

**MILLCREEK, UTAH**  
**ORDINANCE NO. 17-**

**AN ORDINANCE AMENDING SECTIONS 5.21 OF THE MILLCREEK CODE  
OF ORDINANCES RELATED TO BUSINESS LICENSING OF TOBACCO  
SPECIALITY BUSINESS**

**WHEREAS**, on February \_\_, 2071, the Millcreek Council (the “*Council*”) met in regular session to consider, among other things, amending sections 5.21 of the of the *Millcreek Code of Ordinances* (the “*Code*”) relating to business licensing of tobacco speciality business;

**WHEREAS**, after careful consideration, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to amend Title 5 of the Code.

**NOW, THEREFORE, BE IT ORDAINED** by the Council that Chapter 5.21 be amended as follows (designated by interlineating the words to be deleted and underlining the words to be added):

Chapter 5.21 - TOBACCO SPECIALTY BUSINESSES

5.21.010 - Definitions.

For the purposes of this chapter,

- A. "Tobacco specialty business" means the same as "retail tobacco specialty business" as defined in Utah Code Ann. § 10-8-41.6 (1)(b).
- B. "Tobacco product" means any substance or product as defined in Utah Code Ann. § 10-8-41.6(1)(c).

5.21.020 - License required.

It is unlawful for any person to operate, conduct, carry on or maintain a tobacco specialty business without first obtaining from the license official a license to operate a tobacco specialty business.

5.21.030 - License—Fees.

The annual fee for a tobacco specialty business shall be as set forth in Section 5.08.040 of this code.

5.21.040 - Application and issuance restrictions.

Each individual applying for a tobacco specialty business license shall:

- A. Identify the location, including the street, building and room number of the place where the applicant proposes to operate a tobacco specialty business.
- B. Submit with the license application an affidavit ensuring that the tobacco specialty business complies with the proximity requirements of Utah law as of the date of the application.

C. The license official shall review the application to determine compliance with city zoning ordinances and the proximity requirements set forth in Utah Code Ann. § 10-8-41.6(5).

D. In accordance with the procedures described in Sections 5.02.010 through 5.02.140 of this title, the license official shall then approve the application or recommend denial to the mayor.

E. The license official shall not approve a business license or tobacco specialty business license to any applicant who does not meet the proximity requirements.

F. Any appeal of a licensing decision by the mayor shall be heard in accordance with the provisions of Sections 5.02.140 through 5.02.180 of this title.

5.21.050 - License—Display required.

Every tobacco specialty business licensed under this chapter shall display its tobacco specialty business license in a conspicuous place on the premises.

5.21.060 - Unlawful conduct and activities.

A. In addition to the restrictions and limitations contained in this chapter, and as set forth under state law, a licensee under this chapter may not:

1. Engage in a pattern of unlawful activity as set forth under Utah state law;
2. Violate 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
3. Engage in any act prohibited by the provisions of the Utah Controlled Substances Act, the Imitation Controlled Substances Act, the Utah Controlled Substance Precursor Act, the Clandestine Drug Lab Act, or any other provision of law, whether federal, state or local, providing for the prohibition or regulation of activities related to the sale or consumption of controlled substances or imitation controlled substances.

B. The license official shall work and local law enforcement to enforce the provisions of this section.

5.21.070 - Revocation and suspension decisions—Appeals.

A. In addition to the grounds for suspension or revocation set forth in Chapter 5.07, every tobacco specialty business license issued by the license official may be revoked or suspended for any violation of this chapter.

B. Issues regarding revocation or suspension of a tobacco specialty license shall be heard and decided in accordance with the procedures established in Section 5.07.020 through 5.07.030 of this title.

C. Appeals of decisions to revoke or suspend a tobacco specialty license shall be heard by the city council in accordance with

PASSED AND APPROVED this \_\_\_ day of February, 2017.

MILLCREEK

By: \_\_\_\_\_  
Jeff Silvestrini, Mayor

ATTEST:

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Leslie Van Frank, Acting City Recorder

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