

CHAPTER 26

A. HOME OCCUPATION

The changes made to the following section 1 thru section 5 via *Ordinance 07-2011* are included herein

SECTION 1 PURPOSE AND INTENT:

It is the purpose and intent of this chapter to allow persons residing in dwellings in residential and agricultural areas to use their mental or physical expertise and talent to a limited extent in providing a service, developing a product for sale to the public, operating certain kinds of small businesses or maintaining a professional or business office work space in the dwelling while at the same time maintaining the peace, quiet, and domestic tranquility within all residential or agricultural areas of the city and guaranteeing to all residents freedom from excessive noise,, traffic, nuisances, fire hazard, and other possible adverse effects of limited business activities being conducted in such areas.

SECTION 2 USE:

1. Home Occupations shall be allowed either as Permitted or Conditional Uses in various residential and agricultural districts of the city as listed in the Use Regulations of such various districts and in accordance with the regulations and restrictions of this Chapter.
2. The following uses are examples of allowable Home Occupations that fall under the home occupation section of the business license fee structure:
 - a. Group instruction or motivational meetings as a forum for sales presentations held not more than once every month.
 - b. Musical Instruction.
 - c. Phone-order or mail-order *services and internet*.
 - d. Barber or beautician services with not more than 2 stations on the premises.
 - e. ~~Child day care of not more than 5 children. (More than 5 children puts this home occupation into the minor business category reflected under the business license fee structure)~~
 - f. Computer Information Services.
 - g. Garage Sales of personal used items from a single dwelling held more than once ever 3 months,
3. The following uses shall not constitute Home Occupations:
 - a. Any activity that noticeably produces electrical interference, smoke, dust, odors, or heat.
 - b. Activities which noticeably produce excessive foot and vehicular traffic, parking, sounds or noises, lighting, vibration, or anything that is uncommon to the established character of the surrounding area to such a degree so as to constitute a nuisance to the residents of the immediate area.
 - 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 6 months.

SECTION 3 REQUIRED CONDITIONS:

A Home Occupation must meet **all** of the following conditions and requirements:

1. The occupation is limited to persons who actually reside on the premises. *One person can be hired that does not reside at the premise.*
2. The occupation shall not require interior or exterior alterations and shall retain the general character and appearance of the residential dwelling.
3. The occupation shall not use any space in an attached or unattached garage, accessory building, yard or any space on the premises outside of the dwelling *unless approved by the Planning Commission* except for garage sales.
4. The occupation shall not include the storage on or sale from the premises of goods or commodities that are not produced on the premises. This does not apply to phone order or mail order, *internet* sales with factory delivery direct to an off-premise buyer.
5. The occupation must obtain an annual Business License.
6. No more than one merchandize oriented home occupation shall be permitted within any single dwelling.
7. An occupation that attracts customers, clients or students to the premises for sales or services shall not be allowed in multi-family dwelling units.
8. Selling parties shall be limited to not more than 10 buying customers at any one time and not more than one party every three months.
9. An occupation that attracts customers, clients or students to the premises shall provide adequate off-street parking as determined by the Planning Commission or by the Building Inspector in the case of the permitted use.
10. There shall be no storage or parking on the premises or on the streets in the vicinity of the premises of tractor trailers, semi-trucks, or other heavy equipment used in an off premise business for which the dwelling is being used as a home occupation office except that not more than one truck of one - ton capacity or less may be parked on premise during off hours at night.
11. In order to guarantee that the Home Occupation, once authorized, will not become a nuisance to the neighbors, the Planning Commission or the City Council may impose other reasonable conditions initially and also subsequently to protect the public health, safety, peace, and welfare, of the residents of the surrounding residential or agricultural area.

SECTION 4 FULL TIME - PART TIME USE

1. There are two types of Home Occupations allowed as follows:

- a. Home Occupations which operate on a full-time employment or service basis where full-time is defined as the time and effort spent by a person or persons in an activity which produces the major financial income which supports that person or persons. Time spent in this activity is not less than 25 hrs per person and is usually 40 hrs or more per week per person.
- b. Home Occupations which operate on a part-time employment or service basis where part-time is defined as the time and effort spent by a person or persons in an activity which supplements the major financial income of that person or persons. Time spent in this activity shall not be more than 25 hrs per week per person average over a 6- month period.

2. A Home Occupation may consist of full-time employment or service by persons who actually reside on the premises *and one other person that does not reside on the premises* if:

- a. There are no products, supplies, goods or commodities delivered to the premises or from the premises and no purchases made on the premises.
- b. There is no more than four (4) visiting clientele at one time unless conditionally approved by the Planning Commission.
- c. There is no business equipment or vehicles used primarily for business stored or parked on the premises or on adjacent streets.
- d. There is no outward visual evidence of the Home Occupation activity.
- e. The Home Occupation is information, computer, phone, internet, or mail oriented or if the major part of the activity occurs off premise with only the office work performed on the premises.

3. A Home Occupation MUST consist of only part-time employment or service or for the emergency treatment or consulting by persons who actually reside on the premises if:

- a. There are supplies, goods or commodities delivered to and/or products delivered from the premises or purchased on site.
- b. There is no more than four (4) visiting clientele at one time unless conditionally approved by the Planning Commission.
- c. There are outside visual evidences of the activity such as increased foot or vehicular traffic and parking, increased sounds or noise, increased lighting, vibration, etc.

SECTION 5 FEES

The fee below was adopted via Ordinance 03-2006, along with all business license fees, effective February 1, 2006 and is current to date.

| <u>CATEGORY</u> | <u>FEE</u> |
|-----------------------|----------------|
| 1. RESIDENTIAL | \$50.00 |

Includes Home Office; Home Occupation; ~~Day-Care with up to 5 children~~; Professional Services; Home Beauty Salons; Home Nail Salons;

With clarification of definitions as follows:

- a. Must conduct occupation within the home not outside the home nor in an attached building unless approved by the Planning Commission.
- b. Can have one employee..
- c. Must not leave the home in order to conduct business and return just to do paper work.

B. DAY CARE / PRESCHOOL RESIDENTIAL

These changes add an ordinance for Day Cares and Preschools via Ordinance ___-2011 are included herein

SECTION 1 PURPOSE AND INTENT:

It is the purpose and intent of this chapter 26B to allow persons residing in dwellings in residential and agricultural areas to establish home day care and home preschools, while at the same time maintaining the peace, quiet, and domestic tranquility within all residential or agricultural areas of the city and guaranteeing to all residents freedom from excessive noise,, traffic, nuisances, fire hazard, and other possible adverse effects of home day care and home preschool activities being conducted in such areas.

SECTION 2 USE:

- 1. A level one(1) and level two(2) Home Day Care/Preschool Occupations shall be allowed either as Permitted (only home Day care level one(1) or Preshool with 8 children or less) or Conditional Uses in various residential and agricultural districts of the city as listed in the Use Regulations of such various districts and in accordance with the regulations and restrictions of this Chapter.*
- 2. Only home day care and preschools may be approved as a permitted use in all residential and agricultural zones in the city if they have 8 or less children. All with more than 8 children are conditional use.*

SECTION 3 REQUIRED CONDITIONS:

Any day care/Preschool operation conducted on property where the primary use is a residence shall be appropriately licensed by the State of Utah see [R430-90 Rule](#) and West Haven City and shall comply with the following standards:

- 1. The day care operation shall comply with all provisions of a home occupation except that a day care shall be exempt from the limitation on the use of space in and outside the home.*
- 2. A level one (single provider) home day care shall be limited to not more than eight (8) children including the provider's own children under the age of six (6). No more than two (2) of the children may be under the age of two (2). The single provider in the level one home day care must be a resident of the home.*
- 3. A level two (two provider) home day care shall be limited to not more than sixteen(16) children including the provider's own children under the age of six (6). No more than three (3) of the children may be under the age of two (2). Both providers shall be meet state requirements. One of the providers must be a resident of the home. Only one person can be hired who is not a resident of the home.*

4. *There shall be a minimum of thirty-five (35) square feet of interior space provided for each person within the area being used for home day care. Such space shall be exclusive of any storage, restroom, or hall spaces. A floor plan indicating what area of the home will be utilized for day care shall be submitted with each application. The floor plan shall be reviewed and approved by the City staff prior to operation of the home day care.*
5. *There shall be a minimum of one hundred (100) square feet of yard space provided for each child kept within the day care. Said space shall be secured by fencing or other acceptable means. Any area or use within the yard area determined to be a hazard to children shall be secured from access and shall not be counted in the open space for the home day care. A site plan of the yard space being used for home day care shall be reviewed and approved by the City staff.*
6. *The area(s) used for the home day care shall have two separate means of egress arranged so that if one is blocked, the other will be available.*
7. *Exit doors other than the main exit may be may be thirty-two (32) inches wide. Main exits shall be thirty-six (36) inches wide*
8. *When the area being used for home day care is located in the basement or on the second floor, one of the exits must discharge directly to the outside.*
9. *No home day care shall be operated above the second floor of a residential structure.*
10. *Rooms used for sleeping shall have at least one window and door approved for emergency escape.*
11. *Closet door latches shall be such that children can open the door from the inside of the closet.*
12. *Bathroom door locks shall be readily openable by the provider(s) from the outside.*
13. *Smoke detectors and carbon monoxide detectors shall be installed according to the latest edition of the adopted building code.*
14. *Electrical outlets shall be protected or capped with safety devices.*

15. Toxic, hazardous, flammable materials, medicines, firearms or other potentially hazardous materials shall be locked in a protected area.
16. Fireplaces, wood burning stoves, or open face heaters shall be inaccessible to children when in use. Portable space heaters are not permitted when children are on the premises.
17. Each home day care shall have a written emergency and/or disaster plan which covers natural disasters, power failures etc., which may pose a health hazard to the children. Evidence that an emergency drill has been conducted at least on a quarterly basis shall be provided to the Weber County Fire Department at the time of the yearly inspection.
18. The area devoted to day care shall be provided with at least one fire extinguisher.

SECTION 4 OTHER

Day Care Centers for larger operations cannot be operated in a residence and cannot occupy homes that are in existing subdivisions. They must follow state rule R430-90.

SECTION 5 FEES

The fee below was adopted via Ordinance __-_____, along with all business license fees, effective ~~February 1, 2006~~ and is current to date.

| <u>CATEGORY</u> | <u>FEE</u> |
|--|------------|
| 1. <u>Home Day Care/Preschool Level 1 (Eight (8) children and fewer)</u> | \$50.00 |
| 2. <u>Home Day Care/Preschool Level 2 (Nine (9) – Sixteen (16) children)</u> | \$100.00 |
| 2. <u>Day Care Centers/Preschools Nonresidential</u> | \$200.00 |