

June 15, 2000

The Honorable Don Fox
Mayor
200 Castle Heights Ave. N., Suite 100
Lebanon, TN 37078

Dear Mayor Fox:

The Business Tax Act [TCA 67-4-705] provides that the engaging in any business, business activity, vocation or occupation specified therein is declared to be a privilege for state purposes and taxable by the state alone.

TCA 67-4-706 provides that every person taxable shall prior to engaging in business as defined in TCA 67-4-702, register with the city official designated as the collector of tax by city charter or ordinance, in the case of taxes owed to a city.

TCA 67-4-723 provides that Upon receipt of the minimum tax prescribed by this part, together with penalties and interest prescribed in this part if such payment is delinquent, it shall be the duty of each collector to issue a license to the taxpayer.@

The fact that a person plans to open a business in a zone that does not allow such business activity is a separate and unrelated problem. If the person is entitled to the privilege of operating a business in Lebanon, a business license must be issued. If the person opens a business in an incorrect zone, this matter should be dealt with as a zoning violation. It is very much like obtaining a driver's license. If you meet the basic requirements for a driver's license, the Department of Safety issues the license. Then if you are caught passing on a double yellow line, you are dealt with under a separate state law.

My recommendation is to prepare a form that answers the question: What must I do to operate a business in the City of Lebanon?

1. Obtain a business license.
2. Check with the appropriate utility provider to ensure availability of water, sewer, gas, electric, telephone, and other required utilities.
3. Check with the City's Codes Enforcement Officer to make sure that the proposed business is located in the proper zone for such a business.

I understand that obtaining a business license does not entitle me to operate a business in an area that is not zoned for such a business and that the City may take legal action, if necessary, to

enforce its zoning regulations.

Date: _____

Applicant

I hope that the above information is helpful in dealing with new businesses as they seek to open in the City of Lebanon. The above form does not restrict in any way the citizen's right to a business license, and it provides the applicant with notice that he is required to comply with the City's zoning laws.

Please contact me if I may be of further assistance.

Sincerely,

Don J. Darden
Municipal Management Consultant