

CLEARFIELD CITY COUNCIL
AGENDA AND SUMMARY REPORT
September 3, 2019 – WORK SESSION

Meetings of the City Council of Clearfield City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207 as amended. In such circumstances, contact will be established and maintained via electronic means and the meetings will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

Executive Conference Room
55 South State Street
Third Floor
Clearfield, Utah

6:00 P.M. WORK SESSION

Review of the 800 North Roadway Cross-Sections Design for the 800 North Improvements Project

Discussion on the Development Agreement for the Depot Crossing Commercial and Residential Development Located at Approximately 458 East 700 South (TIN: 15-011-0003)

Discussion on Proposed Amendments to the Consolidated Fee Schedule Regarding Massage Establishments, Police, and GRAMA Fees

Discussion on Proposed Amendments to City Code Title 1, Chapter 6 – Mayor and City Council and Title 1, Chapter 7 – Officers and Employees

****ADJOURN AS THE CITY COUNCIL****

Dated this 29th day of August, 2019.

/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.



STAFF REPORT

TO: Mayor Shepherd and City Council Members
FROM: Adam Favero, Public Works Director
MEETING DATE: September 3, 2019
SUBJECT: 800 N Project Roadway Cross-Sections

RECOMMENDED ACTION

Review of the 800 North roadway cross-sections. Sunset City Council has reviewed and approved the new cross-section design on the 800 North Roadway Improvement Project.

DESCRIPTION / BACKGROUND

Sunset City is the lead agency on the 800 N. Roadway Improvement Project. There is a change in the design of the roadway cross-section. Staff would like to make the Council aware of the changes Sunset City has made to the cross-section of the roadway. This change will only affect Clearfield City in the shoulder area of 800 North. The shoulder will be widened from five feet to seven feet to allow through traffic to pass safely.

CORRESPONDING POLICY PRIORITY (IES)

Improving Clearfield's Image, Livability and Economy: The new pavement on 800 North will provide the residents with a great roadway for years to come. It will allow for better movement of traffic and enhance the overall look of the area.

FISCAL IMPACT

N/A

ALTERNATIVES

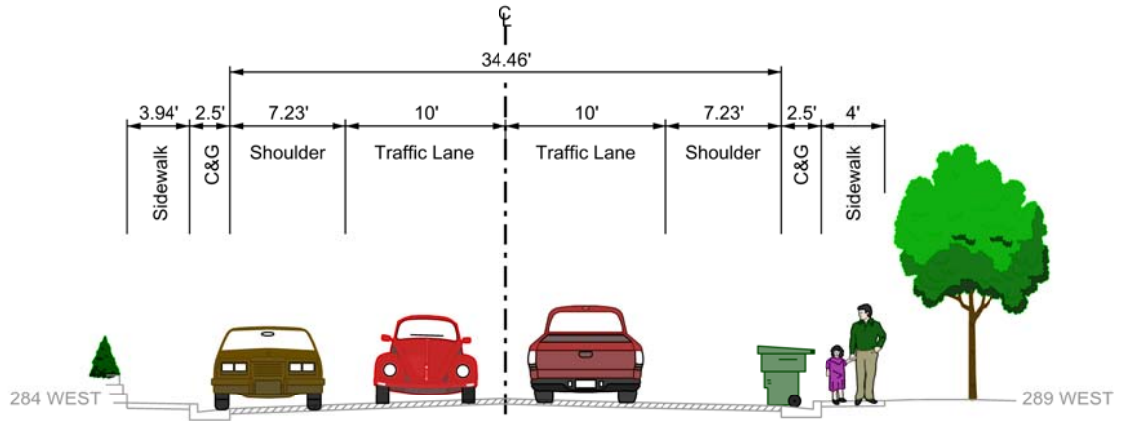
N/A

SCHEDULE / TIME CONSTRAINTS

N/A

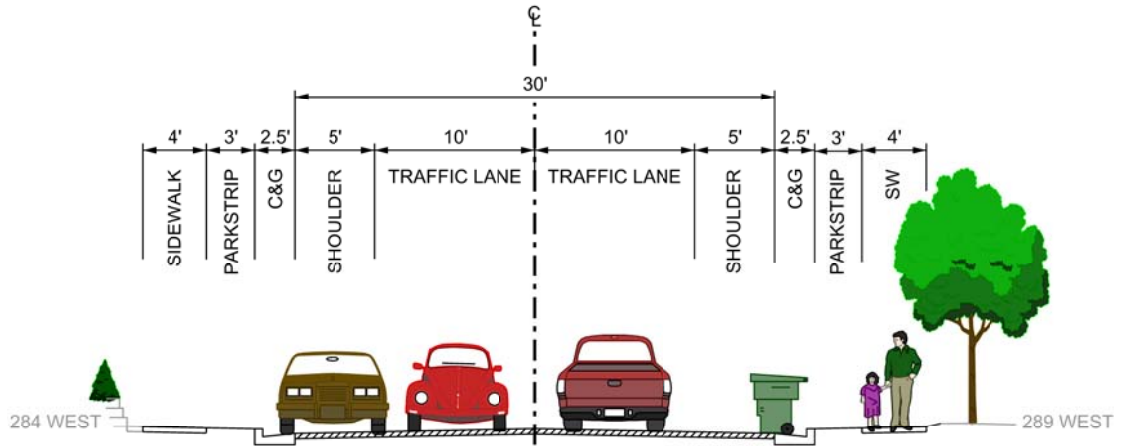
LIST OF ATTACHMENTS

- 800 North Roadway Cross-Sections



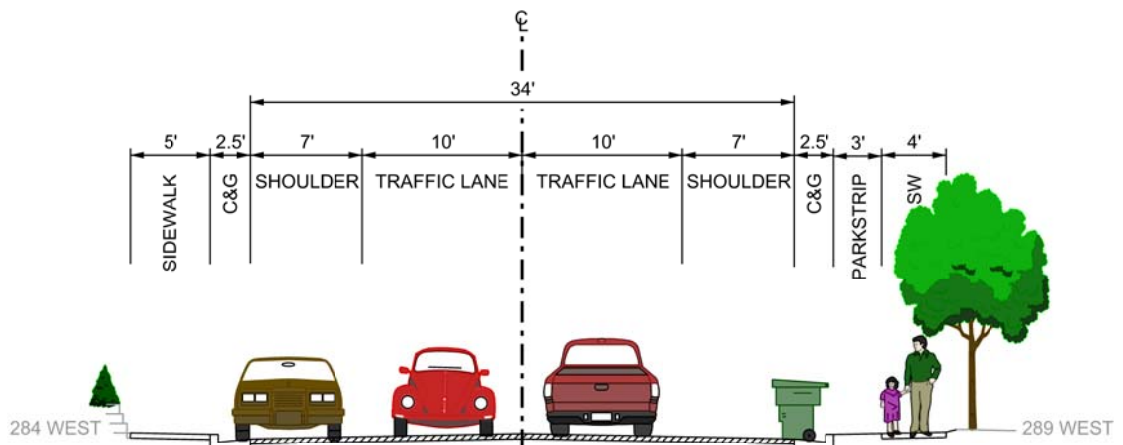
Existing Section No. 1

800 NORTH
ON-STREET PARKING
DESIGN SPEED 30 MPH



DESIGN SECTION NO. 2

800 NORTH
NO ON-STREET PARKING
DESIGN SPEED 30 MPH



RECOMMENDED SECTION NO. 3

800 NORTH
ON-STREET PARKING
DESIGN SPEED 30 MPH



STAFF REPORT

TO: Mayor Shepherd and City Council Members
FROM: Brad McIlrath, Senior Planner
MEETING DATE: Tuesday, September 3, 2019
SUBJECT: Discussion on the development agreement for the Depot Crossing Commercial and Residential development located at 458 East 700 South (TIN: 15-011-0003).

DESCRIPTION / BACKGROUND

The Depot Crossing Commercial and Residential development includes an 8,785 square foot office building at the corner of Depot Street and 700 South and a 32-Unit townhome subdivision to the south of the office building and Masonic Temple. These properties are located in the T-C (Town Commerce) Zone and as required by the Downtown Form-Based Code (FBC), townhomes are only allowed in this zone if located to the rear of a commercial building. With topography and UDOT challenges along 700 South the developer has asked for approval of the office building with modifications to FBC standards as allowed through a development agreement. This development agreement outlines the modifications that are allowed for the office building along with the timing and limitation for the townhomes.

On January 9, 2019 the Planning Commission approved these projects subject to a development agreement to address the items mentioned above. The following points are called out in the development agreement to address the topographic and UDOT issues for the commercial property and the timing of the overall development.

- A. Project Improvements. The parties agree that the Project will incorporate the following improvements and / or that the improvements within the Project will comply with the following terms and conditions:
 - a. Sidewalk. As a modification from the required seven-foot (7') public sidewalk and seven-foot (7') furnishing zone as required by the Downtown Clearfield Form-Based Code (FBC), there will be a six-foot (6') public sidewalk extending the width of the Project at the northern edge of the Project (along the south side of 700 South Street (SR 193)). The sidewalk will incorporate replacement of street lighting and planting of street trees required by the FBC.
 - b. Benches. As a modification from the FBC that requires street benches every two-hundred feet (200'), no benches will be required on the sidewalk running along 700



South Street because of slope and topography issues. However, at least one (1) bench must be installed in the area north of the parking area within the Project.

- c. Building Entry. As a modification from the FBC that requires the primary entrances to be located along the street façade, the primary entries to the building on the commercial portion of the Project will be located at the rear of the building (i.e. the portion of the building facing away from 700 South Street and away from Depot Street). This is because of slope and topography issues. However, owner shall provide pedestrian access to the primary entrances of the building from 700 South Street and Depot Street.
- d. Open Space. As a modification from the FBC, the open space which would otherwise be required by the FBC is not required because of slope and topography issues. However, Owner must comply with the applicable landscaping provisions of the FBC.
- e. Order of Construction. A permit shall be issued for the commercial building prior to the issuance of a Certificate of Occupancy for any of the townhomes.

A full detailed list of these requirements along with other standards of the agreement are provided in the attached amended development agreement. The agreement also spells out the developer's undertakings and general terms and conditions.

CORRESPONDING POLICY PRIORITY (IES)

Improving Clearfield's Image, Livability and Economy

Single family attached housing (townhomes) is something we have seen more of within the City. This housing option provides an alternative to the multi-family housing (apartments/condos) and single family housing. As a continuation of the existing neighborhood and development pattern, the expansion of the Depot Crossing Commercial development aligns with this priority by providing additional housing and will improve the livability and community image in this area. The development will improve Clearfield's image by developing parcels adjacent to the townhome development and will provide uniformity with development in the area. The development also provides a commercial/office use that will complement the existing commercial uses along 700 South and provide a standard for redevelopment in the area. With compliance to ordinance design standards and those outlined in this development agreement, the high quality and location of this development will encourage additional commercial investment and create additional housing options for residents.



FISCAL IMPACT

There are no fiscal impacts tied to this development agreement.

ALTERNATIVES

None proposed.

SCHEDULE / TIME CONSTRAINTS

Upon approval of a development agreement the developer and City will execute the final document and record the agreement for the commercial property.

LIST OF ATTACHMENTS

- Depot Crossing Development Agreement

When Recorded Return To:

Gold Stream Partners

Tax Parcel Nos. _____.

DEVELOPMENT AGREEMENT

This *Development Agreement* (“**Agreement**”) is made with respect to the Property, as identified below, by Clearfield City, a political subdivision of the State of Utah (“**City**”), and Gold Stream Partners LLC, a Utah limited liability company (“**Owner**”).

RECITALS

A. Owner owns certain real property (“**Property**”) located at 458 East 700 South, Clearfield, Davis County, Utah, within the municipal limits of the City, as more particularly described in **Exhibit A** attached hereto.

B. The Property is generally located to the southeast of the intersection at Depot Street and 700 South Street (SR 193).

C. Owner desires to develop the Property as a project incorporating both commercial and residential uses (“**Project**”).

D. In connection with the City’s approval of the site plan, preliminary plat, final plat and other required approvals for the Project (collectively, the “**Approvals**”), the parties have agreed to certain terms and conditions regarding the use of the Property.

RESTRICTION

For valuable consideration, acknowledged and received, the parties agree as follows:

1. Incorporation of Recitals. The Recitals stated above are incorporated herein by this reference as a part of this Agreement.

2. Project Improvements. The parties agree that the Project will incorporate the following improvements and / or that the improvements within the Project will comply with the following terms and conditions:

a. Sidewalk. As a modification from the required seven-foot (7’) public sidewalk and seven-foot (7’) furnishing zone as required by the Downtown Clearfield

Form-Based Code (FBC), there will be a six-foot (6') public sidewalk extending the width of the Project at the northern edge of the Project (along the south side of 700 South Street (SR 193)). The sidewalk will incorporate replacement of street lighting and planting of street trees required by the FBC.

b. Benches. As a modification from the FBC that requires street benches every two-hundred feet (200'), no benches will be required on the sidewalk running along 700 South Street because of slope and topography issues. However, at least one (1) bench must be installed in the area north of the parking area within the Project.

c. Building Entry. As a modification from the FBC that requires the primary entrances to be located along the street façade, the primary entries to the building on the commercial portion of the Project will be located at the rear of the building (i.e. the portion of the building facing away from 700 South Street and away from Depot Street). This is because of slope and topography issues. However, owner shall provide pedestrian access to the primary entrances of the building from 700 South Street and Depot Street.

d. Open Space. As a modification from the FBC, the open space which would otherwise be required by the FBC is not required because of slope and topography issues. However, Owner must comply with the applicable landscaping provisions of the FBC.

e. Order of Construction. A permit shall be issued for the commercial building prior to the issuance of a Certificate of Occupancy for any of the townhomes.

3. Improvements. The sidewalk and any other improvements required under this Agreement will be constructed to the standards set forth in the Vested Code. Following completion and dedication of any public improvements to the City, the City will own and maintain the same.

4. Scope of Obligation. Except as provided for in this Agreement or in the City Code, the Owner will have no obligation to construct any public infrastructure which is oversized or has capacity in excess of what is necessary to serve the needs of the Project. The development shall include the relocation/replacement of infrastructure that needs to be relocated to facilitate this development. To the extent the Developer does install such oversized or excess capacity infrastructure, then owner shall be reimbursed for the same to the fullest extent required or permitted under the City Code or the Utah Code (including, without limitation, the Utah Impact Fees Act, Utah Code § 11-36a-101, et seq.).

5. Run with the Land. This Agreement and the terms and conditions therein will run with the land and be binding and Owner, and their respective successors, assigns,

beneficiaries, and grantees. The Agreement will survive any subdivision of the commercial Property and will apply in full force to each lot created on the Property.

6. Enforcement. This Agreement will be governed by the laws of the State of Utah. The parties agree to the jurisdiction and venue of the state courts in the county where the Property is located to resolve any dispute arising from, or pertaining to, this Agreement. The City may enforce this Agreement against Owner, and any successor, assign, beneficiary, or grantee having, or claiming, any interest in the Property.

7. Validity and Severability. If any section, clause or portion of this Agreement is declared invalid by a court of competent jurisdiction for any reason, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.

8. Amendments. This Agreement may be amended only in writing signed by the parties hereto.

9. No Joint Venture. This Agreement does not create, and shall not be construed to create, a joint venture by the parties and no separate government entity is established by this Agreement.

DATED the _____ day of _____ 2019.

OWNER

GOLD STREAM PARTNERS LLC, a Utah limited liability company

By: _____

Name: _____

Title: _____

STATE OF UTAH)

ss:

COUNTY OF _____)

The foregoing Development Agreement was acknowledged before me this _____ day of _____, 2019, by _____ as the _____ of Gold Stream Partners LLC .

[Seal]

NOTARY PUBLIC

CITY

CLEARFIELD CITY, a Utah municipality

By: _____

Name: _____

Title: _____

Attest:

City Recorder

STATE OF UTAH)

ss:

COUNTY OF _____)

The foregoing Development Agreement was acknowledged before me this ____ day of _____, 2019, by _____ as _____ of Clearfield City and as _____ as City Recorder.

[Seal]

NOTARY PUBLIC

EXHIBIT A

(Legal Description of Property)



STAFF REPORT

TO: Mayor Shepherd and City Council Members

FROM: Stuart Williams, City Attorney
Spencer Brimley, Community Development Director
Stacy Millgate, CSC Manger/Business License Official
Nancy Dean, City Recorder

MEETING DATE: Tuesday, September 3, 2019

SUBJECT: Proposed Amendments to the City's Consolidated Fee Schedule

RECOMMENDED ACTION

Staff recommends the following:

- 1) Approval of the attached proposed amendments to the City's Consolidated Fee Schedule associated with the adoption of the proposed massage business license ordinance scheduled for the City Council's consideration on September 10, 2019.

PROCEDURAL BACKGROUND

MASSAGE BUSINESS LICENSE FEES

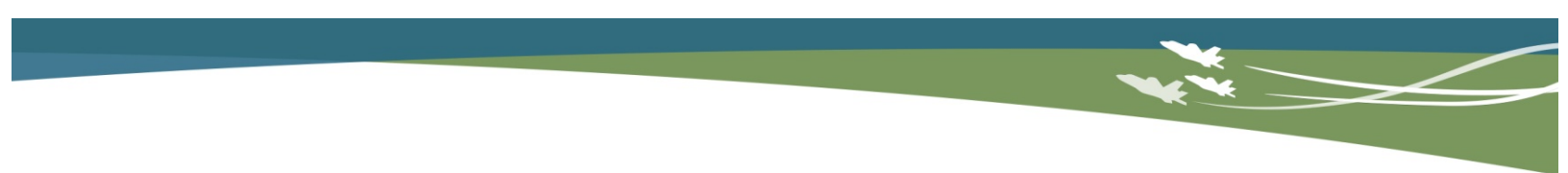
On March 12, 2019, the Council approved a land use moratorium on the establishment and/or relocation of massage businesses pursuant to Utah State Code Ann. §10-9a-504, for "a period of limited effect for the ordinance, not to exceed six months."

On July 16, 2019, the Council discussed the attached proposed massage business license ordinance with Staff, including the need to make amendments to the City's Consolidated Fee Schedule to cover the City's administrative costs associated with the licensing of massage parlors.

Further information regarding the March 12, 2019 and July 16, 2019 Staff Reports and related information is available online at the City's webpage, www.clearfieldcity.org, or on the Utah Public Notice website, at www.utah.gov/pmn/index.html.

The land use moratorium is scheduled to expire on: September 12, 2019.

The City currently charges \$75.00 for a new massage business license application fee, and \$64.00 for yearly renewal. This amount fails to cover the current administrative costs associated with providing the license, and will woefully fail to cover the administrative costs incurred by the City under the new proposed massage business license ordinance.



As was discussed during the July 16, 2019 work session, Staff is proposing new fees that are intended to cover the basic administrative costs associated with licensing a massage business. With cost recovery as a goal, staff researched and determined an average amount of time for each respective employee required to perform a task in the massage business license application and renewal process, and averaged the hourly rate of the lowest available employee required to perform a task. However, there are also new types of potential fees in the proposed massage business license ordinance, such as identification badges, reinspections, or appeals that are also proposed and are intended to be consistent with similar types of fees within our code:

Massage Establishments.

- The application fee for a Massage Establishment license shall be \$178.00.
- The annual renewal license fee for a Massage Establishment shall be \$64.00.

Sole Massage Therapist Establishments.

- The application fee for a Sole Massage Therapist Establishment license shall be \$178.00.
- The annual renewal license fee for a Sole Massage Therapist Establishment shall be \$64.00.

Outcall Massage Services.

- The application fee for an Outcall Massage Service license shall be \$178.00.
- The annual license fee for an Outcall Massage Service shall be \$64.00.

City Massage Therapist Identification Badge.

- The application fee for a City Massage Therapist Identification Badge shall be \$15.00.

Appeal of Final Business License Violation Determination.

- The fee for an appeal of final business license violation determination shall be \$150.00.

Exception.

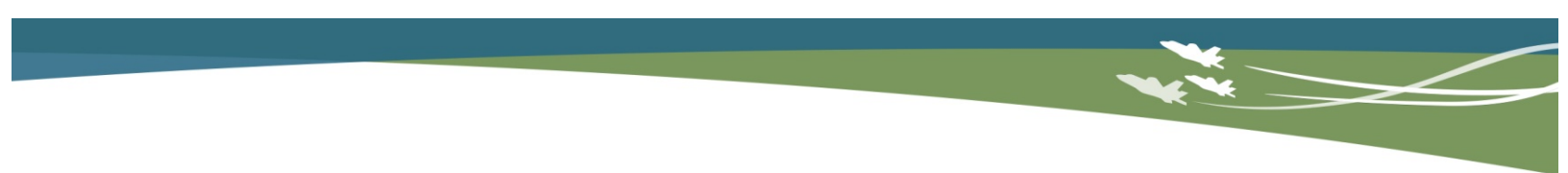
- A Licensed Massage Therapist holding a Sole Massage Therapist Establishment license shall not be required to pay any additional application or annual license fee for an Outcall Massage Service license.

Reinspection fees.

- A first time Massage Business reinspection fee shall be \$150.00.
 - Any resinspection that lasts over one hour shall incur the cost of an Additional Massage Business reinspection fee, to be collected in addition to the first time Massage Business reinspection fee.
- Additional Massage Business reinspection fees shall be \$250.00.
 - Any Additional Massage Business resinspection that lasts over one hour shall incur the cost of an Additional Massage Business reinspection fee, to be collected in addition to the original Additional Massage Business fee, and compounded therefrom from each additional hour.

GRAMA FEES AND POLICE RECORDS FEES

Staff recently reviewed the processes being performed by the Customer Service Center employees. One of the services being provided by staff was responding to record requests for police records. The process for responding to such requests was streamlined and improved as a result of the review. There was also a discussion about the differences between police records fees and GRAMA fees. A



determination was made that requests for police records should be handled in the same manner as any other request for records.

State Law allows the City to charge fees based on the hourly wage of the staff member who has the necessary skills and training to perform the request so that fee may vary dependent on which staff member responds to any given request. Acknowledging that police records' fees and GRAMA fees were recently amended, the review highlighted the need to better address the new process by removing the references to police records in the Consolidated Fee Schedule and updating the research fee to allow for the varying hourly rates that may apply given which staff member is assigned to respond to a request for records.

CORRESPONDING POLICY PRIORITY (IES)

Staff believes the adoption of the amendments to the City's Consolidated Fee schedule are consistent with the City's overall goal of "Improving Clearfield's Image, Livability and Economy," as well as "Providing Quality Municipal Services."

FISCAL IMPACTS

MASSAGE ESTABLISHMENTS

Prior to reviewing the anticipated fiscal impact analysis, it is important to state that Staff does not anticipate significant growth in massage businesses within the City. Thus, we are likely talking about the application of this ordinance and the proposed changes to the City's consolidated fee schedule on a very minimal basis.

Potentially Revenue Neutral

- 1) The adoption of the proposed massage business license ordinance is not anticipated to create revenue for the City.
- 2) The adoption of the proposed changes to the City's Consolidated Fee Schedule are intended to be revenue neutral, with a goal to recoup administrative costs incurred by the City.

Potential Negative Fiscal Impact

- 1) The adoption of the proposed massage business license ordinance without the adoption of the proposed changes to the City's Consolidated Fee Schedule will result in a negative fiscal impact to the City, in that the administrative costs incurred by the City will not be recouped by the applicant.



GRAMA Fees

Any fiscal impact to the GRAMA fees is minimal and will likely benefit the person requesting records when a lower paid staff member is able to respond to the request.

ALTERNATIVES

Subject to alternative direction, staff believes the following to be viable alternatives:

1. Enact or Deny the proposed changes to the City's Consolidated Fee Schedule.
2. Enact or Deny the proposed changes to the City's Consolidated Fee Schedule, with alternative direction/language.

LIST OF ATTACHMENTS

- Proposed changes to the City's Consolidated Fee Schedule
- Proposed Massage Establishment Ordinance

CONSOLIDATED FEE SCHEDULE CLEARFIELD CITY CORPORATION

UTILITIES

		2020	2021	2022
Water				
Water rates are from January 1st to December 31st				
Single Family Dwellings				
Base Fee (5/8" meter)	3% per year	\$13.38	\$13.78	\$14.20
Consumption Charges per 1,000 gallons				
0 - 10,000		\$0.91	\$0.91	\$0.91
10,001 - 40,000		\$1.06	\$1.06	\$1.06
40,001 - 60,000		\$1.21	\$1.21	\$1.21
60,001 - 80,000		\$1.39	\$1.39	\$1.39
80,000 +		\$1.54	\$1.54	\$1.54
Multiple Dwelling Units, Apartment Houses & Mobile Home Parks				
(7,000 gallons allowed per unit, then commercial rates apply)				
Each Unit		\$14.47	\$14.91	\$15.36
Commercial				
		Increase per Year		
Base fee, based on meter size				
5/8" - 3/4"	2.37%	\$19.16	\$19.62	\$20.08
1" - 1 1/2"	0%	\$81.64	\$81.64	\$81.64
2"	0%	\$107.11	\$107.11	\$107.11
3"	0.12282%	\$274.12	\$274.45	\$274.79
4"	0.62576%	\$417.70	\$420.32	\$422.95
6"	5.41%	\$662.19	\$698.03	\$735.81
Consumption Charges per 1,000 gallons				
		\$1.11	\$1.11	\$1.11
Sprinkling lawns, unmetered - base fee from 5/8" commercial rate plus per square foot of lawn area. Unmetered lawn accounts will be billed monthly for a five (5) month period each year, from May 1 up to and including September 30.				
		\$0.006056	\$0.006238	\$0.006425
Fire Protection Standby Charge:				
Sprinkling system standby charge per diameter inch of main pipe supply		\$3.58	\$3.69	\$3.80
More than one User:				
Minimum monthly fee based on meter size. Consumption fee shall be divided equally between users, unless users present a written agreement that fees shall be charged on different basis other than equally.				
Unmetered Services				
Commercial & industrial users not having metered water service shall be charged for water services based on the number of connections and number of employees				
8 or fewer employees minimum 1.0" meter size		\$92.79	\$95.57	\$98.44
9 or more employees, charged at 2.0" meter size		\$121.83	\$125.48	\$129.24

Sewer				2020	2021	2022
Residential						
Single Family Base	Clearfield City	2% per year	beginning Jan 1	\$12.62	\$12.87	\$13.13
	North Davis Sewer District		beginning July 1	\$21.50*	\$21.50*	\$21.50*
Multi-Unit Base	Clearfield City	3% per year	beginning Jan 1	\$9.56	\$9.84	\$10.14
	North Davis Sewer District		beginning July 1	\$21.50*	\$21.50*	\$21.50*
Commercial						
Base Rate	Clearfield City	2% per year	beginning Jan 1	\$15.07	\$15.37	\$15.68
	North Davis Sewer District		beginning July 1	\$21.50*	\$21.50*	\$21.50*
Consumption fee per 1,000 gallons	Clearfield City		beginning Jan 1	\$0.65	\$0.65	\$0.65
	North Davis Sewer District		beginning July 1	\$2.15*	\$2.15*	\$2.15*

*subject to change by the North Davis Sewer District

Note: North Davis Sewer District charges are set by the sewer district and not Clearfield City. These rates may change.

Billing periods beginning May 1st through and including the November 1st bill of each year will be billed on a five month winter average consisting of water consumption from December 1st through April 1st bills.

More than one User:

Minimum monthly fee based on meter size. Consumption fee shall be divided equally between users, unless users present a written agreement that fees shall be charged on different basis other than equally.

Unmetered Services

Commercial & industrial users not having metered water service shall be charged for water services based on the number of connections and number of employees

8 or fewer employees minimum 1.0" meter size

9 or more employees, charged at 2.0" meter size

Commercial Monthly Base Fee

Commercial Monthly Base Fee + \$1.00/employee

Special Treatment

When sewage requires special treatment or causes an unusual and abnormal burden on the disposal facilities, additional charges shall be assessed as determined by the City Council to be fair and equitable.

Storm Water**Residential**

		2020	2021	2022
Single-Family per ESU and duplex	5% per year	\$5.94	\$6.24	\$6.55
Tri-plex and fourplex				
Apartments with more than 4 units at Commercial rate				

Commercial

Retention Percent		2020	2021	2022
0%		\$5.94	\$6.24	\$6.55
20%		\$4.76	\$4.99	\$5.24
30%		\$4.16	\$4.37	\$4.59
50%		\$2.97	\$3.12	\$3.28

(2,700 sq ft of impervious surface equals 1 ESU)

Credit for On-Site Mitigation:

50% with maximum release of 0.20 cfs/ac and having installed an approved sand & oil interceptor

30% with maximum release of 0.20 cfs/ac within a landscaped area or a retention basin within a

20% with maximum release of 0.20 cfs/ac within an impervious surface area on the site or within a

Residential Solid Waste (Garbage) & Recyclables

Base fee--1st trash container	\$16.75
Each additional trash container	\$9.50
First recycle container	\$4.80
Each additional recycle container	\$4.80

Utility Taxes

Six percent (6%) of total water and sewer charges

Misc. Fees

Refundable security deposit	\$120.00
Late Fee	\$10.00 or 1.5%, whichever is greater
Second Delinquent Notice	\$10.00
Utility Service Fee-disconnect/reconnect fee	\$35.00
Administrative fine for violations of Title 9	Not less than \$100, nor more than \$250

RECREATION FEES:

Park Rental Fees:

	Resident	Non-resident
\$25 refundable cleaning deposit due at the time of rental		
Picnic shelter	\$15.00	\$35.00
Amphitheater (per hour)	\$10.00	\$10.00

Athletic Field / Facility Usage Fees:

	SINGLE USE TOURNAMENT	
	PRIORITY GROUP A	GROUP B
Refundable cleaning deposit due at the time of rental	\$100	\$250
Game Field Usage fee (per hour per field)	\$10.00	\$20.00
Practice Field Usage fee (per hour per field)	\$8.00	\$10.00
Soccer Field Rental (per hour)	\$12.00	\$24.00
Lights (per hour per field)	\$20.00	\$20.00
Baseball/Softball Field preparation Mon-Fri (per field)	\$25.00	\$25.00
Baseball/Softball Field preparation Sat-Sun (per field)	\$40.00	\$40.00
Soccer Prep Field Preparation Mon-Fri (per field, practice fields)	\$40.00	\$40.00
Soccer Prep Field Preparation Saturdays (per field, practice fields)	\$60.00	\$60.00
Weekly fee for game field preparation (per field)	\$5.00	\$5.00
Scoreboard (per field)	\$10.00	\$10.00
Supervisor in charge of scoreboard (per hour)	\$12.00	\$12.00

July 4th Booth Fees:

	All vendors
Shaded booth, no electricity	\$80.00
Shaded booth, non-food w/electricity	\$110.00
Shaded booth, w/electricity food vendor	\$110.00
Food vendor with own trailer w/electricity	\$100.00
Each additional electrical outlet	\$10.00

Recreation Leagues, Sports, Classes, and Misc. Fees:

Contact Community Services Department

AQUATIC CENTER FEES:

Membership fees may be altered in conjunction with marketing efforts to allow for the effective promotion of the Clearfield Aquatic Center with the approval of the Community Services Director.

(All fees include tax)

Daily Admission

Child 3 and under	\$1.00
Youth 4-17	\$3.00
Adult 18-59	\$5.50
Senior 60+	\$3.00

Annual Membership fees

	Resident	Non-Resident
Membership rates includes tax		
Youth 4-17	\$175.00	\$270.00
Adult 18-59	\$270.00	\$400.00
Senior 60+	\$175.00	\$270.00
Senior couple	\$270.00	\$400.00
Adult couple	\$350.00	\$525.00
Family	\$450.00	\$640.00

Membership Registration Fee

Individual one-time registration fee	\$25.00	\$25.00
Senior Couple one-time registration fee	\$40.00	\$40.00
Adult Couple one-time registration fee	\$50.00	\$50.00
Family one-time registration fee	\$75.00	\$75.00

Corporate/Business Annual Membership Group Discount Rates

	10-19 Members		20+ Members		
	5% Discount		10% Discount		
RESIDENT BUSINESSES					
Senior		\$166.25			\$157.50
Adult		\$256.50			\$243.00
Sr. Couple		\$256.50			\$243.00
Adult Couple		\$332.50			\$315.00
Family		\$427.50			\$405.00
NON RESIDENT BUSINESSES	5-9 Members	10-14 Members	15-19 Members	20-24 Members	25+ Members
	5% Discount	10% Discount	15% Discount	20% Discount	25% Discount
Senior	\$265.50	\$243.00	\$229.50	\$216.00	\$202.50
Adult	\$380.00	\$360.00	\$340.00	\$320.00	\$300.00
Sr. Couple	\$380.00	\$360.00	\$340.00	\$320.00	\$300.00
Adult Couple	\$498.75	\$472.50	\$446.25	\$420.00	\$393.75
Family	\$608.00	\$576.00	\$544.00	\$512.00	\$480.00

Membership Cancellation Fee

Individual	\$25.00	\$25.00
Couple	\$50.00	\$50.00
Family	\$75.00	\$75.00
Senior Couple	\$40.00	\$40.00

15-Punch Pass

Youth 4-17	\$41.25	\$41.25
Adult	\$75.00	\$75.00
Senior	\$41.25	\$41.25

Aquatic Center Day Care

Hourly rate per child	\$3.75	\$3.75
5-hour punch pass	\$16.25	\$16.25
10-hour punch pass	\$30.00	\$30.00
30-hour punch pass	\$68.75	\$68.75
50-hour punch pass	\$125.00	\$125.00

Aquatic Center Programs

	Resident	Non-resident
Swim lessons	\$34.00	\$40.00
Private swim lessons - one student	\$14.00	\$16.00
Private swim lessons - two students	\$15.00	\$17.00
Private swim lessons - three students	\$16.00	\$18.00
Clearfield City Aquatics Team - Bronze (3 days/week, 1 hr practice)	\$34.00	\$40.00
Clearfield City Aquatics Team - Silver (3 days/week, 2 hr practices)	\$44.00	\$50.00

Clearfield City Aquatics Team - Gold (5 days/week, 2 hr practices)	\$54.00	\$60.00
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Aquatic Center Facility Rentals:

	Per hour	
Leisure pool 1-100 people		\$150.00
Lap pool 1-100 people		\$100.00
Lap and Leisure pool 1-100 people		\$225.00
Lap pool / splash pad		\$125.00
Lap pool / leisure pool / splash pad		\$300.00
Splash pad & patio area		\$75.00
Lane rental		\$12.50
Shower rental		\$50.00
Wet classroom		\$35.00
Party room		\$35.00
Birthday party package includes 1 hour in party room, 8 children, 2 adults)		\$80.00
Full aquatic center		\$400.00
Full Gym		\$100.00
Half Gym (east or west)		\$50.00
1 full court		\$30.00
1 basket		\$15.00

Aquatic Center Misc. Fees:

Body Fat Testing		\$10.00
Group Personal Training 1 session		\$60.00
Group Personal Training 3 sessions		\$168.00
Group Personal Training 6 sessions		\$312.00
Group Personal Training 10 sessions		\$480.00

	Members	Non-Members
Personal Training - 1 session	\$35.00	\$40.00
Personal training - 10 sessions	\$290.00	\$340.00
Personal training - 6 sessions	\$186.00	\$216.00
Personal training - 3 sessions	\$99.00	\$114.00

BUSINESS LICENSE FEES

	Fee / Amount
General Business License	
New / Commercial	\$75
New / Home	\$75 when applicable
Renewal / Commercial	\$64
Renewal / Home	\$64 when applicable
Rental Dwelling License	
New	\$190
New - Good Landlord Participant	\$30
Renewal or amendment	\$64
Temporary or Seasonal Merchant License	
New - One hundred eighty (180) Days	\$120
Mobile Food Vendor License	\$75 when applicable
Solicitors License	
New	\$215
Renewal	\$64
Identification Badge	\$15
Beer Licenses	
Class A - Off-Premise	
New	\$138
Renewal	\$64
Class B - Restaurant	
New	\$138
Renewal	\$64
Class C - Tavern	
New	\$138
Renewal	\$64
Class D - Nonprofit Organization	
New	\$138
Renewal	\$64
Class E - Temporary Special Event	
New	\$138
Renewal	\$64
Sexually-Oriented Business Licenses	
Outcall Services	
New	\$200
Renewal	\$64
Adult Business	
New	\$200
Renewal	\$64
Nude Entertainment Business	
New	\$200
Renewal	\$64
Semi-nude Dancing Bar	
New	\$200
Renewal	\$64
Nude and Semi-nude Dancing Agency	
New	\$200
Renewal	\$64
Sexually-Oriented Business Employee Licenses	
Non-performing Employee	
New	\$200
Renewal	\$64
Outcall Services Performer	
New	\$200
Renewal	\$64

Adult Business Performer	
New	\$200
Renewal	\$64
Nude Entertainment Business Performer	
New	\$200
Renewal	\$64
Semi-nude Dancing Bar Performer	
New	\$200
Renewal	\$64
Firework Stand License	
New	\$120
Cleaning Deposit	\$100
Pawnbroker License	
New	\$138
Renewal	\$64
Massage Establishment License	
New	\$178
Renewal	\$64
Sole Massage Therapist Establishment License	
New	\$178
Renewal	\$64
Outcall Massage Services License	
New	\$178
Renewal	\$64
City Massage Therapist Identification Badge	\$15
Appeal of Final Business License Violation Determination	\$150
Massage Establishment Reinspection Fees	
First time Massage Business reinspection fee	\$150
Any inspection that lasts over one hour shall incur the cost of an Additional Massage Business reinspection fee, to be collected in addition to the first time Massage Business reinspection fee.	
Additional Massage Business reinspection fee	\$250
Any Additional Massage Business reinspection that lasts over one hour shall incur the cost of an Additional Massage Business reinspection fee, to be collected in addition to the original Additional Massage Business fee, and compounded therefrom from each additional hour.	
Disproportionate Service Fees	
Daycare / Preschool, Commercial (new only)	\$10
Daycare / Preschool, Home (new only)	\$135
Manufacturing Businesses (new and renewal)	\$200
Single-Family Rental (new and renewal) with Good Landlord Program - per unit	\$7
Two-Family Rental (new and renewal) with Good Landlord Program Discount - per unit	\$3
3/4-Plex Rental (new and renewal with Good Landlord Program Discount - per unit	\$9
Multi-Family Rental (new and renewal) with Good Landlord Program Discount - per unit	\$7
Mobile Home Park (new and renewal) with Good Landlord Program Discount - per unit	\$7
Single-Family Rental (new and renewal) - per unit	\$66.50
Two-Family Rental (new and renewal) - per unit	\$12.50
3/4-Plex Rental (new and renewal) - per unit	\$92.00
Multi-Family Rental (new and renewal) - per unit	\$67.00
Mobile Home Park (new and renewal) - per unit	\$49.50
Convenience Stores (new and renewal)	\$500
Restaurants (new and renewal)	\$150
Tavern (new and renewal)	\$800
Automotive (new and renewal)	\$115
Financial Services (new and renewal)	\$440
Pawn Shops (new and renewal)	\$500

Bonds Required

Sexually-Oriented Businesses:

Each applicant for a sexually-oriented business license shall post with the City's business license department a cash or corporate surety bond, payable to the City, in the amount of two thousand dollars (\$2,000). Any fines assessed against the business, officers or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine, unless an appeal is filed. In the event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to two thousand dollars (\$2,000) within fifteen (15) days of the date of notice of any draw against it.

Firework Stands:

Bond Or Liability Insurance: Any application for permit as herein provided shall be accompanied by a certificate of insurance insuring the licensee and naming the City as *the certificate holder*, conditioned for the payment of all damages which may be caused either to a person or to property by reason of the display so licensed and arising from any acts of the licensee, his agents or employees. Such insurance shall be in a sum not less than (\$100,000.00/ per person and \$300,000.00) per occurrence for bodily injury and (\$50,000.00-~~per person and~~-\$100,000.00) *per occurrence* for property damage and no City officer or licensing agent or other representative of the City shall in any event issue any permit hereinabove referred to until such certificate of insurance has been furnished and passed upon by the City Manager and the City Attorney as to form and sufficiency.

Pawnbrokers:

Prior to the issuance of any license for the business of a pawnbroker, the applicant therefore shall file with the Director of Finance a bond with a sufficient surety in the penal sum of two thousand dollars (\$2,000.00), in such form as shall be approved by the City Attorney, conditioned for the faithful observance of all laws and ordinances respecting pawnbrokers. The form of the bond and the sufficiency of the surety shall be approved by the City Attorney.

Miscellaneous

Duplicate license / certificate	\$5
Report showing all businesses licensed in the city	\$5

Penalties

Renewals not paid on or before January 15th	50 % of the total amount due
Engaging in business without a license	\$50

Amended License

Processing Fee	\$5
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Business License Appeal

Fee	\$75
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POLICE

Copy of Police Report	\$10.00
1st copy to those involved	No Cost
Police Reports greater than 25 pages (.25 per page after 25 pages, \$20 per hour after first 1/2 hour of preparation.	
Digital Media (CD / Flash drive of Video, Audio, Pictures, etc.)	\$25.00
Digital Redaction Fees-	\$25.00 / hour (charged in 1/2 hour increments)
Fingerprinting (resident)	\$10.00
Fingerprinting (non-resident)	\$15.00
BCI Background check	\$15.00

Alarms

Failing to have a responsible person respond on alarm	\$25.00
False Alarms per quarter of a calendar year outside of a 24 hr period	
(A) Third alarm	\$50.00
(B) Fourth alarm	\$75.00
(C) Fifth alarm	\$100.00

Registration Fee

Sex Offender	Yearly Registration	\$25.00
Sex Offender	DNA collection	\$25.00
Child Abuse Offender	Yearly Registration	\$25.00
Child Abuse Offender	DNA collection	\$25.00
Contract Services for Police Officers		\$65.75 per hour (2 hour minimum)

GRAMA FEES (includes Police Reports):

Photocopies (copied or scanned)	
single sided 8 1/2" X 11"	\$0.25
double sided 8 1/2" X 11"	\$0.40
Certification of Copies per page	\$2.00

Research, compilation, editing, redacting, etc:

first 15 minutes	No charge
additional time (one hour minimum)	\$30 per hour

Assessed at the cost of the hourly rate of the staff member who has the necessary skills and training to perform the request.

Audio Recordings	\$5.00
Maps (copied or scanned)	
8 1/2" X 11" (color)	\$2.50 each
11" X 17" (color)	\$5.00 each
18" X 24" (color)	\$25.00 each
24" X 36" (color)	\$30.00 each
36" X 44" (color)	\$35.00 each
custom	\$10.00 per sq ft with \$10.00 minimum

PLANNING & ZONING FEES:

Engineering Fees	Per City Engineer Hourly Rates
Site Plan Review	\$500 plus Engineering
Administrative Site Plan Review	\$200 plus Engineering
Conditional Use Permit	
Home Occupation	\$200 plus Engineering
Residential	\$350 plus Engineering
Commercial	\$350 plus Engineering
Request for Extension	\$200 plus Engineering
Downtown Clearfield Form Based Code Site Plan Review	\$700 plus Engineering
Rezone	\$650 plus Engineering
Zoning Ordinance Amendment	\$650 plus Engineering
General Plan Amendment	\$900 plus Engineering
Street Vacation	\$450 plus Engineering
Plat Vacation / Amendment	\$300 plus Engineering
Annexation	\$1000 plus Engineering
Special Planning Commission Meeting	\$500
Subdivision Approval	
Preliminary	\$500 + \$25 per lot, plus Engineering
Final	\$400 + \$25 per lot, plus Engineering
Subdivision Public Hearing	\$300
Appeal to the Planning Commission or City Council	\$150 plus Independent Legal Fees
Recording Fees	Paid directly to Davis County Recorder
Permanent Sign Permit	\$50 application fee, plus building permit
Temporary Sign Permit	\$25 application fee
Variance	\$250 plus Engineering
Zoning Verification Letters	\$75

GIS Data Pricing

Parcel Layer	\$50.00
Street (Centerline) Layer	\$50.00
Zoning Layer	\$50.00
Any other GIS or CAD Layers	\$20.00 each
Aerial Photography	\$90.0/sq. mi.
Special Projects	\$50.00 per hour
Hard copy color maps	\$1.00 / Sq. Ft.

Small Wireless Facility Fees:

Application Fees:		\$100.00	ea. SWF on same app
Co-location of an SWF on an existing or replacement utility pole		\$250.00	per application
Permitted use to install, modify, or replace a utility pole with an SWF		\$1,000.00	per application
Non-permitted use to install, modify, or replace a new or existing utility pole with an SWF			
Co--Location Fee		\$50.00	annually per City utility pole
Right-of-Way Rates:	(whichever is greater)	3.5 percent	of all gross revenue, or
		\$250.00	annually for each SWF

BUILDING PERMIT AND DEVELOPMENT FEES:

The City may reduce building permit and development fees for public infrastructure projects for local governmental entities upon request to the Community Development Director. Fees charged should, at a minimum, cover administrative and direct costs incurred as determined by the Community Development Director.

General - Building valuation:

From \$1 to \$500	\$23.50
From \$501 to \$2,000	\$23.50 plus \$3.05 each additional \$100 or fraction thereof
From \$2,001 to \$25,000	\$69.25 plus \$14.00 each additional \$1,000 or fraction thereof
From \$25,001 to \$50,000	\$391.75 plus \$10.10 each additional \$1,000 or fraction thereof
From \$50,001 to \$100,000	\$643.75 plus \$7.00 each additional \$1,000 or fraction thereof
From \$100,001 to \$500,000	\$993.75 plus \$5.60 each additional \$1,000 or fraction thereof
From \$500,001 to \$1,000,000	\$3,293.75 plus \$4.75 each additional \$1,000 or fraction thereof
From \$1,000,000 up	\$5,608.75 plus \$3.65 each additional \$1,000 or fraction thereof

Pools, tubs and spas:

Public	\$150 each
Private	\$47 each

Landscape sprinkling system

\$47 each

Plan check fee:

Commercial	
65% of the building permit fee for building value of \$1 - \$100,000	
60% of the building permit fee for building value of \$100,001 - \$500,000	
50% of the building permit fee for building value of \$500,001 and greater	
Use of outside consultants for plan checking	Actual Cost **
Residential and pools	20% of the building permit fee
Residential "Identical Plans"	\$47

** Actual costs include administrative and overhead costs

Plan check deposit required for new construction

Residential	\$100
Commercial	\$250

Off-site Bonds

Residential	\$2,000
Commercial	As per City Engineer's cost estimate

Permit inspection fees:

Outside normal business hours (minimum charge of two hours)	\$47 per hour
Re-inspection	\$47 per hour
Inspections for which no fee is specifically indicated (minimum charge of .5 hours)	\$47 per hour
Additional plan review required by revisions (minimum charge of .5 hours)	\$47 per hour

Home daycare or preschool plan check and inspection fee \$25 each

Street Cut Permit (Excavation Permit)

Lateral excavation (roads older than 1 year)	\$60 / lane cut
Lateral excavation (roads newer than 1 year)	\$120 / lane cut
Longitudinal excavation (roads older than 1 year)	
First 660 lineal feet	\$120
Each additional 660 lineal feet or fraction thereof	\$240
Longitudinal excavation (roads newer than 1 year)	
First 660 lineal feet	\$240
Each additional 660 lineal feet or fraction thereof	\$240
Excavations off improved right-of-ways	\$60
Bond per lateral excavation	\$1,000
Bond per unlimited number of lateral excavations	\$15,000
Bond for longitudinal excavation for 100 lineal feet or fraction thereof	\$2,000

Demolition permit (including inspections) \$150

State Surcharge

A 1% state surcharge may be applicable to building permit fees

Water Meter Fees

	Cost	Installation Fee
5/8" x 3/4" Meter	\$208	\$25
1" Meter	\$292	\$25
1-1/2" Meter	\$530	\$25
2" Meter	\$700	\$25
2" Compound Series Meter w/2 Orion Transmitters	\$1,945	Per City Public Works Hourly Rate
3" Compound Series Meter w/2 Orion Transmitters	\$2,263	Per City Public Works Hourly Rate
4" Compound Series Meter w/2 Orion Transmitters	\$3,528	Per City Public Works Hourly Rate
6" Compound Series Meter w/2 Orion Transmitters	\$4,927	Per City Public Works Hourly Rate
1-1/2" Turbine Meter	\$800	Per City Public Works Hourly Rate
2" Turbine Meter	\$875	Per City Public Works Hourly Rate
3" Turbine Meter	\$987	Per City Public Works Hourly Rate
4" Turbine Meter	\$1,448	Per City Public Works Hourly Rate
6" Turbine Meter	\$3,413	Per City Public Works Hourly Rate

Telecommunications franchise application fee \$500

Sewer Connection Fees

Each connection to the city sanitary sewer system including each new	\$500
Additional connection fee per lot within the subdivision, mobile home park,	\$25

Building Permit - New Construction Water Fee

Fee for water usage during construction of new residential units, fee charged per unit \$50

DEVELOPMENT IMPACT FEES:**Dec. 13, 2016****Residential**

Single Family (includes attached & detached)	Park Impact Fee-Single Family	\$2,339.00
	Park Impact Fee-Multi Family	\$1,441.00
	Storm Water per ESU	\$64.00
	Water	\$254.00
	Sewer	\$613.00

Non-residential

Storm water per ESU (1 ESU = 2,700 sq. ft. of impervious surface)

If there is storm water detention onsite, the fee is reduced if the detention area is:

- Paved - 20% reduction
- Grassed - 30% reduction
- Sand & Oil Interceptor - 50% reduction

Water Impact (per water meter size*)	Dec. 13 2016
3/4"	\$352.00
1" - 1 1/2"	\$705.00
2"	\$1,411.00
3"	\$4,517.00
4"	\$7,059.00
6"	\$14,118.00

Sewer Impact (per water meter size*)	
3/4"	\$851.00
1" - 1 1/2"	\$1,703.00
2"	\$3,406.00
3"	\$10,900.00
4"	\$17,031.00
6"	\$34,062.00

* Water and sewer impact fees for meters larger than six inches will be based on annualized average day demand and the net capital cost per gallon of capacity.

Independent Fee Calculation Review \$150 plus Actual Cost

Administrative fee for Appeals \$75

DOG LICENSES

Duplicate (replacement) tag	\$6.00
Unaltered and no chip	\$40.00
Altered with no chip	\$15.00
Altered with chip	\$10.00
Senior unaltered one year license	\$10.00
Senior lifetime, with chip and altered	\$20.00

FIRE HYDRANT METERS

Short Term Meter (3 days or less)	\$8.00 + usage charges
Long Term Meter (4 or more days)	\$30/month + usage charges
Lost, broken or damaged meter	\$2,500.00
Lost, broken or damaged hose	\$100.00

NEIGHBORHOOD DUMPSTERS

Deposit (applied to resident's acct when charges are billed)	\$75.00
Delivery & picking-up	\$77.80 + fuel surcharge
Tipping Charge	\$26 / ton

Discounts may be available. Please contact the City for details.

CEMETERY FEES

	Resident	Non-resident
Plot - adult (includes perpetual upkeep)	\$450.00	\$950.00
Interment - adult	\$300.00	\$600.00
Plot - infant (includes perpetual upkeep)	\$150.00	\$400.00
Interment - infant/cremains	\$200.00	\$300.00
Plc Interment extra fee for evenings/weekends/holidays*	\$250.00	\$500.00
* Evening services are defined as those that are scheduled for 3:30pm or later	\$200.00	\$250.00
Disinterment	\$500.00	\$500.00
Ce within 1 year of purchase	\$100.00	
All other certificate transfers	\$10.00	\$10.00
Gravesite Marker (for second and each additional time)	\$25.00	\$25.00

BUILDING RENTAL FEES

	Resident	Non-resident
Refundable cleaning & security deposit - no food	\$50.00	\$50.00
Refundable cleaning & security deposit - food served	\$250.00	\$250.00
Room Rental /hour (2-4 hrs) non-profit, government, commercial	\$35.00	\$50.00
Room Rental /hour (5-8 hrs) non-profit, government, commercial	\$31.50	\$45.00
Room Rental /hour (9-12 hrs) non-profit, government, commercial	\$28.00	\$40.00
Room Rental /hour (13+ hrs) non-profit, government, commercial	\$24.50	\$35.00
Theater & MP room pkg /hr (2-4 hrs) non-profit, government, commercial	\$50.00	\$70.00
Theater & MP room pkg /hr (5-8 hrs) non-profit, government, commercial	\$45.00	\$63.00
Theater & MP room pkg /hr (9-12 hrs) non-profit, government, commercial	\$40.00	\$56.00
Theater & MP room pkg /hr (13+ hrs) non-profit, government, commercial	\$35.00	\$50.00
Sound and lighting / per hour	\$20.00	\$20.00
Projector & screen / per hour	\$20.00	\$20.00

LEGAL DEPARTMENT DISCOVERY FEES

Copies (first 10 pages)	\$5.00
Copies (11 plus pages)	\$0.25/page
Photos (color copies)	\$2.00/page
DVDs/Video/Audio Recordings (Copies)	\$20.00/each

ONLINE TRAFFIC SCHOOL

Tuition	\$50.00
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PARKING VIOLATIONS:**UNAUTHORIZED USE OF STREETS**

Stopping, Standing and Parking 7-4-1 through 7-4-25	\$125.00
Stopping, Standing and Parking 7-4-28 through 7-4-30	\$125.00
Stopping, Standing and Parking 7-4-26 Fire Lanes	\$200.00
Stopping, Standing and Parking 7-4-27 Parking for Person with Disabilities	\$200.00
Trucks, Dynamic Braking & Restricted Vehicles 7-5-2 Parking of Trucks	\$200.00

PAYMENT REDUCTION; TIME LIMITS

	Fee Reductions:
Any penalty that is paid within ten (10) days from the date of	\$100.00
Any penalty that is paid within twenty (20) days from the date of notice shall be	\$50.00
Any penalty that is paid within thirty (30) days from the date of notice shall be	\$25.00

CIVIL INFRACTION HEARING EXAMINER ("CIHE") REDUCTION

A Penalty Reduction for a Parking Violation by CIHE Pursuant to 1-15-6(3) shall	\$15.00
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CODE ENFORCEMENT:**Penalties, Costs, and Filing Fees**

Vehicle Restoration Permit (Not to exceed six (6) consecutive months)	\$25.00	
Vehicle Restoration Permit Extension (One (1) six-month extension)	\$50.00	
Violation Penalty		Subject to reduction at the discretion of the city manager
Hearing Request Filing Fee		Subject to reduction at the discretion of the city manager or his or designee, the hearing request fee is \$150.00
First Compliance Inspection		No Charge
Repeat Re-Inspection Fee		Subject to reduction at the discretion of the city manager
Administrative Code Enforcement Costs, including costs of hearing preparation,		Actual hourly rates for participating employees and actual
Interest Rate on Overdue Amounts		10% per annum, compounded monthly

MISCELLANEOUS

Returned payment	\$20.00
Chicken License	\$15.00
Original Art Mural Permit	\$50.00 plus inspection fees

Chapter 12
MESSAGE BUSINESSES

General Provisions

- 4-12-1: Findings and Purpose.**
- 4-12-2: Administration and Enforcement.**
- 4-12-3: Definitions.**
- 4-12-4: Transfer of License; Sale of Massage Business.**
- 4-12-5: Summary Criminal History Information.**

Massage Business License

- 4-12-6: Massage Business License Required; Exemptions.**
- 4-12-7: Application for Massage Establishment, Sole Massage Therapist Establishment, or Outcall Massage Service License.**
- 4-12-8: Requirements for Massage Facilities.**
- 4-12-9: Referral of Massage Establishment and Sole Massage Therapist Establishment License Applications to Other Departments; Police Department Notification.**
- 4-12-10: Issuance of Massage Establishment, Sole Massage Therapist Establishment, or Outcall Massage Service License.**
- 4-12-11: Operating Requirements.**
- 4-12-12: Inspection.**
- 4-12-13: Suspension or Revocation of Massage Establishment, Sole Massage Therapist Establishment, or Outcall Massage Service License.**

Fees

- 4-12-14: Massage Establishment, Sole Massage Therapist Establishment, and Outcall**

Enforcement and Penalties

- 4-12-15: Notice of Business License Violation.**
- 4-12-16: Business License Violation; Hearing and Appeal.**
- 4-12-17: Appeal of Final Determination of Business License Violation.**
- 4-12-18: Violations and Administrative Penalties.**
- 4-12-19: Enforcement.**
- 4-12-20: Cooperative Efforts with Law Enforcement.**
- 4-12-21: Undertaking for the General Welfare.**
- 4-12-22: Severability.**
- 4-12-23: No Conflict with State or Federal Law.**

4-12-1: FINDINGS AND PURPOSE

Massage professionals and businesses providing massage therapy promote public health and well-being with therapeutic practices that temper aches and pains, ease stress, reduce blood pressure, and provide other valuable health benefits.

In communities across the United States, illicit massage businesses are known venues for human trafficking. Traffickers in these venues commonly operate by opening establishments that are disguised as legitimate massage or bodywork businesses. In the process, they secure legally required licenses and licensure to conceal their actual activities: sex trafficking and/or forced labor. As a result, these human trafficking venues are blending in with and operating next to other legitimate businesses in urban business districts, suburban strip malls, and rural towns throughout the U.S.

The City does not conflate these illicit businesses with legitimate massage businesses and massage practitioners. This Chapter seeks to exercise the City's authority to regulate both massage practitioners and massage businesses in such a way as to support and encourage legitimate massage practitioners and massage businesses, while discouraging illicit massage businesses and removing all illicit massage business from the City.

4-12-2: ADMINISTRATION AND ENFORCEMENT

This Chapter shall be administered through the Business License Official for Clearfield City. Enforcement may include all available administrative, civil, and/or criminal remedies available pursuant to local, state, or federal laws.

4-12-3: DEFINITIONS

For the purposes of this Chapter:

"Administrative Hearing Officer" means the person appointed by the City Manager to preside and conduct a business license violation appeal hearing under this article. The hearing officer may be a department head, other than the supervisor of the business license official, or a non-City employed person with requisite skill and experience.

"Business License Official" means the Business License Official of Clearfield City, or any individual designated by the Business License Official to act on his or her behalf.

"City" means Clearfield City.

"City Massage Therapist Identification Badge" means that badge which is issued by the City to a Licensed Massage Therapist that will provide Massage Services in a Massage Establishment.

"Compensation" means a payment, loan, advance, donation, contribution, deposit, forgiveness of debt, or gift of money or anything of value.

"Convicted" means having pled guilty or having received a verdict of guilty, including a

verdict following a plea of nolo contendere or no contest to a crime, as well as entering into a plea held in abeyance or in a diversion, or any other similar type of plea agreement.

"Department" means the City's Licensing Division.

"DOPL" means the Utah Division of Occupational and Professional Licensing, which is located within the Department of Commerce and is legislatively charged to administer and enforce specific laws related to the licensing and regulations of certain occupations and professions, including massage.

"Inspector" means a Department employee responsible for conducting inspections on behalf of the Department.

"Licensed Massage Therapist" means an individual who administers massage for compensation and holds a valid and active license to practice massage issued by DOPL, including those individuals that have a DOPL license as a massage apprentice.

"Massage" means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft pads of the body with the hands or with the aid of any apparatus or appliance.

"Massage Business" means Massage Establishment, Outcall Massage Service, and Sole Massage Therapist Establishment, collectively.

"Massage Establishment" means a fixed place of business where more than one individual administers Massage for Compensation, excluding those locations where Massage is provided only on an outcall basis.

"Outcall Massage Service" means any business other than a Massage Establishment or Sole Massage Therapist Establishment that provides Massage for Compensation at a location designated by the client rather than on its premises.

"Owner" means any individual, partnership, firm, association, corporation, or combination of individuals of whatever form or character with an ownership interest in a business that provides Massage services.

"Sole Practitioner" means a Licensed Massage Therapist who provides Massage for Compensation without any partners, associates, or employees, and absent any business relationship with a Massage Establishment.

"Sole Massage Therapist Establishment" means a fixed place of business solely owned by a Massage Therapist, which individual is the only person who provides Massage for Compensation.

4-12-4: TRANSFER OF LICENSE; SALE OF MASSAGE BUSINESS

- A. No license issued by the City under this Chapter shall be transferable under any circumstances, including but not limited to the sale of the Massage Business.
- B. Upon the effective date of the sale of a Massage Business, the license for the Massage

Business shall expire by operation of law. If a licensee sells a Massage Business, the licensee shall promptly surrender the license to the Business License Official no later than the effective date of the sale. This obligation is not dependent on the Business License Official's requesting the surrender, but arises by operation of law as a result of the sale of the Massage Business. If the licensee fails to surrender the license to the Business License Official as required by this subsection (b), the Business License Official may, after giving the licensee notice by mail or electronically of the proposed action and an opportunity to respond, establish that the license has expired by operation of law and hence is not a valid license, and that it must be surrendered.

4-12-5: SUMMARY CRIMINAL HISTORY INFORMATION

The Business License Official may require the submission of local, state, and federal level summary criminal history information for licensing, licensing, and/or certification of Massage Businesses and Massage Practitioners, and for the suspension or revocation of licenses, licenses, and/or certification of Massage Businesses and Massage Practitioners, and may not disseminate the information to a private entity. The Business License Official may not accept a summary report that is greater than 3 months old prior to submission, and may require a summary report to be updated at any given time.

4-12-6: MASSAGE BUSINESS LICENSE REQUIRED; EXEMPTIONS

- A. License Required. It shall be unlawful for any Owner of a Massage Establishment, Sole Massage Therapist Establishment, or Outcall Massage Service to operate that Massage Business at any location in the City without first obtaining a license for such Massage Business from the Business License Official. In the event that a business owner or operator disclaims that the business is a Massage Business, the Business License Official may hold a hearing to determine whether a license under this chapter is required.
- B. Exemptions. The following businesses may provide Massage services without obtaining a Massage Business license:
 1. Businesses providing Massage services performed solely by physicians, surgeons, chiropractors, osteopaths, nurses, or any physical therapists, who are duly licensed to practice their respective professions in the State of Utah and persons working directly under the supervision of or at the direction of such licensed persons, working at the same location as the licensed person, and administering massage services subject to review or oversight by the licensed person.
 2. Businesses providing Massage services performed solely by barbers or cosmetologists who are duly licensed under the laws of the State of Utah, while engaging in practices within the scope of their licenses, and limited to the massaging of the neck, face, scalp, hands, or feet of the clients.
 3. Hospitals, nursing homes, mental health facilities, or any other health facilities duly

licensed by the State of Utah, providing Massage services performed solely by their employees acting within the scope of their employment.

4-12-7: APPLICATION FOR MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE LICENSE

- A. Application Requirements. To apply for a Massage Establishment, Sole Massage Therapist Establishment, or Outcall Massage Service license, the Owner shall:
1. File an application with the Business License Official upon a form provided by the Business License Official;
 2. Provide a complete set of fingerprints in the manner required by the Business License Official from any person with an ownership interest in the Massage Business for the purpose of a undergoing a criminal background check;
 3. Pay a non-refundable application fee, as set forth in the City's Consolidated Fee Schedule; and
 4. License inspection of any Massage facilities proposed to be operated under the license by all relevant City departments, including but not limited to the Department of Building Inspection, the Planning Department, and the Fire Department.
- B. Applicant Information. The application form shall require the applicant to provide, under penalty of perjury, the following information:
1. The name(s), address(es), and any other identifying information regarding the Owner(s) as requested by the Business License Official;
 2. A description of all services to be rendered by the Massage Business;
 3. The address of any facilities proposed to be operated under a Massage Establishment or Sole Massage Therapist Establishment license, and a copy of the rental agreement or lease showing the names of the landlord and all of the tenants or lessees who are parties to the rental agreement; or, if the Owner owns the premises, a copy of the deed and a disclosure of any other person or entity with a shared ownership interest in the premises;
 4. The number of individuals to be employed by the Massage Business, and, except in the case of a Sole Massage Therapist Establishment, the names and licenses of any Massage Therapists who shall operate under that license;
 5. All licenses, certificates, or licenses related to the practice of Massage or the operation of a Massage Establishment or Massage service, currently or formerly held by an Owner, issued in Clearfield City or elsewhere, including any discipline imposed by the issuing authority and a statement whether the license holder is currently the

subject of a disciplinary process;

6. All felony or misdemeanor convictions for each person with an ownership interest in the Massage Business;
 7. A floor plan of the proposed Massage Establishment, indicating the location of all Massage treatment rooms, Massage tables, Massage chairs, and employee areas;
 8. A certificate of insurance against liability for workers compensation or proof of self-insurance in accordance with the provisions of the Utah Labor Code; and
 9. Any additional information as required by the Business License Official.
- C. Organizational Owners. If the Owner of the Massage Establishment or Outcall Massage Service is or includes a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, Directors, and each stockholder holding more than 10% of the stock of the corporation. If the Owner is or includes a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of Clearfield City Municipal Code § 4-12-7(c) pertaining to corporate applicants applies. The applicant shall provide the information required in subsections (a)(2), (b)(1), (b)(5), and (b)(6) of Clearfield City Municipal Code § 4-12-7 for each officer, director, and stockholder holding more than 10% of the stock of the corporation, or for each partner, including limited partners.
- D. Proof of DOPL Certification for Sole Practitioners. In addition to the information required under subsection (b) of Clearfield City Municipal Code § 4-12-7(b), an applicant for a Sole Massage Therapist Establishment license shall provide proof that he or she holds a current, valid DOPL certificate.
- E. Deadline for submission of supporting documentation. After reviewing a Massage Business License application, the Business License Official shall notify the applicant in writing that the application is complete and accepted for further review, or incomplete. If the Business License Official deems the application to be incomplete, the applicant shall supply the information or documentation that is required for the application to be deemed complete. The applicant shall have 30 calendar days from the date that the Business License Official provides notification that the application is incomplete to provide all required information and/or documentation. If the applicant does not provide such information within 30 calendar days, the application will be deemed abandoned and will not receive further consideration.

4-12-8: REQUIREMENTS FOR MASSAGE FACILITIES

All proposed massage facilities must comply with the following requirements, and with any rules and regulations adopted by the Business License Official pursuant to § 4-12-2:

A. Toilet Rooms and Other Rooms. Toilet rooms shall be provided for clients in convenient locations.

1. Construction of rooms used for toilets, laundry, and mop sinks, as well as rooms used for tubs, wet tables, steam baths, saunas, and shower stalls, shall be made of waterproof, nonabsorbent materials that are easily cleaned and shall be installed in accordance with the City's Building Regulations found in Title 10, as well as all other applicable state or federal building regulations.
2. Plumbing fixtures in toilet rooms as well as rooms used for tubs, steam baths, and showers shall be installed in accordance with the international plumbing code, as adopted by the City in Title 10, City's Building Regulations.
3. Urinals may be substituted for toilets after one toilet has been provided.
4. Doors to toilet rooms shall open inward.

B. Handwashing Facilities. Handwashing facilities shall be provided within or adjacent to the toilet rooms and shall be equipped with an adequate supply of hot and cold running water under pressure.

1. Handwashing facilities must provide liquid hand soap in a pump or a wall-mounted dispenser and sanitary wall mounted disposable paper towels.
2. Handwashing facilities shall be readily accessible to massage practitioners.

C. Light and Ventilation. All portions of the Massage Establishment shall be provided with adequate light by means of windows, skylights, or with an approved artificial light. Adequate ventilation shall be provided by means of windows or a mechanical operating ventilating system.

1. Toilet, dressing, and massage rooms shall be provided with at least 108 lux (10 foot candles) of light.
2. All electrical equipment shall be installed in accordance with the requirements of the national electric code, as adopted by the City in Title 10, City's Building Regulations.

4-12-9: REFERRAL OF MASSAGE ESTABLISHMENT LICENSE APPLICATIONS TO OTHER DEPARTMENTS; POLICE DEPARTMENT NOTIFICATION

A. Code Review. The Business License Official, within 14 calendar days of receiving an application for a license to operate a Massage Establishment or Sole Massage Therapist Establishment shall refer the application to the City Department of Building Inspection and the City Police, Fire, and Planning Departments. Said departments shall inspect the facilities

proposed to be operated as a Massage Establishment or a Sole Massage Therapist Establishment and shall make written findings to the Business License Official concerning compliance with codes that they administer.

- B. Law Enforcement. The Business License Official shall notify the Police Department of all approved and denied Massage Business license applications.

4-12-10: ISSUANCE OF MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, OR OUTCALL MESSAGE SERVICE LICENSE

- A. Within 60 calendar business days following receipt of a completed application for a Massage Business license, or, for applications subject to referral under Section 4-12-9, within 30 calendar days of receiving all written findings, whichever is later, the Business License Official shall either issue the license or mail a written statement of his or her reasons for denial thereof to the applicant. If the Business License Official takes neither action, the license shall be deemed issued.

- B. No Massage Establishment, Sole Massage Therapist Establishment, or Outcall Massage Service license shall be issued if the Business License Official finds:

1. The applicant has provided materially false information, documents, or testimony in support of the application or in any other matter before the Business License Official; or
2. The facilities as proposed by the applicant would not comply with all applicable laws including, but not limited to, the facilities requirements set forth in § 4-12-8, the City Building, Planning, Housing, and Fire Codes, or any rule or regulation related to Massage facilities adopted by the Business License Official pursuant to this chapter; or
3. Within 36 months prior to the application, the applicant has had any license or license of any kind suspended or revoked by the Business License Official; or
4. Prior to the date of application, the applicant has had any license, certificate, or license related to the practice of Massage or operation of a Massage Establishment or Massage service revoked; or
5. The applicant has been Convicted of any of the following offenses, at any time prior to making application:
 - (a) Any offense involving the use of coercion, force, or violence upon another person; or
 - (b) Any misdemeanor sexual battery; or
 - (c) Any offense involving sexual misconduct with children; or
 - (d) Any offense involving pimping or pandering; or

- (e) Any offense related to human trafficking; or
 - (f) Any offense requiring registration pursuant to Title 77, Chapter 41 of the Utah State Code; or
 - 6. Sanitation Violations Pursuant to Clearfield Municipal Code § 4-12-11(a).
 - 7. The Business License Official revoked permission to operate a Massage Business at the same location within the prior 36 months; or
 - 8. The Business License Official finds that the premises or the Massage Business will be or is being managed, conducted, or maintained in such a manner as to endanger the health and safety of the employees or clients, or to coerce any employee to engage in illegal conduct; or
 - 9. The applicant has not fully complied with the provisions of this chapter; or
 - 10. The applicant has not demonstrated eligibility for a license under this chapter.
- C. Right to Request for Reconsideration of Denial by Business License Official. If an application for a Massage Establishment, Sole Practitioner Massage Establishment, or an Outcall Massage Service permit is denied, the applicant may make a Request for Reconsideration to the Business License Official within 14 calendar days of the date listed on the notice of denial by notifying the Business License Official in writing and explaining the ground or grounds for reconsideration. Within 10 calendar days of receipt of the Request for Reconsideration, the Business License Official shall review the records, and at the discretion of the Business License Official, may hold a hearing to consider the request for reconsideration, before issuing a final written decision.
- D. Right to Appeal Business License Official's Final Written Decision. If an application for a Massage Establishment, Sole Massage Therapist Establishment, or an Outcall Massage Service license is denied after a Business License Official's Request for Reconsideration pursuant to Clearfield Municipal Code § 4-12-10(c), the applicant may appeal the denial to the City Manager within 14 calendar days of the date listed on the notice of denial by submitting a written notice of appeal to the City Recorder. This appeal shall be a review of the written basis for appeal, any written response from the City, and the record. No testimony will be provided. The written appeal shall include the following:
- 1. A brief basis for appeal, no more than two pages.
 - (a) The format for the written appeal shall be 12-font, double-spaced, on standard sized (8x11) paper, with 1 inch margins;
 - 2. A complete and accurate copy of all documents provided by the applicant to be considered during the Business License Official Hearing; and
 - 3. A complete and accurate copy of the Business License Official's final written decision from the request for reconsideration.

The City may or may not submit a written response within 7 calendar days to the “brief basis for appeal” under the length and formatting requirements set forth in (e)(1)(A).

The City Manager shall make a written final determination. The City Manager shall make this final determination not less than 7 calendar days, but no more than 14 calendar days from the date of a timely made appeal.

The failure of the City Manager to provide a timely final determination as outlined above shall be considered an upholding of the Business License Official’s final written decision.

4-12-11: OPERATING REQUIREMENTS

Massage Establishments, Sole Massage Therapist Establishments, and Outcall Massage Services must comply with the following operating requirements to the extent applicable:

- A. Cleanliness and Hygiene. Massage facilities, including all appliances and apparatuses, shall be kept clean and operated in a sanitary condition.
 - 1. Adequate and suitable space shall be provided for storage of clean linens, including, but not limited to, sheets, towels, and apparel.
 - 2. Clean sheets and towels shall be provided, laundered after each use, and stored in a sanitary manner.
 - 3. No towels or sheets shall be laundered or dried on the premises in the absence of suitable laundry facilities.
 - 4. Smooth, cleanable, and appropriately labeled receptacles for the storage of soiled linens and towels shall be provided.
 - 5. Soiled refuse shall be appropriately bagged and disposed of.
 - 6. Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each business day.
 - 7. Bathtubs shall be thoroughly cleaned and sanitized after each use.
 - 8. The facility shall be free of vermin, including but not limited to cockroaches, mice, rats, and other pests that carry disease.
- B. Changing Area. A room, enclosure, or designated area shall be provided where clients can change and store their clothes.
- C. Employee Area. A room, enclosure, or designated area that is separate from the toilet, massage room(s), steam room, or other common areas shared by the clients shall be made available to employees at all times. The employee area(s) shall be furnished with individual lockers and adequate storage space for employees' personal belongings. Members of the public may not have access to the employee area.

- D. **Employment of Minors Prohibited.** It shall be unlawful to employ any individual who is not at least 18 years of age.
- E. **Register of Practitioners.** Every Massage Establishment or Outcall Massage Service that hires or contracts with individuals to provide Massage services shall ensure at all times that each such individual holds a valid and current DOPL certificate, as well as a City Massage Therapist Identification Badge. The Massage Establishment or Outcall Massage Service shall maintain a register of practitioners that includes each practitioner's DOPL certificate number and a copy of the City Massage Therapist Identification Badge, which shall be provided to the City, as well as available for inspection by the Department at all times.
- F. **Therapist Conduct.** Massage Establishments shall be responsible for the conduct of all individuals providing Massage for Compensation on their business premises and shall ensure that such individuals properly display their City Massage Therapist Identification Badge at all times while on the premises of a Massage Establishment, as well as ensure that they do not wear improper attire or engage in lewd conduct, which is generally defined as, but not limited to, the following:
1. **Required Attire.** Massage Practitioners shall remain fully clothed while administering massage or otherwise present in a part of the Massage Establishment to which the public has access (e.g., massage rooms, reception areas, publicly accessible restrooms), including premises designated by the client through an Outcall Massage Service. The Massage Practitioner's attire shall not include: (1) attire that is transparent, see-through, or that substantially exposes the Practitioner's undergarments; (2) swim attire, unless the Massage Therapist is providing a water-based massage modality that has been approved by DOPL; or (3) attire that exposes the individual's areolas, breasts, buttocks, or genitals.
 2. **Lewd Conduct Prohibited.** Massage Practitioners shall not engage in lewd conduct on business premises, including locations designated by the client through an Outcall Massage Service. Lewd acts include, but are not limited to: the performance of acts or simulated acts of sexual intercourse, masturbation, bestiality, copulation (oral, anal or vaginal), or flagellation; the actual or simulated caressing or fondling by one adult human being of the anus, genitals or breasts, of another adult human being; the actual or simulated displaying of the pubic hair, anus, vagina, penis, vulva, buttocks, areola, or any other external genitalia of the human body. The existence of clothing, a towel, or any other such matter material on or covering either or both the Massage Practitioner or client does not alleviate the above restricted conduct, nor is it a defense to prohibited conduct.
- G. **Locks.** Doors that permit entry into any treatment room may not be equipped with locks or any device designed to prevent, impede, or delay entry into a room. Massage Establishment exterior doors may be equipped with locks, but shall remain unlocked while the Massage

Establishment is open. Exterior doors may remain locked while the Massage Establishment is open only if there is no more than one employee or independent contractor on the premises of the Establishment, exclusive of the Establishment owner.

- H. No Alcohol or Illegal Drugs Permitted on Premises. No alcoholic beverages or drugs may be sold, served, used, or possessed on business premises during business hours.
- I. Human Trafficking Information Notices. Massage Establishments must post in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees, the following notice, which is provided by the City:

“If you or someone you know is being forced to engage in any activity and cannot leave-whether it is commercial sex, housework, farm work, construction, factory, retail, or restaurant work, or any other activity-text 233733 (Be Free) or call the National Human Trafficking Hotline at 1-888-373-7888 or the Utah Human Trafficking Tipline at 801-200-3443 to access help and services.

- J. Residential Use. Massage facility premises shall not be used as a sleeping room or for any other residential purpose. A Massage Establishment shall be presumed to be used for residential purposes if any of the following items are maintained on the premises:

1. Beds or mattresses, other than professional Massage tables;
2. Bedding, such as pillows, blankets, and sheets, other than those used for professional Massage tables;
3. Sleepwear, including but not limited to, pajamas, nightgowns, and lingerie;
4. Groceries that require cooking, such as raw meats, poultry, fish, and grains; or
5. Clothing that exceeds one change of clothing for each employee or independent contractor who is present on the premises.

- K. Establishment License to be Displayed. Every license to operate a Massage Establishment or Sole Massage Therapist Establishment shall be displayed in a conspicuous place within the Establishment such that the license may be readily seen by individuals entering the premises.

- L. Outcall Massage Service License Subject to Inspection. Every license to operate an Outcall Massage Service must be made available for inspection by the Department at all times while providing Massage services.

- M. Hours of Operation. No Massage Business shall operate or provide Massage services, and no customer or person not employed or contracted by the Massage Business may be on the premises of a Massage Establishment, during the hours between 10:00 p.m. and 7:00 a.m.

- N. Advertising. No Massage Business shall publish or distribute, or cause to be published or

distributed, including on the internet, any advertising for services that would violate this chapter.

- O. Operation of Massage School Prohibited. No Massage Business shall operate a Massage school or otherwise provide instruction in Massage on the premises of a Massage Establishment.

4-12-12: INSPECTION

Any member of the Department may inspect any Massage Establishment or Sole Massage Therapist Establishment to determine whether the Establishment is operating in compliance with the provisions of local, State, or Federal laws, or for the purpose of providing educational materials to employees of the Establishment in culturally and linguistically appropriate languages regarding employee rights and information on a variety of resources, including linkage to health care services, victim services, and emergency numbers and hotlines to call for information and assistance. Nothing in this Section shall be construed to limit or restrict the lawful authority of a police officer or other City employee to enter premises licensed under this chapter.

4-12-13: SUSPENSION OR REVOCATION OF MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE LICENSE

- A. Grounds for Suspension or Revocation. The Business License Official may revoke or suspend any Massage Establishment, Sole Massage Therapist Establishment, or Outcall Massage Service license, if the Business License Official finds:
 - 1. Facts sufficient to support the denial of such license on any ground set forth in Clearfield City Municipal Code § 4-12-10; or
 - 2. The licensee or the licensee's agent, employee, or independent contractor has refused to permit a lawful inspection of its business premises or its operations, or has interfered with City staff in the performance of an inspection such as by threatening them, touching them, or intentionally delaying their entry to the premises of the Massage Business; or
 - 3. The licensee or the licensee's agent, employee, or independent contractor has engaged in any conduct in connection with the operation of the business that violates the operating requirements set forth in this chapter, any rules or regulations related to Massage Business operations, or any local, state or federal laws relating to the practice of Massage or the operation of a Massage Business; or
 - 4. The Business License Official determines that such Massage Business is being managed, conducted, or maintained without regard for public health or the health of clients or employees, or without due regard for proper sanitation and hygiene.

- B. The Business License Official may not suspend or revoke a Massage Business license under this chapter until the Business License Official has issued a Notice of Business License Violation and provided the Massage Business and the owner of the property upon which the Massage Business is located an opportunity to be heard and respond as provided in Clearfield City Municipal Code, § 4-12-16.
- C. Notwithstanding subsection (b) of § 4-12-13, the Business License Official may suspend summarily any Massage Business license issued under this chapter when, in the judgment of the Business License Official, a public health hazard requires such summary suspension, or the Business License Official deems the summary suspension to be in the best interest of the public. The Business License Official shall provide written notice of such summary suspension to the license holder pursuant to the service defined in Clearfield City Municipal Code § 1-16B-3. No more than three calendar days after written notice of such summary suspension is given, the Business License Official shall issue a Notice of Business License Violation identifying the alleged acts or failures to act that constitute the basis for the summary suspension, and provide the Massage Business an opportunity to be heard and respond as provided in Clearfield City Municipal Code § 4-12-16, as to why the summary suspension should end. However, the time for hearing and decision shall be accelerated as follows:
 - 1. Upon a timely request for a hearing, the Business License Official shall set any requested hearing within 14 calendar days, unless time is extended by mutual agreement of the affected parties; and
 - 2. The Business License Official, or designee, who shall have the same authority as the Business License Official to hear and decide the case, and make any orders consistent with this chapter, shall issue a decision on the summary suspension within 7 calendar days after hearing.
- D. If the Licensee appeals a decision by the Business License Official or designee upholding a summary suspension, the summary suspension shall remain in effect pending a final decision of the appeal. Where a license is revoked after a summary suspension, the revocation shall be effective immediately and, if the Licensee further appeals, shall remain in effect pending a final decision of the appeal.

4-12-14: MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, AND OUTCALL MASSAGE SERVICE FEES; REINSPECTION FEES

- A. Massage Establishments. The application fee for a Massage Establishment license shall be set forth in the City's Consolidated Fee Schedule. The annual license fee for a Massage Establishment shall be set forth in the City's Consolidated Fee Schedule. The fee shall be due annually.
- B. Sole Massage Therapist Establishments. The application fee for a Sole Massage Therapist Establishment license shall be set forth in the City's Consolidated Fee Schedule. The annual license fee for a Sole Massage Therapist Establishment shall be set forth in the City's

Consolidated Fee Schedule. The fee shall be due annually.

- C. Outcall Massage Services. The application fee for an Outcall Massage Service license shall be set forth in the City's Consolidated Fee Schedule. The annual license fee for an Outcall Massage Service shall be set forth in the City's Consolidated Fee Schedule. The fee shall be due annually.
- D. Exception. A Licensed Massage Therapist holding a Sole Massage Therapist Establishment license shall not be required to pay any additional application or annual license fee for an Outcall Massage Service license.
- E. Reinspection fees. If an inspection discloses a violation of any provision of this Code or of any State law for which the City is responsible for enforcement, the City shall determine a period of time that is reasonable to correct the violation and shall thereafter reinspect the property to verify such correction. The term "reinspection" shall refer to any inspection by the Department to verify whether an owner has corrected a violation. The Massage Business shall pay a fee as set forth in the City's Consolidated Fee Schedule, to compensate the Department for its costs in performing the reinspection. Reinspections that require more than one hour to complete shall be subject to an additional fee, as set forth in the City's Consolidated Fee Schedule. If more than one reinspection is necessary to secure correction of a violation, the Massage Business shall pay a fee in the amount set forth herein for each reinspection. In the event that the Massage Business fails to pay any reinspection fee due under this Section within 30 days of the due date, the Massage Business must pay a late payment penalty, as set forth in the City's Consolidated Fee Schedule and the City may collect the reinspection fee through the placement of a lien in the amount of the fee and any late payment penalty owed or delinquent, plus interest of 1.5% per month, against the real property pursuant to the procedures set forth in Clearfield City Municipal Code § 1-16B-21, Recovery of Fees and Costs.

4-12-15: NOTICE OF BUSINESS LICENSE VIOLATION

- A. If the Business License Official determines that a Massage Business is operating in violation of this chapter, (which is deemed in the entirety of Clearfield City Municipal Code § 4-12-15 to include a violation of a license condition and/or a violation of the rules and regulations adopted pursuant to this chapter), the Business License Official may issue a Notice of Business License Violation to the Massage Business, the owner of real property where the violation occurred, and/or any other Persons the Business License Official deems responsible for causing the violation.
- B. The Notice of Business License Violation shall include the following information:
 - 1. That the Business License Official has made a determination that the Massage Business has operated in violation of this chapter;
 - 2. The alleged acts or failures to act that constitute the basis for the Business License

Official's determination;

3. That the Business License Official intends to take enforcement action against the Massage Business, owner of real property, and/or any other Person deemed responsible for causing the violation(s), and the nature of that action, including the administrative penalty and enforcement costs to be imposed, and/or the suspension or revocation of the Massage Establishment license(s);
 4. That the Massage Business, owner of real property, and/or any other Person deemed responsible for causing the violation(s) has the right to request a hearing before the Administrative Hearing Officer for the City, and that said request for a hearing must be made in writing within 10 calendar days after the Notice of Business License Violation is served. Service shall be in accordance with Clearfield City Municipal Code § 1-16B-3.
- C. If no request for a hearing is filed with the Business License Official within the appropriate period, the right to request a hearing shall be deemed waived, and the Business License Official's determination shall become final and effective 10 calendar days after the Notice of Business License Violation is served. The Business License Official shall issue an order imposing the enforcement action, and shall send the order to the Persons served with the Notice of Business License Violation. In subsequent civil proceedings, such violations shall be deemed not to have been corrected. Where no hearing is timely requested, an order suspending or revoking a license is final. The failure of the Person on whom the Notice of Business License Violation is served to request a hearing shall constitute a failure to exhaust administrative remedies and shall preclude the Person from obtaining judicial review of the validity of the enforcement action.

4-12-16: BUSINESS LICENSE VIOLATION; HEARING AND APPEAL

- A. Purpose. The City finds that there is a need to establish uniform procedures for Business License hearings conducted pursuant to this article. It is the purpose and intent of the City to afford due process of law to any person who is directly affected by a Business License Violation. Due process of law includes notice, an explanation of the accusations, and an opportunity to be heard prior to imposition of a penalty. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly review and resolve issues raised in any Notice of Business License Violation.
- B. Request For Business License Violation Appeal Hearing:
1. An owner of a massage business has the right to request a business license violation appeal hearing by filing a written request and paying the required filing fee, if the request is filed within 10 calendar days after the notice of business license violation is served.
 2. As soon as practicable after receiving a request for hearing, the City Manager or his or her designee shall arrange for and appoint an Administrative Hearing Officer, and

the Administrative Hearing Officer will schedule a date, time, and place for the hearing, and will serve written notice of the same to all known owners.

3. Failure to timely request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the City's action set out in the notice of violation. Such a failure to request a hearing will result in a default judgment being entered upholding the notice of violation and assessing accrued fees, penalties and costs.

C. Procedures At Business License Violation Appeal Hearings:

1. **Informal In Nature:** Business license violation appeal hearings are intended to be informal in nature. The formal Utah Rules of Evidence and Discovery do not apply; however, an informal exchange of relevant documents and other evidence may be required at the discretion of the Administrative Hearing Officer.
2. **Discovery Requests:** Discovery requests must be in writing directed to the opposing party. Failure to timely request discovery shall preclude a continuance to enable additional discovery or investigation.
3. **Personal Information Protected:** A complainant's personal identifying information is protected and shall not be released unless the complainant is a witness at the hearing.
4. **Burden Of Proof:**
 - (a) The City bears the burden of proof at a business license violation appeal hearing requested to substantively challenge a notice of business violation.
 - (b) At a hearing challenging the suspension or revocation of a massage business license, the owner of the massage business will bear the burden of proof and persuasion with respect to the claim that a violation did not occur.
5. **Standard Of Proof:** The standard of proof to be used by the Administrative Hearing Officer in deciding any issue at a business license violation appeal hearing is the preponderance of the evidence. A preponderance of the evidence shows what is more likely than not.
6. **Activities Allowed To Support Case:** Each party shall have the opportunity to cross examine witnesses and present evidence in support of his or her case. If approved in advance by the Administrative Hearing Officer, testimony may be given by telephone or other electronic means.
7. **Hearings Open To Public:** All hearings are open to the public. Hearings shall be recorded to enable verbatim transcripts to be prepared as needed.
8. **Representation By Attorney:** The owner of a massage business may be represented by an attorney. If an attorney will be representing the owner at the hearing, notice of the attorney's name, address, and telephone number must be given to the City's Business License Official at least seventy two (72) hours prior to the hearing. If

timely notice is not given, and an attorney appears for an owner, the hearing will be continued at the City's request, and any costs of the continuance will be assessed to the owner.

9. Fee Refund If Violation Dismissed: If the Administrative Hearing Officer dismisses the Notice of Business License Violation entirely, the hearing fee shall be refunded to the owner who paid it.
- D. Failure To Attend a Business License Appeal Hearing: Any owner named in a business license notice of violation who fails to appear at a duly noticed hearing is deemed to waive the right to a hearing, which will result in a default judgment entered for the City as to that owner and massage business.

4-12-17: APPEAL OF FINAL DETERMINATION OF BUSINESS LICENSE VIOLATION

- A. Judicial Review: Any person adversely affected by any final business license violation determination issued following a business license violation appeal hearing, may file a petition for review of the final business license violation appeal determination in the District Court within thirty (30) days after the date of the final business license violation appeal determination.
- B. Exhaustion Of Administrative Remedies: No person may challenge in District Court a final business license violation appeal determination until that person has exhausted his or her administrative remedies.
- C. Obtaining The Administrative Record For Judicial Review: Within thirty (30) days after submitting a petition for review in the District Court, the party petitioning for judicial review shall request a copy of the record of the business license violation appeal hearing, including transcripts if required by the District Court. The City shall not submit copies of files or transcripts to the reviewing court until the party petitioning for judicial review has paid all required copying and transcription costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within sixty (60) days after the petition for review was filed shall be grounds for dismissal of the petition. The City shall have an additional sixty (60) business days from the date of request to prepare and submit the requested file and/or transcript.
- D. Possible Remand Back To City: If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, and there is no other reliable record of the business license violation appeal hearing otherwise available, the District Court may, in its discretion, remand the matter back to the City for a supplemental proceeding to create a usable record.
- E. District Court Review On The Record: The District Court's review is limited to the evidence in the record of the business license violation appeal determination that is being reviewed, and not a new trial or hearing on the facts or evidence. The court shall not accept nor consider any evidence that is not part of the City's record.

- F. Scope Of District Court Review; Burden Of Proof: The District Court shall:
1. Presume that the business license violation appeal determination on review is valid; and
 2. Review the record to determine whether or not the evidence available to the Administrative Hearing Officer shows that the order was arbitrary, capricious, or illegal.
 3. The petitioner for review has the burden of proof before the District Court.

4-12-18: VIOLATIONS AND ADMINISTRATIVE PENALTIES

- B. Any person who violates any provision of this chapter or any rule or regulation adopted pursuant to Clearfield City Code § 4-12-2 may, after being provided notice and an opportunity to be heard, be subject to the following monetary and license penalties. The Business License Official or Administrative Hearing Officer may impose administrative fines and/or license penalties that exceed those listed below where the Business License Official or Administrative Hearing Officer finds that such higher fines and/or penalties are necessary or appropriate to protect and promote the health and well-being of a Massage Business' employees, customers, and/or neighbors.
1. Massage Business Operating Without a Massage Business License.
 - (a) Administrative fine: Up to \$1,000 per day of operating without a license; and
 - (b) License penalty: Business location and Owner of Massage Business ineligible for a Massage Business license for 180 days.
 - (c) Repeat violations: Same penalties as (a)(1)(A) and (a)(1)(B).
 2. Massage Business Employing Any Person Under 18 Years of Age.
 - (a) Administrative fine: None.
 - (b) License penalty: Mandatory revocation of Massage Business license. Massage Business licensee ineligible for a subsequent license for 180 days.
 3. Solicitation Citations, Charges, or Convictions, as Defined by Utah State Code, for Anyone Working at Massage Establishment.
 - (a) Administrative fine: \$5,000 to be paid by Massage Establishment licensee; and
 - (b) License penalty: Mandatory 60-120 days suspension of Massage Establishment license.
 - (c) Repeat violations: Revocation; licensee ineligible for a subsequent Massage Establishment license at any location for a period of two years.
 4. Trafficking Charges or Convictions, as Defined by Utah State Code, for Anyone

Working at Massage Establishment.

- (a) Administrative fine: None.
 - (b) License penalty: Revocation; licensee ineligible for a subsequent Massage Establishment license at any location.
 - (c) Repeat violations: Same penalty as (a)(4)(B).
5. Massage Establishment or Outcall Massage Service Employing Individual Without DOPL Certification To Administer Massage.
- (a) Administrative fine: \$1,000 to be paid by Massage Business licensee.
 - (b) License penalty: None.
 - (c) Repeat violations: 15-30 day suspension of Massage Business license and up to \$2,500 fine for second occurrence; 30-60 day suspension or revocation of Massage Business license, and up to \$5,000 fine for third occurrence.
6. Massage Facilities Used for Residential Sleeping Purposes.
- (a) Administrative fine: Up to \$1,000.
 - (b) License penalty: None.
 - (c) Repeat violations: 15-30 day suspension of Massage Business license and up to \$2,500 fine for second occurrence; 30-60 day suspension of Massage Business license and up to \$5,000 fine for third occurrence.
7. Presence of Beds Instead of or in Addition to Massage Tables.
- (a) Administrative fine: \$1,000.
 - (b) License penalty: None.
 - (c) Repeat violations: 15-30 day suspension of Massage Business license and up to \$2,500 fine for second occurrence; 30-60 day suspension of Massage Business license and up to \$5,000 fine for third occurrence.
8. Any Massage Service Provider Improperly Attired in Violation of Clearfield Municipal Code § 4-12-11(f).
- (a) Administrative fine: Up to \$500 per person found to be improperly attired, to be paid by Massage Business licensee.
 - (b) License penalty: 60 day suspension of Massage Business license for each person found to be improperly attired.
 - (c) Repeat violations: Up to \$1,500 fine per person to be paid by Massage Business licensee for second and each subsequent occurrence; 180 day suspension of Massage Therapist license and revocation of Massage Business license.

9. Sanitation Violations Pursuant to Clearfield Municipal Code §4-12-11(a).
 - (a) Administrative fine: None on first offense.
 - (b) License penalty: None on first offense
 - (c) Repeat violations: Up to \$250 fine and 60 day suspension of Massage Business license.
10. Massage Business Operating Between the Hours of 10:00 p.m. and 7:00 a.m.
 - (a) Administrative fine: Up to \$1,000.
 - (b) License penalty: 15-30 day suspension of Massage Business License.
 - (c) Repeat violations: 30-60 day suspension and up to \$2,500 for second occurrence; 60-90 day suspension and up to \$5,000 fine for third and each subsequent occurrence.
11. Anyone Engaged In Lewd Conduct or Performing Sex Acts as Defined in Clearfield City Municipal Code § 4-12-11(f) on Massage Business Premises.
 - (a) Administrative fine: \$2,500 to be paid by Massage Business licensee, and
 - (b) License penalty: Revocation of Massage Business license.
 - (c) Additional: License holder ineligible for subsequent Massage Business License for a period of five years from the date of license revocation.
12. Failure to Post Notices as Required by Clearfield City Municipal Code § 4-12-11(i).
 - (a) Administrative fine: Written warning for first violation, \$250 for second and each subsequent violation within 12 months.
 - (b) License Penalty: 30 day suspension of Massage Business license for third and subsequent violations.
13. Failure to Properly Display a Valid Massage Therapist Identification Badge, as Required by 4-12-11(f).
 - (a) Administrative fine: \$250 to be paid by Massage Business, and
 - (b) License penalty: None.
 - (c) Repeat violations: 30-60 day suspension and up to \$2,500 for second occurrence; 60-90 day suspension and up to \$5,000 fine for third and each subsequent occurrence.
14. Publishing Advertising in Violation of Clearfield City Municipal Code § 4-12-11(m).
 - (a) Administrative fine: \$1,000 fine.
 - (b) License Penalty: 30 day suspension of Massage Business license for second and

subsequent violations.

15. Interfering with City Staff in Their Performance of an Inspection, as Prohibited by Clearfield City Municipal Code § 4-12-13(a)(2).
 - (a) Administrative fine: \$1,000 fine to be paid by Massage Business licensee.
 - (b) Repeat violations: \$2,500 fine and 30 day suspension of Massage Business license for second occurrence; revocation of Massage Business license for third occurrence.
 16. Equipping Interior Doors with Locks or Locking Devices, or Locking Exterior Doors, in violation of Clearfield City Municipal Code § 4-12-11(g).
 - (a) Administrative fine: Up to \$1,000.
 - (b) License penalty: 15-30 day suspension of Massage Business License.
 - (c) Repeat violations: 30-60 day suspension and up to \$2,500 for second occurrence; 60-90 day suspension and up to \$5,000 fine for third and each subsequent occurrence.
 17. All Other Violations of State or County Health Codes, and this chapters Massage Business Regulations.
 - (a) Administrative fine: Up to \$1,000 fine.
 - (b) License penalty: Possible suspension or revocation.
 - (c) Repeat violations: Up to \$2,500 fine for the second violation and possible license suspension or revocation; up to \$5,000 for the third and subsequent violations, and license suspension or revocation.
- C. Notice to Property Owner. Written notice of each Notice of Violation that proposes to suspend or revoke a Massage Business license shall be served on the owner(s) of the property upon which the Massage Business is located, at the same time and in the same manner as required by Clearfield City Municipal Code § 4-12-15.
- D. Payment and Collection of Administrative Penalty and Enforcement Costs. Any administrative penalty and/or enforcement costs assessed under this chapter is a debt to the City and shall be paid to the City. Any amount paid late pursuant to Clearfield City Municipal Code § 4-1-11, shall be subject to an additional late fine of 10% on the unpaid amount. The sum of the unpaid amount and the 10% late fine shall accrue interest at the rate of 1% per month (or fraction thereof) until fully paid; any partial payments made shall first be applied to accrued interest. The City may file a civil action or pursue any other legal remedy to collect such unpaid amount, fine, and interest. In any civil action for collection, the City shall be entitled to obtain a judgment for the unpaid amounts, fine, and interest, and for the costs and attorneys' fees incurred by the City in bringing such civil action.
- E. Lien for Administrative Penalty. Where an activity or condition on real property within the

City has caused, contributed to, or been a substantial factor in causing the violation, the Business License Official may initiate proceedings to make any unpaid administrative penalty, enforcement costs, fine, and interest, and all additional authorized costs and attorneys' fees, a lien on the property. Such liens shall be imposed in accordance with Clearfield City Municipal Code § 1-16B-21, Utah State law, or any successor provisions. Before initiating lien proceedings, the Business License Official shall send a request for payment and clearly indicate the intent to initial lien proceedings.

- F. No Bar to Criminal Prosecution. Nothing in this chapter shall preclude the prosecution of anyone under any other county or state health codes, or any other laws of the State of Utah, or the laws of the United States of America.

4-12-19: ENFORCEMENT BY THE CITY

- A. The City may at any time institute civil proceedings for injunctive and monetary relief including civil penalties, against any Person for violations of this chapter, without regard to whether the Business License Official has issued a notice of violation, instituted abatement proceedings, scheduled or held a hearing on a notice of violation, or issued a final decision.
- B. At any time, the Business License Official may refer a case for civil enforcement, but a referral is not required for the City to bring a civil action under subsection (a).
- C. Action for Injunction and Civil Penalty. Any Person that violates any provision of this chapter shall be enjoined and shall be subject to a civil penalty in an amount not to exceed \$1,000 for each day such violation is committed or permitted to continue, which penalty shall be assessed and recovered in a civil action brought by the City in any court of competent jurisdiction. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including but not limited to, the following: the nature and seriousness of the misconduct giving rise to the violation, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.
- D. Attorneys' fees. The prevailing party in any court case or special proceeding to enforce this chapter shall recover reasonable attorneys' fees if the City elects, at the initiation of the action, to seek recovery of attorneys' fees and provides notice of such intention to the adverse party or parties. In no court case or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City.
- E. Remedies. Remedies under this chapter are non-exclusive and cumulative to all other remedies available at law or equity.

4-12-20: COOPERATIVE EFFORT WITH LAW ENFORCEMENT

The Business License Official shall work with the Chief of Police on issues of common concern affecting the massage industry, such as protections against violence in massage establishments, crimes against massage practitioners, forced labor, or trafficking.

4-12-21: UNDERTAKING FOR THE GENERAL WELFARE

In regulating massage businesses and massage services as provided in this chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

4-12-22: SEVERABILITY

If any of the provisions of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable.

4-12-23: NO CONFLICT WITH STATE OR FEDERAL LAW

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or State law.

Proposed Changes to the Consolidated Fee Schedule

4-12-14: MASSAGE ESTABLISHMENT, SOLE MASSAGE THERAPIST ESTABLISHMENT, AND OUTCALL MESSAGE SERVICE FEES; REINSPECTION FEES

(a) **Massage Establishments.**

- The application fee for a Massage Establishment license shall be \$178.00.
- The annual license fee for a Massage Establishment shall be \$64.00.

(b) **Sole Massage Therapist Establishments.**

- The application fee for a Sole Massage Therapist Establishment license shall be \$178.00.
- The annual license fee for a Sole Massage Therapist Establishment shall be \$64.00.

(c) **Outcall Massage Services.**

- The application fee for an Outcall Massage Service license shall be \$178.00.
- The annual license fee for an Outcall Massage Service shall be \$64.00.

(d) **City Massage Therapist Identification Badge.**

- The application fee for a City Massage Therapist Identification Badge shall be \$15.00.

(e) **Appeal of Final Business License Violation Determination.**

- The fee for an appeal of final business license violation determination shall be \$150.00.

(f) **Exception.**

- A Licensed Massage Therapist holding a Sole Massage Therapist Establishment license shall not be required to pay any additional application or annual license fee for an Outcall Massage Service license.

(g) **Reinspection fees.**

- A first time Massage Business reinspection fee shall be \$150.00.
 - Any resinspection that lasts over one hour shall incur the cost of an Additional Massage Business reinspection fee, to be collect in addition to the first time Massage Business reinspection fee.
- Additional Massage Business reinspection fees shall be \$250.00.
 - Any Additional Massage Business resinspection that lasts over one hour shall incur the cost of an Additional Massage Business reinspection fee, to be collect in addition to the original Additional Massage Business fee, and compounded therefrom from each additional hour.



STAFF REPORT

TO: Mayor Shepherd and City Council Members
FROM: Nancy Dean, City Recorder
MEETING DATE: September 3, 2019
SUBJECT: City Code Title 1, Chapters 6 and 7 – Amendments to the Mayor and City Council Rules and the Officers and Employees

RECOMMENDED ACTION

Discuss the proposed amendments to City Code Title 1, Chapter 6 – Mayor and City Council and City Code Title 1, Chapter 7 – Officers and Employees.

DESCRIPTION / BACKGROUND

On Tuesday, August 27, 2019, the City Council approved its Council Rules of Order and Procedure, which more particularly address parliamentary order and procedure, ethical behavior, and civil discourse of the City Council. The adoption of the official Council Rules of Order and Procedure necessitated a review of City Code Title 1, Chapter 6 – Mayor and City Council because it also contained rules for the City Council to follow and it was important to have both documents address the same requirements. While reviewing the Code, staff found several additional paragraphs needing to be updated.

Staff also identified proposed amendments for consideration in City Code Title 1, Chapter 7 – Officers and Employees. The proposed amendments address the appointments of the city recorder and the city treasurer, as well as bonding requirements of appointed officials and officers. The proposed amendments are necessary because of recent changes to State Law.

CORRESPONDING POLICY PRIORITY (IES)

This item enhances providing quality municipal services by addressing transparency and ethics.

FISCAL IMPACT

There is no fiscal impact.

ALTERNATIVES

n/a



SCHEDULE / TIME CONSTRAINTS

n/a

LIST OF ATTACHMENTS

- Draft Title 1 Chapter 6 Amendments
- Draft Title 1 Chapter 7 Amendments

TITLE 1

Chapter 6

MAYOR AND CITY COUNCIL

1-6-1: MEMBERSHIP:

1-6-2: MAYOR AS MEMBER OF CITY COUNCIL:

1-6-3: MUNICIPAL ADMINISTRATION:

1-6-4: MEETINGS:

1-6-5: ORDINANCES:

1-6-1: MEMBERSHIP:

- A. Composition: The legislative and governing body of the city shall be the mayor and city council. The city council shall be a council of six (6) persons, one of whom shall be the mayor and the remaining five (5) shall be council members.
- B. Vacancies: Mayor or city council vacancies shall be filled as provided in Utah Code Annotated section 20A-1-510, as amended.

1-6-2: MAYOR AS MEMBER OF CITY COUNCIL:

- A. Chief Executive: The mayor shall be the chief executive of the city.
- B. Presiding Officer; Voting: The mayor shall preside at all meetings of the city council, but shall only vote on each matter for which there is a tie vote of the other council members present at a meeting, when the council is voting on whether to appoint or dismiss a city manager, or when the council is voting on an ordinance that enlarges or restricts the mayor's powers, duties, or functions, not vote except in case of a tie when he shall cast the deciding vote. The mayor shall, from time to time, give the city council information concerning the affairs of the city and shall recommend for their consideration such measures as he may deem expedient. The mayor may call a special meeting of the city council by giving notice as provided in Utah Code Annotated Title 52, Chapter 4, as amended, section 1-6-4 of this chapter.
- C. Signature Required: The mayor shall sign all city resolutions and ordinances and is hereby authorized and empowered to sign notes, contracts (including change orders and extensions), leases and other writings to which the city is a party, when authorized by law or so directed by the city council.
- D. Powers And Duties: The mayor shall have the following powers and duties:
1. Pardons: The mayor may remit fines and forfeitures and release any person imprisoned for violation of any city ordinance, but he shall report any such remission and release with the reasons therefor to the city council at its next session.
 2. Require Aid: The mayor, when necessary, may call upon every male inhabitant of the city over the age of twenty one (21) years to aid in enforcing the laws and ordinances and in suppressing riots and other disorderly conduct.

Commented [ND1]: UCA 10-3b-302

3. Other Duties; Generally: The mayor shall have such other duties and powers as may be prescribed by state statutes, the city council or this code.

E. Mayor Pro Tem: Each calendar year the mayor shall appoint a member of the city council to act as mayor pro tempore during the temporary absence or disability of the mayor. The mayor's annual appointment of the mayor pro tempore shall be subject to the advice and consent of the city council. During such absence or disability, the mayor pro tempore shall possess the powers of mayor, except that the mayor pro tempore shall continue to cast votes as a member of the city council. The appointment and approval of a mayor pro tempore shall be entered in the minutes of the meeting. In the absence of both the mayor and the mayor pro tempore, when necessary, the city council may elect one of its members to serve as the mayor pro tempore until either the mayor or the appointed mayor pro tempore returns.

1-6-3: MUNICIPAL ADMINISTRATION:

A. Powers And Duties: The mayor and city council, as the legislative and governing body, shall have, exercise and discharge all the rights, powers, privileges and authority conferred by the laws of the state upon the city and shall perform all duties that may be required of them by law. Such body shall also administer all local laws and perform all duties legally established by city ordinances, resolutions, rules and regulations.

B. Quorum: A majority of the city council elected or legally appointed shall constitute a quorum to do business, except when any act, by law or necessity, requires the unanimous concurrence of all members of the city council.

C. Salary: The mayor and members of the city council shall each receive a monthly salary and other compensation for their services as set forth in the compensation schedule in the annual budget, as adopted after public hearing.

1-6-4: MEETINGS:

A. Regular Meetings:

1. Date; Time: Regular meetings of the city council shall be scheduled for the second and fourth Tuesdays of each month at seven o'clock (7:00) P.M. in the Clearfield City Hall. A meeting may be canceled if the meeting day falls on a legal holiday or when the mayor deems there to be no business for the city council to consider with the stipulations that the cancellation shall be noticed in the same manner as a regular meeting and the cancellation shall not interfere with Utah Code Annotated 10-3-502 requiring a city council to meet at least once each month.

2. Conduct: The city council shall sit with open doors and keep a journal of its own proceedings. The mayor or mayor pro tempore shall act as the presiding officer. The ayes and nays shall be taken upon all ordinances and all propositions to create any liability against the city, and in all other cases at the request of any member of the city council, which shall be entered upon the journal of its proceedings. The concurrence of a majority of the members of the city council elected or legally appointed shall be necessary for the passage of any ordinance or proposition creating any liability against the city ~~regardless of absence or vacancy. Where there is an even number of members present, the consent or concurrence of one-half (1/2) of the members shall be sufficient to confirm an appointment or concur in the removal of an appointive officer.~~

Commented [ND2]: UCA 10-3-507

Commented [ND3]: Outdated requirement and not consistent with City Code § 1-7-3

B. Notice Requirements:

1. Annual: The city recorder shall annually, ~~within ten (10) days after the first meeting of the city council in December of each year,~~ give notice of the ~~annual~~ meeting schedule of the forthcoming year. If during any year the annual meeting schedule for that year is revised, the city recorder shall give notice of the revised annual meeting schedule in accordance with Utah Code Annotated Title 52, Chapter 4, as amended.

2. Regular Meeting: In addition to the annual meeting notice requirements set forth in subsection B1 of this section, the city recorder shall give notice of the agenda, date, time and place of each regular meeting of the city council in accordance with Utah Code Annotated Title 52, Chapter 4, as amended.

~~as follows:~~

~~a. By posting at the principal office of the city council, which is the Clearfield City Hall, Clearfield, Utah, at least twenty four (24) hours prior to the meeting; and~~

~~b. By providing notice to at least one newspaper of general circulation within the city not less than twenty four (24) hours prior to the meeting, or providing such notice to a local media correspondent; and~~

~~c. By posting notice on the city's website.~~

~~d. Copies of the notice shall likewise be furnished at least twenty four (24) hours prior to the meeting to each member of the city council and to each newspaper, radio station or television station which has requested notification of meetings of the city council.~~

C. Special Meetings: ~~Any two (2) members of the city council or the mayor may call a special meeting by giving notice of it to each of the members of the council, served personally or left at his usual place of abode. Such notice shall be served at least three (3) hours in advance of the time set for such special meeting. The requirement as to the time of such notice may be waived by any council member; provided, that the records of the meeting so called shall contain an entry of such waiver. No vote of the city council shall be reconsidered or rescinded in any special meeting, unless at such special meeting there is present as large a number of members as were present when such vote was taken. The mayor or two city council members may order the convening of a special meeting, if the business of the city requires it. Under this circumstance, the city recorder shall provide notice of the special meeting to each city council member by delivering the notice personally or by leaving it at each council member's usual place of abode. Notice of the special meeting may also be conveyed by a telephone conversation, voice mail, or electronic notice if personal delivery is not accomplished. All other notice and voting requirements shall be as required by Utah Code Annotated Title 52, Chapter 4, as amended.~~

D. Emergency Meetings: When, as a result of unforeseen circumstances, it is necessary for the city council to hold an emergency meeting to consider matters of an urgent or emergency nature, ~~the above notice requirements may be disregarded and~~ the best notice practicable shall be given. No such emergency meeting of a public body shall be held unless an attempt has been made to notify all of the members and a majority votes in the affirmative to hold the meeting.

E. Permanent Record: A record of the proceedings of all meetings of the city council, regular or special, shall be made and put in permanent form by the city recorder ~~as part of his duties as hereinafter set forth and~~ in accordance with Utah Code Annotated ~~t~~ Title 52, ~~chapter~~ Chapter 4.

Such records shall be open to public inspection during regular office hours and at reasonable times.

F. Rules; Expulsion Of Members: The city council shall determine its own rules of proceedings, may punish its members for disorderly conduct and with the concurrence of two-thirds ($\frac{2}{3}$) of the members present at any meeting, may expel a member for cause.

G. Action On Committee Reports: Any report of a committee of the city council shall, at the request of any two (2) members, be deferred for final action thereon to the next regular meeting after the report is made.

H. Electronic Meetings: ~~In situations involving emergencies, loss of facilities, or other unforeseen circumstances,~~ The city council and its boards and commissions may meet electronically to conduct the necessary business of the city. In order to do so in an orderly fashion, the following procedures shall be followed:

1. Anchor Location: The Clearfield City council chambers located at 55 South State is intended to be the anchor location whenever possible. If an alternative location is to be used or if multiple locations are to be used, notice of those locations will be given as early as is practicable.
2. Notice: Notice of any electronic meeting will be as provided for in state law. In addition thereto, notice of the meeting will be posted at the anchor location, or locations, with additional notice going to a newspaper of general circulation and a local media correspondent. Notice of the electronic meeting will be provided to the members of the convening bodies at least twenty four (24) hours before the meeting, if possible. The notice shall also contain a description on how the members of the convening bodies will be connected to the electronic meeting.
3. Procedures For The Meeting: To the extent possible, electronic meetings will be conducted in the same manner as regular meetings. To ensure full participation by all members, additional procedures and guidelines shall be employed.
 - a. The presiding official shall call the meeting to order and have a roll call to establish that a quorum is present.
 - b. If the meeting is conducted telephonically, then a speakerphone will be connected in such a manner that comments made by the members participating electronically will be broadcast through the public address system at the anchor location. To ensure full participation each member present, and those participating electronically, will be given a specific opportunity to make inquiries and participate in the discussion through a ~~role-roll~~ call method. Votes taken in these circumstances shall be by ~~role-roll~~ call method, with each member audibly verbalizing their vote.
 - c. If a member or members are participating by e-mail or instant messaging, the e-mail or instant messaging shall either be projected upon a screen with a person assigned to read aloud, into the public address system, comments made, or if no projection system exists, then a person will be assigned to read said messages into the public address system. The person to do the reading will be assigned by the respective member(s) participating electronically.

1-6-5: ORDINANCES:

A. Power Exercised By Ordinance: The city council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by

statute or any other provision of law. An officer of the city shall not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.

B. Penalty For Violation: Unless otherwise specifically authorized by statute, the city council may provide a penalty for the violation of any city ordinance by a fine not to exceed the maximum class B misdemeanor fine as provided in section [1-4-1](#) of this title. The city council may prescribe a minimum penalty for the violation of any city ordinance and may impose a civil penalty for the unauthorized use of city property, including, but not limited to, the use of parks, streets and other public grounds or equipment. Rules of civil procedure shall be substantially followed.

C. Form Of Ordinance: Any ordinance passed by the city council shall contain and be in substantially the following order and form:

1. A number;
2. A title which indicates the nature of the subject matter of the ordinance;
3. A preamble which states the need or reason for the ordinance;
4. An ordaining clause which states: "Be it ordained by the city council of Clearfield City, Utah:";
5. The body or subject of the ordinance;
6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the city ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;
7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;
8. A line for the signature of the mayor or acting mayor to sign the ordinance;
9. A place for the city recorder to attest the ordinance and affix the seal of the city; and

~~10. Where the mayor may disapprove an ordinance passed by the city council, the ordinance must show that it was passed with the mayor's approval or that if the mayor disapproved the ordinance, that it was passed over his disapproval. If the mayor neither approves nor disapproves an ordinance, the ordinance should show that it became effective without the approval or disapproval of the mayor.~~

D. Effective Date: Ordinances which do not have an effective date shall become immediately effective ~~twenty (20) days~~ after publication or posting, or thirty (30) days after final passage by the city council, whichever is sooner.

E. Publication And Posting: All ordinances, except those enacted pursuant to Utah Code Annotated sections 10-3-706 to 10-3-710, as amended, before taking effect, shall be deposited in the office of the city recorder and a short summary thereof published at least once in a newspaper published within the city, or if there is no newspaper published therein, then by posting complete copies in three (3) public places within the city. Any ordinance, code or book, other than state

code, relating to building or safety standards, city functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, ~~if reference is made to the code or book and at least three (3) copies thereof have been filed for use and examination by the public in the office of the city recorder prior to the adoption of the ordinance by the city council.~~ Any state law relating to building or safety standards, city functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code. ~~The ordinance adopting the code or book shall be published in the manner provided in this subsection.~~

Commented [ND4]: Outdated. The codes are available electronically now.

TITLE 1

Chapter 7

OFFICERS AND EMPLOYEES

1-7-3: APPOINTIVE OFFICERS:

A. Eligibility And Qualifications: All appointive officers shall be selected on the basis of their ability to competently fulfill their respective offices. The City Manager shall be appointed solely on the basis of his/her executive administrative qualifications. All officers, employees and agents appointed by the City Manager or City Council may be nonelectors and nonresidents.

B. City Manager:

1. Appointment: The City Council shall appoint a City Manager who shall serve for a term not to exceed three (3) years. The term of employment may be renewed at any time. The City Manager shall serve at the pleasure of the City Council and may be removed with or without cause by a majority vote of the City Council.
2. Appointments By Manager: The City Manager shall fill all appointive positions not specified by law or this Code to be appointed by Mayor and City Council, but shall inform the Mayor and City Council of all permanent appointments. Neither the City Council nor any of its members shall direct or request the appointment of any person to or his removal from office when appointed by the City Manager, with the exception herein noted, or in any manner take part in the appointment or removal of officers or employees in the administrative service of the City.
3. Administration Through City Manager: Except for the purpose of inquiry, the City Council and its members shall deal with the administration service solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Any Council member violating the provisions of this subsection shall be guilty of a Class B misdemeanor and upon conviction thereof, subject to penalty as provided in section 1-4-1 of this title and shall cease to be a Council member, in addition to any other penalty imposed by the court.

C. Recorder And Treasurer: ~~On or before the first Monday in February following a Municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the Offices of City Treasurer and City Recorder.~~ The mayor, with the advice and consent of the city council, shall appoint a qualified person to the office of city recorder and a qualified person to the office of city treasurer.

Commented [ND1]: UCA 10-3-916

D. Terms Of Office: ~~The terms of Offices of City Recorder and City Treasurer shall be until the Municipal election following their appointment, unless they are removed sooner by the Mayor with the concurrence of a majority of the members of the City Council. All other appointive officers shall serve at will until a successor is appointed and qualified.~~ The city recorder and city treasurer shall continue in office until their successors are appointed and qualified.

Commented [ND2]: UCA 10-3-916

E. Appointed Officers: The offices of police chief, administrative services director, community services director, assistant city manager, public works director and city attorney shall be appointed by the city manager, with the advice and consent of the city council.

1-7-4: OATH AND BOND:

A. Oath: All officers of the city, whether elected or appointed, shall, before they enter upon the duties of the respective office, take, subscribe and file the constitutional oath of office.

B. Bond:

~~1. The mayor, each council member, city recorder, city treasurer and chief of police shall, before entering upon the duties of his office, execute and furnish a corporate surety bond in an amount not less than two thousand five hundred dollars (\$2,500.00); before taking office, the city manager shall file with the city recorder a surety bond in an amount to be fixed and required by the city council. Bond premium shall be paid in each case by the city.~~