AN ORDINANCE AMENDING SECTIONS OF LOGAN MUNICIPAL CODE REGARDING BUSINESS LICENSES AND HOME OCCUPATIONS

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City of Logan to pass ordinances as are necessary and proper to provide for the safety, promote the prosperity, improve the peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city; and

WHEREAS, pursuant to Utah Code § 10-1-203, a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance; and

WHEREAS, the City Council has determined that the following ordinance is in the City’s best interest;

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1:

Chapter 5.02
BUSINESS LICENSE GENERAL PROVISIONS

5.02.030: EXEMPTIONS:

A business license shall not be required for a business that is operated only occasionally and by an individual who is under 18 years of age. The Administrator will evaluate the size, frequency, duration, visibility, and seasonality of the proposed business to determine whether the proposed business is considered occasional.

SECTION 2:

Chapter 5.16
HOME OCCUPATIONS

5.16.040: LICENSE FEES:

A license fee will not be charged for a home occupation 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. License fees for licenses issued pursuant to this chapter shall be the same as set forth in section 5.02.190 of this title.  
(Prior Code 7-4-4)
SECTION 3: Effective Date. This ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS 60 DAY OF June

______, 2017 BY THE FOLLOWING VOTE:

AYES: Needham, Simmonds, Deines, Johnson, Olson

NAYS: None

ABSENT: None

ATTEST:

Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this 60 day of June ________, 2017.

Holly Daines, Chair

MAYOR’S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this 60 day of June ________, 2017.

H. Craig Petersen, Mayor
DATE: May 11, 2017

TO: Logan Municipal Council

FROM: Mike DeSimone, Director

RE: Ordinance 17-06 (Amendment to Logan Municipal Code)
Home Occupations

Attached is a proposed ordinance amending LMC Chapters 5.02 and 5.16, both of which deal with home occupations. The State Legislature adopted new rules regarding how local municipalities may regulate home occupations (S.B. 81). We will use the proposed criteria in 5.02.030 to determine whether a proposed home occupation type of activity will warrant licensing or not.

If you have any questions regarding this matter, please let me know at (435) 716-9022 or mike.desimone@loganutah.org.

Attachments:
Ordinance 17-06
SB 81
LOCAL GOVERNMENT LICENSING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Marc K. Roberts

LONG TITLE

General Description:
This bill modifies provisions related to a municipality's or a county's authority to license a business.

Highlighted Provisions:
This bill:
• amends provisions authorizing a municipality or a county to license a business;
• prohibits a municipality or a county from requiring a license or charging a fee for certain home based businesses; and
• makes technical and conforming changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:
AMENDS:
10-1-203, as last amended by Laws of Utah 2016, Chapter 350
17-53-216, as last amended by Laws of Utah 2008, Chapter 250

Be it enacted by the Legislature of the state of Utah:
Section 1. Section 10-1-203 is amended to read:
10-1-203. License fees and taxes — Application information to be transmitted to the county assessor.
(1) As used in this section:
   (a) "Business" means any enterprise carried on for the purpose of gain or economic
       profit, except that the acts of employees rendering services to employers are not included in
       this definition.
   (b) "Telecommunications provider" means the same as that term is defined in Section
       10-1-402.
   (c) "Telecommunications tax or fee" means the same as that term is defined in Section
       10-1-402.

(2) Except as provided in Subsections (3) through (5) and (7)(a), and subject to
    Subsection (7)(b), the legislative body of a municipality may license for the purpose of
    regulation an 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.

(3) (a) The legislative body of a municipality may raise revenue by levying and
    collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales
    and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an
    energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal
    (b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined
        in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.
        (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
            1997, or a future franchise shall remain in full force and effect.
    (c) A municipality that collects a contractual franchise fee pursuant to a franchise
        agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
        1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).
    (d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as
        defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain
        a provision that:
(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) [is] not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications License Tax Act.

(5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:

(A) a parking service business in an amount that is less than or equal to:

(I) $1 per vehicle that parks at the parking service business; or

(II) 2% of the gross receipts of the parking service business;

(B) a public assembly or other related facility in an amount that is less than or equal to $5 per ticket purchased from the public assembly or other related facility; and

(C) subject to the limitations of Subsections (5)(c) and (d):

(I) a business that causes disproportionate costs of municipal services; or

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.
(ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community reinvestment agency without the written consent of the other political subdivision.

(b) As used in this Subsection (5):

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

(ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

(iii) "Public assembly or other related facility" means an assembly facility that:

(A) is wholly or partially funded by public money;

(B) is operated by a business; and

(C) requires a person attending an event at the assembly facility to purchase a ticket.

(c) (i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
(A) the costs that constitute disproportionate costs; and
(B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(l) shall be reasonably related to the costs of the municipal services provided by the municipality.

(d) (i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

(A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and

(B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) A municipality may not:

(a) require a license or permit for a business that is operated:
    (i) only occasionally; and
    (ii) by an individual who is under 18 years of age; or

(b) charge a license fee for 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.

[ffl] {fil 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.
(2) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

Section 2. Section 17-53-216 is amended to read:

17-53-216. Business license fees and taxes — Application information to be transmitted to the county assessor.

(1) [For the purpose of this section, "business"] As used in this section, "business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(2) [The] Except as provided in Subsection (4)(a), and subject to Subsection (4)(b), the legislative body of a county may by ordinance provide for the licensing of businesses within the unincorporated areas of the county for the purpose of regulation [and revenue], and may impose fees on businesses to recover the county's costs of regulation.

(3) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(4) A county may not:

(a) require a license or permit for a business that is operated:

(i) only occasionally; and

(ii) by an individual who is under 18 years of age; or

(b) charge a license fee for 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.

(5) The county business licensing agency shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(6) This section may not be construed to enhance, diminish, or otherwise alter the taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter 144.
STATE OF UTAH
COUNTY OF CACHE, ss

On this 27th day of June, A.D. 2017 personally appeared before me MONICA CHRISTENSEN who being first being duly sworn, deposes and says that she is the Principal Legal Clerk of the Cache Valley Publishing Co., publishers of The Herald Journal a daily newspaper published in Logan City, Cache County Utah, and that the Legal Notice, a copy of which is hereto attached was published in said newspaper for 1 issue(s) and that said notice also published on utahlegals.com on the same day(s) as publication in said newspaper.

Commencing on the following days:
06/11/2017

__________________________
, Principal Legal Clerk

Subscribed and sworn to before me on this 27th day of June, A.D. 2017

__________________________
, Notary Public

My Commission expires 10/18/2019

LOGAN MUNICIPAL COUNCIL

SUMMARY OF AN ORDINANCE-The following ordinances were adopted and approved by the Logan Municipal Council, Logan, Utah on June 6, 2017.

ORD. 17-06 An ordinance amending Chapters 5.02 and 5.16 of the Logan Municipal Code regarding Business Licenses and Home Occupations.

ORD. 17-07 An ordinance approving the readoption of an ordinance adjusting the boundary between the City of Logan and the City of River Heights.

These ordinances are effective immediately upon publication. Full texts of the ordinances can be reviewed at the office of the Logan City Recorder, City Hall, 290 North 100 West, Logan, Utah during regular business hours.

Teresa Harris, City Recorder
Publication Date: June 11, 2017