

Plain City Planning Commission  
Minutes of Meeting  
December 8, 2016

Minutes of the Plain City Planning Commission held on Thursday December 8, 2016 at 7:00 p.m. located at the Council Chambers in the Plain City Hall, Plain City, Utah 84404.

Present: Chairman Blake Neil  
Vice Chairman John Leonardi  
Jarod Maw  
Mark Osenbach *Excused*  
Cheri Sparks  
Kris Carrigan *Excused*  
Staff Kathy Campbell, Rob Scott

**Attendees:** Cody Rhees, Porter Hales, Camdin Hendry, Jeff W Hales, Buddy Sadler

**Called to Order:** By Chairman Neil

**Public Comments:** None

**Discussion/Motion: Final S Curves Phase 4 2800 W 2550 N 20 Lots**

Jeff Hales explained the engineer had not had a chance to look at the updated changes on the new plats. Mr. Hales asked to have S Curves Phase 4 pulled from the agenda until the next meeting when he would have a letter from the city engineer stating the changes had been made.

**Motion: Vice Chair Leonardi made a motion to table final approval for S Curves Phase 4 2800 W 2550 N 20 Lots until January 12, 2017. Commissioner Sparks seconded the motion. Vote: Commissioner Sparks, Maw, Vice Chair Leonardi and Chairman Neil votes aye. Motion carried.**

**Discussion/Motion: Set Public Hearing for Rezone 2940 W 2600 N RE-20 to RE-15 Double J Development LLC**

Chairman Neil stated he had a conversation with Jeff Hales concerning Penny Barnes property which is in the same area Jeff Hales is requesting to be rezoned. Penny Barnes would like to include her property in the re-zone. Jeff Hales will amended plat prior to the public hearing and will include Penny Barnes property. Jeff Hales confirmed he would get a amended plat and would get Penny Barnes name on the application to the city prior to the public hearing.

**Motion: Commissioner Maw made a motion to set a public hearing for a Rezone at approximately 2940 W 2600 N from RE-20 to RE-15 January 12, 2017. Vice Chair Leonardi seconded the motion. Vote: Commissioner Sparks, Maw, Vice Chair Leonardi and Chairman Neil voted aye. Motion carried.**

**Discussion/Motion: Taylor Parks Phase 2 Extension**

Commissioner Maw asked Cody Rhees what's his estimated time of completion. Mr. Rhees responded he hoped in the next six month. Mr. Rhees stated he has made enough progress on

phase one that the bank will now fund money for the escrow in phase one. Mr. Rhees said he knew the escrow has been an ongoing conversation with the city. Mr. Rhees stated his attorney has been in contact with the city's attorney concerning the escrow. Mr. Rhees confirmed enough work has been done on phase one that he will be able to take care of the escrow, record and start the phase two of Taylor Parks.

**Motion: Vice Chair Leonardi made a motion to approve the extension for Taylor Parks Phase 2. Commissioner Maw seconded the motion. Vote: Commissioners Sparks, Maw, Vice Chair Leonardi and Chairman Neil voted aye. Motion carried.**

**Discussion/Motion: Temporary License**

Plain City Planning Commission  
Staff Report

**SYNOPSIS / APPLICATION INFORMATION**

Application Request: Consideration and action on a legislative application to establish standards for temporary businesses and business license exemptions

Agenda Date: December 8, 2016

Applicant: Plain City Planning Commission

File Number: ZTA 2016-03

**STAFF INFORMATION** Robert O. Scott, AICP

**APPLICABLE ORDINANCES**

Plain City Business and License Regulations (Title 3)

Plain City Zoning Ordinance Title 10 (Zoning Regulations)

**TYPE OF DECISION**

When the Planning Commission is acting as a recommending body to the City Council, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically, the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

**BACKGROUND**

On August 25, 2016 the Plain City Planning Commission further discussed the temporary business license ordinance and requested information regarding community events. Staff has attached some additional information from the North Ogden City ordinance regarding this information.

The Planning Commission further discussed this ordinance on October 20, 2016 and on November 10, 2016. Direction was provided to add a section on business license exemptions. Some options were also discussed regarding regulations for temporary carnivals, circuses, revivals, rodeos, swap meets, and similar activities.

The following changes are listed below to the temporary business provisions:

- Direction was given to provide for 10-8-15 temporary carnivals, circuses, rodeos, swap meets, and similar activities to be listed in the appropriate zones.
- Rodeos and Swap Meets have been added as a conditional use in the C-2 zone in 10-6-1 Commercial Uses. Carnivals and circuses are already listed as uses in the C-2 zone.

- Temporary carnivals, circuses, rodeos, swap meets, and similar activities associated with a public park, recreation grounds, and associated buildings were added to the RE-15 zone as a conditional use in 10-5A-3.
- Churches are conditional use in all residential zones, revivals can be considered an accessory use and be subject to 10-8-15. The term revival can be eliminated from 10-8-15 if the Planning Commission so chooses.

The Planning Commission also discussed the proposed business license exemptions and found them to be acceptable with no changes.

**PLANNING COMMISSION CONSIDERATIONS**

- Are there other edits that the Planning Commission would like to make to either the temporary business license or business exemption amendments?

**STAFF RECOMMENDATION**

Discuss the temporary business license draft ordinance and business license exemption ordinance Based upon the Planning Commission determination a public hearing can be scheduled.

**EXHIBITS**

- A. Temporary Business Draft Ordinance
- B. Business License Exemption Draft Ordinance

1. Rob Scott explained a temporary business is for 180 days. A letter of agreement would
2. be needed between the property owner and the temporary business. Mr. Scott stated a
3. site plan can be very simple, hand drawn and on a 8.5” by 11” paper. If food is
4. involved the Weber County Health Department has criteria that also must be followed.

**ORDINANCE # 2016-**

**AN ORDINANCE OF PLAIN CITY, UTAH AMENDING THE CITY’S BUSINESS LICENSE ORDINANCE, AMENDING THE ZONING ORDINANCE ADDING TEMPORARY BUSINESSES AS A PERMITTED USE IN THE C-1, C-2, AND C-3 ZONES, ADDING RODEOS AND SWAP MEETS AS A CONDITIONAL USE IN THE C-2 ZONE, AND ADDING A NEW SUBSECTION TEMPORARY CARNIVALS, CIRCUSES, REVIVALS, RODEOS, SWAP MEETS, AND SIMILAR ACTIVITIES; AND ESTABLISHING AN EFFECTIVE DATE**

**Section 1. Recitals**

WHEREAS, The City Council finds, that the City of PLAIN CITY (herein “City”) is a municipal corporation duly organized and existing under the laws of the State of Utah; and

WHEREAS, the City Council finds that in conformance with the provisions of UCA § 10-3-717, the governing body of the city may exercise all legislative powers; and

WHEREAS, the City Council finds that in conformance with the provisions of UCA § 10-3-702, the governing body of the City may pass any ordinance to regulate, require, prohibit, govern, control, or supervise any activity, business, conduct or condition authorized by State law or any other provision of law; and

WHEREAS, the City Council finds that this issue has been reviewed by the Planning Commission and certain recommendations made by them; and

WHEREAS, the City Council finds that there is a need to establish regulations for temporary businesses; and

WHEREAS, the City Council finds that the public health, welfare and safety are at issue in this matter; now,

NOW THEREFORE, BE IT ORDAINED by the City of PLAIN CITY as follows:

**Section 2. City's Business License Ordinance Amended.**

**The following amendments are made to of the Plain City Code Title 3-1-1 Definitions adding a definition of temporary business, and adding a new subsection 3-7 Temporary Businesses, adding a new subsection 3-8 Christmas Tree Sales. The following provisions are hereby added:**

**3-1-1: DEFINITIONS:**

TEMPORARY BUSINESS: Any sale made by a person, firm, or corporation engaging in the temporary business of selling goods, wares, or merchandise from a tent, truck, ending cart, or other area outside of a permanent structure on property owned or leased by the person, firm, or corporation on a lot for a period of no more than one hundred eight (180) consecutive days within a single calendar year (with or without a permanent building) and which is not associated with any other business conducted on the same lot.

**3-7: TEMPORARY BUSINESSES:**

- A. Lot Standards: All temporary businesses must be located on improved property containing improvements such as paved off street parking, curb, gutter and sidewalk in good repair. The lot must meet the site development standards for the zone in which it is located.
- B. Zones Permitted: All temporary businesses must be located within the following zones: C-, C-2, or C-3.
- C. Departmental Review: Review and approval of the site and the proposed temporary business by the following departments must occur prior to conducting any sale or rendering any service, if applicable:
  - 1. Weber / Morgan Health Department, for the purpose of ensuring adequate sanitary facilities;
  - 2. Building Inspector, for the purpose of examining and approving the construction of temporary shelters, electrical, plumbing and heating installation, traffic flow, and potential hazards, off street parking and general site standards.
- D. Site Plan: The applicant for a temporary business license must submit a site plan showing the type of building or shelter from which sales are to be made, as well as its location on the lot. Temporary structures shall be adequately attached to the ground

to prevent wind uplift as per building code, or as approved by the building official and where the temporary business is conducted between November 15 and March 15 of any year, a roof of substantial strength and design to support a snow load of not less than thirty (30) pounds. If the business is conducted from a vehicle, its license number must be given. The location of ingress and egress to the site from the street, the location and size of all proposed signs and the number and size of off street parking stalls must also be shown. In addition, the following is required:

1. The proposed hours of operation;
  2. The dates upon which the sales are to be conducted;
  3. A general description of goods offered for sale:
  4. A letter from the property owner granting permission to the temporary business to use his or her lot, together with any conditions for approval;
  5. A revenue and regulatory license fee for each location the same to be established by resolution;
  6. A refundable deposit in a sum to be established by resolution which shall accompany the application and which shall be returned within fourteen (14) days from the date of termination of the temporary business so long as the area is cleaned and placed in the pre-business condition and order.
- E. Term: Every license issued shall contain on the face thereof the date upon which the license period ends. Every business shall immediately cease doing business at the conclusion of the license period and shall vacate the temporary business site within five (5) days thereof, leaving the same in it pre-business condition.
- F. Cleaning or Repairing Premises by City: in the event the city elects or deems it necessary to utilize city personnel or equipment or expend pubic finds to replace the site of a temporary business in its pre-business condition, the city shall have and authorized to maintain a cause of action against the applicant, officers and employees, for the payment of all costs and expenses, including a reasonable attorney fee, which may arise or accrue in cleaning or repairing the said premises, or in pursuing any remedy provided by the laws of the state whether such remedy necessitates or results in filing of a lawsuit or not. Such applicant further grants unto the city a lien against all property of applicant located, brought or kept upon such premises for the foregoing costs, expense and fees.

### **3-8: CHRISTMAS TREE SALES:**

The sale of Christmas trees is subject to the licensing and other requirements for a temporary business. Any nonprofit organization submitting an application for the conduct of a temporary business shall not be required to pay the license fee but shall be subject to the application and use standards set forth in this chapter.

### **Section 3. City's Zoning Ordinance Amended.**

The following amendments are made to of the Plain City Code Title 10-6-1 Uses and 10-8 Regulations Applicable to All Zones adding a new subsection 10-8-15 Temporary Carnivals, Circuses, Revivals, Rodeos, Swap Meets, and Similar Activities, and adding rodeos and swap meets as conditional uses in the C-2 zone in 10-6-1, and adding temporary carnivals, circuses, rodeos, swap meets, and similar activities as a conditional use in the RE-15 zone.

The following provisions are hereby added:

**10-5A-3 CONDITIONAL USES**

Temporary carnivals, circuses, rodeos, swap meets and similar activities associated with public park, recreation grounds, and associated buildings. Allowed only in the RE-15 zone and subject to 10-8-15.

**10-6-1: Uses**

Temporary Business including Christmas tree sales, blanket stand, fireworks stand, food vendors, vegetable store or stand, or other similar uses as determined by the zoning administrator in accordance with section 3-7 of this code.

Rodeos / C-1 N, C-2 C, C-3 N

Swap Meets / C-1 N, C-2 C, C-3 N

**10-8-15: Temporary Carnivals, Circuses, Revivals, Rodeos, Swap Meets, and Similar Activities:**

- A. Applicability: The provisions of this section do not apply to garage sales. All other temporary carnivals, circuses, revivals, rodeos, swap meets, and similar activities may be permitted only in commercial and manufacturing zoning districts, subject to the restrictions of subsection B of this section.
- B. Conditional Use Permit: A conditional use permit shall be obtained from the planning commission in accordance with the following:
  - 1. The planning commission shall ensure that health and safety are considered, and shall obtain the approval of the county health department, Plain City Fire Department and the Weber County Sherriff Department prior to issuing the conditional use permit.
  - 2. The planning commission shall ensure that land area and parking re adequate for the proposed use, and shall ensure that traffic safety is considered.
  - 3. The planning commission shall require any measures necessary to protect surrounding property.
  - 4. A time limit shall be established for each use conducted under the conditional use permit. This time limit shall in no case exceed seven (7) consecutive days,

nor shall more than four (4) conditional use permits be issued for the same use during any calendar year.

5. Permanent structures shall not be permitted under a conditional use permit issued under this section.

C. A refundable deposit in a sum to be established by resolution which shall accompany the application and which shall be returned within fourteen (14) days from the date of termination of the temporary business so long as the area is cleaned and placed in the pre-business condition and order.

D. Cleaning or Repairing Premises by City: in the event the city elects or deems it necessary to utilize city personnel or equipment or expend public funds to replace the site of a temporary business in its pre-business condition, the city shall have and authorized to maintain a cause of action against the applicant, officers and employees, for the payment of all costs and expenses, including a reasonable attorney fee, which may arise or accrue in cleaning or repairing the said premises, or in pursuing any remedy provided by the laws of the state whether such remedy necessitates or results in filing of a lawsuit or not. Such applicant further grants unto the city a lien against all property of applicant located, brought or kept upon such premises for the foregoing costs, expense and fees.

**Section 4.** **Prior Ordinances and Resolutions** The body and substance of any and all prior Ordinances and Resolutions, together with their specific provisions, where not otherwise in conflict with this Ordinance, are hereby reaffirmed and readopted.

**Section 5.** **Repealer of Conflicting Enactments** All orders, ordinances and resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Ordinance Amendment, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

**Section 6.** **Savings Clause** If any provision of this Ordinance shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Ordinance and the provisions of this Ordinance being deemed to be the separate independent and severable act of the City Council of Plain City.

**Section 7.** **Date of Effect** This Ordinance shall be effective on the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 201\_, and after publication or posting as required by law.

**ORDINANCE # 2016-**

**AN ORDINANCE OF PLAIN CITY, UTAH AMENDING THE CITY'S BUSINESS LICENSE ORDINANCE TO ADD ADDITIONAL EXEMPTIONS; AND ESTABLISHING AN EFFECTIVE DATE**

**Section 1. Recitals**

WHEREAS, The City Council finds, that the City of PLAIN CITY (herein "City") is a municipal corporation duly organized and existing under the laws of the State of Utah; and

WHEREAS, the City Council finds that in conformance with the provisions of UCA § 10-3-717, the governing body of the city may exercise all legislative powers; and

WHEREAS, the City Council finds that in conformance with the provisions of UCA § 10-3-702, the governing body of the City may pass any ordinance to regulate, require, prohibit, govern, control, or supervise any activity, business, conduct or condition authorized by State law or any other provision of law; and

WHEREAS, the City Council finds that this issue has been reviewed by the Planning Commission and certain recommendations made by them; and

WHEREAS, the City Council finds that there is a need to add additional exemptions to the business regulations; and

WHEREAS, the City Council finds that the public health, welfare and safety are at issue in this matter; now,

NOW THEREFORE, BE IT ORDAINED by the City of PLAIN CITY as follows:

**Section 2. City's Business License Ordinance Amended.**

**The following amendments are made to of the Plain City Code Title 3-1-12 Exemptions to License.**

**The following provisions are hereby added:**

**3-1-12 EXEMPTIONS TO LICENSE:**

- C. Exempt Businesses: The following businesses, ventures or activities are exempt from the licensing and fee requirements of this chapter:
1. Any activity conducted by a religious, charitable, fraternal, educational, military or governmental organization so long as the receipts from such activity are appropriated for the purposes and objects for which such organization is formed and no person directly or indirectly derives a profit therefrom.
  2. Any person conducting a business, venture or activity which is exempted from the licensing and fee requirements pursuant to this chapter shall still be required to pay any fee required to cover the costs of necessary inspection done by the city, which shall include all inspections to determine compliance with applicable codes. The inspection fees shall be in an amount determined by resolution of the city council.
  3. Nothing in this chapter shall apply to any public utility business holding a franchise from the city under which the city is to be paid a franchise fee or tax in lieu of all other license fees or taxes.

4. If any person furnishes such evidence as shall satisfy the city council that he, by reason of his misfortune or physical infirmities, merits exception from the payment of any license fee required in this chapter, the mayor may remit such license with the consent of the city council.
5. Any organization conducting a business on behalf or at the request of the city in connection with the promotion of city sponsored celebrations, pageants, displays, projects or other city sponsored events.

**Section 4. Prior Ordinances and Resolutions** The body and substance of any and all prior Ordinances and Resolutions, together with their specific provisions, where not otherwise in conflict with this Ordinance, are hereby reaffirmed and readopted.

**Section 5. Repealer of Conflicting Enactments** All orders, ordinances and resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Ordinance Amendment, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

**Section 6. Savings Clause** If any provision of this Ordinance shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Ordinance and the provisions of this Ordinance being deemed to be the separate independent and severable act of the City Council of Plain City.

**Section 7. Date of Effect** This Ordinance shall be effective on the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 201\_, and after publication or posting as required by law.

**Motion: Commissioner Maw made a motion to recommend to City Council the Temporary License Ordinance and set a public hearing for February 9, 2017. Commissioner Sparks seconded the motion. Vote: Commissioner Sparks, Commissioner Maw, Vice Chair Leonardi and Chairman Neil voted aye. Motion carried.**

**Discussion Motion: Commercial Uses**

Chairman Neil explained there had been a meeting with Ken Jackson, Bren Edwards, and Weber County Trails and Parks concerning the development of Ken Jacksons property. Auto Salvage was added to the commercial uses they will not be permitted in C-1, C-2 or C-3. Rob Scott suggested having a separate set of standards for auto salvage. The planning commission discussed *Bakery manufacture limited to goods retailed on premises*. Chairman Neil said this would be like Toppers Bakery, Old Grist Mill or Great Harvest Bread. Rob Scott stated the standard could be addressed with the size and correct scale of the building. Mr. Scott said for something like Toppers Bakery you could have a standard that states less than a half-acre or one acre. Mr. Scott explained it would not need its own section, the standard could be added in with the use. *Carpenter and cabinet shop* N in C-1, C in C-2, P and in C-3. Mr. Scott suggested

looking at the Home Occupancy regulation for cabinet shops in a residential zone 10-13. *Clothing and Accessory store* N in C-1, P in C-2, and P in C-3. *Contractor shop, provided work conducted within a completely enclosed building* N in C-1, P in C-2 and P in C-3. Mr. Scott read 10-13-D “The home occupation shall not use any accessory buildings, yard or space outside of the main dwelling not normally associated with residential uses permitted within the zone wherein the dwelling is located. Mr. Scott read from 10-2-1 Home Occupation. There may be a need to address Home Occupations after completing Commercial Zones Permitted Uses. *Craft store* was added N in C-1, P in C-2 and P in C-3. *Costume rental* N in C-1, P in C-2 and P in C-3. *Dairy products manufactured* N in C-1, P in C-2, P in C-3, *Dairy products sales* was added C in C-1, P in C-2 and P in C-3. *Drapery and Curtain store* N in C-1, P in C-2, P in C-3. *Drug Store* N in C-1, P in C-2 and P in C-3. *Electronic equipment sales and service* N in C-1, P in C-2 and P in C-3. *Estate sales and one day auctions* N in C-1, P in C-2 and P in C-3. Goods was added to *Express and transfer service of goods*. *Fabric and textile store* N in C-1, P in C-2 and P in C-3. *Farm implement store* N in C-1, P in C-2 and P in C-3. *Farmers’ market* P in C-1, P in C-2 and P in C-3. *Florist shop* C in C-1, P in C-2 and P in C-3. *Fruit and vegetable store or stand* N in C-1, P in C-2 and P in C-3. *Fuel sales office* was eliminated. *Furniture sales, repair and upholstery* N in C-1, P in C-2 and P in C-3. *Garden supplies and plant material sales* was eliminated.

**Discussion/Motion: Cancel December 22, 2016 meeting.**

**Commissioner Sparks made a motion to cancel the December 22, 2016 meeting. Vice Chair Leonardi seconded the motion. VOTE: Commissioner Sparks, Commissioner Maw, Vice Chair Leonardi and Chairman Neil voted aye. Motion carried.**

**Approval of Minutes: November 10, 2016**

**Vice Chair Leonardi made a motion to approve the minutes of November 10, 2016 as corrected. Commissioner Maw seconded the motion. Vote: Commissioner Sparks, Commissioner Maw, Vice Chair Leonardi and Chairman Neil voted aye. Motion carried.**

**Report from City Council**

Chairman Neil reported J.U. B Engineering had been appointed as the new engineering service. Brad Jensen from Wasatch Civil has done a excellent job. The city is growing and J.U.B has a bigger staff and more services in house. Bids for the insulation for Parks Building was approved. The Capital Investment Plan was approved. A public hearing was set for potential Projects for January 5, 2017. The December 15, 2016 meeting was canceled.

**Commission Comments**

Commissioner Maw stated he had been to a seminar that talked about the dollars and cents of land use patterns. The presenter talked about different ways of looking at things. One way was economically with the high density. Commissioner Maw said he had sent emails out concerning DAT and the community needs. Commissioner Maw said he listed the Town Square. He said a short bio is needed from the committee members concerning their vested interest. Vice Chair Leonardi asked about the retention and detention ponds and changes the 2017. Chairman Neil explained the State of Utah is still coming up with the regulations concerning the ponds. Rob

Scott said he could work on the home occupancy and commercial design standards for the first meeting in January 2017. Chairman Neil said the information would be prior to January 5, 2017.

**Adjournment**

**Vice Chair Leonardi made a motion to adjourn the meeting at 8:20 p.m.**

**Commissioner Maw seconded the motion. Vote: Commissioner Sparks, Commissioner Maw, Vice Chair Leonardi and Chairman Neil voted aye. Motion carried.**

<u>Neil</u>	<u>Carrigan</u>	<u>Osenbach</u>	<u>Maw</u>	<u>Sparks</u>	<u>Leonardi</u>
			Jan 5	Jan 19	Feb 2
Feb 16	Mar 2	Mar 16	Apr 6	Apr 20	May 4
May 18	June 1	June 15	Jul 6	Jul 20	Aug 3
Aug 17	Sept 7	Sept 21	Oct 5	Oct 19	Nov 2
Nov 16	Dec 7	Dec 21			

\* Meeting canceled.

\_\_\_\_\_  
Planning Commission Chair

\_\_\_\_\_  
Planning Commission Secretary

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