

Trade & Business Licensing Board Application Guidelines

ISSUE TWO

Applications for Trade & Business Licences by Caymanians or local companies not requiring a Local Companies Control Licence (Section 16 (1) of the Trade & Business Licensing Law (1999) Revision)(“ the Law”)

A. Documents and information to be submitted with every application for the grant of a licence:

Applications by Individuals

1. Application form duly completed
2. The appropriate fee (See Schedule to the Law. Many of the scheduled fees have changed over time and applicants should, where necessary, inquire at the offices of the Board as to the current applicable fee).
3. Proof that the applicant is Caymanian
4. A short cover letter giving details of the proposed business.

Applications by Companies

1. Application form duly completed with cover letter as in A. 4 above.
2. The appropriate fee as above
3. Certificate of incorporation
4. Memorandum and Articles of Association
5. Return of Shareholdings under Section 7 of the Local Companies (Control) Law (1999 Revision)
6. Register of Directors
7. Proof that at least 60% of the shareholders and at least 60% of the directors of the company are Caymanian.

B. Matters to be considered before submitting an application for a Trade & Business Licence

1. Business Address

General addresses such as “George Town” “or” West Bay Road” are not acceptable. Every application must contain a block and parcel number and a

street number (if the latter is available). This may be supplemented by reference to a well known establishment (eg. if located in a shopping centre or similar development).

2. Civil Servants/Police Officers and others

If the proposed applicant is a civil servant, police officer, or person in a similar position or a director or shareholder of the applicant falls in such a category (in the case of companies) then permission must first be obtained in writing from either the Public Service Commission or your Head of Department . Employees of statutory bodies should consult their department heads for guidance (eg. Water Authority, Civil Aviation).

3. Does your proposed business require inspection?

Certain types of business premises require inspection by one or more government departments or agencies (eg. Department of Environmental Health) before licences can be issued or, if issued, before business can be commenced. Below is a non-exhaustive list of such businesses. If you are in doubt as to whether your business requires inspection please contact the Trade & Business Licensing Board staff at the Immigration Building:

Mobile Food Vendors

Restaurants

Beauty Salon

Barber Shops

Horse Stables

Storage of hazardous material for sale or for use in furtherance of the business (eg. pesticides, chlorine, acid)

Mobile car wash

4. Does your proposed business require planning permission?

Planning permission may be required even for an established location where the intended use of the location is significantly different from that for which it was originally granted permission. Applicants should consult with the Government Planning Department to determine whether planning issues must be addressed (eg. change of use from retail store to restaurant) or zoning.

5. Use of residential addresses on business application forms

The Board has noted a common practice for certain types of businesses to provide a residential address on the application form. Typically, these tend to be relatively small businesses unable or unwilling to obtain a commercial location but for which a commercial location is required or highly desirable. (eg. small contractor, plumber).

Historically, the Board has from time to time granted licences permitting the use of a home address as a business address but subject to conditions preventing certain types of business activities such as storage of materials at the stated location. Given the difficulties associated with monitoring licencees for ongoing compliance with conditions the Board intends to discourage the future use of residential addresses as business addresses due to the infiltration of unauthorised business activities in residential neighbourhoods and associated planning, safety and health concerns. Applicants should therefore endeavour to obtain a business address and location compatible with their proposed activities.

6. Home Offices.

In certain limited circumstances home offices are permitted subject to conditions restricting and limiting the scope of activities within the designated address. A list of those conditions are available from the offices of the Board. If you are applying to use an apartment or a residential condominium unit as a home office you must enclose the written approval of the landlord and the manager of the apartment complex or strata corporation.

Applicants are also advised to consult the Planning Department for advice as to whether the nature or scale of the office activity requires a change of use application.

7. Preparation of food at a residential location for sale to the Public

The Board has received several complaints regarding this practice. Concerns raised include excessive heat radiating from one apartment to another due to extended use of cooking equipment, food odours travelling from one unit to another over prolonged periods of time, safety concerns arising from the improper installation and use of commercial stoves in

private homes and apartments and health issues related to food handling practices.

The Board will no longer issue licences permitting food to be prepared in apartments or condominiums for sale to the public and will only issue licences in limited circumstances permitting a single family home to be so used subject to conditions designed to guard against safety and health concerns.

In general, the Board will encourage current licence holders in this category to obtain an appropriate location for this type of business and will actively discourage the granting of new licences unless a commercial location with appropriate equipment and food handling standards is obtained by the applicant. In any event applicants in this category must first consult with the Government Planning Department regarding a change of use application and any licence issued by the Board subsequent thereto will be subject to conditions.

Applicants are also advised to consult with the Department of Environmental Health (DEH).

C. Licences that carry standard conditions.

The Board currently maintains an extensive list of standard conditions that are typically imposed upon the grant or renewal of various categories of licence.

Details of these are available at the offices of the Board.

Conditions are subject to change by law and as circumstances in the business community dictate and the Board has a general power under Section 16 (2) of the Law to impose conditions from time to time.

D. Renewals

1. An application to renew a licence is required by the Law to be made at least 28 days before the expiry of the licence and must be in the

proper form and accompanied by the appropriate fee, details of which are available from the offices of the Board.

2. Where the applicant is a Caymanian controlled company the following must also be submitted:
 - (a) Current register of Directors/officers and Members (shareholders) including nationalities and proof that Caymanians own 60% of the shares and make up 60% of the Board of Directors where shareholdings and/or directorships have changed.
 - (b) Current approvals for Civil Servants, Police Officers and applicants in similar positions to continue their involvement in business outside their primary duties.
 - (c) Current approvals from relevant Government Departments etc. (eg. Environmental Health).
3. In case of home offices in apartments or residential condominiums, current approval as set out in para 6 above.
4. If the applicant is a company and also holds a Local Companies (Control) Licence the registers required in Section D. 2(a) above must be submitted but proof of Caymanian nationality is not applicable.

E. General Matters

- (1) The public is hereby notified that, by virtue of Section 28 of the Law:
 - (a) No person shall use the word “licensed” in juxtaposition with any word describing a trade or business practised by him upon the ground only that he is licensed under that Law, and
 - (b) A licence under that Law has no relevance to the qualification, skill or financial stability of the licensee.
2. Licensees should, where possible, familiarise themselves with the provisions of the Law.

Note

These guidelines are subject at all times to the provisions of relevant legislation and will be revised as and when necessary. Applicants should contact the Secretary of the Board at Immigration Headquarters for further assistance.

_____ June 2001