

TROPIC TOWN ORDINANCE NO. #92018-3
AN ORDINANCE OF LICENSING, CONTROL AND REGULATION OF BUSINESSES
TROPIC TOWN, GARFIELD COUNTY, STATE OF UTAH

In accordance with Utah Code Annotated §10-1-203(2), 1953, as amended, or its successor statute, the Town hereby prescribes that all businesses operating in the Town shall be licensed for the purpose of regulation and revenue and shall also be subject to any applicable regulations established by ordinance. Unless exempted by state, federal or local law, it shall be unlawful for any person to engage in any business or similar operation within the town, whether on a temporary or permanent basis, without first procuring the license required by this chapter. All licenses issued under the provisions of this title are non-transferable and expire as set forth in this title.

Definitions: In addition to the definition set forth in Utah Code Annotated §10-1-203, 1953, as amended, for the purposes of this title, the following additional definitions apply:

1. “Business” means and includes all activities engaged in within this municipality carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided.
2. “Town or Municipality” means the municipal boundaries constituting the town limits of Tropic Town, Utah.
3. “Engaging in business” includes, but is not limited to, the sale or 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 this employer under any contract of personal employment.
4. “Place of Business” means each separate location maintained or operated by the licensee within this municipality from which business activity is conducted or transacted.
5. “Each separate place business” shall mean each separate establishment or place of operation, whether or not operating under the same name, within the municipality, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as 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 municipality.
6. “Home Occupation” means any income-producing use conducted within the home and carried on by persons residing in the home, which use is clearly incidental and secondary to the use of the dwelling and does not change the residential character; low impact activity. The home occupation typically allows the home to be used for maintain a business telephone and receiving mail. In addition to the licensing provisions of this title for a home occupation, the application shall also comply with the applicable requirements of the land use ordinances.
7. “Residential Dwelling Unit” means any individual dwelling unit that is rented, loaned, leased, or hired out to be used or occupied as a home or residence. This definition is inclusive of any buildings or apartment buildings so arranged, designed, built, rented, loaned, let or hired out to be used or occupied as the home, residence, or dwelling unit of one or more families living independently of each other.

8. "Temporary License" means any license issued for a period of 45 calendar days or less.
9. "Occasional" means business conducted by persons under 18 years of age, i.e., lemonade stands, etc.
10. "Abandonment" means:
 - a. Majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use.
 - b. The use has been discontinued for a minimum of one year; or
 - c. The primary structure associated with the nonconforming use remains vacant for a period of one year.
11. "Employee" means the operator, owner or manager of a place of business and any persons employed by such person in the operation of said place of business in any capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.
12. The term "wholesaler" means a person doing a regularly organized wholesale or employment business and selling to retail merchants, dealers or other wholesalers, for the purpose of resale.
13. The term "wholesale" means a sale of tangible personal property by wholesalers to retail merchants, dealers, or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale except as other specified.
14. "Licensing Authority" means the town clerk or one designated to administer the title, issue a business license, or review and/or revoke the license of a business operating in the town.
15. "Regulating Authority" means any federal, state, local authority or professional organization that must first license an individual or business prior to receiving a business license. The regulating authority includes such entities as the Utah Division of Occupational and professional licensing, the local health department, the Utah State Bar, the fire Marshall or related designee, the local planning commission and land use authority and similar authorities.

Uniform Business License Regulations

Applicability ~ The following types of businesses are required to obtain a license before engaging in such business within the town:

1. Any business, trade, profession, calling, operated vending or coin-operated machine; with license fees to be based upon the classification or type of the business
2. Home businesses having an impact above and beyond residential use; i.e. parking, employees, etc.
3. A residential solicitor
4. Any temporary business

Applicability of other laws ~ The issuance of a business license to a business does not warrant that the business has conformed to all applicable laws, it is the continuing duty of the business owner to ensure that the business is operating within the law.

Businesses in the town shall comply with the other applicable laws and ordinances that govern the business, including:

1. The applicable federal, state, and local law
2. Applicable regulations enforced by any regulating authority
3. Land Use ordinance
4. Applicable building and fire codes

License period ~ All licenses will be issued on a calendar year basis and shall expire as of December 31st of the issuing year. Licenses, except for solicitors, temporary licenses and newly established businesses, shall be due and payable on or before January 1st of the current fiscal calendar year in which the license has been applied for; licenses shall become delinquent if not paid by February 1st of each year.

One-half of the annual fee shall be payable for all licenses issued by the town pursuant to application made after July 1st of each year has expire on the first day of the following January. Payment shall be due upon the date of application approval.

Business License Fees

Any business license fees imposed and levied shall be on an annual basis as specified of the Tropic Town Fee Schedule and shall be administered as follows:

1. License fees ~ Any and all licensing fees imposed by the governing body of Tropic Town are hereby adopted. The fee schedule may be amended or revised from time-to-time by ordinance or resolution, as required by law.
2. Payment of license fee ~ Any applicant must include the fee with any application upon filing of an application. The fee shall be in an amount equal to the fee designated on the fee schedule for the classification of the business as assigned if such licenses are divided into classes. No license shall be issued until all fees are paid. The applicant of a new business starting after January 1st shall be issued a business license for the unexpired portion of the calendar year and may request the license fees be prorated according to the remainder of the calendar year is such request for prorated fees is made as the time the filing of the application and license fee.
3. Penalty for Late Payment ~ If any license fee is not paid within 30 days of the due date, a penalty of \$10 shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid in full. After 30 days of the fee due date, the license or renewal fee shall be double the total specified fee for said license. The fee and late fee shall continue to accrue for each year the business operates without a license, except where such accrual is waived for good cause.

4. Refund policy: Unless otherwise provided herein, no business license fee is refundable for any reason whatsoever, once the license has been issued. If a license is denied or the application is withdrawn by applicant before approval, the applicant shall be entitled to a refund of the amount paid.

The payment of late fees does not relieve any person from fully complying with all other requirements of law.

Branch Establishments

A separate business license is required for each branch establishment or separate location of a business engaged within the town, as if such branch establishment or location were a separate business.

Each license authorizes the licensee to engage only in the business licensed at the location and in the manner designated in such license. Warehouses and distributing places used in connection to a business licensed under this part shall not be deemed to be separate places of business or branch establishments.

Separate Businesses On The Same Premises

Whenever any person is engaged in two or more businesses of different classification, at the same location, within the municipality, such person shall be required to obtain separate licenses for conducting each of such businesses.

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

The sale of beer/liquor or any other product or services requiring an additional license shall be subject to such additional licensing requirement.

Reciprocal Recognition of License

No license shall be required for operation of any vehicle or equipment in the municipality when:

1. Such vehicle is merely passing through the municipality
2. Such vehicle is used exclusively in inter-city or inter-state commerce.

Exception to the Business License Fees

No business license fee shall be imposed under this chapter upon the following persons or business:

1. No license fee shall be imposed to any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly non-profit purpose, which is tax exempt in such activities under the laws of the United States and the State of Utah, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah; nor shall any business license fee be imposed on any non-profit corporation duly incorporated according to the provision of the Utah Non-Profit Corporation and Cooperative Association Act.
2. Any business or person exempted by state law.

3. Any contractor holding a valid license issued or exempt in the local jurisdiction in which the licensee has its principal place of business, and regulated by the state in accordance with Part 3, Chapter 55, and Title 58 of the Utah Code Annotated.
4. Any alarm company holding a valid business license issued by the local jurisdiction in which the license has its principal place of business.
5. Any tow truck motor carrier holding a valid business license to perform tow truck service issued by the local jurisdiction in which the licensee has its principal place of business unless the tow truck business is also physically located within the town.
6. Any person selling surplus household goods or furnishings at a private residence in the garage or yard is such sales are held in accordance with the applicable requirements and frequency set in the municipal code.
7. Nor shall any business license fee be imposed upon any person not maintaining a place of business within this municipality who has paid a like or similar license tax or fee to some other taxing unit within the state of Utah and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in this municipality and doing business in such taxing unit.

Posting license required ~ It shall be the duty of any person conducting a licensed business in the town to display the business license issued by the town. Such license shall be posted in a prominent place on the premises used for such business at all times.

Unlawful uses of a License ~ No license granted or issued under any ordinance of this municipality shall be:

1. Assigned, sell or transferred to any other person, business, calling, trade or profession than is therein named.
2. To use the license beyond the scope for the business for which it was issued.

Business License Application

It shall be a class B misdemeanor for any person to transact, engage or carry on any business, trade, profession, etc. without first receiving the class or type of license required by the town. All applications for a business license shall be made in the form and manner provided by the Town and shall be filed with the town's licensing authority. The application shall include the following:

- a. Provide the name(s) of the person desiring a license, place where such business, trade, profession to be carried on in any building or enclosure having such number.
- b. The kind of license desired, stating the business, trade or profession to be performed, practiced or carried on.
- c. The class of license desired, if such licenses are divided into classes.
- d. Provide the state sales tax reporting number and federal tax identification number, as applicable.

- e. The period of time for which such license is desired to be issued.
- f. Any additional information required by the town on the application to assist in the regulation of a business or as may be needed for the purpose of issuing the license.
- g. In the event that the license application relates to a coin-operated machine or device, the application shall identify the machine or device to which it applies and the location thereof.

Applicant or designee is responsible to provide the town recorder, in writing, updated information relating to any change in the information in the application within ten-(10) days of the change.

Licensing Authority ~ The clerk is designated and appointed to collect fees for this municipality under the administration of the governing body of the town. On receipt of any application for a license, the clerk shall:

- a. Receive initial license application and fees filed with the town and forward to the mayor and council for action with fees being forwarded to the town treasurer.
- b. Each new application for a business license filed shall be submitted to the town planning commission for review; finding all in compliance with town code, application is forwarded to the mayor and town council for approval or denial.
- c. Classify the business and assess the amount due and shall collect all license fees based upon the rate established by ordinance. All provisions shall be enforce of this title and shall report complaints against all persons violating any of the provisions of this title.
- d. Request applicant to provide additional information when questions arise or to verify the accuracy of information offered in an application or relating to an existing business license.
- e. Bill and collect renewal fees and forward such to the town treasurer.
- f. Maintain municipal records and information regarding business licenses.
- g. Communicate matters involving business licenses and related concerns to the mayor & town council.
- h. Notify the applicant, licensee, or other interested party of the status or any action relating to an application or license.
- i. Issue business license certificates.

Certificate

Following license approval a certificate shall be prepared and signed by the mayor and attested by the recorder/clerk and shall contain the following information:

- a. Be issued under the seal of the town.
- b. Specify by name of the person, firm, or corporation to whom such certificate has been issued.

- c. The type of license and class of such license if licenses are divided into classes.
- d. The term of the license with the commencing date and the date of expiration.
- e. Designate where such business, calling, trade or profession is to be conducted.

Signed licenses shall be mailed to the address indicated on the application within a reasonable time after approval.

Inspection and Enforcement

The governing body may designate one or more inspections to administer the provisions of the municipal code for any proposed or existing businesses within the jurisdiction of the municipality. Any person designated as inspection and enforcement authority shall be responsible to:

1. Conduct code inspections – Inspections may be conducted by the inspection authority as follows:
 - a. Prior to the issuance of a new business license at a given location, or a business with a change to its application, the applicant shall permit inspection of the business premise by any regulating authority and by the inspection and enforcement authority to ensure compliance with the law and the municipal code.
 - b. Ongoing inspection of any business or business premises may be conducted by any regulating authority or by the inspection and enforcement authority any time during the business hours, or as otherwise arranged, to ensure ongoing compliance with the municipal code and other applicable law.
2. Conduct investigations – Investigations may be conducted relating to any proposed business to verify the accuracy of the information relating to its application, or responding to issues and complaint relating to any existing business operation.
3. Violations and remedies – The governing body may:
 - a. Issue a notice of violation to the business in the town for a violation of law.
 - b. Issue a certificate of non-compliance and require a corrective action plan for any business in the town for violation of the law.
 - c. Issue a citation to the business or any person at the business who has allegedly violated the law.
 - d. Suspend or Deny license or the renewal of a license.

Denial, Revocation or Suspension

Any license issued pursuant to the provisions of this code or of any ordinance of this municipality may be revoked, suspend, or deny any application by the governing body because of:

- a. The failure of the licensee or applicant to comply with the conditions and requirements of this code or any ordinances of the municipality.
- b. Unlawful activities conducted or permitted on the premises where the business is conducted.
- c. Obtain a license by fraud or deceit
- d. Otherwise provided false or incomplete information on its license application to mislead any town official, licensing authority, etc.
- e. Failure to pay any duly imposed property tax, sales and transient tax, or any fees imposed by the town.
- f. Has violated federal, state, or local law governing operation of the business for which the applicant is applying for the license.

Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the governing body intends to revoke the business license or deny the application to renew, together with the reason or reasons therefore, at a regular or special meeting of the governing body (which shall be at least ten days and not more than 30 days from the date of notice is sent) and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross-examine witnesses and to present evidence as to why the license should not be revoked or the application denied.

The preceding shall not apply to applications for licenses for businesses which have not previously been licensed by the municipality, and such applications need only be informed that their application has been denied.

Notice of Action

The licensing authority shall notify the applicant in writing by regular mail, certified mail, or personal service, of:

- a. The issuance of the license. Notification is fulfilled by mailing the license certificate to the address indicated upon the business license application of the business.
- b. The denial, suspension, or revocation of a license and the reason for such action.

Appeal Authority - The Town Council shall serve as the appeal authority, and shall hear and decide any matter involving the denial, revocation, suspension, disputed classification or other unresolved issue relating to a business license; unless the town council designates a hearing officer(s) as the appeal authority. An appeal relating to the classification, denial, suspension, or revocation of a business license shall be:

1. A written notice of appeal filed with the town clerk/recorder within 10 days of the notice of a classification, denial, suspension, or revocation.
2. The appeal authority shall hear the appeal within a reasonable time after the filing of the notice of appeal. There is no additional cost of an appeal.

3. The appeal authority may establish rules and regulations for its governance consistent with the title.

If no rules and regulation are established, the appeal authority shall follow the same rules and regulation applicable to a land use appeal authority as such appropriately apply, as set forth in the municipal code.

4. No lawsuit may be filed by any business or applicant for any denial, suspension, or revocation of a business license until the administrative appeal remedies of this section are exhausted.

Penalties

Penalties are cumulative, not exclusive. Any criminal penalties are charged under this title may be imposed upon the business owner, operator, manager, and/or employees as the case may be. In addition to the other penalties provided by law for a violation of this title, the following penalties apply:

- 1. Civil penalties ~ For engaging in any business activity in violation of this title there is imposed a warning for first offenses, \$100 fine for second offense, \$500 fine for third offenses, and \$1,000 for each subsequent offense in a given licensing year.
- 2. Criminal penalties ~ Any business activity that violates this title shall be a class B misdemeanor, and each day a violation continues constitutes a separate offense.

Approved and adopted this 20th day of September 2018

By: /s/ WaLon K Brinkerhoff
Mayor

Attest: /s/ Marie H Niemann
Marie H Niemann, Town Clerk

Voting : In Favor: Dennis Pollock
 Brook Wiseman
 Lisa Johnson
 Kelly Shakespear

Abstained: Mayor Brinkerhoff

SEAL:



Draft: 7/2018
Revised: 9/2018
Adopted: 9/20/2018

+Tropic Town Business Classification, Application and Fee Schedule

Businesses located in Tropic Town are grouped by Classification ~ Fees according to Grade.

(*) State’s criteria of “Home Occupation” are exempt from a business licensing fee; but are still required to hold a valid Town License and pay taxes.

Classification: Home Occupation, Lodging/Accommodations, Restaurants/Concessionaires, Temporary Special Events and General Misc.

Grades: Small (S) * \$50 Medium (M) * \$100 Large (L) * \$150

<i>License Applications and Fees *</i>			
Classification	Fee	Grade * S, M, L	Notes
<i>Home Occupation</i>			
(*)SB 81	\$0	S	
Neighborhood Impact	\$50	S	
Product Produced/Sold	\$100	M	
<i>Lodging Accommodations</i>			
Small * 0-5 Rooms	\$50	S	
Medium* 6 – 15 Rooms	\$100	M	
Large* 16 + Rooms	\$150	L	
<i>Restaurants/Concessionaires</i>			
Food Trucks/Drink Stands	\$50	S	
Markets/Restaurants	\$150	L	
Gas/Goodie	\$150	L	
<i>General Misc.</i>			
Recreational	\$50	S	
Misc. Stores/Shopping	\$100	M	
Professional Services, Banking, etc.	\$150	L	
<i>Temporary & Special Events</i>			
One Day	\$50	S	
Weekend	\$100	M	
More than 3 days	\$150	L	
<i>Liquor License</i>			
Class A	\$60 * \$120 * \$240		
Class B	\$240/\$150		
Private Club	\$550/\$400		