TOWN OF GRAFTON

WHAT IS A DOING BUSINESS AS CERTIFICATE AND WHO MUST FILE

FILING A BUSINESS CERTIFICATE (DBA)

(Massachusetts General Laws, Chapter 110, Section 5, 6; 227: 5A)

WHAT IS A BUSINESS CERTIFICATE, DBA (doing business as)?

A Business Certificate is a local registration of a business that is conducted with in the Town and filed with the Town Clerk, either in person or by mail, in every city/town where a business of any such person, partnership or corporation may be situated. It is commonly referred to as a "d/b/a" (doing business as). The primary purpose of filing is to protect consumers or creditors by identifying the names and addresses of the owners of the business. Essentially, the public has a right to know who "is" a particular business, since a customer will not know who owns the business simply by the name of the business.

NOTE: A business certificate is not a license to do business in the Town of Grafton. Additional licenses/permits issued by other town departments or state agencies may be required in order to do business. Please refer to the Town of Grafton Zoning Bylaws for conducting a business in the business district or the residential /home business. You will be required to check with the Building Inspector/Code Enforcement Officer and also the Assessor's Office. Each of these offices will need to sign off on the Business Certificate Disclaimer form.

WHO MUST FILE?

Any person conducting a business under any title (business name) other than the complete real name of the person conducting the business must file a certificate. A person is defined as an individual, a partnership, or a corporation.

Exemptions to filing are allowed under section 6 if the corporation is doing business in its true corporate name, or if a legal partnership is doing business under any title which includes the true surname of any.

WHO MUST SIGN THE BUSINESS CERTIFICATE?

If the business is owned solely by one person, only that person needs to sign. If it is a partnership of two or more people (but not a formal legal entity), both or all of the "partners" must sign. If it is a legal partnership, any officer who has authority to sign on behalf of the partnership may do so. If it is a corporation, an officer who has signatory authority must sign – which is usually the President, but not always. All signatures must be made in front of a notary. Do not sign the certificate unless it is in front of the notary. An individual must be 18 years of age or older to legally sign a business certificate.

HOW LONG IS MY BUSINESS CERTIFICATE GOOD FOR?

Business Certificates are valid for a period of four (4) years from the date of its original filing. They must be renewed every four (4) years for as long as the business is being conducted.

WHAT IF I "GO OUT OF BUSINESS", CHANGE MY RESIDENCE; CHANGE THE LOCATION OF THE BUSINESS OR WANT TO CHANGE THE NAME OF THE BUSINESS?

Change of Residence as listed on certificate, change of location of the business within town (but keeps the same business name): You must complete the **Business Certificate Amendment form.**

Discontinuance of business, retire or withdraw from conducting business (i.e.: go out of business or move it to another town: You must file a **Business Certificate Amendment form**. If you will be conducting a **"Going out of Business Sale"** please contact the Town Clerk's office regarding the legal requirements for this type of sale.

Change the name of the business: You must first file a **Discontinuance** and then file a new Certificate for the new business name. You cannot simply change the name of the business as technically you are stopping business in one name and starting business in a new name.

In case of death of the owner of the registered business (d/b/a): A statement may be filed by the executor or administrator of the estate.

DOES THE FILING OF A BUSINESS CERTIFICATE PROTECT ME FROM OTHERS USING THE SAME NAME?

NO, the protection of a trademark (wood, name, symbol or device) in Massachusetts is accomplished through the Secretary of State's Office. www.sec.state.ma.us

WHAT IS THE FEE TO FILE A CERTIFICATE OR STATEMENT?

Filing/Renewal of a DBA is $50.00 (4 Years)

Amendments: $25.00

Certified Copies: $5.00

MUST I DISPLAY A COPY OF MY BUSINESS CERTIFICATE?

The law states that copies of your certificate must be available at the address at which the business is conducted, and shall be produced for inspection upon request during regular business hours to any person who has purchased goods or services from such business.

WHAT IS THE PENALTY IF I DO NOT FILE A CERTIFICATE OR STATEMENT?

The law states that violations will be punished by a fine of not more than three hundred dollars ($300.00) for each month during which the violation continues.

WHERE DO I GET THE FORMS AND HOW DO I FILE?

All forms may be obtained from and filed at the Town Clerk's office during normal business hours (Monday, Wednesday, Thursday, Friday 8:30 AM – 4:30 PM and Tuesday 8:30 AM – 7:00 PM) or can be downloaded from the town website under the Town Clerk department page.

WHERE DO I GET TAX INFORMATION REGARDING MY BUSINESS?

The Massachusetts Department of Revenue (DOR) can answer all of your questions regarding collecting sales tax or other tax questions you may have. The Taxpayer Assistance Bureau is open from 8:45 AM – 5:00 PM, Monday – Friday. The toll free number is 1-800-392-6089 or (617) 887-6367. The DOR

has a publication entitled "A Guide to Sales and Use Tax" which answers the most commonly asked questions about sales/use tax.

You obtain an FID number form the IRS at 1 (800) 829-1040 or (617) 523-1040.

Websites:

Department of Revenue http://www.dor.state.ma.us/

Secretary of State's office www.state.ma.us

Small Business Resource Guide
http://www.sba.gov/sites/default/files/files/resourceguide

Corporations:

A corporation must file a DBA unless they are doing business under the true corporate name. For example, if the corporation is Flower Garden Products, Inc. and the store is called Flowers for All (not Flower Garden Products) then a DBA must be filed. The consumer must be able to contact the Town Clerk to obtain contact information on the owner of the business. Whether or not the corporation has filed with the State as required is not relevant and we do not ask.

TOWN CLERK
BUSINESS CERTIFICATE SIGN OFF FORM

Business Name: _____

Business Address: _____

Business Phone Number: _____

Contact Person/Phone Number: _____

I understand that it is my responsibility to contact the Code Enforcement Office (Building Inspector) to determine whether any other permits, variances or licenses are required by the Town of Grafton and to obtain the proper permits variances or licenses before doing business at the address stated on the business certificate.

Building Inspector's Signature: _____

I also understand that it is my responsibility to contact the Assessor's Office to obtain information regarding my state mandated Personal Property Tax obligation.

Assessor's Signature: _____

I further understand that the business certificate that I am filing with the Grafton Town Clerk's Office is not a license to do business nor does it give permission to operate within a particular zone. This business certificate also known as a D/B/A or a fictitious name certificate is a requirement of the State Consumer Protection Law MGL, Ch. 110, Sec. 5.

_____

I hereby swear that I have read and understand the information listed above.

1._____
Signature

2._____
Signature

3._____
Signature

4._____
Signature

Date:_____