

CLEARFIELD CITY COUNCIL  
AGENDA AND SUMMARY REPORT  
June 12, 2012 – REGULAR SESSION

City Council Chambers  
55 South State Street  
Third Floor  
Clearfield, Utah

**Mission Statement:** To provide leadership in advancing core community values; sustain safety, security and health; and provide progressive, caring and effective services. We take pride in building a community where individuals, families and businesses can develop and thrive.

**6:00 P.M. WORK SESSION**  
Youth City Council Interviews and Discussion

*(Any items not addressed prior to the Policy Session will be addressed in a Work Session immediately following the Policy Session)*

**7:00 P.M. REGULAR SESSION**

CALL TO ORDER:	Mayor Wood
OPENING CEREMONY:	Councilmember Bush
APPROVAL OF THE MINUTES:	April 10, 2012 – Work Session May 22, 2012 – Regular Session

**PRESENTATION:**

1. **PRESENTATION TO STEVE RASMUSSEN FOR HIS SERVICE AS A MEMBER OF THE PARKS & RECREATION COMMISSION**

**BACKGROUND:** Steve Rasmussen has served the City as a member of the Parks & Recreation Commission and recently resigned. Mayor Wood and the City Council desire to recognize Mr. Rasmussen for his service to the City.

2. **CLEARFIELD UNIVERSITY GRADUATION**

**BACKGROUND:** The City recently implemented Clearfield University, an eight week course, during which participating residents had the opportunity to gain an understanding of the operations of the City. The City Council desires to acknowledge those participants for completing the class.

**PUBLIC HEARINGS:**

3. **PUBLIC HEARING TO RECEIVE COMMENT ON THE 2012/2013 FISCAL YEAR BUDGET**

**BACKGROUND:** Utah Code requires cities to hold a public hearing regarding the adoption of the upcoming fiscal budget. The City staff has prepared and submitted to the Council a balanced tentative budget for the fiscal year 2012/2013 which begins July 1, 2012 and ends June 30, 2013. The submitted tentative budget was adopted on May 8, 2012 and includes all funds.

**RECOMMENDATION:** Receive public comment and close the public hearing.

4. PUBLIC HEARING TO RECEIVE COMMENT ON AMENDING THE LAND USE ORDINANCE TITLE 11, CHAPTER 3, CHAPTER 11, AND CHAPTER 13 FOR THE INCLUSION OF DEFINITIONS AND SUPPLEMENTARY STANDARDS FOR RETAIL TOBACCO SPECIALTY BUSINESSES

BACKGROUND: State legislation was recently enacted, commonly referred to as House Bill 95, which revised Utah State Code in establishing certain restrictions on the location of retail tobacco specialty businesses. The proposed text amendments reflect these changes made to State Code.

RECOMMENDATION: Receive public comment.

***SCHEDULED ITEMS:***

5. CITIZEN COMMENTS

6. CONSIDER APPROVAL OF ORDINANCE 2012-03 AMENDING THE LAND USE ORDINANCE TITLE 11, CHAPTER 3, CHAPTER 11, AND CHAPTER 13 FOR THE INCLUSION OF DEFINITIONS AND SUPPLEMENTARY STANDARDS FOR RETAIL TOBACCO SPECIALTY BUSINESSES

RECOMMENDATION: Approve Ordinance 2012-03 amending the Land Use Ordinance Title 11, Chapter 3, Chapter 11, and Chapter 13 for the inclusion of definitions and supplementary standards for retail tobacco specialty businesses and authorize the Mayor's signature to any necessary documents.

7. CONSIDER APPROVAL OF ORDINANCE 2012-04 AMENDING TITLE 4, CHAPTER 1 AND CHAPTER 11 ON RELATED MATTERS FOR RETAIL TOBACCO SPECIALTY BUSINESSES

RECOMMENDATION: Approve Ordinance 2012-04 amending Title 4, Chapter 1 and Chapter 11 on related matters for retail tobacco specialty businesses and authorize the Mayor's signature to any necessary documents.

***CONSENT AGENDA:***

8. CONSIDER APPROVAL OF THE AWARD OF BID FOR THE ROSS DRIVE STORM DRAIN PROJECT

BACKGROUND: Bids were received from two construction companies to construct a storm drain pipeline from Ross Drive crossing to the west side of State Street. The lowest responsible bid was received from Brinkerhoff Excavating with a bid of \$109,107.

RECOMMENDATION: Approve the award of bid for the construction of a storm drain pipeline from Ross Drive to the west side of State Street to Brinkerhoff Excavating with a bid amount of \$109,107, and approve funding of the project for the bid amount of \$109,107 with contingency and engineering of \$40,693; for a total project cost of \$149,800 and authorize the Mayor's signature to any necessary documents.

9. CONSIDER APPROVAL OF THE AWARD OF PROPOSAL FOR THE PARKS CAPITAL FACILITIES PLAN, IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS

BACKGROUND: Staff solicited proposals for the completion of an Impact Fee Facilities Plan, Capital Facilities Plan, and Impact Fee Analysis. Three firms submitted proposals and each proposal was reviewed and ranked by staff based on the guidelines included in the Request for Proposals (RFP). Based on the review, staff is recommending that Lewis, Young, Robertson & Burningham (LYRB) be awarded the contract for the provision of these services.

RECOMMENDATION: Approve the Award of Proposal for the Parks Capital Facilities Plan, Impact Fee Facilities Plan and Impact Fee Analysis Contract to Lewis, Young, Robertson and Burningham (LYRB) and authorize the Mayor's signature to any necessary documents.

10. CONSIDER APPROVAL OF THE RENEWAL OF THE WINDOW CLEANING CONTRACT

BACKGROUND: Clearfield City contracted with Legacy Window Cleaning for window cleaning services on July 1, 2009. This contract is set to expire on July 1, 2012. The current agreement provides Clearfield City with "the right to renew the agreement for up to two (2) additional one (1) year terms." Legacy Window Cleaning Services has requested a slight increase of \$300 annually to cover rising fuel costs and this increase has been appropriated in the Fiscal Year 2013 budget.

RECOMMENDATION: Approve the renewal of the window cleaning contract extending the terms of the agreement, including the additional request of \$300 annually, and authorize the Mayor's signature to any necessary documents.

**COMMUNICATION ITEMS:**

Mayor's Report  
City Councils' Reports  
City Manager's Report  
Staffs' Reports

**\*\*ADJOURN AS THE CITY COUNCIL AND RECONVENE AS THE CDRA\*\***

1. APPROVAL OF THE CLEARFIELD COMMUNITY DEVELOPMENT AND RENEWAL AGENCY (CDRA) MINUTES FROM THE MARCH 27, 2012 REGULAR SESSION

2. PUBLIC HEARING TO RECEIVE COMMENT ON THE CDRA 2012/2013 FISCAL YEAR BUDGET

BACKGROUND: Utah Code requires a public hearing regarding the adoption of the CDRA's upcoming fiscal budget. Staff prepared and submitted to the Board a balanced tentative budget for the fiscal year 2012/2013 which begins July 1, 2012 and ends June 30, 2013. The submitted tentative budget was adopted on May 8, 2012 and includes all funds.

RECOMMENDATION: Receive public comment and close the public hearing.

**\*\*CDRA MEETING ADJOURN\*\***

Dated this 7<sup>th</sup> day of June, 2012.

/s/Nancy R. Dean, City Recorder

The City of Clearfield, in accordance with the 'Americans with Disabilities Act' provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 525-2714, giving her 48-hour notice.

CLEARFIELD CITY COUNCIL MEETING MINUTES  
7:00 P.M. WORK SESSION  
April 10, 2012

PRESIDING:	Mark Shepherd	Mayor Pro Tem
EXCUSED:	Don Wood	Mayor
PRESENT:	Kent Bush Mike LeBaron Kathryn Murray Bruce Young	Councilmember Councilmember Councilmember Councilmember
STAFF PRESENT:	Brian Brower Greg Krusi Scott Hodge Bob Wylie Nancy Dean Kim Read	City Attorney Police Chief Public Works Director Administrative Services Director City Recorder Deputy City Recorder
EXCUSED:	Adam Lenhard JJ Allen Eric Howes	City Manager Assistant City Manager Community Services Director

VISITORS: Ivan D. Anderson – North Davis Sewer District, Kevin Cowan – North Davis Sewer District, Phillip Heck – Brown & Caldwell Engineering

Mayor Pro Tem Shepherd called the meeting to order at 6:01 p.m.

UPDATE AND PRESENTATION FROM NORTH DAVIS SEWER DISTRICT

Ivan Anderson, North Davis Sewer District, reported the District had not completed any major improvements at the treatment plant since 2008 and stated any previous rate increases had compensated for low revenues associated with the decrease of impact fees. He reminded the Council he was Chairman of the Board, in addition he represented Clearfield City on the Sewer District Board with other municipal representatives. He introduced Kevin Cowan, District Manager, and Phil Heck, engineer, to the Council.

Mr. Anderson shared a visual presentation with the Council illustrating the proposed infrastructure improvement needs specific to the processes at the District. He stated a study was needed to determine if the collected impact fees were appropriate and reported the District currently assessed \$3,000 per new residential unit. He added the current monthly fee per residence was \$7.00.

Kevin Cowan, District Manager, informed the Council that the District was governed by the Environmental Protection Agency, (EPA) through the State of Division of Water Quality. He

explained all requirements the District was mandated to follow and reported on the workings and services provided by the District.

Phil Heck, Brown & Caldwell Engineering, explained the District's master planning efforts and reported it had last been updated approximately 10 years ago. He stated the solids treatment facilities had not been updated since the early 1980's and pointed out the recent growth in population resulted in the necessity to expand this operation. He informed the Council that the process was currently overloaded and would be necessary to upgrade by constructing two new digesters. He mentioned the existing secondary digesters had been in use since 1953. He reported on other proposed improvements deemed necessary at the treatment plant. He indicated costs for the necessary improvements had been minimized as much as possible.

Mr. Heck reported on other Capital Improvements needed at the District and stated some of the existing pipes were aged to approximately seventy years and were in a deteriorating condition. He continued the monitoring allowed the District to identify critical sections of pipes to prioritize for refurbishment. He shared an illustration reflecting the deterioration of the pipes.

Councilmember LeBaron inquired about monitoring of seepage associated with compromised pipes. Mr. Heck reported the only method of monitoring used by the District was with the cameras. A discussion took place regarding corrosion of the District's pipes. Mr. Heck explained how the use of a fiberglass liner could be installed inside the corroded pipes which significantly extend the life of the pipes by as much as eighty year. He reported on additional prioritized collection system improvements.

Mr. Heck reported the proposed cost estimates for the proposed improvements at the District and reminded the Council the majority of costs were associated with the bio solids specific to the digesters. Mr. Cowan reported the proposed rate increase for service was from \$7.00 to \$8.00 per month, per residential unit. He reminded the Council that the District was currently in the process of completing a rate study and believed upon its completion the monthly fee could potentially increase anywhere from \$11.00 to \$13.00. He shared a comparative rate chart reflecting what other entities paid for sewer treatment services. He informed the Council that the initial increase would be effective July 1, 2012.

Councilmember Bush inquired how commercial user fees were assessed. Mr. Cowan explained how the current rates for the City had been assessed. Mr. Anderson reported an impact fee study and user fee study were both currently being completed.

Mr. Anderson extended an invitation to the Council to tour the District and informed them the board meetings were scheduled every second Thursday, 6:00 p.m., at the Syracuse facility.

Mr. Anderson, Mr. Cowan and Mr. Heck left the meeting at 6:46 p.m.

DISCUSSION ON A FACILITY NEEDS ASSESSMENT FOR THE PUBLIC WORKS AND PARKS MAINTENANCE FACILITIES

Scott Hodge, Public Works Director, reported the City recently completed a Request for Qualifications (RFQ) to complete a facility needs assessment for the Public Works and Parks Maintenance facilities improvements. He stated a committee reviewed and ranked each of the five submitted proposals. He added after a meeting with the highest ranked proposal the City requested a formal bid estimating the cost. He stated funds had been appropriated in the current budget for the needs assessment and the proposal came in less than the appropriated amount. He added there were other identified studies which would need to be completed at a later date and the costs would be close to the appropriated funds. He indicated the goal for completion of the needs assessment was July 1, 2012 and stated this would come before the Council for approval during the policy session later in the evening.

The meeting adjourned at 6:53 p.m.

CLEARFIELD CITY COUNCIL MEETING MINUTES  
7:00 P.M. REGULAR SESSION  
May 22, 2012

PRESIDING: Don Wood Mayor

PRESENT: Mike LeBaron Councilmember  
Kathryn Murray Councilmember  
Mark Shepherd Councilmember  
Bruce Young Councilmember

EXCUSED: Kent Bush Councilmember

STAFF PRESENT: Adam Lenhard City Manager  
JJ Allen Assistant City Manager  
Brian Brower City Attorney  
Greg Krusi Police Chief  
Eric Howes Community Services Director  
Bob Wylie Administrative Services Director  
Scott Hodge Public Works Director  
Kim Read Deputy City Recorder

EXCUSED: Nancy Dean City Recorder

VISITORS: Betty Parker – Freeport Center Associates, Joy Brown – American Legion, Kathy Avery – American Cancer Society Relay for Life, Bradley Avery – American Cancer Society Relay for Life

Mayor Wood acknowledged the Youth City Council members participating in the City Council Meeting. He explained the voting process the Youth City Council should follow. He yielded the floor to Ms. Amber Seidel, Youth City Council Mayor to conduct the City Council Meeting.

Mayor Wood informed the citizens present that if they would like to comment during Citizen Comments or the Public Hearing there were forms to fill out by the door.

Youth City Councilmember David Brown conducted the Opening Ceremony.

APPROVAL OF THE MINUTES FROM THE MARCH 27, 2012 WORK SESSION AND  
MAY 8, 2012 POLICY SESSION

**Councilmember Murray moved to approve the minutes from the March 27, 2012 work session and the May 8, 2012 policy session, as written, seconded by Councilmember LeBaron. The motion carried upon the following vote: Voting AYE – Councilmembers LeBaron, Murray, Shepherd and Young. Voting NAY – None.** Councilmember Bush was not present for the vote.

PRESENTATION TO PATSY SEACH FOR HER SERVICE AS A MEMBER OF THE  
PARKS & RECREATION COMMISSION - TABLED

PRESENTATION BY THE AMERICAN CANCER SOCIETY RELAY FOR LIFE

Kathy Avery, Co-Chair, from the North Davis Relay for Life was in attendance to share a presentation with the Council for the American Cancer Society's Relay for Life.

Ms. Avery informed the Council of the American Cancer Society's Annual event, Relay for Life, and stated she had been involved in the event for the previous nine years. She shared information with the Council on benefits to the community from the Relay for Life event and reported on the many volunteer opportunities and programs offered by the American Cancer Society. She informed that the Council the Davis County event was scheduled for August 3 – 4, 2012 at the Angel Street Soccer Complex in Kaysville. She requested suggestions from the Council for ways in which Clearfield City could be involved with the annual event.

Mayor Wood suggested Ms. Avery visit with Eric Howes, Community Services Director, to consider different possibilities. She left advertisements, flyers and business cards which could be available for display for those interested in participating.

**SCHEDULED ITEM**  
**CITIZEN COMMENTS**

There were no citizen comments.

**APPROVAL OF THE AWARD OF BID FOR THE 475 EAST SANITARY SEWER REPAIR  
PROJECT TO WHITAKER CONSTRUCTION**

Bids were received from two construction companies to make the necessary repairs to the sanitary sewer line installed behind the homes on the west side of 500 East Street from 200 South to 50 South. The lowest responsible bid was received from Whitaker Construction with a bid of \$58,700.

Adam Lenhard, City Manager, explained the sanitary sewer line was located behind homes on 450 and 500 East and was in need of repair. He stated two bids were received Whitaker Construction submitted the lowest responsible bid for \$58,700 and staff recommended approval of the award of bid to Whitaker Construction.

**Councilmember Young moved to approve the award of bid for the 475 East Sanitary Sewer Repair Project to Whitaker Construction with a bid amount of \$58,700, and approve funding of the project for the bid amount of \$58,700 with contingency and engineering of \$23,300 for a total project cost of \$82,000; and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Shepherd. The motion carried upon the following vote: Voting AYE – Councilmembers LeBaron, Murray, Shepherd and Young. Voting NAY – None.** Councilmember Bush was not present for the vote.

APPROVAL OF THE AWARD OF BID FOR THEATRE SEATING AT THE COMMUNITY ARTS CENTER - TABLED

The city solicited bids for theatre seating at the Community Arts Center. Eric Howes, Community Services Director, presented the bids and his recommendation to the Council.

Mayor Wood pointed out this item had been discussed at the work session prior to the policy session at which time staff recommended the item be tabled as all bids were deemed nonresponsive.

**Councilmember LeBaron moved to table the award of bid for theatre seating at the Community Arts Center, seconded by Councilmember Young. The motion carried upon the following vote: Voting AYE – Councilmembers LeBaron, Murray, Shepherd and Young. Voting NAY – None.** Councilmember Bush was not present for the vote.

APPROVAL OF RESOLUTION 2012R-07 AUTHORIZING THE SECOND ADDENDUM TO THE INTERLOCAL AGREEMENT WITH THE NORTH DAVIS FIRE DISTRICT AND WEST POINT CITY

The City was executing indemnification agreements with any entity for which it collects impact fees. The current Interlocal Agreement with the North Davis Fire District (NDFD) did not address the collection of impact fees; therefore, staff is proposing an addendum.

**Councilmember Shepherd moved to approve Resolution 2012R-07 authorizing the Second Addendum to the Interlocal Agreement with the North Davis Fire District and West Point City and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Murray. The motion carried upon the following vote: Voting AYE – Councilmembers LeBaron, Murray, Shepherd and Young. Voting NAY – None.** Councilmember Bush was not present for the vote.

APPROVAL OF RESOLUTION 2012R-08 AUTHORIZING THE DISPOSITION OF PROPERTY LOCATED ON THE NORTHEAST CORNER OF THE FREEPORT CENTER IN EXCHANGE FOR A NEARBY LARGER PARCEL

Youth City Council Mayor Seidel acknowledged Ms. Betty Parker representing Freeport Center in the audience.

The City Council previously held a public hearing regarding the disposal of the parcel of property. However, the legal description and map had been slightly modified. Adoption of a new Resolution with accurate legal descriptions and maps was necessary.

Adam Lenhard, City Manager, explained due to the SR 193 extension, the City's detention basin would need to be reconfigured in addition to the creation of some remnant parcels associated with reconfiguration of some streets and an intersection in Freeport Center. He referred to the distributed map and pointed out the red parcel identified property currently owned by Freeport Center which would be deeded to the City. He indicated the parcel identified by blue was property currently owned by the City which would be deeded to Freeport Center. He pointed out the extra property would allow the City to increase the size of the retention basin and stated UDOT would be responsible for the grading and expansion of the basin. He mentioned the property to be acquired by Freeport Center would allow it to better control the entryway and signage to its facility. He explained the difference between the current map and what had been used during approval of the previous Resolution 2012R-05 and because of the significant difference between the parcels it was necessary for Council's approval of the new legal description.

Youth City Council Mayor Seidel asked if Betty Parker, Freeport Center Associates, had any additional comments. Ms. Parker commented Mr. Lenhard's explanation was satisfactory.

**Councilmember LeBaron moved to approve Resolution 2012R-08 authorizing the disposition of a significant parcel of real property located near the northeast corner of the Freeport Center property in exchange for a nearby larger parcel and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Shepherd. The motion carried upon the following vote: Voting AYE – Councilmembers LeBaron, Murray, Shepherd and Young. Voting NAY – None.** Councilmember Bush was not present for the vote.

**COMMUNICATION ITEMS**

**Mayor Wood**

1. Mayor Wood reminded the Council of the Thunderbird Reception on Friday evening, May 25, 2012, in association with the Air Show scheduled for Saturday and Sunday, May 26 and 27, 2012 at Hill Air Force Base (HAFB). He clarified Utah Transit Authority (UTA) would be providing shuttles from the Frontrunner parking lot in Clearfield for \$3.
2. Reported he, Adam Lenhard, City Manager, and JJ Allen, Assistant City Manager, recently met with developers regarding the Legend Hills area.

*Councilmember LeBaron* – nothing to report.

*Councilmember Murray* – nothing to report.

*Councilmember Shepherd* – reminded the Council of Clearfield University on Thursday, May 24, 2012, 6:30 p.m. He stated the evening would be dedicated to the Legislative arm of the City and reported participants would tour the City building. He indicated he had an assignment and agenda for each member of the Council. He stated the participants would be conducting a mock City Council Meeting.

*Councilmember Young* – nothing to report.

### ***STAFFS' REPORTS***

*Adam Lenhard, City Manager* –nothing to report.

*Kim Read, Deputy City Recorder* – stated no meeting was scheduled for Tuesday, May 29, 2012.

There being no further business to come before the Council in policy session, **Councilmember Young moved to adjourn the policy session and reconvene in a work session at 7:36 p.m., seconded by Councilmember Shepherd. The motion carried upon the following vote: Voting AYE – Councilmembers LeBaron, Murray, Shepherd, and Young. Voting NAY – None.** Councilmember Bush was not present for the vote.



# **CITY COUNCIL**

## **STAFF REPORT**

Item # \_\_\_\_\_

**TO:** Honorable Mayor and City Council

**FROM:** Valerie Claussen, MPA, AICP  
Acting Community Development Director  
[vclaussen@clearfieldcity.org](mailto:vclaussen@clearfieldcity.org) (801) 525-2785

**MEETING DATE:** June 12, 2012

**SUBJECT:**

**A.)** Public Hearing to consider **ZTA 1204-0002**, an amendment to Clearfield City Land Use Ordinance Title 11 Chapter 3, Chapter 11, and Chapter 13 for the inclusion of definitions and supplementary standards and related matters for retail tobacco specialty businesses.

**B.)** Discussion and Possible Action on the adoption of **Ordinance 2012-03**, which would enact text amendment ZTA 1204-0002, an amendment to Clearfield City Land Use Ordinance Title 11 Chapter 3, Chapter 11, and Chapter 13 for the inclusion of definitions and supplementary standards and related matters for retail tobacco specialty businesses.

**C.)** Discussion and Possible Action on the adoption of **Ordinance 2012-04**, an amendment to Clearfield City Code Title 4 Chapter 1 and Chapter 11 on related matters for retail tobacco specialty businesses.

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### **RECOMMENDATIONS**

- A.)** Hold a public hearing **ZTA 1102-0002**, amendment to the Land Use Ordinance, Title 11, Chapter 3, Chapter 11 and Chapter 13.
- B.)** Move to **approve** the adoption of **Ordinance 2012-03**, which would enact text amendment ZTA 1204-0002, an amendment to Clearfield City Land Use Ordinance Title 11 Chapter 3, Chapter 11, and Chapter 13 based on the discussion and findings in the Staff Report; and for the authorization of the mayor's signature to any required documents.
- C.)** Move to **approve** the adoption of **Ordinance 2012-04**, an amendment to Clearfield City Land Use Ordinance Title 4, Chapter 1 and Chapter 11, based on the discussion and findings in the Staff Report; and for the authorization of the mayor's signature to any required documents.

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## PLANNING COMMISSION

Planning Commission held a public hearing at their June 6, 2012 meeting. No further public comment was received. The Commission unanimously recommended approval of this text amendment.

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## BACKGROUND

State legislation was recently enacted, commonly referred to as HB95, which revised Utah State Code in establishing certain restrictions on the location of retail tobacco specialty businesses (*See Attachment 1: H.B. 95 Retail Sale of Tobacco Products*). The proposed text amendment reflects these changes made to State Code.

There are currently four businesses licensed and located within the City that under the new definition are classified as Retail Tobacco Specialty. They are shown in the table below.

<i>Business Name</i>	<i>Location</i>
BEIRUT SMOKE SHOP	545 S STATE ST
SMOKE & MORE, LLC	310 S STATE ST
SMOKE + LLC	926 W 1700 S #B
SMOKEY'S DISCOUNT CIGARETTES	1580 S STATE ST #5A

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## PROPOSED TEXT AMENDMENT

### Proposed Changes

The text amendment requires modifications to Title 11 *Land Use* and Title 4 *Business and License Regulations* of the City Code (*See Attachment 2: "Exhibit A" Title 11 Language and Attachment 3: Title 4 Language, respectively*).

A summary of the modifications proposed are below:

### **Title 11, Chapter 3: Definition of Retail Tobacco Specialty Business**

Utah State Code defines Retail Tobacco Specialty Business. This use is not currently defined in Chapter 3 of the City's Land Use Ordinance. This amendment includes Retail Tobacco Specialty Business as defined in state statutes which is "*a commercial establishment in which the sale of tobacco products accounts for more than 35% of the total annual gross receipts for the establishment, and where food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment, and the establishment is not licensed as pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act. Retail Tobacco Specialty Businesses shall be subject to additional regulations set forth in Chapter 13 of this Title*".

**Title 11, Chapter 13: Supplementary Standards**

The supplementary standards which specifically include distance requirements for Retail Tobacco Specialty Businesses are also proposed and reflect the distances required by state code, which include the following distance requirements:

- 1,000 feet from a community location (which is stated to mean a public or private kindergarten, elementary, middle, junior high, or high school; a licensed child-care facility or preschool; a trade or technical school; a church; a public library; a public playground a public park; a youth center or other space used primarily for youth oriented activities; a public recreational facility; or a public arcade);
- 600 feet from another Retail Tobacco Specialty Business; or
- 600 feet from property used or zoned for agriculture use or residential use

The distance will be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of the community location, or agricultural or residential use, without regard to intervening structures or zoning districts.

**Title 11, Chapter 11: Permitted Use in C-2**

Lastly, the inclusion of the specifically defined use is being included as a permitted use in the Commercial (C-2) zoning district. The ordinance establishes qualifying provisions or standards (e.g., proximity requirements) that must be met to be approved.

**Title 4: Business Licensing**

Similar to the changes of Title 11, additional definitions are included that are identically defined in the State Statutes, the new classification of Retail Tobacco Specialty Business is added, and the specific privileges (i.e. additional standards) are established in a new chapter in this Title.

Changes to Title 4 *Business and License Regulations* includes provisions that through the business licensing application and process requires the applicant to demonstrate how they comply with the land use regulations for the proposed use and its location.

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**ANALYSIS**

These proposed changes are consistent with the recently enacted state statutes. In addition to reflecting the state statute changes, the adoption of the ordinance at the City's level provides a locally defined process to follow.

**Public Comment**

No public comment has been received to date.

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## FINDINGS

### Zoning Ordinance Text Amendment

Clearfield Land Use Ordinance Section 11-6-3 establishes the following findings the Planning Commission shall make to approve Zoning Ordinance Text Amendments. *The Planning Commission made the findings and recommended approval of the text amendment at their June 6, 2012 meeting.* The findings and staff's evaluation are outlined below:

Review Consideration		Staff Analysis
1)	The proposed amendment is in accordance with the General Plan and Map; or	The proposed text amendment is consistent with the goals and policies of the Land Use Element of the City's General Plan. It also establishes a locally defined process that is consistent with state statutes.
2)	Changed conditions make the proposed amendment necessary to fulfill the purposes of this Title.	Changes to Utah State Code were recently made and approved and the proposed changes to the Zoning Ordinance reflect the new laws.

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## ATTACHMENTS

1. H.B. 95 Retail Sale of Tobacco Products
2. "Exhibit A" TITLE 11: Text Amendment for Retail Tobacco Specialty Business
3. "Exhibit B" TITLE 4: Text Amendment for Retail Tobacco Specialty Business
4. Ordinance 2012-03
5. Ordinance 2012-04

Download Zipped Enrolled WordPerfect [HB0095.ZIP](#)  
[\[Introduced\]](#)[\[Amended\]](#)[\[Status\]](#)[\[Bill Documents\]](#)[\[Fiscal Note\]](#)[\[Bills Directory\]](#)

## H.B. 95 Enrolled

1

### RETAIL SALE OF TOBACCO PRODUCTS

2

2012 GENERAL SESSION

3

STATE OF UTAH

4

**Chief Sponsor: Paul Ray**

5

Senate Sponsor: Allen M. Christensen

6

#### 7 **LONG TITLE**

#### 8 **General Description:**

9 This bill authorizes a municipality to issue a business license for a retail tobacco  
 10 specialty business, and creates certain restrictions on the location of a retail tobacco  
 11 specialty business and the sale of tobacco paraphernalia.

#### 12 **Highlighted Provisions:**

13 This bill:

- 14 . amends the definition of tobacco paraphernalia;
- 15 . clarifies the prohibition against the sale of tobacco paraphernalia to minors;
- 16 . defines a retail tobacco specialty business;
- 17 . beginning July 1, 2012, requires an entity doing business as a retail tobacco  
 18 specialty business to obtain a license from a municipality to conduct business;
- 19 . restricts the location of a retail tobacco specialty business;
- 20 . exempts current retail tobacco specialty businesses from the licensing requirements,  
 21 except in certain circumstances.

#### 22 **Money Appropriated in this Bill:**

23 None

#### 24 **Other Special Clauses:**

25 None

#### 26 **Utah Code Sections Affected:**

27 AMENDS:

28 **76-10-104.1**, as enacted by Laws of Utah 2010, Chapter 316

29 ENACTS:

30

**10-8-41.6**, Utah Code Annotated 1953

31 **17-50-333**, Utah Code Annotated 1953

32

33 *Be it enacted by the Legislature of the state of Utah:*

34 *Section 1. Section **10-8-41.6** is enacted to read:*

35 **10-8-41.6. Regulation of retail tobacco specialty business.**

36 *(1) As used in this section:*

37 *(a) "Community location" means:*

38 *(i) a public or private kindergarten, elementary, middle, junior high, or high school;*

39 *(ii) a licensed child-care facility or preschool;*

40 *(iii) a trade or technical school;*

41 *(iv) a church;*

42 *(v) a public library;*

43 *(vi) a public playground;*

44 *(vii) a public park;*

45 *(viii) a youth center or other space used primarily for youth oriented activities;*

46 *(ix) a public recreational facility; or*

47 *(x) a public arcade.*

48 *(b) "Retail tobacco specialty business" means a commercial establishment in which:*

49 *(i) the sale of tobacco products accounts for more than 35% of the total annual gross*  
50 *receipts for the establishment;*

51 *(ii) food and beverage products, excluding gasoline sales, is less than 45% of the total*  
52 *annual gross receipts for the establishment; and*

53 *(iii) the establishment is not licensed as a pharmacy under Title 58, Chapter 17b,*  
54 *Pharmacy Practice Act.*

55 *(c) "Tobacco product" means:*

56 *(i) any cigar, cigarette, or electronic cigarette as defined in Section 76-10-101 ;*

57 *(ii) a tobacco product as defined in Section 59-14-102 , including:*

58

*(A) chewing tobacco; or*

59 *(B) any substitute for a tobacco product, including flavoring or additives to tobacco;*

60 *and*

61 *(iii) tobacco paraphernalia as defined in Section 76-10-104.1.*

62 *(2) The regulation of a retail tobacco specialty business is an exercise of the police*  
63 *powers of the state, and through delegation, to other governmental entities.*

64 *(3) (a) Except as provided in Subsection (7), and beginning July 1, 2012, a*  
65 *municipality shall require an entity to be licensed as a retail tobacco specialty business to*  
66 *conduct business as a retail tobacco specialty business in a municipality.*

67 *(b) A municipality may issue a retail tobacco specialty business license to an entity if*  
68 *the entity complies with the provisions of Subsection (5).*

69 *(4) Except as provided in Subsection (7), and beginning July 1, 2012, a business entity*  
70 *that conducts a retail tobacco specialty business in a municipality shall be licensed by the*  
71 *municipality as a retail tobacco specialty business.*

72 *(5) (a) A municipality may not issue a license to a retail tobacco specialty business if it*  
73 *is located within:*

74 *(i) 1,000 feet of a community location;*

75 *(ii) 600 feet of another retail tobacco specialty business; or*

76 *(iii) 600 feet from property used or zoned for:*

77 *(A) agriculture use; or*

78 *(B) residential use.*

79 *(b) For purposes of Subsection (5)(a), the proximity requirements shall be measured in*  
80 *a straight line from the nearest entrance of the retail tobacco specialty business to the nearest*  
81 *property boundary of the community location, or agricultural or residential use, without regard*  
82 *to intervening structures or zoning districts.*

83 *(6) (a) Nothing in this section:*

84 (i) requires a municipality to issue a business license to a retail tobacco specialty  
 85 business; or

86

(ii) prohibits a municipality from adopting more restrictive requirements on a tobacco  
 87 specialty business than provided for in this section.

88 (b) A municipality may revoke a business license issued under this section:

89 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,  
 90 Part 16, Pattern of Unlawful Activity Act;

91 (ii) if a licensee violates the regulations restricting the sale and distribution of  
 92 cigarettes and smokeless tobacco to protect children and adolescents issued by the United  
 93 States Food and Drug Administration, 21 C.F.R. Part 1140; or

94 (iii) under other provisions of state law or local ordinance.

95 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has  
 96 a business license and is operating lawfully in a municipality on or before May 8, 2012, is  
 97 exempt from Subsections (4) and (5).

98 (b) A retail tobacco specialty business may maintain an exemption under Subsection  
 99 (7)(a) if:

100 (i) the business license is renewed continuously without relapse or permanent  
 101 revocation;

102 (ii) the retail tobacco specialty business is not closed for business or otherwise  
 103 suspends the sale of tobacco products for more than 60 consecutive days;

104 (iii) the retail tobacco specialty business does not substantially change the business  
 105 premises or its business operation; and

106 (iv) the retail tobacco specialty business maintains the right to operate under the terms  
 107 of other applicable laws, including zoning ordinances, building codes, and the business license  
 108 issued prior to May 8, 2012.

109 Section 2. Section **17-50-333** is enacted to read:

110 **17-50-333. Regulation of retail tobacco specialty business.**

111 (1) As used in this section:

112 (a) "Community location" means:

113 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

114

(ii) a licensed child-care facility or preschool;

115 (iii) a trade or technical school;

116 (iv) a church;

117 (v) a public library;

118 (vi) a public playground;

119 (vii) a public park;

120 (viii) a youth center or other space used primarily for youth oriented activities;

121 (ix) a public recreational facility; or

122 (x) a public arcade.

123 (b) "Retail tobacco specialty business" means a commercial establishment in which:

124 (i) the sale of tobacco products accounts for more than 35% of the total annual gross  
 125 receipts for the establishment;

126 (ii) food and beverage products, excluding gasoline sales, is less than 45% of the total  
 127 annual gross receipts for the establishment; and

128 (iii) the establishment is not licensed as a pharmacy under Title 58, Chapter 17b,  
 129 Pharmacy Practice Act.

130 (c) "Tobacco product" means:

131 (i) any cigar, cigarette, or electronic cigarette as defined in Section 76-10-101 ;

132 (ii) a tobacco product as defined in Section 59-14-102 , including:

133 (A) chewing tobacco; or  
 134 (B) any substitute for a tobacco product, including flavoring or additives to tobacco;  
 135 and  
 136 (iii) tobacco paraphernalia as defined in Section 76-10-104.1.  
 137 (2) The regulation of a retail tobacco specialty business is an exercise of the police  
 138 powers of the state, and through delegation, to other governmental entities.  
 139 (3) (a) Except as provided in Subsection (7), and beginning July 1, 2012, a county shall  
 140 require an entity to be licensed as a retail tobacco specialty business to conduct business as a  
 141 retail tobacco specialty business in a county.

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142  
 143 (b) A county may issue a retail tobacco specialty business license to an entity if the  
 144 entity complies with the provisions of Subsection (5).  
 145 (4) Except as provided in Subsection (7), and beginning July 1, 2012, a business entity  
 146 that conducts a retail tobacco specialty business in a county shall be licensed by the county as a  
 147 retail tobacco specialty business.  
 148 (5) (a) A county may not issue a license to a retail tobacco specialty business if it is  
 149 located within:  
 150 (i) 1,000 feet of a community location;  
 151 (ii) 600 feet of another retail tobacco specialty business; or  
 152 (iii) 600 feet from property used or zoned for:  
 153 (A) agriculture use; or  
 154 (B) residential use.  
 155 (b) For purposes of Subsection (5)(a), the proximity requirements shall be measured in  
 156 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest  
 157 property boundary of the community location, or agricultural or residential use, without regard  
 158 to intervening structures or zoning districts.  
 159 (6) (a) Nothing in this section:  
 160 (i) requires a county to issue a business license to a retail tobacco specialty business; or  
 161 (ii) prohibits a county from adopting more restrictive requirements on a tobacco  
 162 specialty business than provided for in this section.  
 163 (b) A county may revoke a business license issued under this section:  
 164 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,  
 165 Part 16, Pattern of Unlawful Activity Act;  
 166 (ii) if a licensee violates the regulations restricting the sale and distribution of  
 167 cigarettes and smokeless tobacco to protect children and adolescents issued by the United  
 168 States Food and Drug Administration, 21 C.F.R. Part 1140; or  
 169 (iii) under other provisions of state law or local ordinance.  
 170 (7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has

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170  
 171 a business license and is operating lawfully in a county on or before May 8, 2012, is exempt  
 172 from Subsections (4) and (5).  
 173 (b) A retail tobacco specialty business may maintain an exemption under Subsection  
 174 (7)(a) if:  
 175 (i) the business license is renewed continuously without relapse or permanent  
 176 revocation;  
 177 (ii) the retail tobacco specialty business is not closed for business or otherwise  
 178 suspends the sale of tobacco products for more than 60 consecutive days;  
 179 (iii) the retail tobacco specialty business does not substantially change the business  
 180 premises or its business operation; and  
 181 (iv) the retail tobacco specialty business maintains the right to operate under the terms  
 182 of other applicable laws, including zoning ordinances, building codes, and the business license

182 *issued prior to May 8, 2012.*

183 Section 3. Section **76-10-104.1** is amended to read:

184 **76-10-104.1. Providing tobacco paraphernalia to minors -- Penalties.**

185 (1) For purposes of this section:

186 (a) "Provides":

187 (i) includes selling, giving, furnishing, sending, or causing to be sent; and

188 (ii) does not include the acts of the United States Postal Service or other common  
189 carrier when engaged in the business of transporting and delivering packages for others or the  
190 acts of a person, whether compensated or not, who transports or delivers a package for another  
191 person without any reason to know of the package's content.

192 (b) "Tobacco paraphernalia":

193 (i) means any equipment, product, or material *of any kind which is* used, [~~or~~] intended  
194 for use, *or designed for use* to package, repack, store, contain, conceal, ingest, inhale, or  
195 otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including:

196 (A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
197 screens, permanent screens, hashish heads, or punctured metal bowls;

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198

(B) water pipes;

199 (C) carburetion tubes and devices;

200 (D) smoking and carburetion masks;

201 (E) roach clips: meaning objects used to hold burning material, such as a cigarette, that  
202 has become too small or too short to be held in the hand;

203 (F) chamber pipes;

204 (G) carburetor pipes;

205 (H) electric pipes;

206 (I) air-driven pipes;

207 (J) chillums;

208 (K) bonges; and

209 (L) ice pipes or chillers; and

210 (ii) does not include matches or lighters.

211 (2) ~~(a) [Any person who]~~ *It is unlawful for a person to,* knowingly, intentionally,  
212 recklessly, or with criminal negligence [~~provides~~] *provide* any tobacco paraphernalia to any  
213 person under 19 years of age[;].

214 *(b) A person who violates this section* is guilty of a class C misdemeanor on the first  
215 offense and a class B misdemeanor on subsequent offenses.

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# “Exhibit A”

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## Text Amendment for Retail Tobacco Specialty Business

(Revisions shown with CAPS and deletions shown with ~~strike through~~.)

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### **TITLE 11 CHAPTER 11: COMMERCIAL AND MANUFACTURING ZONES**

#### **ARTICLE B. COMMERCIAL ZONE (C-2)**

##### **11-11B-2: PERMITTED USES:**

The following buildings, structures, and uses of land shall be permitted in the C-2 Commercial Zone upon compliance with the requirements set forth in this Code:

Business services.

Firework Stands.

Hotels.

Medical clinics.

Mobile Food Vendors.

Offices.

Parks and open space.

Personal services.

Pet grooming facilities.

Physical therapy facilities. (ORD. CITATION)

Restaurants.

Retail stores.

RETAIL TOBACCO SPECIALTY BUSINESS. (ORD. CITATION)

Temporary or Seasonal Merchants.

# “Exhibit A”

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Theaters.

If any use permitted by this Section is classified by the currently adopted building codes as an “H-Occupancy” (hazardous), it shall become a conditional use, subject to the requirements of Title 4 of this Code. (Ord. 01-06, 4-10-2001)

## TITLE 11 – LAND USE

### CHAPTER 3: DEFINITIONS

#### 11-3-3: DEFINITIONS:

RETAIL TOBACCO SPECIALTY BUSINESS: A COMMERCIAL ESTABLISHMENT IN WHICH THE SALE OF TOBACCO PRODUCTS (AS DEFINED IN TITLE 4-11-3) ACCOUNTS FOR MORE THAN 35% OF THE TOTAL ANNUAL GROSS RECEIPTS FOR THE ESTABLISHMENT, AND WHERE FOOD AND BEVERAGE PRODUCTS, EXCLUDING GASOLINE SALES, IS LESS THAN 45% OF THE TOTAL ANNUAL GROSS RECEIPTS FOR THE ESTABLISHMENT, AND THE ESTABLISHMENT IS NOT LICENSED AS PHARMACY UNDER TITLE 58, CHAPTER 17B, PHARMACY PRACTICE ACT. RETAIL TOBACCO SPECIALTY BUSINESSES SHALL BE SUBJECT TO ADDITIONAL REGULATIONS SET FORTH IN CHAPTER 13 OF THIS TITLE.

## TITLE 11 – CHAPTER 13 SUPPLEMENTARY REGULATIONS

#### 11-13-30: RETAIL TOBACCO SPECIALTY BUSINESS:

- A. NO RETAIL TOBACCO SPECIALTY BUSINESS SHALL BE LOCATED WITHIN PROXIMITY OF THE FOLLOWING:
  1. 1,000 FEET OF A COMMUNITY LOCATION
    - I. COMMUNITY LOCATION MEANS A PUBLIC OR PRIVATE KINDERGARTEN, ELEMENTARY, MIDDLE, JUNIOR HIGH, OR HIGH SCHOOL; A LICENSED CHILD-CARE FACILITY OR PRESCHOOL; A TRADE OR TECHNICAL SCHOOL; A CHURCH; A PUBLIC LIBRARY; A PUBLIC PLAYGROUND; A PUBLIC PARK; A YOUTH CENTER OR OTHER SPACE USED PRIMARILY FOR YOUTH ORIENTED ACTIVITIES; A PUBLIC RECREATIONAL FACILITY; OR A PUBLIC ARCADE;
  2. 600 FEET OF ANOTHER RETAIL TOBACCO SPECIALTY BUSINESS; OR
  3. 600 FEET FROM PROPERTY USED OR ZONED FOR AGRICULTURE USE OR RESIDENTIAL USE.
- B. FOR THE PURPOSES OF THIS SECTION THE PROXIMITY REQUIREMENTS SHALL BE MEASURED IN A STRAIGHT LINE FROM THE NEAREST ENTRANCE OF THE RETAIL TOBACCO SPECIALTY BUSINESS TO THE NEAREST PROPERTY BOUNDARY OF THE COMMUNITY LOCATION, OR AGRICULTURAL OR RESIDENTIAL USE, WITHOUT REGARD TO INTERVENING STRUCTURES OR ZONING DISTRICTS.

# “Exhibit B”

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## Title 4 Text Amendment for Retail Tobacco Specialty Business

(Revisions shown with CAPS and deletions shown with ~~strikethrough~~.)

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### **4-1-2: CLASSIFICATIONS; PRIVILEGES:**

A. Classifications: Licenses issued under the provisions of this chapter shall be of the following classes:

1. General business.
2. Temporary or seasonal merchant.
3. Beer.
4. Sexually oriented business.
5. Sexually oriented business employee.
6. Consumer fireworks sales.
7. Pawnbroker.
8. Rental dwelling.
9. Solicitor.
10. Mobile food vendor.

### 11. RETAIL TOBACCO.

B. Privileges:

1. General Business License: A general business license shall allow the licensee to conduct business within the city as prescribed by this title, including the operation of a home occupation. Additional regulations for home occupations are set forth in [title 11, chapter 16](#) of this code.
2. Temporary Or Seasonal Merchant License: A temporary or seasonal merchant license shall allow the licensee to engage in the business of selling nonfood products for a temporary period of time at a temporary location within the city. A temporary or seasonal merchant's license shall not be required for merchants participating in a city sponsored event or activity.

## “Exhibit B”

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3. Beer License: A beer license shall allow the licensee to engage in the business of selling beer within the city pursuant to additional privileges and regulations for beer licenses as set forth in this chapter and [chapter 2](#) of this title. A valid general business license is required prior to the issuance of a beer license.
4. Sexually Oriented Business License: A sexually oriented business license shall allow the licensee to conduct a sexually oriented business within the city pursuant to additional regulations for sexually oriented business licenses as set forth in this chapter and [chapter 4](#) of this title.
5. Sexually Oriented Business Employee License: A sexually oriented business employee license shall allow the licensee to be employed by a sexually oriented business within the city pursuant to additional regulations for sexually oriented business employee licenses as set forth in this chapter and [chapter 4](#) of this title.
6. Consumer Fireworks Sales License: A consumer fireworks sales license shall allow the licensee to engage in the business of selling consumer (class C) fireworks within the city pursuant to additional regulations for fireworks stand licenses as set forth in this chapter and [chapter 5](#) of this title.
7. Pawnbroker License: A pawnbroker license shall allow the licensee to engage in the business of pawnbroker within the city pursuant to additional regulations for pawnbroker licenses as set forth in this chapter and [chapter 6](#) of this title.
8. Rental Dwelling License: A rental dwelling license shall allow the licensee to own and/or operate a rental dwelling unit within the city pursuant to additional regulations for rental dwelling licenses as set forth in this chapter and [chapter 7](#) of this title.
9. Solicitor's License: A solicitor's license shall allow the licensee to solicit within the city pursuant to additional regulations for solicitors' licenses set forth in [chapter 8](#) of this title.
10. Mobile Food Vendor's License: A mobile food vendor's license shall allow the licensee to sell food within the city for a temporary period of time from a temporary location or mobile structure. A mobile food vendor's license shall not be required for vendors participating in a city sponsored event or activity. (Ord. 2009-15, 11-24-2009)
11. RETAIL TOBACCO SPECIALTY LICENSE: A RETAIL TOBACCO SPECIALTY LICENSE SHALL ALLOW THE LICENSEE TO CONDUCT BUSINESS AS A RETAIL TOBACCO SPECIALTY BUSINESS WITHIN THE CITY PURSUANT TO ADDITIONAL REGULATIONS SET FORTH IN CHAPTER 11 OF THIS TITLE.

## Chapter 11 RETAIL TOBACCO SPECIALTY LICENSES

[4-11-1: APPLICABILITY:](#)

[4-11-2: LICENSE REQUIRED:](#)

[4-11-3: DEFINITIONS](#)

[4-11-4: APPLICATION FOR LICENSE](#)

[4-11-5: REVIEW AND APPROVAL PROCEDURES:](#)

[4-11-6: RULES AND REGULATIONS:](#)

[4-11-7: DENIAL OR REVOCATION:](#)

[4-11-8: PENALTY:](#)

**4-11-1: APPLICABILITY:**

IN ADDITION TO ALL RULES AND REGULATIONS SET FORTH IN [CHAPTER 1](#) OF THIS TITLE, THE REGULATIONS CONTAINED IN THIS CHAPTER SHALL APPLY TO RETAIL TOBACCO SPECIALTY BUSINESSES.

**4-11-2: LICENSE REQUIRED:**

IT IS UNLAWFUL FOR ANY PERSON TO ENGAGE IN THE BUSINESS OF CONDUCTING A RETAIL TOBACCO SPECIALTY BUSINESS WITHIN THE CITY WITHOUT FIRST OBTAINING THE LICENSES REQUIRED BY THIS CHAPTER AND [CHAPTER 1](#) OF THIS TITLE. EXCEPT AS PROVIDED IN SUBSECTION 4-11-2(A), AND BEGINNING JULY 1, 2012, A BUSINESS ENTITY THAT CONDUCTS A RETAIL TOBACCO SPECIALTY BUSINESS WITHIN THE CITY SHALL BE LICENSED.

- A. PURSUANT TO U.C.A. § 10-8-41.6 (AS AMENDED), A RETAIL TOBACCO SPECIALTY BUSINESS THAT HAS A BUSINESS LICENSE AND IS OPERATING LAWFULLY IN A MUNICIPALITY ON OR BEFORE MAY 8, 2012, IS NOT SUBJECT TO ADDITIONAL ZONING REQUIREMENTS EXCLUSIVELY APPLICABLE TO RETAIL TOBACCO SPECIALTY BUSINESSES AS SET FORTH IN § 11-13-30 OF THIS CODE.
- B. A RETAIL TOBACCO SPECIALTY BUSINESS MAY MAINTAIN AN EXEMPTION UNDER § 4-11-2(A) ABOVE ONLY IF:
  - 1. THE BUSINESS LICENSE IS RENEWED CONTINUOUSLY WITHOUT RELAPSE OR PERMANENT REVOCATION;
  - 2. THE RETAIL TOBACCO SPECIALTY LICENSE IS NOT CLOSED FOR BUSINESS OR OTHERWISE SUSPENDS THE SALE OF TOBACCO PRODUCTS FOR MORE THAN 60 CONSECUTIVE DAYS;

## “Exhibit B”

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3. THE RETAIL TOBACCO SPECIALTY BUSINESS DOES NOT SUBSTANTIALLY CHANGE THE BUSINESS PREMISES OR ITS BUSINESS OPERATION; AND
4. THE RETAIL TOBACCO SPECIALTY BUSINESS MAINTAINS THE RIGHT TO OPERATE UNDER THE TERMS OF OTHER APPLICABLE LAWS, INCLUDING ZONING ORDINANCES, BUILDING CODES, AND THE BUSINESS LICENSE IS ISSUED PRIOR TO MAY 8, 2012.

### **4-11-3: DEFINITIONS:**

IN ADDITION TO THE DEFINITIONS SET FORTH IN OTHER SECTIONS OF THIS CODE, THE FOLLOWING WORDS AND PHRASES USED IN THIS CHAPTER SHALL HAVE THE MEANINGS HEREIN PRESCRIBED:

COMMUNITY LOCATION: A PUBLIC OR PRIVATE KINDERGARTEN, ELEMENTARY, MIDDLE, JUNIOR HIGH, OR HIGH SCHOOL, A LICENSED CHILD-CARE FACILITY OR PRESCHOOL, A TRADE OR TECHNICAL SCHOOL, A CHURCH, A PUBLIC LIBRARY, A PUBLIC PLAYGROUND, A PUBLIC PARK, A YOUTH CENTER OR OTHER SPACE USED PRIMARILY FOR YOUTH ORIENTED ACTIVITIES, A PUBLIC RECREATIONAL FACILITY, OR A PUBLIC ARCADE.

RETAIL TOBACCO SPECIALTY BUSINESS: A COMMERCIAL ESTABLISHMENT IN WHICH THE SALE OF TOBACCO PRODUCTS ACCOUNTS FOR MORE THAN 35% OF THE TOTAL ANNUAL GROSS RECEIPTS FOR THE ESTABLISHMENT, AND WHERE FOOD AND BEVERAGE PRODUCTS, EXCLUDING GASOLINE SALES, IS LESS THAN 45% OF THE TOTAL ANNUAL GROSS RECEIPTS FOR THE ESTABLISHMENT, AND THE ESTABLISHMENT IS NOT LICENSED AS PHARMACY UNDER TITLE 58, CHAPTER 17B, PHARMACY PRACTICE ACT.

TOBACCO PARAPHERNALIA: MEANS ANY EQUIPMENT, PRODUCT, OR MATERIAL OF ANY KIND WHICH IS USED, INTENDED TO USE, OR DESIGNED FOR USE TO PACKAGE, REPACKAGE, STORE, CONTAIN, CONCEAL, INGEST, INHALE, OR OTHERWISE INTRODUCE A CIGAR, CIGARETTE, OR TOBACCO IN ANY FORM INTO THE HUMAN BODY, INCLUDING:

- A. METAL, WOODEN, ACRYLIC, GLASS, STONE, PLASTIC, OR CERAMIC PIPES WITH OR WITHOUT SCREENS, PERMANENT SCREENS, HASHISH HEADS, OR PUNCTURED METAL BOWLS;
- B. WATER PIPES;
- C. CARBURETION TUBES AND DEVICES;
- D. SMOKING AND CARBURETION MASKS;
- E. ROACH CLIPS: MEANING OBJECTS USED TO HOLD BURNING MATERIAL, SUCH AS A CIGARETTE, THAT HAS BECOME TOO SMALL OR TOO SHORT TO BE HELD IN THE HAND;
- F. CHAMBER PIPES;
- G. CARBURETOR PIPES;
- H. ELECTRIC PIPES;
- I. AIR-DRIVEN PIPES;
- J. CHILLUMS;
- K. BONGS; AND
- L. ICE PIPES OR CHILLERS,

## “Exhibit B”

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BUT NOT INCLUDING MATCHES OR LIGHTERS.

TOBACCO PRODUCT: ANY CIGAR, CIGARETTE, OR ELECTRONIC CIGARETTE AS DEFINED IN UCA 76-10-101; OR A TOBACCO PRODUCT AS DEFINED IN UCA 59-14-102, INCLUDING: CHEWING TOBACCO; OR ANY SUBSTITUTE FOR A TOBACCO PRODUCT, INCLUDING FLAVORING OR ADDITIVES TO TOBACCO; AND TOBACCO PARAPHERNALIA AS DEFINED IN UCA 76-10-104.1.

### **4-11-3: REVIEW AND APPROVAL PROCEDURES:**

THE PROCESS FOR REVIEW AND APPROVAL OF AN APPLICATION FOR A RETAIL TOBACCO SPECIALTY BUSINESS LICENSE SHALL BE IN ACCORDANCE WITH [CHAPTER 1](#) OF THIS TITLE. THE FOLLOWING SHALL ALSO BE PROVIDED:

- A. A SITE PLAN, DRAWN TO SCALE, SHALL INCLUDE ALL INFORMATION NECESSARY TO SHOW COMPLIANCE WITH THE APPLICABLE ZONING REQUIREMENTS SET FORTH IN TITLE 11 OF THIS CODE, INCLUDING THE FOLLOWING :
  1. LOCATION OF THE PROPOSED BUSINESS THAT INCLUDES ADJACENT PROPERTIES WITHIN 1,000 FEET OF BUSINESS.
  2. ALL ADJACENT PROPERTIES SHALL BE LABELED WITH THE EXISTING BUSINESS NAME AND/OR USE.
  3. IF A COMMUNITY LOCATION, AGRICULTURAL OR RESIDENTIAL USES, OR OTHER RETAIL TOBACCO SPECIALTY BUSINESSES ARE LOCATED WITHIN A 1,000 FEET OR LESS DIMENSIONS ON THE SITE PLAN SHALL BE PROVIDED.
    - I. THE MEASUREMENTS WILL BE TAKEN FROM THE NEAREST ENTRANCE OF THE RETAIL TOBACCO SPECIALTY BUSINESS TO THE NEAREST PROPERTY BOUNDARY OF THE COMMUNITY LOCATION, OR AGRICULTURAL OR RESIDENTIAL USE, WITHOUT REGARD TO INTERVENING STRUCTURES OR ZONING DISTRICTS.

### **4-11-4: RULES AND REGULATIONS:**

COMPLIANCE WITH ZONING REGULATIONS: EACH RETAIL TOBACCO SPECIALTY LICENSE SHALL COMPLY WITH THE APPLICABLE ZONING REQUIREMENTS SET FORTH IN [TITLE 11](#) OF THIS CODE.

PROVIDING TOBACCO PRODUCTS TO MINORS: IT IS UNLAWFUL FOR ANY PERSON TO KNOWINGLY, INTENTIONALLY, RECKLESSLY, OR WITH CRIMINAL NEGLIGENCE PROVIDE ANY TOBACCO PRODUCT TO ANY PERSON UNDER 19 YEARS OF AGE. ANY PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS C MISDEMEANOR ON THE FIRST OFFENSE, A CLASS B MISDEMEANOR ON THE SECOND OFFENSE, AND A CLASS A MISDEMEANOR ON SUBSEQUENT OFFENSES.

PROVIDING TOBACCO PARAPHERNALIA TO MINORS: IT IS UNLAWFUL FOR A PERSON TO, KNOWINGLY, INTENTIONALLY, RECKLESSLY, OR WITH CRIMINAL NEGLIGENCE PROVIDE ANY TOBACCO PARAPHERNALIA TO ANY PERSON UNDER 19 YEARS OF AGE. ANY PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS C MISDEMEANOR ON THE FIRST OFFENSE AND A CLASS B MISDEMEANOR ON SUBSEQUENT OFFENSES.

## “Exhibit B”

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### **4-11-5: DENIAL OR REVOCATION:**

IN ADDITION TO THE REASONS SET FORTH IN CHAPTER 1 OF THIS TITLE FOR DENIAL OR REVOCATION OF A LICENSE, THE BUSINESS LICENSE OFFICIAL MAY DENY OR REVOKE A RETAIL TOBACCO SPECIALTY LICENSE:

- A. IF A LICENSEE ENGAGES IN A PATTERN OF UNLAWFUL ACTIVITY UNDER TITLE 76, CHAPTER 10, PART 16, PATTERN OF UNLAWFUL ACTIVITY ACT; (IS THIS A UCA?)
- B. IF A LICENSEE VIOLATES THE REGULATIONS RESTRICTING THE SALE AND DISTRIBUTION OF CIGARETTES AND SMOKELESS TOBACCO TO PROTECT CHILDREN AND ADOLESCENTS ISSUED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, 21 C.F.R. PART 1140; OR
- C. UNDER OTHER PROVISIONS OF STATE LAW OR CITY ORDINANCE.

### **4-11-6: PENALTY:**

UNLESS OTHERWISE SPECIFIED, ANY PERSON VIOLATING ANY OF THE PROVISIONS OF THIS CHAPTER SHALL BE GUILTY OF A CLASS B MISDEMEANOR AND SUBJECT TO PENALTY AS PROVIDED IN SECTION [1-4-1](#) OF THIS CODE. EACH SEPARATE DAY A PERSON VIOLATES ANY PROVISION OF THIS CHAPTER SHALL BE A SEPARATE VIOLATION.

C l i n t o n

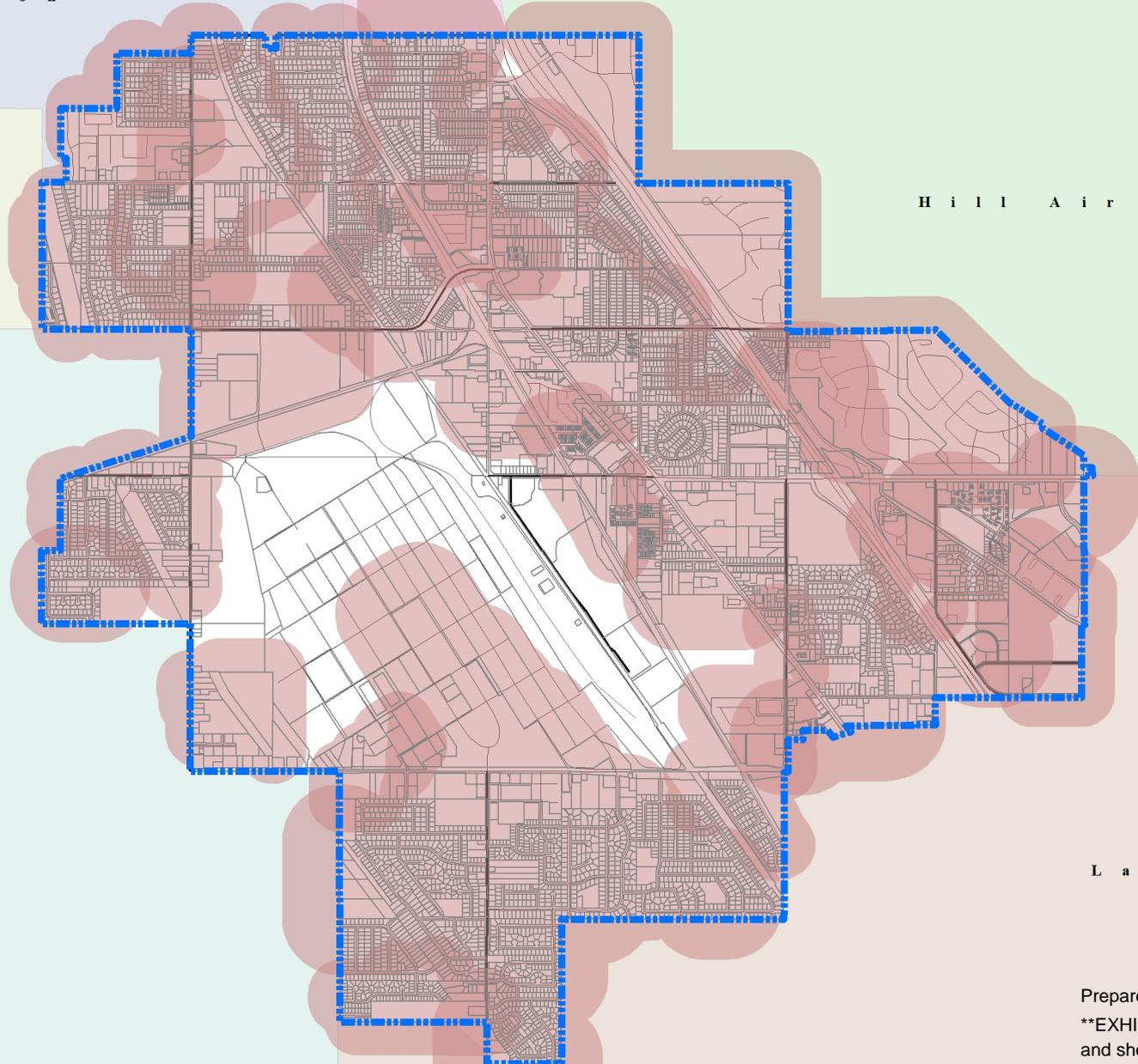
S u n s e t

W e s t P o i n t

H i l l A i r F o r c e B a s e

S y r a c u s e

L a y t o n



Prepared on June 6, 2012

**\*\*EXHIBIT FOR ILLUSTRATIVE PURPOSES ONLY  
and should not be construed as a zoning determination\*\***

# CLEARFIELD CITY ORDINANCE 2012-03

## AN ORDINANCE AMENDING TITLE 11 OF THE CLEARFIELD CITY CODE

**PREAMBLE:** This Ordinance amends Title 11 of the Clearfield City Code by amending Chapter 3, Section 3; Chapter 11, Article B, Section 2; and Chapter 13, Section 30 of said title.

### BE IT ORDAINED BY THE CLEARFIELD CITY COUNCIL:

#### **Section 1. Enactment:**

*Title 11, Chapter 3, Section 3 of the Clearfield City Code is hereby amended to read as follows:*

**RETAIL TOBACCO SPECIALTY BUSINESS:** A commercial establishment in which the sale of tobacco products (AS DEFINED IN TITLE 4-11-3) accounts for more than 35% of the total annual gross receipts for the establishment, and where food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment, and the establishment is not licensed as pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act. Retail Tobacco Specialty Businesses shall be subject to additional regulations set forth in Chapter 13 of this Title.

*Title 11, Chapter 11, Section 2 of the Clearfield City Code is hereby amended by adding RETAIL TOBACCO SPECIALTY BUSINESS to "Permitted Uses."*

*Title 11, Chapter 13, Section 30 of the Clearfield City Code is hereby amended to read as follows:*

#### **11-13-30: RETAIL TOBACCO SPECIALTY BUSINESS:**

- A. No retail tobacco specialty business shall be located within proximity of the following:
  1. 1,000 feet of a Community Location
    - a. Community Location means a public or private kindergarten, elementary, middle, junior high, or high school; a licensed child-care facility or preschool; a trade or technical school; a church; a public library; a public playground; a public park; a youth center or other space used primarily for youth oriented activities; a public recreational facility; or a public arcade;
  2. 600 feet of another retail tobacco specialty business; or
  3. 600 feet from property used or zoned for agriculture use or residential use.
- B. For the purposes of this section, the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary

of the community location, or agricultural or residential use, without regard to intervening structures or zoning districts.

**Section 2. Repealer:** Any provision or ordinances that are in conflict with this ordinance are hereby repealed.

**Section 3. Effective Date:** These amendments shall become effective immediately upon passage and posting.

Passed and adopted by the Clearfield City Council this 12th day of June, 2012.

CLEARFIELD CITY CORPORATION

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Donald W. Wood, Mayor

ATTEST:

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Nancy R. Dean, City Recorder

VOTE OF THE COUNCIL

AYE:

NAY:

EXCUSED:

# CLEARFIELD CITY ORDINANCE 2012-04

## AN ORDINANCE AMENDING TITLE 4 OF THE CLEARFIELD CITY CODE

**PREAMBLE:** This Ordinance amends Title 4 of the Clearfield City Code by amending Chapter 1, Section 2 and enacting Title 4, Chapter 10 of said title.

### **BE IT ORDAINED BY THE CLEARFIELD CITY COUNCIL:**

#### **Section 1. Enactment:**

*Title 4, Chapter 1, Section 2, Paragraph A of the Clearfield City Code is hereby amended by adding RETAIL TOBACCO SPECIALTY BUSINESS under Paragraph A "Classifications."*

*Title 4, Chapter 1, Section 2, Paragraph B of the Clearfield City Code is hereby amended to read as follows:*

Retail Tobacco Specialty License: A retail tobacco specialty license shall allow the licensee to conduct business as a retail tobacco specialty business within the city pursuant to additional regulations set forth in Chapter 11 of this Title.

*Title 4, Chapter 10, of the Clearfield City Code is hereby enacted to read as follows:*

## **Chapter 10 RETAIL TOBACCO SPECIALTY LICENSES**

### **4-10-1: APPLICABILITY:**

In addition to all rules and regulations set forth in Chapter 1 of this Title, the regulations contained in this chapter shall apply to retail tobacco specialty businesses.

### **4-10-2: LICENSE REQUIRED:**

It is unlawful for any person to engage in the business of conducting a retail tobacco specialty business within the city without first obtaining the licenses required by this Chapter and Chapter 1 of this Title. Except as provided in subsection 4-11-2(A), and beginning July 1, 2012, a business entity that conducts a retail tobacco specialty business within the city shall be licensed.

- A. Pursuant to U.C.A. § 10-8-41.6 (as amended), a retail tobacco specialty business that has a business license and is operating lawfully in a municipality on or before May 8, 2012, is not subject to additional zoning requirements exclusively applicable to retail tobacco specialty businesses as set forth in § 11-13-30 of this code.
- B. A retail tobacco specialty business may maintain an exemption under § 4-11-2(A) above only if:

1. The business license is renewed continuously without relapse or permanent revocation;
2. The retail tobacco specialty license is not closed for business or otherwise suspends the sale of tobacco products for more than 60 consecutive days;
3. The retail tobacco specialty business does not substantially change the business premises or its business operation; and
4. The retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including zoning ordinances, building codes, and the business license is issued prior to May 8, 2012.

#### **4-10-3: DEFINITIONS:**

In addition to the definitions set forth in other sections of this code, the following words and phrases used in this chapter shall have the meanings herein prescribed:

**COMMUNITY LOCATION:** A public or private kindergarten, elementary, middle, junior high, or high school, a licensed child-care facility or preschool, a trade or technical school, a church, a public library, a public playground, a public park, a youth center or other space used primarily for youth oriented activities, a public recreational facility, or a public arcade.

**RETAIL TOBACCO SPECIALTY BUSINESS:** A commercial establishment in which the sale of tobacco products accounts for more than 35% of the total annual gross receipts for the establishment, and where food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment, and the establishment is not licensed as pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.

**TOBACCO PARAPHERNALIA:** Means any equipment, product, or material of any kind which is used, intended to use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including:

- A. metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- B. water pipes;
- C. carburetion tubes and devices;
- D. smoking and carburetion masks;
- E. roach clips: meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;
- F. chamber pipes;
- G. carburetor pipes;
- H. electric pipes;
- I. air-driven pipes;

- J. chillums;
- K. bonges; and
- L. ice pipes or chillers,

But not including matches or lighters.

**TOBACCO PRODUCT:** Any cigar, cigarette, or electronic cigarette as defined in UCA 76-10-101; or a tobacco product as defined in UCA 59-14-102, including: chewing tobacco; or any substitute for a tobacco product, including flavoring or additives to tobacco; and tobacco paraphernalia as defined in UCA 76-10-104.1.

#### **4-10-3: REVIEW AND APPROVAL PROCEDURES:**

The process for review and approval of an application for a retail tobacco specialty business license shall be in accordance with Chapter 1 of this Title. The following shall also be provided:

- A. A site plan, drawn to scale, shall include all information necessary to show compliance with the applicable zoning requirements set forth in Title 11 of this Code, including the following:
  - 1. Location of the proposed business that includes adjacent properties within 1,500 feet of business.
  - 2. All adjacent properties shall be labeled with the existing business name and/or use.
  - 3. If a community location, agricultural or residential use, or other retail tobacco specialty businesses are located within a 1,000 feet or less dimensions on the site plan shall be provided.
    - i. The measurements will be taken from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of the community location, or agricultural or residential use, without regard to intervening structures or zoning districts.

#### **4-10-4: RULES AND REGULATIONS:**

**Compliance with Zoning Regulations:** Each retail tobacco specialty license shall comply with the applicable zoning requirements set forth in Title 11 of this code.

**Providing Tobacco Products to Minors:** It is unlawful for any person to knowingly, intentionally, recklessly, or with criminal negligence provide any tobacco product to any person under 19 years of age. Any person who violates this section is guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses.

**Providing Tobacco Paraphernalia to Minors:** It is unlawful for a person to, knowingly, intentionally, recklessly, or with criminal negligence provide any tobacco paraphernalia to any person under 19 years of age. Any person who violates this section is guilty of a class C misdemeanor on the first offense and a class B misdemeanor on subsequent offenses.

**4-10-5: DENIAL OR REVOCATION:**

In addition to the reasons set forth in Chapter 1 of this Title for denial or revocation of a license, the business license official may deny or revoke a retail tobacco specialty license:

- A. If a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- B. If a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or
- C. Under other provisions of state law or city ordinance.

**4-10-6: PENALTY:**

Unless otherwise specified, any person violating any of the provisions of this chapter shall be guilty of a class B misdemeanor and subject to penalty as provided in section 1-4-1 of this code. Each separate day a person violates any provision of this chapter shall be a separate violation.

**Section 2. Repealer:** Any provision or ordinances that are in conflict with this ordinance are hereby repealed.

**Section 3. Effective Date:** These amendments shall become effective immediately upon passage and posting.

Passed and adopted by the Clearfield City Council this 12th day of June, 2012.

CLEARFIELD CITY CORPORATION

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Donald W. Wood, Mayor

ATTEST:

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Nancy R. Dean, City Recorder

VOTE OF THE COUNCIL

AYE:

NAY:

EXCUSED:

5 June 2012

Clearfield City  
55 South State Street  
Clearfield, Utah 84015

Attn: Mayor Don Wood and City Council  
Proj: **Ross Drive at State Street Storm Drain Improvement**  
Subj: Bid Results, Bid Proposal Tabulation & Recommendation

Dear Mayor Wood and Council Members,

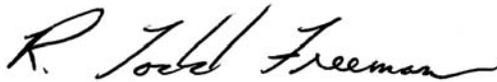
The "Bid Opening" for the above referenced project was conducted this afternoon. The lowest responsible bidder is Brinkerhoff Excavating of Farr West, Utah.

Enclosed are the "Bid Results" and "Bid Proposal Tabulation". Brinkerhoff Excavating's bid was reviewed and found to meet the bidding conditions required in the Contract Documents.

Since Brinkerhoff Excavating's bid is the low bid for the advertised project, and their bid meets the conditions of the Contract Documents, I herewith recommend award of the above referenced project in the amount of \$109,107.00 to Brinkerhoff Excavating.

Should you have any questions or desire additional information concerning the contractor or his bid, please feel free to contact our office at your earliest convenience.

Sincerely,  
**CEC, Civil Engineering Consultants, PLLC**



R. Todd Freeman, P.E.  
*City Engineer*

cc: Scott Hodge - Clearfield City Public Works Director

**BID PROPOSAL TABULATION**

**ROSS DRIVE AT STATE STREET STORM DRAIN IMPROVEMENT**

BID DATE: JUNE 5, 2012

OWNER: CLEARFIELD CITY

PUBLIC WORKS DIRECTOR: SCOTT HODGE

Bid Item	Description	Quantity	Unit	Brinkerhoff Excavating 3738 North Higley Road Farr West, UT 84404		Larry Daley Construction 6030 South 5100 West Hooper, UT 84315	
				Unit Price	Total Amount	Unit Price	Total Amount
<b>SCHEDULE A: STORM DRAIN ALONG STATE STREET FROM 653 SOUTH TO ROSS DRIVE</b>							
A1.	Mobilization.	1	ls	\$20,000.00	\$20,000.00	\$7,500.00	\$7,500.00
A2.	Remove curb and gutter.	112	lf	\$10.00	\$1,120.00	\$12.00	\$1,344.00
A3.	Remove 5-foot wide concrete sidewalk.	75	lf	\$5.00	\$375.00	\$18.00	\$1,350.00
A4.	Remove stamped concrete.	60	sf	\$1.00	\$60.00	\$25.00	\$1,500.00
A5.	Remove asphalt surface.	95	sy	\$4.50	\$427.50	\$30.00	\$2,850.00
A6.	Remove existing 12-inch storm drain pipe.	25	lf	\$12.00	\$300.00	\$18.00	\$450.00
A7.	Remove existing 15-inch storm drain pipe.	92	lf	\$12.00	\$1,104.00	\$22.00	\$2,024.00
A8.	Remove existing 36-inch storm drain pipe.	16	lf	\$15.00	\$240.00	\$25.00	\$400.00
A9.	Remove storm drain catch basin.	1	ea	\$700.00	\$700.00	\$450.00	\$450.00
A10.	Install 15-inch class III rcp storm drain pipe.	25	lf	\$70.00	\$1,750.00	\$140.00	\$3,500.00
A11.	Install 18-inch class III rcp storm drain pipe.	105	lf	\$65.00	\$6,825.00	\$125.00	\$13,125.00
A12.	Connect 15-inch rcp pipe to the new catch basin at Sta 3+55.60, LT. 45.51'.	1	ls	\$1,200.00	\$1,200.00	\$500.00	\$500.00
A13.	Connect 15-inch rcp pipe to the existing storm drain junction box at Sta 3+27.36.	1	ls	\$1,200.00	\$1,200.00	\$850.00	\$850.00
A14.	Connect 18-inch rcp pipe to the existing storm drain junction box at Sta 3+27.36.	1	ls	\$1,200.00	\$1,200.00	\$980.00	\$980.00

Bid Item	Description	Quantity	Unit	Brinkerhoff Excavating 3738 North Higley Road Farr West, UT 84404		Larry Daley Construction 6030 South 5100 West Hooper, UT 84315	
				Unit Price	Total Amount	Unit Price	Total Amount
A15.	Furnish pipe bedding.	65	tons	\$15.00	\$975.00	\$15.00	\$975.00
A16.	Furnish trench backfill.	70	tons	\$12.50	\$875.00	\$18.00	\$1,260.00
A17.	Install concrete curb and gutter.	95	lf	\$16.00	\$1,520.00	\$35.00	\$3,325.00
A18.	Install 5-foot wide concrete sidewalk.	75	lf	\$6.50	\$487.50	\$18.00	\$1,350.00
A19.	Install stamped and colored concrete.	60	sf	\$18.00	\$1,080.00	\$25.00	\$1,500.00
A20.	Flowable fill.	40	cy	\$95.00	\$3,800.00	\$155.00	\$6,200.00
A21.	PG grade asphalt mix.	50	tons	\$142.00	\$7,100.00	\$155.00	\$7,750.00
A22.	Install storm drain catch basin.	1	ea	\$2,250.00	\$2,250.00	\$1,800.00	\$1,800.00
<b>Sub Total Schedule A:</b>						<b>\$54,589.00</b>	<b>\$60,983.00</b>
<b>SCHEDULE B: STORM DRAIN CROSSING STATE STREET AT 653 SOUTH</b>							
B1.	Remove asphalt surface.	270	sy	\$4.50	\$1,215.00	\$50.00	\$13,500.00
B2.	Remove existing 24-inch storm drain pipe.	96	lf	\$12.00	\$1,152.00	\$25.00	\$2,400.00
B3.	Remove curb & gutter.	30	lf	\$10.00	\$300.00	\$15.00	\$450.00
B4.	Remove 6-foot wide concrete sidewalk.	30	lf	\$6.00	\$180.00	\$19.00	\$570.00
B5.	Remove existing storm drain catch basin.	1	ea	\$700.00	\$700.00	\$500.00	\$500.00
B6.	Remove old concrete road beneath asphalt.	360	sf	\$3.50	\$1,260.00	\$18.00	\$6,480.00
B7.	Install 24-inch class III rep storm drain pipe.	87	lf	\$150.00	\$13,050.00	\$155.00	\$13,485.00
B8.	Excavate the existing 3 - 1 1/2" conduits to provide adequate sag for pipeline installation.	40	lf	\$60.00	\$2,400.00	\$50.00	\$2,000.00
B9.	Furnish pipe bedding.	50	tons	\$15.00	\$750.00	\$15.00	\$750.00

Bid Item	Description	Quantity	Unit	Brinkerhoff Excavating 3738 North Higley Road Farr West, UT 84404		Larry Daley Construction 6030 South 5100 West Hooper, UT 84315	
				Unit Price	Total Amount	Unit Price	Total Amount
B10.	Furnish trench backfill.	100	tons	\$12.50	\$1,250.00	\$18.00	\$1,800.00
B11.	Install concrete curb and gutter.	30	lf	\$16.00	\$480.00	\$35.00	\$1,050.00
B12.	Install 6-foot wide concrete sidewalk.	30	lf	\$7.00	\$210.00	\$35.00	\$1,050.00
B13.	Flowable fill.	35	cy	\$95.00	\$3,325.00	\$155.00	\$5,425.00
B14.	PG grade asphalt mix.	125	tons	\$132.00	\$16,500.00	\$155.00	\$19,375.00
B15.	Connect to the existing cleanout box at Sta 2+14.79 LT 53.67'.	1	ls	\$1,200.00	\$1,200.00	\$950.00	\$950.00
B16.	Construct 4'x6' combination box with manhole lid and inlet grate, placed on the east side of State Street.	1	ea	\$4,296.00	\$4,296.00	\$2,500.00	\$2,500.00
B17.	Construct 4'x6' combination box with manhole lid and inlet grate placed on the west side of State Street.	1	ea	\$4,930.00	\$4,930.00	\$2,500.00	\$2,500.00
B18.	Slurry seal.	400	sy	\$3.30	\$1,320.00	\$50.00	\$20,000.00
<b>Sub Total Schedule B:</b>						<b>\$54,518.00 *</b>	<b>\$94,785.00 *</b>
<b>TOTAL BID (Schedule A &amp; B):</b>						<b>\$109,107.00 *</b>	<b>\$155,768.00 *</b>
Surety Company				The Cincinnati Insurance Co.		The Guarantee of N. America	
City, State				Fairfield, OH		Southfield, MI	
Bid Security - Bid Bond Amount				5%		5%	
Contractor's License Number				324707-5501		4749197-55010	

\*Denotes error in bid



BID RESULTS

**ROSS DRIVE AT STATE STREET STORM DRAIN  
IMPROVEMENT**

OWNER: CLEARFIELD CITY  
ENGINEER: CEC, CIVIL ENGINEERING CONSULTANTS, PLLC

BID DATE: 5 June 2012  
TIME: 2:00 P.M.  
BID LOCATION: Clearfield City Offices  
55 South State Street; 3<sup>rd</sup> Floor  
Clearfield, UT 84015

PLAN HOLDER NAME	BID BOND	BID AMOUNT
Brinkerhoff Excavating	5%	\$109,107.00 *
Daley Construction	5%	\$155,768.00 *

\* Denotes error in bid

# Park Capital Improvement Plan/Impact Fee Plan

## Scoresheet

	Curtis			Val			Randy			Eric		
	GSBS	LYRB	ZBPF	GSBS	LYRB	ZBPF	GSBS	LYRB	ZBPF	GSBS	LYRB	ZBPF
Qualifications	6	6	6	3	4	4	7	7	6	6	7	6
Key Personnel & Project Teams	30	36	30	29	32.5	29	50	47	40		30	28
Project Approach	29	29	22	22.5	26.5	21	35	35	34	20	29	22
Project & Client Experience	5	8	8	7	7	6.5	10	10	4	5	7	7
Fee Proposal	3	1	5	3	1	5	3	1	5	3	1	5
<b>TOTAL SCORE</b>	<b>73</b>	<b>80</b>	<b>71</b>	<b>64.5</b>	<b>71</b>	<b>65.5</b>	<b>105</b>	<b>100</b>	<b>89</b>	<b>34</b>	<b>74</b>	<b>68</b>

### Fee Proposal

	FEE	HRS	RATE
GSBS *Richman Consulting	\$ 20,000.00	148	\$ 135.14
Lewis, Young, Robertson, & Burningham	\$ 35,443.00	333	\$ 106.44
Zions Bank Public Finance	\$ 16,730.00	?	?

### Total Score

	Curtis	Val	Randy	Eric	TTL
GSBS *Richman Consulting	73	64.5	105	64	306.5
Lewis, Young, Robertson, & Burningham	80	71	100	74	325
Zions Bank Public Finance	71	65.5	89	68	293.5

May 15, 2012

**Legacy Window Cleaning**  
624 S 1000 W #B  
Salt Lake City Ut. 84104

Eric Howes  
**Community Services**  
55 South State Street  
Clearfield, Utah 84015

Mr. Howes,

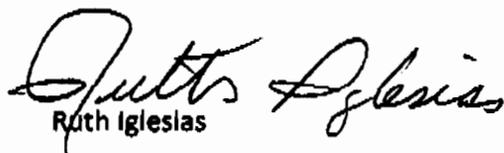
I am responding to your letter and would like to express my gratitude for the opportunity given to Legacy Window Cleaning to have provided services to the Clearfield facilities for these past three years.

We have enjoyed working with you and we are very please for the offer to renew the contract for an additional (1) year term which I accept with all of the same terms, specifications, conditions, compensation, etc. as set forth in the agreement.

On the compensation part I would like to request an increase of an additional \$50.00 only on the monthly window cleaning maintenance, the monthly total would be \$300.00.

We also look forward to continue working with you in the future and once again, thank you for the opportunity to renew the contract.

Sincerely,

  
Ruth Iglesias

CLEARFIELD CITY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY  
MEETING MINUTES  
7:00 P.M. REGULAR SESSION  
March 27, 2012

*(This meeting was held during the regularly scheduled City Council Meeting.)*

PRESIDING:	Kathryn Murray	Chair
PRESENT:	Kent Bush	Director
	Mike LeBaron	Director
	Mark Shepherd	Director
	Bruce Young	Director
	Don Wood	Director
STAFF PRESENT:	Adam Lenhard	City Manager
	JJ Allen	Assistant City Manager
	Brian Brower	City Attorney
	Greg Krusi	Police Chief
	Scott Hodge	Public Works Director
	Eric Howes	Community Services Director
	Bob Wylie	Administrative Services Director
	Stacy Millgate	CDBG Coordinator
	Sean Montierth	IT Manager
	Nancy Dean	City Recorder
	Kim Read	Deputy City Recorder

VISITORS: Lance Allen – Waste Management, Joy Brown – American Legion Post 134, Ambrya Hinshaw, Briana Allred – Youth City Council, Miranda Cheney, Megan Godwin – Weber State University, Shelley Godwin, Amberlee Bauman – Big Brothers Big Sisters

Chair Murray called the meeting to order at 7:08 p.m.

APPROVAL OF THE CLEARFIELD COMMUNITY DEVELOPMENT AND RENEWAL AGENCY (CDRA) MINUTES FROM THE FEBRUARY 14, 2012 REGULAR SESSION

**Director Bush moved to approve the minutes from the February 14, 2012 Clearfield Community Development and Renewal Agency (CDRA) meeting, as written, seconded by Director Young. The motion carried upon the following vote: Voting AYE – Directors Bush, LeBaron, Murray, Shepherd, Young and Wood. Voting NO – None.**

APPROVAL OF THE ATK REIMBURSEMENT AND DEVELOPMENT AGREEMENT

The CDRA recently approved a budget for the ATK Economic Development Project Area. This agreement formalized the schedule for improvements in the project area, ATK's investment in its facilities and the CDRA's tax increment incentives associated with the project.

Brian Brower, City Attorney, reminded the Board staff had been involved with discussions and negotiations with ATK relative to the creation of the ATK Economic Development Area (EDA). He recognized Kelly Franklin, ATK, and Randy Sant, Consultant, in the audience. He added the proposed agreement submitted to the Board for approval, would be to formalize the terms of the reimbursement of tax increment to ATK. He continued the process included asking the Taxing Entity Committee for its approval of the proposed budget. He commented the additional tax increment created by the investment of ATK in the community, seventy-five percent of that would be distributed by the County to the CDRA and the CDRA would then redistribute on a percentage basis, eighty-two percent of that seventy-five percent back to the developer to help defray the costs of those investments, administrative fee and a percentage designated for public infrastructure improvements.

Kelly Franklin, ATK, expressed her appreciation to Adam Lenhard, City Manager, and Brian Brower for their efforts with the Development Agreement. She stated ATK looked forward to continue investing in the community, not only with infrastructure improvements but hiring qualified individuals.

Randy Sant, Consultant, expressed appreciation for the professionalism of City staff. He believed the agreement protected the Redevelopment Agency by ensuring the investments agreed to by the developer.

Director Murray asked if there were any additional comments.

Director Wood stated the City was extremely grateful to ATK for its ongoing commitment to Clearfield City and the State of Utah. He reminded the Council of the history associated with ATK in selecting to locate in Clearfield and complimented everyone involved in the process. He indicated 800 jobs would be created with a recognized family sustaining wage which was impressive given the current economic challenges. He requested Ms. Franklin communicate his gratitude and comments to the President and CEO, Mark DeYoung, of ATK. He also expressed appreciation to Ms. Franklin and Mr. Sant for their efforts.

Mr. Brower added the City was still waiting for figures to be provided by Davis County establishing the base year property tax values and requested that be included in the motion. Mr. Sant believed those figures would be received by March 30, 2012.

**Director LeBaron moved to approve the ATK Reimbursement and Development Agreement subject to inclusion of the base year tax values as provided by Davis County and authorize the Chair's signature to any necessary documents, seconded by Director Young. The motion carried upon the following vote: Voting AYE – Directors Bush, LeBaron, Murray, Shepherd, Young and Wood. Voting NO – None.**

There being no further business to come before the Community Development and Renewal Agency, **Director LeBaron moved to adjourn as the CDRA and reconvene as the City Council at 7:18 p.m., seconded by Director Young. All voting AYE.**

DRAFT