

BEAR RIVER CITY
BUSINESS LICENSE ORDINANCE

Section 1: GENERAL PROVISIONS

LICENSE REQUIRED: It is unlawful for any person, including any entity of any type to engage in, carry on, or operate any business, trade, profession, calling or enterprise, including operating a vending, or coin-operated machine within the corporate limits of Bear River City without first obtaining a license to do so. It is unlawful to continue operating a business without maintaining a valid business license and it is unlawful to continue in business once a license for such business has been suspended, revoked, or denied.

CODE COMPLIANCE: There shall be complete compliance with fire, building, electrical and health codes and all state and City laws and ordinances.

1.1. DEFINITIONS:

(1) Appeals Officer means the City Council or designee of the City responsible for receiving the information from the City and Appellant regarding the denial or suspension of a Business License or Certificate and issuing a decision as required by this ordinance.

(2) Business means a commercial enterprise conducted by a person or entity, having a fixed or temporary physical location within the City and/or any marketing activity conducted for the sale of goods or services for a profit.

(3) Charitable Organization includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

(a) that is:

(i) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

(ii) for the benefit of a public safety, law enforcement, or firefighter fraternal association; or

(iii) established for any charitable purpose; and

(b) That is tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.

(c) Charitable Organization includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a Charitable Organization that has its principal place of business outside the City or State of Utah.

(4) Moral Turpitude is a legal concept that refers to "conduct that is considered contrary to community standards of justice, honesty or good morals".

This ordinance regulates all types of business activities carried on in the incorporated areas of Bear River City and provides for the issuance of business licenses, charging of license fees, bonding for some businesses to ensure adequate protection to the City and its residents, may require on-site inspections of the premises, posting of business licenses, and penalties for violation of any part of this ordinance. The provisions hereof are adopted as the minimum City requirements for all business licenses. This ordinance in no way takes from, adds to, or amends any Bear River City Ordinance regulating possession or sale of beer or any other alcoholic beverage, or any other ordinance specifically regulating, controlling, or prohibiting any other particular activity.

1.2 ADMINISTERED BY CITY CLERK OR DESIGNEE: This ordinance and the provisions hereof shall be administered by the City Clerk or their designee. The licensing clerk or their designee may investigate or may call upon other departments of the City, or qualified professionals, for the purpose of determining whether or not any applicant, application, or renewal application for a business license has, in fact, qualified for the issuance thereof.

1.3 INSPECTIONS: Before a business license is issued or renewed the City Clerk and/or their designee may perform inspections or examine places of business or persons, when required, to determine business license compliance. The inspector(s) shall enter free of charge, during business hours. If there are no regular business hours, the inspection shall be scheduled with the owner during a reasonable time. The applicant shall have 30 days in which to comply with any code violations and remedy any defects or infractions after receiving written notice from the department. The City reserves the right to perform or require follow-up inspections to ensure code compliance and may request to see the current business license. If the person then and there shall fail to exhibit such license, such person or persons, or the Business, shall be liable for penalties provided for in this ordinance.

Applications which constitute a change of use for an existing building, shall have an inspection by a qualified building inspector of the City's choosing and the Fire Marshall to make sure the building meets code compliance for the proposed business plan. The inspection should address plumbing and sewer service needs. The cost of the inspection shall be paid by the applicant.

Businesses and Home Businesses which have customer or client visits shall perform a Fire Self-Inspection during the application or renewal process. A completed and signed Self-Inspection Worksheet shall be submitted with the application or renewal application.

Licensed Day Cares, certain Educational Institutions and any businesses that have assemblage of 50 or more persons in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education shall have a yearly inspection conducted by the County Fire Marshall before a business license can be approved or renewed. (R 430-90-4 & UT Code 53-7-204 (1)(C))

1.4 MULTIPLE BUSINESSES AT ONE LOCATION: Whenever more than one business, trade, profession, calling or occupation is being carried on by one licensee under one roof, such licensee shall pay only the applicable license fees of the business trade profession, calling or occupation from which the greatest percent of their gross revenue and/or income is derived.

When two or more persons conduct separate businesses at the same location each such person shall obtain a separate license for such business and pay the required license fee for such business.

1.5 PARKING/TRAFFIC: All businesses shall provide off-street parking for employees and customers vehicles. Parking for the business may not hinder or impede vehicular traffic.

1.6 APPLICATION

Application for a business license shall be made to the City Clerk. An Applicant is any person applying for a business license. If the person is an entity, then each partner, member, officer or director is considered an applicant and must qualify accordingly.

- (1) Applicants shall present to the City Clerk the following:
 - (a) The name under which the business is to be conducted;
 - (b) The name, address, telephone number of the applicant;
 - i. If a corporation is the applicant, the names and addresses of the corporation's President and Secretary must be supplied;
 - ii. If the applicant is a partnership, the names and addresses of all partners must be supplied;
 - (c) Physical address where the business will be conducted;
 - (d) The nature of the business ,with a description of activities to be conducted;
 - (e) The estimated number of full and/or part time persons to be employed;
 - (f) State Sales Tax Number
 - (g) Bear River Health Department Food Service Permit, when applicable or requested.
 - (h) Reasonably requested information required for the City to make the determinations required under this Ordinance.

1.7 BUSINESS LICENSE TO CONVICTED FELONS.

(1) Legislative Purpose. The City Council hereby declares that it possesses a duty to protect the health, safety, and general welfare of the residents of Bear River City. It also declares that it holds a duty to encourage, protect, and foster an individual's right to free enterprise and business within the municipal boundaries of Bear River City. The City Council further finds that these two duties conflict when balancing the need to protect its residents and allowing persons convicted of crimes involving dishonesty or convicted of crimes involving abuse, injury or harm to a person to own or operate a business within Bear River City. Criminal conviction shall mean the final entry of conviction, whether by plea of no contest, guilty, or entry of a judicial or jury finding of guilt which has not been set aside on appeal or pursuant to a writ of habeas corpus. A criminal conviction means the offense of which the person was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

(2) The City Council acknowledges that a person convicted of a crime injuring or harming another has the right, after satisfying the convictions or judgments against him or her, to conduct his or her life with the understanding and belief that his or her debt has been paid. However, the health, safety and general welfare of the residents of Bear River City demand a balance between a person's right to do business when convicted of crimes involving dishonesty or crimes involving abuse, injury or harm to a person and the safety of Bear River City residents.

(3) Therefore, it shall be unlawful for a person convicted of a felony less than ten years prior to the date of application for a business license to obtain a business license in Bear River City.

1.8 LICENSE FEES

(1) All license fees for existing businesses shall be paid on or before the 31st of January of each calendar year.

(2) Business license fees shall be set by resolution in the Bear River City Fee Schedule and may be amended from time to time by the City Council.

(3) If any license fee is not paid within 30 calendar days of said due date the license fee shall be double the original fee.

(4) New licenses issued during the last six months of a year shall pay a pro-rated fee.

1.9 DISPLAY OF BUSINESS LICENSE

(1) All businesses within the City shall keep the license received from the City in a conspicuous location in the business.

(2) If the business has no fixed place of business within the City, the licensee or agent of the licensee carrying on business must carry the license on his or her person while doing business within the City.

1.9 LICENSE TRANSFER

(1) Business licenses obtained under this ordinance may be transferred to a new business owner if the business is sold and the name, location, and purpose of the business remain unchanged.

(2) If a business is sold or if the same owner moves to a different location, notice must be given to the city within ten (10) days of such sale or move and a new application with applicable fees shall be required.

1.10 LICENSE CANCELLATION

The City Council may revoke any license granted under this ordinance if the licensee violates any provision of this ordinance or for such other cause as is justified under law.

1.11 NUISANCE

Any violation of this ordinance is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the City may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this ordinance. Such application for relief may include seeking a temporary restraining order, temporary injunction or permanent injunction.

1.12 PENALTIES FOR VIOLATION

Any person violating any of the provisions of this Ordinance shall be guilty of a Class B Misdemeanor and shall, upon conviction, be punished by a fine in a sum not to exceed one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

1.13 SEVERABILITY

The provisions of this ordinance are severable. If any provisions of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance, which can be given effect without the invalid provision, or application.

1.14 EXEMPTIONS

The provisions of this Ordinance shall not be deemed or construed to require the payment of a license fee by, or the issuance of a license to:

- (1) Any governmental entity, any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes from which profit is not derived, directly or indirectly by any individual, firm or profit corporation.
- (2) Any entertainment, concert, exhibition, or lecture on scientific, historical, literary, musical, religious or moral subject whenever the receipt from such is to be appropriated to any church, school or to any religious or benevolent purpose within the City.
- (3) Any entertainment, dance, concert, exhibition or lecture by any religious, charitable, fraternal, educational, military, state, county or municipal organization or association when the receipts from such are to be appropriated for purposes and objects for which such association or organization is formed and from which profit is not derived, either directly or indirectly, by any individual firm, or profit corporation.

- (4) Any wholesaler whose place of business is not located within the city and who holds a valid business license in another jurisdiction in the State of Utah are exempt from licensure.
- (5) Anyone who holds a valid state license, for so long as state law exempts them.
- (6) Any classes for music or art lessons conducted in the home or an accessory building to the home on a part time basis.
- (7) Any activities conducted by minor children under direction or supervision of an adult when such activity is conducted primarily as a past time or diversion for such minor children, or when such activity is conducted primarily as a means of providing service to others within the neighborhood. By way of illustration, such activities may include, but are not limited to, lemonade or soft drink sales, candy sales, newspaper delivery, lawn mowing and maintenance, snow shoveling, car washing or similar activities.
- (8) Temporary seasonal businesses engaged in the retail sale of agricultural products through roadside stands or directly from fields, orchards, or gardens, not to exceed ninety (90) days in any calendar year.
- (9) Agricultural businesses consisting of farming upon premises leased or owned by the business.

The Mayor or designee is responsible to determine those activities that are exempt from licensing under this section.