and great-grandchild. The term RELATED does not include other, more distant relationships.

(Prior Code, § 33.08) (Ord. 11-2020, passed 5-6-2020)

§ 157.459 ZONES.

An accessory dwelling unit which meets subchapter requirements may be allowed in a single-family dwelling unit or in a detached accessory structure within any zone upon a single-family lot. No accessory dwelling unit may be allowed in any multiple-family dwelling or multiple-family lot, or on any lot that cannot satisfy the parking, setback, or lot coverage requirements.

(Prior Code, § 33.10) (Ord. 11-2020, passed 5-6-2020)

§ 157.460 NUMBER OF ACCESSORY DWELLING UNITS.

A maximum of one accessory dwelling unit shall be allowed in each owner-occupied single-family dwelling, or in a detached accessory structure associated with a single-family dwelling.

(Prior Code, § 33.12) (Ord. 11-2020, passed 5-6-2020)

§ 157.461 LOCATION AND TYPE.

(A) Accessory dwelling units may be allowed within or attached to the main residential dwelling (basement or addition), over the garage (attached or detached), or in a detached accessory structure (cottage home, or guest house).

(B) Accessory dwelling units as an addition to a primary dwelling shall meet all minimum setback standards required for the primary dwelling.

(C) Behind the primary dwelling, an accessory dwelling unit within an accessory structure must meet the minimum of side yard required by the zone for the primary dwelling and a rear yard setback of 20 feet, unless no windows, doors, or other openings are adjacent to the property line, in which case the allowed setback shall be 15 feet.

(D) Adjacent to the primary dwelling, an accessory dwelling unit within the side yard of the primary dwelling is required to meet the same front, side, and rear yard setback as the primary dwelling.

(E) Second-story accessory dwelling units, an accessory dwelling unit located in an accessory structure, may only be located on a second story if the structure meets the same minimum standards in the zone for height, as well as front, side, and rear setback, as the primary dwelling.

(Prior Code, § 33.14) (Ord. 11-2020, passed 5-6-2020)

§ 157.462 APPEARANCE.

Single-family residences with interior accessory dwelling units shall retain the appearance of a single-family home. An accessory dwelling unit in an accessory structure shall be designed so that, to the degree reasonably feasible, the appearance of the building is compatible with the architectural components of the primary dwelling unit (for example, exterior materials, color, and roof pitch).

(Prior Code, § 33.16) (Ord. 11-2020, passed 5-6-2020)

§ 157.463 SIZE.

(A) Basement dwelling units. Shall be permitted to occupy the entirety of the basement of the primary home regardless of area or bedroom count; and

(B) Accessory dwelling units (detached structures). The size of an accessory dwelling unit shall be at least 300 square feet and shall not exceed 1,200 square feet, and be limited to no more than three bedrooms.

(Prior Code, § 33.18) (Ord. 11-2020, passed 5-6-2020)

§ 157.464 LOT COVERAGE.

(A) The combined building coverage for the detached accessory dwelling units, main dwelling, and additional accessory buildings may not be larger than the maximum coverage allowed in the zone for the lot and rear yards.

(B) The coverage may not exceed 35% of the total lot size.

(Prior Code, § 33.20) (Ord. 11-2020, passed 5-6-2020)

§ 157.465 BUILDING ENTRANCES.

A new single-family structure approved with an accessory dwelling unit attached to, or detached from, the main dwelling unit shall have a separate, accessible entrance or stairway. An accessory dwelling unit approved in an existing structure may use existing entrances on any side of the structure that faces a street, or a side or rear entrance. Dwellings with two front doors side-by-side may not be used to provide separate entrances for each unit, with the exception of dwellings where the second door provides direct access to the dwelling basement. The purpose of this requirement is to preserve the single-family residential appearance of the building.

(Prior Code, § 33.22) (Ord. 11-2020, passed 5-6-2020)

§ 157.466 ADDRESS.

The principal dwelling unit and the accessory dwelling unit shall have the same address number, but shall refer to the accessory dwelling unit as "Unit B." Addresses must be located in a visible location on the street frontage side of the home.

(Prior Code, § 33.24) (Ord. 11-2020, passed 5-6-2020)

§ 157.467 PARKING.

(A) A single-family dwelling with an accessory dwelling unit shall provide at least one additional off-street parking space for the accessory unit above the minimum spaces required for a single-family dwelling. Accessory dwelling unit parking may not be in tandem with required parking of the main dwelling. One additional off-street parking space shall be required for accessory dwelling units with two or more bedrooms. ADUs located within one-fourth mile of a bus rapid transit route shall be permitted to reduce the parking requirement by one space for the main dwelling unit.

(B) No parking spaces may be located within the front or side yard setbacks adjacent to a street, except for within an approved driveway.

(C) The minimum width of parking areas and driveways shall be paved with concrete or asphalt.

(Prior Code, § 33.26) (Ord. 11-2020, passed 5-6-2020)

§ 157.468 SEPARATE LIVING AREAS.

An accessory dwelling unit must provide living areas for eating, sleeping, and sanitation facilities separate from the principal dwelling unit.

(Prior Code, § 33.28) (Ord. 11-2020, passed 5-6-2020)

§ 157.469 BUILDING CODE.

(A) All construction and remodeling shall comply with building codes and ordinance requirements in effect at the time of construction or remodeling, in accordance with Utah State Code § 10-9a-511.5, "Changes to Dwellings-Egress Windows."

(B) A certificate of occupancy must be obtained for an ADU before it can be occupied.

(Prior Code, § 33.30) (Ord. 11-2020, passed 5-6-2020)

§ 157.470 UTILITY METERS.

A single-family dwelling with an accessory dwelling unit may have separate meters for each water, gas, and electricity utility service. Each utility meter shall be in the property owner's name, and the property owner shall be responsible for payment of all utilities. ~~No additional water development or connection fee shall be required, unless a separate utility connection is requested and installed by the property owner.~~

The owner is responsible for contacting their water, electric and gas provider for any possible additional water development, utility meter, and/or connection fee.

(Prior Code, § 33.32) (Ord. 11-2020, passed 5-6-2020)

§ 157.471 INTERIOR ACCESS.

An interior access between the main living area and an attached accessory dwelling unit must be maintained, unless sufficient means of egress have been determined during an inspection by the Fire Department.

(Prior Code, § 33.34) (Ord. 11-2020, passed 5-6-2020)

§ 157.472 NOT INTENDED FOR SALE.

The accessory dwelling unit shall not be intended for sale or detached by deed, and shall only be rented.

(Prior Code, § 33.36) (Ord. 11-2020, passed 5-6-2020)

§ 157.473 ACCESSORY DWELLING UNIT PERMIT.

(A) Any person owning an existing accessory dwelling unit that has not previously been permitted by the city, or any person constructing, or causing the construction of, a residence that has an accessory dwelling unit, or any person remodeling, or causing the remodeling of, a residence for an accessory dwelling unit, shall obtain a land use permit for the accessory dwelling unit from the city. This shall be in addition to any required building permit for the work to be performed.

(B) In order to meet the requirements of the land use permit, the applicant shall:

(1) Submit a completed application form including a site plan that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters;

(2) Include detailed floor plans with labels on rooms indicating uses or proposed uses;

(3) Pay building permit fees, if applicable, for the construction of a new dwelling, or the remodeling of an existing dwelling, in accordance with the established fees and charges;

(4) Make all corrections identified as necessary to comply with building code requirements, as identified by the Chief Building Official, or his or her designee, and provide photos of the life safety items required by building code, including carbon monoxide detectors, smoke detectors, and earthquake strapping on water heaters;

(5) Demonstrate and affirm that their property is otherwise in compliance with all other provisions of the zoning ordinance;

(6) The city has no obligation or responsibility to research and enforce an applicant's property's existing private covenants, conditions, or restrictions prohibiting an ADU;

(7) It is the exclusive responsibility of a property owner to research and have full knowledge and understanding of those private covenants, conditions, or restrictions that run with, and are attached to, their property; and

(8) By submitting an application to the city for an ADU, the applicant is certifying that they have full knowledge and understanding of those private covenants, conditions, or

restrictions that run with their property and have a full understanding of whether those items prohibit an ADU.

(Prior Code, § 33.38) (Ord. 11-2020, passed 5-6-2020)

§ 157.474 EXCEPTIONS TO STANDARDS.

(A) The Planning Commission may issue a conditional use permit for ADUs which modify the requirements for an ADU with respect to maximum size, minimum parking, or setback.

(B) In approving a conditional use permit, the Planning Commission may require additional conditions to mitigate the impact of the ADU on surrounding properties. Specifically, the Planning Commission may require:

(1) For ADUs that exceed the maximum size of 1,200 square feet: increased setbacks, privacy fencing, limitation on windows and doors adjacent to abutting property lines, and additional parking;

(2) For ADUs with reduced or no additional parking: restrictions on occupancy to tenants without vehicles; and

(3) For ADUs with reduced setbacks: privacy fencing and limitation on windows and doors adjacent to abutting property lines.

(Prior Code, § 33.40) (Ord. 11-2020, passed 5-6-2020)

§ 157.475 FAILURE TO COMPLETE AND OBTAIN A LAND USE PERMIT.

(A) If the property owner does not obtain a land use permit as outlined above, the accessory dwelling unit shall not be considered legal nor approved.

(B) Failure to obtain a land use permit for an existing accessory dwelling unit within one year of the passing of this section may result in a citation for a code violation as governed by the process for enforcement in the city.

(Prior Code, § 33.42) (Ord. 11-2020, passed 5-6-2020)

§ 157.476 HOME OCCUPATION BUSINESSES.

(A) Home occupation businesses in an accessory dwelling unit shall be restricted to a home office use which creates no customer traffic.

(B) No home occupation business shall be established within an accessory dwelling unit without the express written permission of the property owner.

(Prior Code, § 33.44) (Ord. 11-2020, passed 5-6-2020)

§ 157.477 BUSINESS LICENSE.

The owner shall obtain a yearly business license from the city and shall report the monthly and annual rent amounts to the city every year.

(Prior Code, § 33.46) (Ord. 11-2020, passed 5-6-2020)

§ 157.478 MANUFACTURED HOMES.

Manufactured homes, also known as mobile homes and recreational vehicles, or trailers, are not allowed as an ADU.

(Prior Code, § 33.48) (Ord. 11-2020, passed 5-6-2020)

§ 157.479 USE REGULATIONS.

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained in a Single-Family Residential District or Multiple Residential District, except as provided in this table.

Zone	A-1, A-2, R-1	Open Space	R-2	R-2.5	R-4	Mixed Use
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Zone						
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A-1, A-2, R-1						
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Open Space						
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R-2						
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R-2.5						
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R-4						
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Mixed Use						
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Coverage Regulations						
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The maximum coverage percent for any lot in the districts regulated by this subchapter

35%

35%

35%

35%

35%

35%

The maximum coverage percent for any rear yard by accessory buildings

25%

25%

25%

25%

25%

25%

Residential

Four-family dwelling

-

-

-

-

-

-

Group of dwellings (including two home, and the like) when approved as a planned unit development

-

-

-

-

-

-

Multiple-family dwelling

-

-

-
-
-
-

Single-family dwelling

- P
- P
- P
- P
- P
- P

Three-family dwelling

-
-
-
-
-
-

Two-family dwelling

-
-
-
-
-
-

(Prior Code, § 33.50) (Ord. 11-2020, passed 5-6-2020)

§ 157.480 AREA OF ACCESSORY BUILDINGS.

No accessory building or group of accessory buildings in any Residential District shall cover more than 25% of the rear yard.

(Prior Code, § 33.52) (Ord. 11-2020, passed 5-6-2020)

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