

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 within 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 a particular business “is”, 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 Brimfield. 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 Brimfield Zoning Bylaws for conducting a business. If needed, you may be required to check with the Building Inspector/Zoning Enforcement Officer.

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. Certain other exemptions exist for trusts and limited partnerships.

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 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 until notarization. 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 MAKE OWNERSHIP ALTERATIONS? Change of Residence as listed on certificate, change of location of the business within town (but keeps the same business name); 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 Statement of Discontinuance or Amendment. 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.

WHAT IF I 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.

DOES THE FILING OF A BUSINESS CERTIFICATE PROTECT ME FROM OTHERS USING THE SAME NAME? No, the protection of a trademark (word, name, symbol or device) in Massachusetts is accomplished through the Secretary of State’s Office.

WHAT IS THE FEE TO FILE A CERTIFICATE OR STATEMENT? As of January 1st 2023, Filing/Renewal of a Business Certificate is \$25.00 (4 years). Statements of Discontinuance or Amendment are \$15.00. Payments must be in the form of cash or check made out to the “Town of Brimfield”. If filing by mail, please do not send cash.

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? Forms for filing a Business Certificate and/or Statement of Discontinuance or Amendment are available in the Town Clerk's Office and on the Town of Brimfield website.

If submitting by Mail, mail the form to Town Clerk, PO Box 508, Brimfield, MA 01010, along with your payment. We will certify and return one to you as proof of filing. Please be sure to include a self-addressed, stamped envelope.

IN SUMMARY: To file your Business Certificate or Statement of Discontinuance or Amendment you will need to provide the following:

1. 1 copy of the form. The Town Clerk or Assistant Town Clerk will complete the record #'s and the expiration date.

The form must be signed in front of the notary. *IF YOU NEED NOTARY ASSISTANCE*, the Town of Brimfield Town Clerk Debra Fagerstrom can perform the notarization with you. Please contact the Town Clerk's office for her availability for notarization. *PROPER ID (such as a Driver's License) IS REQUIRED FOR NOTARIZATION for ALL LISTED NAMES ON THE BUSINESS.*

2. Payment in the form of cash or check made out to "Town of Brimfield"

3. The Town Clerk's office will keep the original form and you will be given (1) certified copy.