

CITY OF MERIDIAN ORDINANCE NO. 12-1505A

BY THE CITY COUNCIL: BIRD, HOAGLUN, ROUNTREE, ZAREMBA

AN ORDINANCE AMENDING MERIDIAN CITY CODE SECTION 5-4-5, REGARDING PERMIT FOR RETAIL SALES OF NONAERIAL COMMON FIREWORKS; AMENDING MERIDIAN CITY CODE SECTIONS 5-4-6(O) AND 5-4-6(P), REGARDING SIGNS AND STANDARDS RELATED TO FIREWORKS OPERATIONS; AMENDING MERIDIAN CITY CODE SECTIONS 5-4-7(D)(11-13), REGARDING SIGNAGE FOR SHORT TERM STORAGE CONTAINERS; AMENDING MERIDIAN CITY CODE SECTIONS 5-4-8(A)(6-8), REGARDING PROHIBITIONS ON DISCHARGING FIREWORKS, SMOKING, OR IGNITING FLAMES NEAR SHORT TERM STORAGE CONTAINERS; AMENDING MERIDIAN CITY CODE SECTION 5-4-10(B), REGARDING APPLICATION FOR A PUBLIC FIREWORKS DISPLAY PERMIT; AMENDING MERIDIAN CITY CODE SECTIONS 5-4-10(G-K), REGARDING APPLICATION FOR PUBLIC FIREWORKS DISPLAY PERMIT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the regulation of the sale, storage, possession, and discharge of fireworks is within the City's authority under Article 12, § 2 of the Idaho Constitution to establish regulations for the protection of the people's health, safety, and welfare;

WHEREAS, the protection of persons and property from unreasonable fire hazards is in the best interest of the City of Meridian;

WHEREAS, City staff have identified measures to simplify and clarify the application and inspection process for fireworks permitting in order to save administrative time and costs for both applicants and the City;

WHEREAS, the City Council of the City of Meridian finds appropriate circumstances justifying the reasonable variance herein from strict compliance with Idaho Code § 39-2607;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MERIDIAN, IDAHO:

Section 1. That Meridian City Code section 5-4-5 shall be amended as follows:

A. No person, without having a valid nonaerial common fireworks permit issued pursuant to this chapter, shall offer for sale, possess or store for the purpose of sale, sell, cause to be offered for sale, cause to be possessed or stored for the purpose of sale, or cause to be sold nonaerial common fireworks in any manner or for any use or purpose.

B. Application for a nonaerial common fireworks permit shall be made to the city clerk in such form and manner as the city clerk may prescribe. Such application shall include, but shall not necessarily be limited to, the following:

1. Applicant's name, age, and ~~social security number~~ and date of birth;

2. ~~If operation is a partnership, corporation, or limited liability company, the names and addresses of, as applicable;~~

- ~~a. All partners;~~
- ~~b. All corporation and corporate officers; or~~
- ~~c. The company and its members.~~
- ~~3.2. Physical and mailing addresses of applicant's home and principal place of business;~~
- ~~4.3. Name and address of applicant's registered agent for service of process;~~
- ~~5.4. Idaho sales tax seller's permit identification number, if applicable;~~
- 5. Applicant's driver's license number and issuing state.
- 6. Physical address and description of each and every location at which fireworks are to be stored;
- 7. Dates during which nonaerial common fireworks are to be stored;
- 8. Physical address and description of any and all locations at which nonaerial common fireworks are to be sold and/or offered for sale;
- 9. Dates during which nonaerial common fireworks are to be sold and/or offered for sale;
- 10. A site plan, which shall include a description of:
 - a. Location, type, and dimensions of any temporary fireworks stand and/or short term storage container to be located at the sales site;
 - b. Parking areas;
 - c. Vision sight triangle, if located on a corner;
 - d. Waste receptacles or garbage cans;
 - e. Location and type of electrical source(s); and
 - f. Location and dimensions of signs.
- 11. ~~One a~~Application fee as set forth in the fee schedule of the city clerk's office for each and every operation for which a permit is sought.
- 12. Fire department and Electrical inspection fees for each and every operation for which a permit is sought.
- 13. Other inspection and permitting fees as may be applicable.
- 14. A certificate of insurance providing coverage of up to one hundred thousand dollars (\$100,000.00) for personal injury and property damage, underwritten through or by a qualified and duly licensed insurance company or companies doing or authorized to do insurance business in Idaho.

- ~~C. The city clerk shall direct the necessary investigations into the application in order to determine:~~
- ~~1. Whether the proposed operations, activities, and/or uses are in compliance with this chapter; and~~
 - ~~2. Whether use of such permit by applicant or applicant's agent, employee, partner, or officer will likely endanger the health, safety, and/or welfare of persons or property.~~

~~The city clerk shall notify the planning department, building department, fire department and the police department, which departments shall, with the city clerk, cause an investigation to be made of each application and applicant, and shall recommend to the city clerk whether he or she should grant or deny the nonaerial common fireworks permit.~~

- C. The city clerk or designee shall direct the Planning, Building, and Police Department to review the application, and shall request that the Fire Chief or designee and the electrical inspector conduct a site inspection at each operation, in order to determine:
- 1. Whether the proposed operations, activities, and/or uses are in compliance with this chapter and any other applicable laws; and
 - 2. Whether use of such permit by applicant will likely endanger the health, safety, and/or welfare of persons or property.

~~D. Applications~~ Complete applications for nonaerial common fireworks permits authorizing the permittee to sell nonaerial common fireworks during the summer sales period or during the winter sales period shall be filed with the city clerk on or before ~~April 15~~ June 1, or the next business day if such date falls on a nonbusiness day.

~~E. So long as the application is filed by the applicable April 15 deadline, the city clerk shall notify the applicant if deficiencies in the application exist and the applicant shall have five (5) business days from the date of the notice to correct any deficiencies. Notwithstanding any such extension or extensions, any application pending required action by applicant more than thirty (30) days after the respective April 15 deadline shall be denied.~~

~~F.E.~~ A separate application shall be filed for each and every operation and location at which nonaerial common fireworks are to be sold and/or offered for sale.

~~G.F.~~ An operator intending to sell fireworks during the winter sales period pursuant to a nonaerial common fireworks permit shall provide written notification of such intent to the city clerk by mailing same by U.S. post to the city clerk between the period of December 1 and December 15 preceding the winter sales period during which the fireworks are to be sold.

~~H.G.~~ The city clerk shall deny an application for a nonaerial common fireworks permit:

- ~~1. Where the applicant, or applicant's agent, employee, partner, or officer, has been convicted in the preceding ten (10) years of any crime involving fraud, larceny, arson, or illegal possession or sale of fireworks, including, but not limited to, a violation of title 39, chapter 26, Idaho Code.~~
- ~~2. Where the applicant, or applicant's agent, employee, partner, or officer, has been convicted in the preceding one year of a violation of the unified development code of the city of Meridian.~~
- ~~3. Where the city has revoked from applicant, or applicant's agent, employee, partner, or officer a nonaerial common fireworks permit issued pursuant to this chapter, in the preceding one year.~~
- ~~4. Where the planning department, building department, fire department or police department report that:
 - a. The proposed operations, activities, and/or uses are not in compliance with this chapter; or
 - b. Use of such permit by applicant or applicant's agent, employee, partner, or officer will constitute an unreasonable hazard to persons or property.~~

Any denial of an application for a nonaerial common fireworks permit shall be made in writing and shall describe the reason(s) for such denial. Such written denial shall be deemed effective immediately upon personal service to the permittee or mailing by U.S. post to the applicant's mailing address as set forth in the application. The applicant may request a hearing on such denial before the city council. Such hearing shall be scheduled as practicable at the next regularly scheduled meeting of the city council. At such hearing the city clerk shall present findings and information as to the basis of the denial. The city council shall have the authority to affirm the denial or order the city clerk to grant the permit. The action of the city council shall be final.

~~I. Each nonaerial common fireworks permit application shall be accompanied by a certificate of insurance for public liability and property-casualty insurance providing coverage of up to one hundred thousand dollars (\$100,000.00) for personal injury and property damage. The policy of insurance shall be underwritten through or by a qualified and duly licensed insurance company or companies doing or authorized to do insurance business in Idaho.~~

~~J-H.~~ A nonaerial common fireworks permit issued pursuant to this chapter shall be valid for twelve (12) months from the date of issuance and for only the specific dates and location designated in the permit, and shall be nontransferable.

~~K-I.~~ The city clerk, the fire chief, or a designee of either, may revoke a nonaerial common fireworks permit issued pursuant to this chapter where:

1. The operator conducts a use, condition, and/or activity not allowed under the terms of the permit.
2. The operator violates conditions and/or limitations set forth in the permit.
3. The application for the permit contains any material false statements or misrepresentations.
4. The permit is used by a different operator or operation than to whom it was issued.
5. The permit was issued in error or in violation of any ordinance or law.
6. The permittee fails to comply with any order or notice duly served in accordance with the provisions of this chapter or other applicable law.
7. The permittee fails to comply with any provision of this code, including, but not limited to, this chapter.

Any revocation of a nonaerial common fireworks permit shall be made in writing and shall describe the reason(s) for such revocation. Such written revocation shall be deemed effective immediately upon personal service to the permittee or mailing by U.S. post to the permittee's mailing address as set forth in the application. The permittee may request a hearing on such revocation before the city council. Such hearing shall be scheduled as practicable at the next regularly scheduled meeting of the city council. At such hearing, the city clerk, the fire chief, or the designee thereof who revoked the permit shall present findings and information as to the basis of the revocation. The city council shall have the authority to affirm the revocation or order the city clerk to reinstate the permit. The action of the city council shall be final.

Section 2. That Meridian City Code sections 5-4-6(O) and 5-4-6(P) shall be amended as follows:

~~O. Fireworks offered for retail sale shall not be readily accessible to the public.~~

O. The following provisions shall apply to any and all temporary signs related to any fireworks operation:

1. It shall be unlawful for any person to install, erect, post, or display, or to allow or cause the installation, erection, posting, or display of more than two (2) temporary signs on the property on which the fireworks operation is located for the purpose of identifying, promoting, advertising, or directing patrons to such operation, except that one (1) additional temporary sign may be installed, erected, posted, or displayed on the temporary fireworks stand.
2. The area of any temporary sign installed, erected, posted, or displayed for the purpose of identifying, promoting, advertising, or directing patrons to an operation shall not exceed thirty-two (32) square feet. It shall be unlawful for any person to install, erect, post, or display or to allow or cause the installation, erection, posting, or display of a temporary sign identifying, promoting, advertising, or directing patrons to an operation where the area of such temporary sign exceeds thirty-two (32) square feet.

3. It shall be unlawful for any person to install, erect, post, or display or to allow or cause the installation, erection, posting, or display of any temporary sign identifying, promoting, advertising, or directing patrons to an operation upon any property other than that property upon which the operation is located.
4. Any and all temporary signs identifying, promoting, advertising, or directing patrons to an operation shall be removed within twenty four (24) hours of the conclusion of such operation.

P. As to each and every temporary fireworks stand, operators shall comply with, and, as applicable, shall ensure their patrons' and the public's compliance with, each and all of the following provisions regarding temporary fireworks stands:

1. Any and all temporary fireworks stands shall comply with all applicable provisions of this code, including, but not limited to, the unified development code, the building code, the fire code, and the electrical code. The operator shall obtain any and all required permits.
2. Prior to erecting any temporary fireworks stand, and throughout the applicable sales period, the ground underlying such temporary fireworks stand and all ground within a thirty foot (30') perimeter thereof shall be cleared and maintained clear of any and all weeds, combustible vegetation or material, and/or debris. No operator shall permit the accumulation of rubbish or trash in or around any temporary fireworks stand. No operator shall permit a fire nuisance or hazard to exist in or around any temporary fireworks stand.
3. No temporary fireworks stand shall have a floor area in excess of ~~six hundred (600)~~ seven hundred (700) square feet.
4. Any and all temporary fireworks stands shall have exit doors at least thirty inches (30") wide at both ends of the temporary fireworks stand and one additional door for each thirty two feet (32') of rear wall in excess of thirty two feet (32'). All doors shall open outward from the temporary fireworks stand and all doorways shall be kept clear and operational at all times. No operator shall cause or allow any exit from a temporary fireworks stand to be obstructed, unopenable, inaccessible, or malfunctioning.
5. Any and all temporary fireworks stands shall be located at least twenty five feet (25') from any other building or structure.
6. Any and all temporary fireworks stands shall be located at least twenty five feet (25') from any generator or other internal combustion power sources and/or their fuels.
7. Any and all temporary fireworks stands shall be located at least one hundred feet (100') from any flammable liquid dispensing device or installation.
8. Any and all temporary fireworks stands shall contain a minimum of one type 2A10BC rated fire extinguisher, and one 2A water type fire extinguisher. Such extinguishers shall, at all times be in good working order, have a current inspection tag, and be easily accessible for use in case of fire in the temporary fireworks stand or the immediate proximity thereof.

9. Any and all temporary fireworks stands shall be emptied of all fireworks when not open for business. This provision shall not apply where the operation is not open for business and the temporary fireworks stand is used as a short term storage facility, in which case all provisions of this chapter governing short term storage facilities shall apply, including, but not limited to, subsection 5-4-7(J) of this chapter.
10. No person shall sleep at any time in any temporary fireworks stand.
11. Vehicles shall not be parked within twenty five feet (25') of the exterior of any temporary fireworks stand.
12. No person shall smoke within any temporary fireworks stand, nor within ~~fifty-feet (50')~~ twenty five feet (25') of any temporary fireworks stand.
13. At least one sign reading, "FIREWORKS - NO SMOKING WITHIN ~~50-25 FEET~~" in letters at least four inches (4") high on a contrasting background shall be posted on each and every exterior wall and/or side of any and all temporary fireworks stands. Such signs shall be maintained in a legible condition at all times.
14. At least one sign reading, "FIREWORKS - NO SMOKING WITHIN ~~50-25 FEET~~" in letters at least two inches (2") high on a contrasting background shall be posted on each and every interior wall and/or side of any and all temporary fireworks stands. Such signs shall be maintained in a legible condition at all times.
15. At least one sign reading, "NO FIREWORKS TO BE DISCHARGED WITHIN ~~300-100 FEET~~" in letters at least four inches (4") high on a contrasting background shall be posted on each and every exterior wall or side of any and all temporary fireworks stands. Such signs shall be maintained in a legible condition at all times.
16. Waste receptacles or garbage cans in any temporary fireworks stand shall be noncombustible and shall have a securely fitting lid.
17. All permits are required to be posted in the stand at all times.

Section 3. That Meridian City Code sections 5-4-7(I)(11-13) shall be amended as follows:

I. As to each and every short term storage container, operators shall comply with, and, as applicable, shall ensure their patrons' and the public's compliance with, each and all of the following provisions regarding short term storage containers:

* * *

11. No person shall smoke within any short term storage container, nor within ~~fifty-feet (50')~~ twenty five feet (25') of any short term storage container.
12. At least one sign reading, "FIREWORKS - NO SMOKING WITHIN ~~50-25 FEET~~" in letters at least four inches (4") high on a contrasting background shall be posted on each and every interior wall and each and every exterior wall or side of any and all short term storage containers. Such signs shall be maintained in a legible condition at all times.

13. At least one sign reading, "NO FIREWORKS TO BE DISCHARGED WITHIN ~~300~~100 FEET" in letters at least four inches (4") high on a contrasting background shall be posted on each and every exterior wall or side of any and all short term storage containers. Such signs shall be maintained in a legible condition at all times.

* * *

Section 4. That Meridian City Code sections 5-4-8(A)(6-8) shall be amended as follows:

A. It shall be unlawful for any person to:

* * *

6. Discharge fireworks within ~~three hundred feet (300')~~ one hundred feet (100') of any temporary fireworks stand or short term storage container.

7. Smoke within ~~fifty feet (50')~~ twenty five feet (25') of any temporary fireworks stand or short term storage container.

8. Ignite a flame within ~~fifty feet (50')~~ twenty five feet (25') of any temporary fireworks stand or short term storage container.

* * *

Section 5. That Meridian City Code section 5-4-10(B) shall be amended as follows:

B. Application for a public fireworks display permit shall be made to the city clerk in such form and manner as the city clerk may prescribe. Such application shall include, but shall not necessarily be limited to, the following information:

1. Applicant's name, age, and ~~social security number~~ and date of birth;

2. ~~If the public fireworks display for which the permit is sought is to be performed by a partnership, corporation, or limited liability company, the names and addresses of, as applicable:~~

~~a. All partners;~~

~~b. All corporation and corporate officers; or~~

~~c. The company and its members;~~

~~3.~~2. Physical and mailing addresses of applicant's home and ~~principal place of business;~~

~~4.~~3. Name and address of applicant's registered agent for service of process;

~~5.~~4. Physical address and description of each and every location at which fireworks are to be stored;

~~6.~~5. Dates during which nonaerial common fireworks are to be stored;

~~7.~~6. Physical address and description of location at which public fireworks display is to occur;

~~8.~~7. Date(s) on which public fireworks display is to occur;

~~9.~~8. A site plan for the storage of fireworks to be used in the public fireworks display for which the permit is sought, which plan shall include, but shall not be limited to, a description of:

a. Location, type, and dimensions of short term storage containers to be used;

b. The distance from other structures of any short term storage container.

~~10.~~9. A site plan for the proposed site of the public fireworks display for which the permit is sought, which plan shall comply with the standards set forth in National Fire Protection Association standards (NFPA) 1123 or 1126.

~~11.~~10. Description of prior pyrotechnical experience.

11. A certificate of insurance providing coverage of up to one million dollars (\$1,000,000.00) for personal injury and property damage, underwritten through or by a qualified and duly

licensed insurance company or companies doing or authorized to do insurance business in Idaho.

12. Application fee as set forth in the fee schedule of the city clerk's office for each and every operation for which a permit is sought.

13. Fire Department inspection fee.

Section 6. That Meridian City Code sections 5-4-10(G–K) shall be amended as follows:

- G. The city clerk shall deny an application for a public fireworks display permit where:
1. The applicant is under the age of twenty one (21) years.
 2. The applicant, ~~or applicant's agent, employee, partner, or officer,~~ has been convicted in the preceding ten (10) years of any crime involving fraud, larceny, arson, or illegal possession or sale of fireworks, including, but not limited to, a violation of title 39, chapter 26, Idaho Code.
 3. The city has revoked from applicant, ~~or applicant's agent, employee, partner, or officer~~ a nonaerial common fireworks permit or public fireworks display permit issued pursuant to this chapter, in the preceding one year.
 4. The fire department or police department report that:
 - a. The proposed operations, activities, and/or uses are not in compliance with this chapter and/or any other applicable provisions of this code;
 - b. Use of such permit by applicant ~~or applicant's agent, employee, partner, or officer~~ will constitute an unreasonable hazard to persons or property; or
 - c. Use of such permit on the date(s) and at the time(s) proposed will constitute an unreasonable hazard to persons or property.

Any denial of an application for a public fireworks display permit shall be made in writing and shall describe the reason(s) for such denial. Such written denial shall be deemed effective immediately upon personal service to the permittee or mailing by U.S. post to the applicant's mailing address as set forth in the application. The applicant may request a hearing on such denial before the city council. Such hearing shall be scheduled as practicable at the next regularly scheduled meeting of the city council. At such hearing the city clerk shall present findings and information as to the basis of the denial. The city council shall have the authority to affirm the denial or order the city clerk to grant the permit. The action of the city council shall be final.

~~H. Each public fireworks display permit application shall be accompanied by an application fee as set forth in the fee schedule of the city clerk's office.~~

~~I. Each public fireworks display permit application shall be accompanied by a certificate of insurance for public liability and property-casualty insurance providing coverage of up to one million dollars (\$1,000,000.00) for personal injury and property damage. The policy of insurance shall be underwritten through or by a qualified and duly-licensed insurance company or companies doing or authorized to do insurance business in Idaho.~~

~~J. H.~~ A public fireworks display permit issued pursuant to this chapter shall be valid only for the period designated and for the specific location designated in the permit, and shall be nontransferable.

~~K. I.~~ The city clerk, the fire chief, or a designee of either, may revoke a public fireworks display permit issued pursuant to this chapter where:

1. The operator conducts a use, condition, and/or activity not allowed under the terms of the permit.
2. The operator violates conditions and/or limitations set forth in the permit.
3. The application for the permit contains any material false statements or misrepresentations.
4. The permit is used by a different operator or operation than to whom it was issued.
5. The permit was issued in error or in violation of any ordinance or law.
6. The permittee fails to comply with any order or notice duly served in accordance with the provisions of this chapter or other applicable law.
7. The permittee fails to comply with any provision of this chapter.

Any revocation of a public fireworks display permit shall be made in writing and shall describe the reason(s) for such revocation. Such written revocation shall be deemed effective immediately upon personal service to the permittee or mailing by U.S. post to the permittee's mailing address as set forth in the application. The permittee may request a hearing on such revocation before the city council. Such hearing shall be scheduled as practicable at the next regularly scheduled meeting of the city council. At such hearing, the city clerk, the fire chief, or the designee thereof who revoked the permit shall present findings and information as to the basis of the revocation. The city council shall have the authority to affirm the revocation or order the city clerk to reinstate the permit. The action of the city council shall be final.

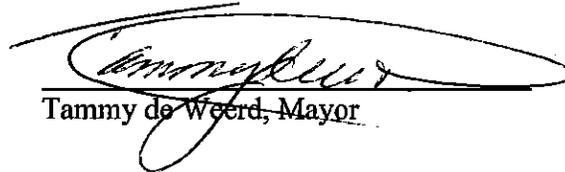
Section 7. That all ordinances, resolutions, orders, or parts thereof or in conflict with this ordinance are hereby voided.

Section 8. That this Ordinance shall be in full force and effect immediately upon its passage and publication.

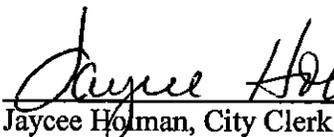
PASSED by the City Council of the City of Meridian, Idaho, this 13th day of March, 2012.

APPROVED by the Mayor of the City of Meridian, Idaho, this 13th day of March, 2012.

APPROVED:


 Tammy de Weerd, Mayor

ATTEST:


 Jaycee Holman, City Clerk



NOTICE AND PUBLISHED SUMMARY
OF ORDINANCE PURSUANT TO I.C. § 50-901(A)

CITY OF MERIDIAN ORDINANCE NO. 12- 1505A

AN ORDINANCE AMENDING MERIDIAN CITY CODE SECTION 5-4-5, REGARDING PERMIT FOR RETAIL SALES OF NONAERIAL COMMON FIREWORKS; AMENDING MERIDIAN CITY CODE SECTIONS 5-4-6(O) AND 5-4-6(P), REGARDING SIGNS AND STANDARDS RELATED TO FIREWORKS OPERATIONS; AMENDING MERIDIAN CITY CODE SECTIONS 5-4-7(D)(11-13), REGARDING SIGNAGE FOR SHORT TERM STORAGE CONTAINERS; AMENDING MERIDIAN CITY CODE SECTIONS 5-4-8(A)(6-8), REGARDING PROHIBITIONS ON DISCHARGING FIREWORKS, SMOKING, OR IGNITING FLAMES NEAR SHORT TERM STORAGE CONTAINERS; AMENDING MERIDIAN CITY CODE SECTION 5-4-10(B), REGARDING APPLICATION FOR A PUBLIC FIREWORKS DISPLAY PERMIT; AMENDING MERIDIAN CITY CODE SECTIONS 5-4-10(G-K), REGARDING APPLICATION FOR PUBLIC FIREWORKS DISPLAY PERMIT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

The full text of this ordinance is available for inspection at City Hall, City of Meridian, 33 East Broadway, Meridian, Idaho. This ordinance shall become effective upon its passage and publication.

Jaycee Holman
City of Meridian
Mayor and City Council
By: Jaycee Holman, City Clerk



First Reading: 3-13-12

Adopted after first reading by suspension of the Rule as allowed pursuant to

Idaho Code § 50-902: YES NO

Second Reading: _____

Third Reading: _____

STATEMENT OF MERIDIAN CITY ATTORNEY AS TO
ADEQUACY OF SUMMARY OF ORDINANCE NO. 12- 1505A

The undersigned, William L.M. Nary, City Attorney of the City of Meridian, Idaho, hereby certifies that he is the legal advisor of the City and has reviewed a copy of the attached Ordinance no. 12- 1505A of the City of Meridian, Idaho, and has found the same to be true and complete and provides adequate notice to the public pursuant to Idaho Code § 50-901A(3).

DATED this 13th day of March, 2012.

William L.M. Nary
William L.M. Nary, City Attorney