



Polly McLean, Attorney at Law

TO: Alta Town Council

From: Polly McLean

Date: 1/8/2020 (updated for 2.12.20 meeting)

Re: Discussion and direction related to Updates to Alta Town Code re Business Licensing

Below are some discussion points related to updating the Business Licensing Code:

1. Purpose of Business Licensing and Scope of Municipal regulation.
  - a. The scope of the municipal regulation is quite broad: 10-1-203 “the legislative body of a municipality may license for the purpose of regulation any business within the limits of the municipality, may regulate that business by ordinance, and may impose fees on businesses to recover the municipality's costs of regulation.”
  - b. Common purposes for Licensing are:
    - i. Ensure that the public is aware that business is registered with the state
    - ii. Allow public to know who runs the business and the corporate name if there are questions, or a lawsuit.
    - iii. Ensures that the business is registered with the state and has a tax id. (Staff complies with UCA 10-1-203 (9)The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application)
    - iv. Allows for safety and fire inspection of a business.
    - v. Town cannot license in order to generate revenue
2. Definitions: I’d recommend *combining “each separate place of business” and “place of business” definitions. Add point of sale to the definition of place of business. Add definition of “person”*
  - a. **Business:** (Alta definition close to State code 10-1-203. Definition of "Business")
    - i. Means and includes all activities engaged in within the Town carried on for the purpose of gain or economic profit, except:
      1. The acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically provided; and
      2. Activities engaged in within the Town carried on for the purpose of gain or economic profit that are operated only occasionally and by an individual who is under eighteen (18) years of age shall not be included in the term "business".
  - b. **Each separate place of business,**
    - i. Each separate establishment or place of operation, whether or not operating under the same name, within the Town, including a lodging facility, home, condominium unit, time period unit or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of

operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the Town.

- c. **Engaging in business,**
  - i. Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.
- d. **place of business,**
  - i. Each separate location maintained or operated by the licensee within the Town from which a business activity is conducted or transacted.
- e. **AMENDED PLACE OF BUSINESS LANGUAGE (DELETE EACH SEPARATE PLACE OF BUSINESS)**
  - i. ~~Each separate place of business~~ Each separate establishment, location, point of sale, or place of operation, whether or not operating under the same name, within the Town from which business activity is conducted or transacted, including but not limited to a lodging facility, home, condominium unit, time period unit or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the Town.
- ~~f. **place of business,**~~
  - ~~i. Each separate location maintained or operated by the licensee within the Town from which a business activity is conducted or transacted.~~
- g. Add definition of Person. Person shall be “any individual, a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.”

### 3. Joint License

- a. Current Code: Whenever any person is engaged in two (2) or more businesses at the same location within the town, such person shall not be required to obtain separate licenses for conducting each of such business, but shall be issued one license which shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license fee for such business.
- b. As a policy matter, do you want to only license the building and not the individual businesses inside? From a practical standpoint, it is no less work only licensing the building, and it adds a slight amount of confusion because each individual business isn't

posting their license, and staff still needs to ensure that each business is registered with the State for tax purposes.

- c. If you decide to keep this provision, I would recommend amending it to replace “location” with “building” and clarifying where it is a “place of business”
  - d. Whenever any person ~~is engaged in~~ has two (2) or more place of businesses in the same building at the same location within the town, such person shall not be required to obtain separate licenses for conducting each of such business, but shall be issued one license which shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license fee for such business.
4. Add requirement in application 3-1-5 (A) for information required – proof that name to be licensed is registered with the State or is an individual or partnership.
  5. Discuss requirements of 3-1-5 (B) re Peruvian Estates and confirm that existing requirements should be enforced.
  6. Discuss adding requirement that signage of the business reflect the registered name or DBA of the business.
  7. Make sure language in 3-1-9 “display of license” reflects other provisions correctly – is it required at each register or place of business?
  8. Add state code exemption re home based businesses? Could put in as an exception to Business. UCA 10-1-203 (7) *A municipality may not:*
    - (b) *charge any fee for a resident of the municipality to operate a home-based business, unless the combined offsite impact of the home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.*
    - (8) (a) *Notwithstanding Subsection (7)(b), a municipality may charge an administrative fee for a license to a home-based business owner who is otherwise exempt under Subsection (7)(b) but who requests a license from the municipality.*
      - (b) *A municipality shall notify the owner of each home-based business of the exemption described in Subsection (7)(b) in any communication with the owner.*