

TOWN OF BLUFF ORDINANCE NO. 2021- 206 - 7

**AN ORDINANCE AMENDING BUSINESS LICENSE REGULATIONS**

The following describes the intent and purpose of this ordinance:

- a. The Town possesses the authority to regulate business activity pursuant to U.C.A. § 10-1-203 and other applicable law.
- b. Ordinance No. 2019-15-10 providing for business licensing was enacted by the Town in 2019. It is necessary and appropriate that the Town update its ordinances to address recent changes in state law and to provide for transparency and efficiency for the business community.
- c. It is the intent of the Town that all persons doing business within the Town do so in a manner that it is lawful and protective of the public health and welfare.
- d. It is the intent of the Town that all persons doing business within the Town adhere to applicable zoning, building, and health codes, and that businesses remit all applicable taxes to taxing authorities.

Therefore, the Town adopts Chapter 6.65 of the Bluff Municipal Code as follows:

**Chapter 6.65 Business Licensing**

**6.65.10 DEFINITIONS.**

A. The following definitions apply to this Chapter:

1. Business. The term Business means any enterprise carried out by a person for the purpose of economic gain or profit, except that the act of an employee providing services for an employer shall not be within this definition.
2. Home Based Business. The term Home Based Business means a business carried entirely within the principle dwelling or outbuildings of the person who owns or leases real property. A home-based business shall not: i) utilize employees who do not reside in the dwelling where the business is located; and ii) utilize more than one (1) real property parcel.
3. Premises. The term Premises means the location where a business licensed under this Chapter is carried out. The premises for a business shall be deemed to include the entirety of a real property parcel on which the business is situated.
4. Food Truck. The term Food Truck means a fully enclosed food-service establishment on a motor vehicle, or a trailer pulled by a motor vehicle, from which a vendor sells food or beverages for immediate consumption by the public.

#### 6.65.20 BUSINESS LICENSE REQUIRED; EXEMPTIONS.

- A. Any person wishing to conduct business within the Town, on either a temporary or permanent basis, shall first apply for and obtain a business license, paying in advance the full amount of the license fee. It is unlawful to conduct business within the Town without first obtaining a business license.
- B. Persons wishing to conduct a home-based business within the Town shall comply with subsection A, above, but shall not be subject to a business license fee.
- C. The following are exempt from licensure under this Chapter: i) Short-Term Rentals licensed under Chapter 6.70; ii) seasonal stands selling fresh farm produce; iii) occasional businesses operated by persons under eighteen (18) years of age, *e.g.* children's food or drink stands; and iv) occasional or informal sales that are not a part of a person's regular trade, business, or profession, *e.g.* garage sales, that are conducted no more than five (5) days in any calendar year.

#### 6.65.20 APPLICATION, SUBMITTALS, AND APPROVAL.

- A. Persons wishing to obtain a business license shall submit an application to the Town containing the following:
1. The name and address of the applicant, telephone number, email address, trade name, and type of business entity of the applicant;
  2. The business address;
  3. A description of the type of business;
  4. The Utah State Tax Commission's sales tax license number of the applicant (if applicable) within thirty (30) days of application; and
  5. Any other information deemed necessary by the licensing official to process the application, including, but without limitation, information concerning municipal code compliance, zoning compliance for the business address, parking compliance, hours of operation, health code compliance, building code compliance, fire code compliance, business name as registered with the Utah State Tax Commission, access requirements, and any other state, federal, or Town licensure requirements.
- B. A business license application shall be executed by the applicant or its authorized agent, who shall certify that all statements contained in the application are true and correct to the best of the applicant's knowledge, information, and belief.
- C. An application is complete when the application form and all supplemental information required by the Town are provided by the applicant, the document is signed, and the applicable



business license fee is paid to the Town. If the licensing official determines that an application is incomplete the licensing official will promptly notify the applicant in writing of the material(s) that must be submitted.

D. An application shall be approved or denied within ten (10) business days of submittal of a complete application. Where an application does not meet all approval criteria, but the applicant can demonstrate the ability to comply within a reasonable period of time, the licensing official may conditionally approve the license subject to compliance with specified conditions within a specified time period.

E. Applicants who request cancellation of a license application prior to issuance shall be refunded fifty percent (50%) of the license fee. No refunds shall be granted after the license has been approved.

F. In addition to the materials specified above, where an applicant for a business license intends to operate a Food Truck, it shall submit a current health department food truck permit from the San Juan County Health Department or an equivalent permit from another health department in the State of Utah.

#### 6.65.30        **GROUND FOR LICENSE DENIAL.**

A. An application under this Chapter may be denied if the licensing official determines that one or more of the following apply:

1. False, inaccurate, or misleading statements are made in the application or in supporting documents;
2. There are uncured ordinance violations at the premises that are the subject of the application, including but not limited to, violations of zoning, building, health code, or fire code provisions;
3. Any federal, state, or local permits or licenses necessary for the lawful operation of the business have expired, been revoked, or denied; *e.g.* sales tax licenses;
4. The applicant failed to pay any applicable Town fees, fines, or charges owing with respect to the subject business premises; or
5. The use proposed for the business premises would be a violation of zoning provisions.

B. If a license is denied the licensing official shall notify the applicant in writing of the action and the reasons for the denial. The applicant shall be entitled to a refund of the license fee within five (5) days of request to the licensing official.

#### 6.65.40        **GENERAL PERFORMANCE STANDARDS.**

A. An applicant who wishes to operate more than one business from a single premises may operate under a single business license, provided that all businesses are properly disclosed in the application and reviewed by the licensing official. An applicant who operates the same business, including a Food Truck, from more than one premises may operate under a single license, provided that all business locations are properly disclosed in the application and reviewed by the licensing official.

B. Business license applications shall be reviewed by the licensing official for conformity with applicable zoning requirements.

C. The owner of every business licensed under this Chapter shall pay when due all applicable taxes, including state/county sales tax, transient room taxes, and resort communities tax.

D. Business licenses shall be displayed prominently at all licensed premises.

E. All businesses licensed under this Chapter shall operate subject to, and in compliance with, applicable federal, state, and local laws, building codes, fire codes, wastewater permits, and food service permits. All businesses licensed under this Chapter shall at all times have a valid certificate of occupancy for all business premises issued by the San Juan County building official.

F. If the applicant is not the owner of the location where the business is to be located the applicant shall submit a written consent form executed by the record property owner.

G. Licenses issued under this Chapter shall continue indefinitely, provided that the holder of the license complies with all applicable terms and pays all fees when due.

#### 6.65.50 **LICENSE FEES.**

A. Business license fees are due and payable at the time of application and, thereafter, no later than March 1 of each calendar year, or the next business day thereafter. Business license fees are calculated at the rate of twenty five dollars (\$25.00) multiplied by the total number of business premises, except that a Food Truck businesses shall pay a single business license fee per vehicle, regardless of the number of business premises or locations used. Failure to pay annual license fees is grounds for revocation.

B. Business license fees not paid within (30) days of the due date are subject to a late fee of ten percent (10%) of the amount due.

#### 6.65.60 **ASSIGNMENT OR TRANSFER PROHIBITED; APPLICATION FOLLOWING SALE.**

A. Licenses issued under this Chapter shall not be assigned or transferred to any person or entity not named in the license. Persons who are not named as the licensee shall not conduct



business at the licensed premises, nor shall a license issued under this Chapter authorize doing business at any other premises not identified in the license.

B. Upon the sale, conveyance, or transfer of a business or substantially all of the licensee's interest in the business, the new owner or transferee shall, within thirty (30) days of the completion of the sale or transfer, apply for a new business license.

#### 6.65.70 GOUNDS FOR REVOCATION.

A. The following shall be grounds for business license revocation:

1. False, inaccurate, or misleading statements made by the applicant in the application for a business license or in any supporting documentation;

2. Ordinance violations, including, but without limitation, zoning, sign, building, health, or fire code provisions by the licensee or the property owner of the business location which are not corrected within the allotted time period under Section 6.65.80, following issuance of notice of violation to the licensee;

3. The expiration, revocation, or denial of any federal, state, or local licenses or permits necessary for the legal operation of the business;

4. Failure by the licensee to pay any Town charges, fees, fines, or assessments that are owing;

5. Failure by the licensee to obtain or maintain a sales tax license, failure to collect or remit sales tax, or violations of the sales tax law, if applicable;

6. The use of the licensed premises for any unlawful purpose or enterprise or the maintenance of a public nuisance, as defined by Utah law; or

7. Any uncured violation of the Utah Alcoholic Beverage Control Act.

#### 6.65.80 REVOCATION PROCEDURE.

A. Prior to revocation, the licensing official shall issue a written notice of violation describing the nature of the violation(s) and allowing the licensee a period of not less than (30) days in which to correct or abate same. The abatement period may be extended by the licensing official upon a showing of good cause. The notice shall also inform the licensee that the license will be revoked not less than thirty (30) days from the date of notice if the violation is not corrected within that period.

B. The notice of violation shall be personally served, delivered by certified or first-class U.S. mail, or courier addressed to the last known address of the licensee.

C. The licensee may request a hearing contesting the reasons for revocation by delivering a written request to the licensing official any time prior to the effective date of the license revocation, as stated in the notice of violation. Failure to timely request a hearing shall be a

waiver of the right to a hearing. A timely request for a hearing shall result in the revocation being stayed until completion of the hearing.

D. Cure by the licensee of all violations identified in the notice of violation within the cure period shall result in the license continuing in full force and effect.

E. Hearings shall be conducted informally and shall be presided over by a hearing officer designated by the Town of Bluff. The licensee and the licensing official shall each be permitted to offer any evidence or testimony in support of their respective positions.

F. The decision of the hearing officer shall be issued in writing and delivered to the licensing official and the licensee. In the decision the hearing officer may sustain the revocation of the license, overturn the revocation of the license, or re-issue the license subject to those conditions as may be appropriate based on the evidence and the administrative record.

**6.65.90 JUDICIAL REVIEW.**


A. Persons adversely affected by a final licensing decision under this Chapter may appeal the decision of the Town by commencing a judicial action in the district court in and for San Juan County in the manner otherwise provided by law. An appeal under this section shall be filed no later than thirty (30) days from the date of the final action or decision of the Town. The appeal shall be based on review of the administrative record before the Town, which shall promptly assemble and transmit same to the court following filing of the action.

B. The appealing party shall have the burden of proof before the court. The court shall: i) presume that the decision issued under this Chapter is valid; ii) determine only whether or not the decision is arbitrary, capricious, or illegal.

**6.65.100 ENFORCEMENT.**

A. Violations of this Chapter may be punishable or enforced in the manner provided by Utah law for enforcement of municipal ordinance violations, and/or by civil action to enjoin or abate the violations. Proof of violation of this Chapter shall be sufficient to obtain an injunction, which shall be issued without the posting of bond by the moving party. In the event the Town commences civil enforcement it may recover against the violator the Town's reasonable attorney fees and court costs, together with any other form or type of relief.

THIS ORDINANCE was approved by the affirmative vote of a majority of the Town Council of the Town of Bluff this 20<sup>th</sup> day of July, 2021. This ordinance shall take effect immediately upon posting.

By:   
Mayor Ann K. Leppanen

July 20, 2021  
Date

Attest: \_\_\_\_\_

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By:

Linda Sosa  
Linda Sosa, Recorder

7-21-21  
Date