

ORDINANCE NO. 16-2022

AN ORDINANCE OF WEST HAVEN CITY AMENDING THE WEST HAVEN ZONING CODE CHAPTER 26 "HOME OCCUPATION"

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, the City Council finds that residents ought to enjoy the benefit of being able to conduct business in their home; and

WHEREAS, such home-based businesses are referred to in City code as "home occupations"; and

WHEREAS, the City Council finds that in order to preserve the residential character of neighborhoods, certain regulations should be put into place regarding home occupations;

NOW THEREFORE, BE IT ORDAINED by the City of West Haven that Chapter _____ of the West Haven Zoning Code, entitled "Home Occupations" is repealed in its entirety and replaced with the following:

**Chapter 64
HOME OCCUPATIONS**

64.02 Purpose And Intent

64.04 Use

64.06 Required Conditions

64.08 Fees

64.02 Purpose And Intent

It is the purpose and intent of this Chapter to allow persons residing in dwellings in residential and agricultural areas to provide a service, develop a product for sale and operate certain kinds of small businesses, while at the same time maintaining the peace, quiet, and domestic tranquility within all residential or agricultural areas of the City.

64.04 Use

- 1) Home Occupations shall be allowed as a permitted use in all residential and agricultural zones, provided that the following conditions are met:
 - a) Individuals who own and operate the business must also live at the residence
 - b) The business employs no more than one employee who does not live at the residence
 - c) The business does not use any accessory building, garage, yard or space outside the main building not normally associated with residential use.
 - d) The business does not use, produce or store hazardous chemicals, as defined in Utah Code 19-6-302.
 - e) Provided the above conditions are met, and that the business does not otherwise violate any provision of the West Haven City Zoning Code, a home occupation license shall be issued.
- 2) Home occupations which do not meet all of the above criteria, may be allowed, but shall be required to apply for a conditional use permit from the Planning Commission.
 - a) In reviewing a request for a conditional use permit for a home occupation, the Planning Commission may consider the following factors, and may impose such conditions as necessary and reasonable to offset the potential detrimental impacts as these factors create:
 - i) Will the business produce, or be likely to produce, noise, odors, dust or smoke that extends beyond the property?
 - ii) Will the business produce, or be likely to produce vehicular traffic such that it becomes a nuisance or a hazard?
 - iii) If the business uses, produces or stores hazardous chemicals, as defined in Utah Code 19-6-302, has a plan been presented which addresses how such chemicals will be used, produced or stored, and is said plan in compliance with all relevant federal, state and local ordinances regarding chemicals?
- 3) The following uses shall not constitute Home Occupations and shall not be allowed in any residential or agricultural zone:
 - a) Any business which requires more than five (5) non-resident employees to report to the residence.
 - b) On lots less than one (1) acre, any business which involves the repair, service, inspection or any type of work on any type of vehicle, motorcycle, automobile or off-highway vehicle, as defined in Utah State Code 41-1a-102.
 - c) Any activity that violates existing or criminal codes of West Haven, the State of Utah or the U.S. Government.
 - d) Retail sales of goods produced off-premise including short-term boutiques, etc. or group garage sales of personal used items held more than once every 3 months.
- 4) On lots greater than one (1) acre, any business which involves the repair, service, inspection or any type of work on any type of vehicle, motorcycle, automobile, or off-highway vehicle, as defined in Utah State Code 41-1a-102 may be allowed in residential or agricultural zones, but must comply with the following conditions, along with any other conditions that the Planning Commission feels are necessary based on the circumstances:

- a) Only three cars which are not registered to the homeowner may be parked or stored on the premises at any time
 - b) Any vehicles, motorcycles or cars must have work actively being performed on it and shall not remain on the premises longer than thirty (30) days unless it is stored inside an outbuilding.
 - c) The three allowed cars shall be parked in a garage or outbuilding or on a paved, hard surface (concrete or asphalt) on the property.
 - d) Any on-street parking must comply with West Haven Zoning Code
- 5) Regardless of lot size, no Home Occupation shall be allowed which involves the sale of vehicles, motorcycles, automobiles, or off-highway vehicles, as defined in Utah State Code 41-1a-102, regardless of whether such requires a dealer's license, as defined by the State of Utah Tax Commission.
- 6) Agricultural farming does not require a home occupation business license.
- 7) Home occupations shall be required to pay for an annual business license. Approval of the home occupation shall be deemed null and void if the licensee fails to renew the business license, moves from the residence or ceases to operate the home occupation for a period of twelve (12) consecutive months.

64.06 Required Conditions

All home occupations, whether permitted or conditional, shall meet all of the following conditions and requirements:

- 1. The occupation shall allow the residence to retain the general character and appearance of the residential dwelling.
- 2. The portion of the home occupation shall remain secondary to the residential use of the dwelling.
- 3. The business shall not operate between the hours of 10:00 p.m. and 7:00 a.m.
- 4. Regardless of the business, any homeowner seeking a license for a second home occupation shall be required to obtain approval from the Planning Commission.
- 5. All business-related vehicles must be parked behind the front plane of the home, in a garage or on a paved surface and not on the street.
- 6. Any signs related to the home occupation shall comply with the West Haven City sign ordinance.

64.08 Fees

Annual license fees shall be assessed and paid in accordance with the West Haven City fee schedule. If the license has not been renewed prior to or within 60 days of expiration, the license will be terminated and all conditional uses granted will be forfeited, including grandfathered conditional uses.

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 ____ day of August, 2022

WEST HAVEN CITY

Rob Vanderwood
Mayor

ATTEST:

Emily Green, City Recorder