

**Charter and Ordinance Review Committee
Meeting Minutes
March 14, 2014**

The Bethany Beach Charter and Ordinance Review Committee held a meeting on Thursday, March 14, 2013 at 10:00 a.m. in the Town Meeting Room.

Members present: Chuck Peterson, who presided; Mike Boswell; Bruce Frye; Fulton Loppatto; and Jerry Morris.

Excused members: Mary Sue Forestieri and Lonny Moore.

Also present: Mayor Tony McClenny; Administrative Secretary, Lindsey Good.

Call to Order

Mr. Peterson called the meeting to order at 10:00 a.m.

Approval of Agenda

Mr. Loppatto made a motion to approve the agenda. The motion was seconded by Mr. Frye and unanimously approved.

Approval of the Minutes from the February 14, 2013 Meeting

Mr. Morris made a motion to approve the minutes dated February 14, 2013. Seconded by Mr. Frye, the motion was unanimously approved.

Review A Revised Chapter 102: Business License of the Town Code and Discuss A New Chapter, Chapter 103: Rental Tax of the Town Code

Mr. Peterson explained that the Committee was asked by the Town Council to review Chapter 102 of the Town Code to see if issues relating to rental taxes and licensing could be separated from business licensing, which was discussed at the previous CORC meeting. He drafted a proposal for a revised Chapter 102 of the Code that does not reference rental taxes or rental licensing, and a proposal for a Chapter 103 of Code to retain the appropriate definitions from the previous section of the Code.

The Committee reviewed and discussed the proposed amendments (changes in red):

Chapter 102

BUSINESS LICENSING

§ 102-1. Definitions.

§ 102-2. Annual license required; applicability

§ 102-3. Required information; license fee; ~~rental tax~~.

§102-4. Investigation of applicants

§ 102-5. Appeals from decisions of Town Manager.

§ 102-6. Payment of license fees.

§ 102-7. License fees ~~and rental taxes~~.

§ 102-8. Display of license required.

§ 102-9. Conditions attached to license; revocation for breach of condition; notice and hearing.

§ 102-10. Charitable organizations.

§ 102-11. Violations and penalties.

§ 102-12. Exceptions

[HISTORY: Adopted by the Town Council of the Town of Bethany Beach 2-17-1973 by Ord. No. 63; amended in its entirety 1-19-1990 by Ord. No. 238 (Ch. 85 of the 1992 Code). Subsequent amendments noted where applicable.]

§ 102-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ESTABLISHMENT or PLACE OF BUSINESS - Any building or part thereof or each motor vehicle or each stand at or from which any merchandise or commodity is dispensed or facilities or services are provided to members of the general public or members of an association, club or other body or the like. [Amended 10-15-2010 by Ord. No. 458]

PERSON or PERSONS - Individuals, partnerships, firms, associations and corporations.

§ 102-2. Annual license required; applicability. [Amended 10-15-2010 by Ord. No. 458]

No person shall engage in or carry on or aid or assist as employee, clerk or otherwise, in the Town of Bethany Beach, Delaware, any business, occupation or activity or use any wagon, vehicle stand, store or other place or thing without first having paid the prescribed fee and taxes and having obtained from the Town of Bethany Beach an annual license for such business, occupation or activity. Specifically included are all persons, firms and corporations engaged for profit in selling any and all merchandise and/or given commodities and/or in providing facilities, services, ~~rental units~~ and/or food service within the Town limits.

§ 102-3. Required information; license fee; ~~rental tax~~.

A. The application for a license required by § 102-2 hereof shall be made on the prescribed form to the Town Manager of the Town of Bethany Beach in the Town Hall, and no license shall be granted until the license fee and prior rental tax due, if any specified, shall have been paid in full. Each such license and such application shall specify to whom it shall be issued and give the following information:

(1) The home or business address of the applicant.

(2) If the applicant is a partnership, the names and addresses of the individuals composing the partnership.

(3) The names and addresses of the principal officers of a corporation.

(4) A full description of the nature of the business or enterprise for which a license is desired.

(5) The specific location of the business, occupation or activity, giving lot and block number if located within the Town limits.

~~*(6) If license application relates to § 102-7A and B (apartments, cottages, rooms, etc.), specify the number of sleeping rooms or bedrooms in each rental unit.*~~

~~*(7) (6) Premises engaged in the sale of alcoholic liquor for on-premises consumption. [Added 4-24-1992 by Ord. No. 273]*~~

(a) Commercial establishments selling or proposing to sell alcoholic liquors for on-premises consumption. If the license application is for any business or commercial activity engaged in or proposing to engage in the sale of alcoholic liquor for on-premises consumption, the applicant shall submit scaled floor plans, architectural drawings or other detailed documentation as reasonably required by Town officials to ascertain whether or not the premises do or will conform to the standards contained in the definition of a "restaurant" as set forth in Chapter 217, Alcoholic Beverages, Article III, Licensing of Commercial Establishments. Such application shall contain a statement, under oath, that the business or establishment for which said license is sought does and/or will, at all times during which the license is in effect, conform to the documentation so submitted.

(b) In the event that any applicant having obtained a license under this Subsection A(7) subsequently desires to enlarge, revise, alter, modify or otherwise change the configuration, floor plan or physical operation of a premises previously engaged in the sale of alcoholic liquor for on-premises consumption in such manner as to alter the patron area or the portions of the patron area previously designated for seated dining and/or for stand-up consumption of alcoholic liquors, such applicant shall first obtain written confirmation from the Town Manager's office that such revision, alteration or other change conforms to the standards set out in the definition of "restaurant" as contained in Chapter 217, Alcoholic Beverages, Article III, Licensing of Commercial Establishments.

~~*B. No rental license shall be issued for any rental unit under § 103-3A(6) of this chapter until the applicant submits to the Town a signed notarized form certifying that minimum safety requirements are met. At the applicant's request, the Town will provide the services of a notary public at no cost to the applicant. The applicant must certify that: [Amended 1-16-2009 by Ord. No. 444]*~~

~~*(1) A minimum of one battery operated smoke detector is present on each level of the structure and one smoke detector is present in each bedroom/sleeping quarters. Fresh alkaline energy or*~~

~~lithium-ion batteries are installed in each smoke detector at the time of the application for the issuance or the renewal of a rental license.~~

~~(2) All exterior doors equipped with a deadbolt lockset are easily opened from the inside without the use of a key.~~

~~(3) GFCI protection is present for all outdoor receptacles, bathroom receptacles, garage wall outlets, kitchen receptacles and all receptacles in crawl spaces.~~

~~(4) Address numbers are a minimum of four inches high and are clearly visible from the street.~~

~~(5) Secure locks are present for all windows within 12 feet of grade and for second-story windows accessible by fire escapes or stairs.~~

§ 102-4. Investigation of applicants.

A. The Town Manager or his or her representative may, when cause appears, investigate and review all applications for license to do business within the limits of the Town of Bethany Beach to determine:

(1) If the activity for which a license has been requested is prohibited by any ordinance of the Town or law of the State of Delaware.

(2) Whether or not a functioning smoke detector device is located within a rental unit.

B. The Town Manager shall not issue any license if it is found that the applicant does not comply with the requirements of Subsection A hereof.

§ 102-5. Appeals from decisions of Town Manager. [Amended 9-18-1992 by Ord. No. 279]

Any person aggrieved by the decision of the Town Manager may within five days take an appeal to the Town Council of Bethany Beach by giving written notice of his or her election to do so to the office of the Town Manager and upon payment of a fee as provided by the fee schedule on file in the Town Office. The Town Manager shall notify the Mayor of the Town of Bethany Beach, who shall call a meeting of the Town Council of Bethany Beach to hear the appeal after giving notice of the hearing in a newspaper of local circulation for 10 days.

§ 102-6. Payment of license fees.

A. All license fees (see § 102-7A, B and C) shall be due and payable to the Town of Bethany Beach not later than the first day of June in each year, and all licenses shall expire on the 31st day of May following.

~~B. All taxes on rental income (see § 102-7A and B) shall be due and payable twice annually as follows: [Amended 1-21-1994 by Ord. No. 284]~~

~~(1) For income received from October 1 through April 30, tax shall be due and payable on or before the following June 1 but not later than issuance of the following year's license.~~

~~(2) For income received from May 1 through September 30, tax shall be due and payable on or before the following November 1. Payment shall be the responsibility of the owner except where rental is handled by a real estate broker or agent, in which case the latter shall collect and pay the tax.~~

§ 102-7. License fees ~~and rental taxes.~~ [Amended 1-19-1990 by Ord. No. 241; 9-18-1992 by Ord. No. 279 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).]

License fees ~~and rental taxes~~ as set forth in the fee schedule on file in the Town office shall be paid to the Town of Bethany Beach, Delaware, for ~~the following~~ *<anyone engaging in businesses, occupations or activities within the corporate limits >*:

~~A. Apartments, cottages, cabins or private houses or other establishments offering rooms for public rental.~~

~~B. Motels, rooming houses, boardinghouses, motor courts, inns or other establishments offering public rental which are subject to paying the State of Delaware accommodations tax.~~

~~C. Stores, garages, warehouses or any other commercial buildings or structures which rent or lease space or other facilities.~~

~~D. All others engaging in businesses, occupations or activities within the corporate limits.~~

§ 102-8. Display of license required.

Each license shall be conspicuously displayed on the licensed premises or, as the case may be, shall be carried upon the person of the licensee.

§ 102-9. Conditions attached to license; revocation for breach of condition; notice and hearing. [Amended 1-21-2005 by Ord. No. 390]

A. Conditions attached to business license. Every license issued under this chapter shall be subject to the following conditions, violation of any of which shall be grounds for immediate revocation of the license in accordance with the procedures set forth herein:

(1) Every business shall at all times be used and operated only for lawful purposes under, and in accordance with, all governing federal, state, and Town statutes, ordinances, and regulations.

(2) No amount of money shall be past due and owing the Town on account of any municipal service (e.g., water, trash collection), tax, assessment, fee, penalty or fine, by the business or by the owner(s), operator(s), or manager(s) of such business. For purposes hereof, the following terms shall be defined as indicated:

BUSINESS - The legal entity to whom the business license is issued (e.g., a sole proprietorship, partnership, corporation, limited liability company, or limited partnership).

OPERATOR or MANAGER - Those persons on the premises having custody and control thereof with authority to supervise other employees on the premises.

OWNER - Includes those persons owning an interest in the business as a sole proprietor, partner, stockholder in a close corporation, or as a member of a limited liability company or limited partnership.

PAST DUE - The owner, operator, or manager of the business shall have been provided written notice, via hand delivery or regular mail (postage prepaid, to that address provided to the Town on the business's license application), of the amount(s) due to the Town, the reason(s) for which such amounts are due, and a date (not less than 10 days from the date such notice was hand-delivered or deposited into the U.S. mail) by which such amount(s) must be paid in full.

B. Notice and opportunity to remedy violated condition or to request a hearing. No business license shall be denied or revoked unless written notice of such denial or revocation is provided to the applicant or license holder either by personal delivery, by commercial courier (e.g., Federal Express, UPS), or by U.S. mail addressed to the last address provided to the Town by the applicant/license holder, proper postage affixed, stating the reason(s) for such denial/revocation and affording the applicant/license holder an opportunity to remedy the condition violated or to request a hearing before the Town Manager to contest such denial/revocation. Unless a longer time is requested by the applicant/license holder, the Town Manager shall schedule and hold the hearing within five business days of receiving the request. Any person aggrieved by the decision of the Town Manager may appeal to the Town Council in accordance with § 102-5.

§ 102-10. Charitable organizations.

No license fee or tax shall be charged for a license issued to any charitable or public service institution, association, club or body not organized or conducted for private gain nor shall the Town of Bethany Beach be charged for licenses.

§ 102-11. Violations and penalties. [Amended 9-18-1992 by Ord. No. 279; 2-17-2006 by Ord. No. 407; 2-17-2012 by Ord. No. 473]

A. Any person violating any part of this chapter shall, on conviction thereof, pay such fine as set out in Chapter 1, General Provisions, Article I, Penalties, and each separate day in which any of the provisions of this chapter are violated shall constitute a separate and distinct offense.

B. In addition to the penalties set forth above in Subsection A, the Town Manager shall have the authority to order a place of business to cease/shut down operations and terminate all municipal service to a place of business, including water service and trash/recycling collection, after notice of and opportunity to remedy the failure to obtain/renew a business license. No business will be required to cease/shut down its operations unless written notice of the failure to obtain/renew a business license shall be provided to the operator of such place of business either by personal

delivery, by commercial carrier (e.g., Federal Express, UPS) or by U.S. Mail, certified return receipt requested, addressed to the last address provided to the Town by the business, proper postage affixed, affording the place of business or the persons operating such place of business to obtain/renew a business license or to request a hearing before the Town Manager, within 10 days of receiving said notice, to contest the order to cease/shut down operation of the business and terminate all municipal services to such business. The Town Manager shall schedule and hold the hearing within five business days of receiving the request. The Manager may waive the five-day hearing requirement upon request. In any case, a hearing will be held no later than 10 business days after formal notice of the closure. Any business or persons operating such business aggrieved by the decision of the Town Manager may appeal to the Town Council in accordance with § 102-5.

§ 102-12. Exceptions. *[Amended 6-15-1990 by Ord. No. 248]*

A. Nothing herein shall be construed to make it mandatory upon any resident of the State of Delaware to apply for a license in order to sell in the Town any form of produce grown upon a farm owned by the vendor or any member of his or her family with whom he or she resides.

B. Nothing herein shall be construed to make it mandatory for anyone to apply for a license in order to perform grass cutting and lawn mowing.

Chapter ~~102~~<103>

~~BUSINESS LICENSING~~<RENTAL LICENSE AND TAX>

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|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| § 102-1 <103-1>. Definitions. | § 102-7 <103-7>. License fees and rental taxes. |
| § 102-2 .<103-2> Annual license required; applicability | § 102-8 .<103-4> Display of license required. |
| § 102-3 .<103-3> Required information; license fee;
rental tax <Rental License>. | § 102-9 . Conditions attached to license;
revocation for breach of
condition; notice and hearing. |
| § 102-4 . Investigation of applicants | § 102-10 . <103-8> Charitable organizations. |
| § 102-5 .<103.5> Appeals from decisions of Town Manager | § 102-11 . <103-9> Violations and penalties. |
| § 102-6 .<103.6> Payment of license fees .<rental tax> | § 102-12 . Exceptions |

[HISTORY: Adopted by the Town Council of the Town of Bethany Beach 2-17-1973 by Ord. No. 63; amended in its entirety 1-19-1990 by Ord. No. 238 (Ch. 85 of the 1992 Code). Subsequent amendments noted where applicable.]

~~§ 102-1~~<103-1>. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

~~ESTABLISHMENT or PLACE OF BUSINESS~~—Any building or part thereof or each motor vehicle or each stand at or from which any merchandise or commodity is dispensed or facilities or services are provided to members of the general public or members of an association, club or other body or the like. [Amended 10-15-2010 by Ord. No. 458]

PERSON or PERSONS - Individuals, partnerships, firms, associations and corporations.

~~§ 102-2~~<103-2>. Annual license required; applicability. [Amended 10-15-2010 by Ord. No. 458]

No person shall engage in or carry on or aid or assist as employee, clerk or otherwise, in the Town of Bethany Beach, Delaware, any <activity> ~~business, occupation or activity or use any wagon, vehicle stand, store or other place or thing~~ without first having paid the prescribed <rental license> ~~fee and taxes and having obtained from the Town of Bethany Beach an annual license for such business, occupation or activity~~. Specifically included are all persons, firms and corporations engaged ~~for profit in selling any and all merchandise and/or given commodities and/or in providing facilities, services, rental units and/or food service~~ <in renting real property> within the Town limits.

~~§ 102-3~~<103-3>. Required information; ~~license fee~~; rental ~~tax~~<license>.

A. The application ~~for a license~~ required by ~~§ 102-2~~ <103-2> hereof shall be made on the prescribed form to the Town Manager of the Town of Bethany Beach in the Town Hall, and no license shall be granted until ~~the license fee and~~ prior rental tax due, if any specified, shall have been paid in full. Each ~~such license and~~ such application shall specify to whom it shall be issued and give the following information.

- (1) The home or business address of the applicant.
- (2) If the applicant is a partnership, the names and addresses of the individuals composing the partnership.
- (3) The names and addresses of the principal officers of a corporation.
- (4) A full description of the nature of the ~~business or enterprise for which a license is desired~~ <rental property>.
- (5) The specific location of the ~~business, occupation or activity~~ <rental property>, giving lot and block number if located within the Town limits.
- (6) ~~If license application relates to § 102-7A and B (apartments, cottages, rooms, etc.), specify the number of sleeping rooms or bedrooms in each rental unit.~~

~~(7) Premises engaged in the sale of alcoholic liquor for on-premises consumption. [Added 4-24-1992 by Ord. No. 273]~~

~~(a) Commercial establishments selling or proposing to sell alcoholic liquors for on-premises consumption. If the license application is for any business or commercial activity engaged in or proposing to engage in the sale of alcoholic liquor for on-premises consumption, the applicant shall submit sealed floor plans, architectural drawings or other detailed documentation as reasonably required by Town officials to ascertain whether or not the premises do or will conform to the standards contained in the definition of a "restaurant" as set forth in Chapter 217, Alcoholic Beverages, Article III, Licensing of Commercial Establishments. Such application shall contain a statement, under oath, that the business or establishment for which said license is sought does and/or will, at all times during which the license is in effect, conform to the documentation so submitted.~~

~~(b) In the event that any applicant having obtained a license under this Subsection A(7) subsequently desires to enlarge, revise, alter, modify or otherwise change the configuration, floor plan or physical operation of a premises previously engaged in the sale of alcoholic liquor for on-premises consumption in such manner as to alter the patron area or the portions of the patron area previously designated for seated dining and/or for stand-up consumption of alcoholic liquors, such applicant shall first obtain written confirmation from the Town Manager's office that such revision, alteration or other change conforms to the standards set out in the definition of "restaurant" as contained in Chapter 217, Alcoholic Beverages, Article III, Licensing of Commercial Establishments.~~

B. No rental license shall be issued for any rental unit under § 103-3A(6) of this chapter until the applicant submits to the Town a signed notarized form certifying that minimum safety requirements are met. At the applicant's request, the Town will provide the services of a notary public at no cost to the applicant. The applicant must certify that: [Amended 1-16-2009 by Ord. No. 444]

(1) A minimum of one battery-operated smoke detector is present on each level of the structure and one smoke detector is present in each bedroom/sleeping quarters. Fresh alkaline energy or lithium-ion batteries are installed in each smoke detector at the time of the application for the issuance or the renewal of a rental license.

(2) All exterior doors equipped with a deadbolt lockset are easily opened from the inside without the use of a key.

(3) GFCI protection is present for all outdoor receptacles, bathroom receptacles, garage wall outlets, kitchen receptacles and all receptacles in crawl spaces.

(4) Address numbers are a minimum of four inches high and are clearly visible from the street.

(5) Secure locks are present for all windows within 12 feet of grade and for second-story windows accessible by fire escapes or stairs.

~~§ 102-4 Investigation of applicants.~~ <103-4. Display of License Required>

< Each license shall be conspicuously displayed on the licensed premises or, as the case may be, shall be carried upon the person of the licensee.>

~~A. The Town Manager or his or her representative may, when cause appears, investigate and review all applications for license to do business within the limits of the Town of Bethany Beach to determine:~~

~~(1) If the activity for which a license has been requested is prohibited by any ordinance of the Town or law of the State of Delaware.~~

~~(2) Whether or not a functioning smoke detector device is located within a rental unit.~~

~~B. The Town Manager shall not issue any license if it is found that the applicant does not comply with the requirements of Subsection A hereof.~~

~~§ 102-5~~ <103-5>. Appeals from decisions of Town Manager. [Amended 9-18-1992 by Ord. No. 279]

Any person aggrieved by the decision of the Town Manager may within five days take an appeal to the Town Council of Bethany Beach by giving written notice of his or her election to do so to the office of the Town Manager and upon payment of a fee as provided by the fee schedule on file in the Town Office. The Town Manager shall notify the Mayor of the Town of Bethany Beach, who shall call a meeting of the Town Council of Bethany Beach to hear the appeal after giving notice of the hearing in a newspaper of local circulation for 10 days.

~~§ 102-6 <103-6>. Payment of license fees <Rental tax>.~~

~~A. All license fees (see § 102-7A, B and C) shall be due and payable to the Town of Bethany Beach not later than the first day of June in each year, and all licenses shall expire on the 31st day of May following.~~

~~B. All taxes on rental income (see § 102-7A and B) shall be due and payable twice annually as follows: [Amended 1-21-1994 by Ord. No. 284]~~

~~(1) For income received from October 1 through April 30, tax shall be due and payable on or before the following June 1 but not later than issuance of the following year's license.~~

~~(2) For income received from May 1 through September 30, tax shall be due and payable on or before the following November 1. Payment shall be the responsibility of the owner except where rental is handled by a real estate broker or agent, in which case the latter shall collect and pay the tax.~~

~~§ 102-7 <103-7>. License fees and Rental taxes.~~ [Amended 1-19-1990 by Ord. No. 241; 9-18-1992 by Ord. No. 279 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).]

License fees and rental taxes as set forth in the fee schedule on file in the Town office shall be paid to the Town of Bethany Beach, Delaware, for the following:

A. Apartments, cottages, cabins or private houses or other establishments offering rooms for public rental.

B. Motels, rooming houses, boardinghouses, motor courts, inns or other establishments offering public rental which are subject to paying the State of Delaware accommodations tax.

C. Stores, garages, warehouses or any other commercial buildings or structures which rent or lease space or other facilities.

~~*D. All others engaging in businesses, occupations or activities within the corporate limits.*~~

~~§ 102-8. Display of license required.~~

~~*Each license shall be conspicuously displayed on the licensed premises or, as the case may be, shall be carried upon the person of the licensee.*~~

~~§ 102-9. Conditions attached to license; revocation for breach of condition; notice and hearing.~~ [Amended 1-21-2005 by Ord. No. 390]

~~*A. Conditions attached to business license. Every license issued under this chapter shall be subject to the following conditions, violation of any of which shall be grounds for immediate revocation of the license in accordance with the procedures set forth herein:*~~

~~(1) Every business shall at all times be used and operated only for lawful purposes under, and in accordance with, all governing federal, state, and Town statutes, ordinances, and regulations.~~

~~(2) No amount of money shall be past due and owing the Town on account of any municipal service (e.g., water, trash collection), tax, assessment, fee, penalty or fine, by the business or by the owner(s), operator(s), or manager(s) of such business. For purposes hereof, the following terms shall be defined as indicated:~~

~~**BUSINESS**—The legal entity to whom the business license is issued (e.g., a sole proprietorship, partnership, corporation, limited liability company, or limited partnership). **OPERATOR** or~~

~~**MANAGER**—Those persons on the premises having custody and control thereof with authority to supervise other employees on the premises.~~

~~**OWNER**—Includes those persons owning an interest in the business as a sole proprietor, partner, stockholder in a close corporation, or as a member of a limited liability company or limited partnership.~~

~~**PAST DUE**—The owner, operator, or manager of the business shall have been provided written notice, via hand delivery or regular mail (postage prepaid, to that address provided to the Town on the business's license application), of the amount(s) due to the Town, the reason(s) for which such amounts are due, and a date (not less than 10 days from the date such notice was hand-delivered or deposited into the U.S. mail) by which such amount(s) must be paid in full.~~

~~**B. Notice and opportunity to remedy violated condition or to request a hearing.** No business license shall be denied or revoked unless written notice of such denial or revocation is provided to the applicant or license holder either by personal delivery, by commercial courier (e.g., Federal Express, UPS), or by U.S. mail addressed to the last address provided to the Town by the applicant/license holder, proper postage affixed, stating the reason(s) for such denial/revocation and affording the applicant/license holder an opportunity to remedy the condition violated or to request a hearing before the Town Manager to contest such denial/revocation. Unless a longer time is requested by the applicant/license holder, the Town Manager shall schedule and hold the hearing within five business days of receiving the request. Any person aggrieved by the decision of the Town Manager may appeal to the Town Council in accordance with § 102-5.~~

~~§ 102-10<103-8>. Charitable organizations.~~

~~No license fee or tax shall be charged for a license issued to any charitable or public service institution, association, club or body not organized or conducted for private gain nor shall the Town of Bethany Beach be charged for licenses.~~

~~§ 102-11<103-9>. Violations and penalties. [Amended 9-18-1992 by Ord. No. 279; 2-17-2006 by Ord. No. 407; 2-17-2012 by Ord. No. 473]~~

~~A. Any person violating any part of this chapter shall, on conviction thereof, pay such fine as set out in Chapter 1, General Provisions, Article I, Penalties, and each separate day in which any of the provisions of this chapter are violated shall constitute a separate and distinct offense.~~

~~B. In addition to the penalties set forth above in Subsection A, the Town Manager shall have the authority to order a place of business to cease/shut down operations and terminate all municipal service to a place of business, including water service and trash/recycling collection, after notice of and opportunity to remedy the failure to obtain/renew a business license. No business will be required to cease/shut down its operations unless written notice of the failure to obtain/renew a business license shall be provided to the operator of such place of business either by personal delivery, by commercial carrier (e.g., Federal Express, UPS) or by U.S. Mail, certified return receipt requested, addressed to the last address provided to the Town by the business, proper postage affixed, affording the place of business or the persons operating such place of business to obtain/renew a business license or to request a hearing before the Town Manager, within 10 days of receiving said notice, to contest the order to cease/shut down operation of the business and terminate all municipal services to such business. The Town Manager shall schedule and hold the hearing within five business days of receiving the request. The Manager may waive the five-day hearing requirement upon request. In any case, a hearing will be held no later than 10 business days after formal notice of the closure. Any business or persons operating such business aggrieved by the decision of the Town Manager may appeal to the Town Council in accordance with § 102-5.~~

~~§ 102-12. Exceptions. [Amended 6-15-1990 by Ord. No. 248]~~

~~A. Nothing herein shall be construed to make it mandatory upon any resident of the State of Delaware to apply for a license in order to sell in the Town any form of produce grown upon a farm owned by the vendor or any member of his or her family with whom he or she resides.~~

~~B. Nothing herein shall be construed to make it mandatory for anyone to apply for a license in order to perform grass cutting and lawn mowing.~~

Questions and Discussion

Mr. Morris questioned what qualifies a parcel to be required to obtain a Rental License. Mr. Peterson replied that any person who owns a parcel and rents it to other people, it is required that they obtain a Rental License and a Certificate of Occupancy.

Mr. Boswell questioned what the procedure is for the Town to collect the percentage of the rental license from the owner. Mayor McClenny explained that the Town sends out a letter with a form to be completed each spring to all residents who have rental properties. The form must then be notarized and returned to the Town with a check for the amount of fifty dollars (\$50.00). The percentage is then collected by the Town. A letter is then mailed to notify those who did not submit the payment.

It was questioned why the option of keeping the ordinances on business licenses and rental licenses in the same chapter of the Code. The Mayor noted that the Town Council has advised

the Committee to completely separate business licensing and rental tax into two (2) different chapters.

Mayor McClenny questioned if an owner of a hotel with one-hundred (100) rooms has to pay for two (2) separate licenses. Mr. Peterson explained that the number of licenses required depends on how the hotel is structured. If there are multiple corporations associated with a hotel, such as a spa and a restaurant, they will each be required to have separate business licenses.

Mr. Loppatto asked if there are existing safety regulations for restaurant owners that are enforced by the Town. Mr. Peterson replied that there are restaurant safety regulations, but it is not the Town's responsibility to enforce these regulations.

Mr. Peterson stated that he will draft a white paper on the proposed revised Chapter 102 and Chapter 103 of the Code and submit it to the Town Council for review. He noted that he already submitted a draft to Town Manager, Cliff Gravier to review.

Mayor McClenny expressed his appreciation to the Committee members for all of their work on this matter.

Adjourn

Mr. Loppatto made a motion to adjourn the meeting. Mr. Morris seconded the motion and it was unanimously approved. The meeting was adjourned at 10:40 a.m.

Respectfully Submitted:

Lindsey Good, Admin. Secretary