WHEREAS, the City Council desires to amend Midvale Municipal Code Chapter 5.02 Business Licenses Generally; and

WHEREAS, the City Council finds it in the City's best interest to better balance the annual renewal of city business licenses; and

WHEREAS, the City Council finds it in the City's best interest to amend Midvale Municipal Code Chapter 5.02 Business Licenses Generally to reflect current city practices; and

WHEREAS, the City Council finds it in the City's best interest to capture some of the expenses for applying for a business license;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Midvale City, Utah as follows:

Section 1. The City Council desires to amend Midvale Municipal Code Chapter 5.02 Business Licenses Generally as set forth in Exhibit A.

Section 2. This Ordinance shall be effective upon date of first publication.

PASSED AND APPROVED this 20th day of October, 2015.

By: JoAnn B. Seghini

VOTING:

Stephen Brown  Yea ☑  Nay ___
Paul Glover  Yea ☑  Nay ___
Quinn Sperry  Yea ☑  Nay ___
Paul Hunt  Yea ☑  Nay ___
Wayne Sharp  Yea ☑  Nay ___

ATTEST:

Ron L. Andreason, MMC
City Recorder

Published this 25th day of Oct, 2015.
Chapter 5.02
BUSINESS LICENSES GENERALLY*

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* Prior history: Prior code §§ 9-111 through 9-130 as amended by Ords. 10-21-80A, 06-2-81, 3-15-83A, 3-20-84A, 2-3-87A and 6-28-88C.

5.02.010 Definitions.
The following definitions shall be applicable throughout this title unless a different meaning is clearly intended:

A. “Alcoholic beverage licenses” means retail, wholesale, warehousing, and manufacturing liquor licenses as defined in Chapter 5.10 of this title.

B. “Amusement device” means any machine, whether mechanically or electronically operated, that upon the insertion of a coin, trade-token, slug or similar object, operates or may be operated as a game or contest of skill or amusement, of any kind or description, and that contains no automatic payoff for the return of money or trade-tokens, or that makes no provision whatever for the return of money to the player. An amusement device is further defined as any machine, apparatus or contrivance that is used or that may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine, but specifically excludes a musical mechanical amusement device.

C. “Applicant” means any person applying for any license provided for in this title. If the person is a partnership or corporation, then each partner, officer or director is considered an applicant and must qualify accordingly.

D. “Application” means a formal written request for the issuance of any license permitted under this title.

E. “Authorized officers” means those persons authorized by the city or other entities to inspect businesses and enforce the provisions of this title or other applicable regulations, including peace officers, ordinance enforcement officers, and employees of the health department, fire department, planning and zoning division, building inspection division, city attorney’s office or the city administrator.

F. “Building division” means the building division of the Midvale City community and economic development department.

G. “Business” means and includes all trades, occupations, professions or activities engaged within Midvale City, carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term “business” unless otherwise specifically provided.
H. "Business license division" means the business license division of the Midvale City community and economic development department.

I. "Business license fee and bonding schedules" means the schedule of fees adopted by the Midvale City council setting forth the various fees charged by the city.

J. "City" means Midvale City.

K. "City administrator" means the chief administrative officer of Midvale City.

L. "City attorney's office" means the Midvale City attorney's office.

M. "City recorder" means the Midvale City recorder.

N. "Employee" means all individuals who work for an employer for salary or commission or wages and who are subject to the direction and control of such employer.

O. "Engaging in business" includes, but is not limited to, the sale of real or personal property at retail or wholesale, the bartering or trading of property or services, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

P. "Fire department" means the Midvale City fire department Unified Fire Authority.

Q. "Garage sale or yard sale" means the periodic sale of personal belongings at an occupied residence. Any sale held regularly or at a location other than an individual's occupied dwelling is considered a business and is governed by the provisions of this title.

R. "Health department" means the Salt Lake Valley health department.

S. "Hearing board" means each and every member of the license hearing board of Midvale City.

T. "Home occupation" is as defined in Title 17.

U. "License administrator" means the individual or his/her designee who is the head of the business license division of the community and economic development department.

V. "Licensee" means the person who has obtained any type of license provided for in this title. The term shall also include any employee or agent of the licensee.

W. "Ordinance enforcement office" means the ordinance enforcement division of the Midvale City community and economic development department.

X. "Person" means an individual, partnership, corporation, association or other legal entity.

Y. "Place of business" means each separate location maintained or operated by the licensee, whether or not under the same name, within the city from which business is engaged in.

Z. "Planning and zoning division" means the planning and zoning division in the Midvale City community and economic development department.

AA. "Police department" means the Midvale City police department Unified Police Department.

BB. "Rental" means any residential dwelling, including, but not limited to, an apartment, a condominium, or a house, that is rented to an occupant other than the owner.

BBCC. "Temporary business" means any business authorized to conduct business at any single place for a limited time as defined by the type of business. Temporary businesses include: seasonal produce, special event, temporary
retail, Christmas tree or fireworks. May not include home occupations, any business, whether or not it is temporary, which is specifically regulated or licensed under any chapter or section of this title, or any business, whether or not it is temporary, which requires a conditional use permit or administrative conditional use permit in accordance with Title 17.

**CEDD.** “Violated” or “violating” means that there exists reasonable cause to believe that any ordinance, code, statute or law has been or is being violated and is not limited to pleas of guilty or convictions for violating such ordinances, codes, statutes or laws. (Ord. 10/28/2003-12 (part), 2003: Ord. 12-09-97 (part), 1997)

### 5.02.020 Business license required.

A. Unless otherwise provided, it shall be unlawful for any person to engage in any business within the city without first having obtained a business license pursuant to this title. A separate license shall be required for each type of business defined in this chapter and for each place of business. Each day of noncompliance shall constitute a separate violation.

B. In addition to any criminal prosecution or civil proceedings, if any person found violating this section later applies for a license and if a license is granted, the penalty fees shall be as follows:

1. Effective December 9, 1997, the penalty fee shall be one hundred percent of the license fees for the first year, and the business shall pay an additional penalty for each year or portion of a year in which the business operated without a license. The penalty fee for each year or portion of a year without a license shall be an amount equal to one hundred twenty-five percent of the current business license fees.

2. The city administrator manager may authorize an amnesty period in which the penalty fees to be paid by a business operating without a license may be waived one time per calendar year for a period not to exceed one month, for the purpose of encouraging unlicensed businesses to properly license. (Ord. 10/28/2003-12 (part), 2003: Ord. 12-09-97 (part), 1997)

### 5.02.030 Business license division—Duties and responsibilities.

It shall be the duty and responsibility of the business license division to:

A. Enforce the provisions of this title;

B. Collect all business license fees and all alcoholic beverage license fees;

C. Process all applications and renewals of all licenses provided for in this title;

D. Obtain the necessary approvals from the various agencies, city departments and divisions before issuing any business licenses or alcoholic beverage licenses;

E. Deny, suspend or revoke licenses as provided in this title; and

F. Generate a list of all licenses issued during the month. (Ord. 10/28/2003-12 (part), 2003: Ord. 12-09-97 (part), 1997)

### 5.02.040 Business license application.

The Midvale City business license application shall be in such format and require such information as the license administrator deems necessary to enforce this title, including but not limited to:

A. The name, date of birth and home address of the person applying for the license;

B. The registered name of the business, if applicable;

C. The federal tax number of the corporation, if applicable;

D. The type of business to be engaged in;

E. The class of license desired, if the type of license is divided into classes;
F. The location of the place of business;

G. A state tax number, if applicable;

H. A state contractor's number, if applicable;

I. Proof that the business is state licensed or registered, if applicable; and

J. A space for the applicant or applicant's authorized agent to sign under penalty of law that all the information contained therein is true. (Ord. 10/28/2003-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.050 Issuance of a business license.

A. An applicant for a business license shall fill out the application in full and sign it as verification under penalty of law that all information contained therein is true.

B. The application shall be returned to the business license division along with full payment of all business license fees, fines and penalties, if applicable.

C. The business license division shall submit copies to the planning and zoning division, building inspection division, code enforcement division, fire department and health department, sewer district and, for certain businesses where specifically provided for in this chapter, to the police department, for their review, unless a specific provision of this title requires submission to fewer or additional departments, divisions or agencies than those named.

D. Only after receiving signed, written approval from each of the entities named in this section, the business license division shall be authorized to prepare a certificate of license for issuance.

E. The certificate of license shall be signed by the license administrator and the city recorder and shall contain the following information:

1. The person's name to whom the certificate is issued;

2. The business name;

3. The type of business licensed;

4. The date the license was issued;

5. The expiration date of the license;

6. The address of the place of business licensed; and

7. The business license number.

F. If the business is licensed to conduct more than one type of business as defined herein, the certificate of license shall state each type of business licensed; or a separate license for each type shall be issued at the discretion of the license administrator. (Ord. 10/28/2003-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.060 Renewals of business licenses.

A. Each year, licensees shall renew their business licenses by completing an application for a license renewal signed under penalty of law that all information contained therein is true and returning it, along with the proper fees and fines and penalties, if applicable, to the business license division within the time period set forth in this title. Renewal applications for businesses which require police checks of the licensees shall be submitted to the police department for their review, unless a specific provision of this title requires submission to fewer or additional departments, divisions or agencies than those named.

B. Upon receipt of the application fees, fines, and police department approval, if applicable, the business license division shall be authorized to prepare a certificate of license as provided in this chapter. (Ord. 10/28/2003-12 (part), 2003: Ord. 12-09-97 (part), 1997)
5.02.070 Inspections and audits.
A. Authorized officers shall be permitted to make an inspection to enforce any of the provisions of this title or any other applicable statute or ordinance, and may enter any building or may enter upon any premises during regular business hours. The officers or their authorized representatives shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

B. Any business or establishment which displays or sells products and items as described in the definition of "principal purpose" in Section 5.12.010 shall be subject to an annual audit of gross receipts to ensure compliance with the declaration that the business is not a sexually oriented business.

C. No owner, occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the authorized officer or his representative(s) for the purpose of inspection and examination to ensure compliance with this title. (Ord. 8/11/2009O-12 § 2, 2009: Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.080 License application fees.
All business license fees shall be those set forth in Chapter 5.08, Business License Fees and Bonding Schedules. The total fee required each year for each type of business consists of the base fee, plus the variable fees and regulatory fees.

A. Applications for new business licenses must be accompanied by an application fee as set forth in Chapter 5.08, Business License Fees and Bonding Schedules, in addition to the required base, variable and/or regulatory fees.

B. The base fees are categorized in the business license fee and bonding schedules by type of business. The definition of each type of business and the specific regulations governing them are found in this title. If a particular type of business is not listed in the business license fee and bonding schedules, then its base fee shall be the general business license base fee as set forth in the business license fee and bonding schedules.

C. The variable and regulatory fees for each business, regardless of whether it is defined in this chapter, are set forth in the business license fee and bonding schedules.

D. If, for any reason, the license application is not granted or withdrawn, the applicant may request a refund. If the application is withdrawn or denied before any inspection is conducted, the license administrator will refund 75% of the fees paid. If the application is withdrawn or denied after an inspection is conducted, the license administrator will refund 25% of the fees paid. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.090 Business license due dates and waiver.
A. Business license fees for new businesses shall be due and payable upon making application to the business license division. The application shall not be processed until the fees, fines and penalties, if applicable, are paid.

B. Non-rental Business license fees for renewal businesses shall be due and payable on or before January 15th of each calendar year. The penalty for nonpayment of the renewal fee shall be:

   1. Fifty percent of the fee due if paid by February 15th;
   2. Seventy-five percent of the fee due if paid by March 15th; and
   3. If the fee plus penalty is not paid by March 15th, the business shall be considered to be operating without a business license in violation of this chapter, subject to criminal prosecution for every day of operation after two months from the due date and the license fee, if a license is granted thereafter, shall be doubled.

C. All initial non-rental business licenses issued after the commencement of the current license year shall be prorated semi-annually, and the fee paid for each semi-annual period or fraction thereof during which the business has been or will be conducted, according to the following schedules; provided, however, that no annual license fee of thirty-five dollars or less shall be prorated:

   1. On or after January 15th, but prior to July 1st, the fee shall be one-half of the annual fee;
2. On or after July 1st, but prior to January 15th, the fee shall be one-half of the annual fee;

3. Each application for a license under this title shall be accompanied by the license fee required to be paid for the issuance of the license desired. In addition to the license fee regularly assessed, any applicant which shall have commenced doing business prior to obtaining a valid license shall be assessed a penalty fee. The penalty fee shall be equal to twenty-five percent of the regular license fee if the applicant has operated without a license for less than thirty days, and shall be equal to one hundred percent of the regular license fee if the applicant has operated without a license for more than thirty days during the calendar year in question. Any license which has been issued pursuant to payment by means of check or bond shall be void and of no force or effect if such check or bond is not honored.

D. **Rental business license fees for renewal businesses shall be due and payable on or before September 15th of each calendar year. The penalty for nonpayment of the renewal fee shall be:**

1. Fifty percent of the fee due if paid by October 15th;

2. Seventy-five percent of the fee due if paid by November 15th; and

3. If the fee plus penalty is not paid by November 15th, the rental business shall be considered to be operating without a business license in violation of this chapter, subject to criminal prosecution for every day of operation after two months from the due date and the license fee, if a license is granted thereafter, shall be doubled.

DE. **Notwithstanding the provisions of this section, the license administrator may waive the imposition of license penalty fees for:**

1. New businesses which have located in the city and have not obtained a Midvale City business license.

2. Existing businesses which have been licensed by the city and have been purchased, but the new owner has not reapplied for a city business license.

3. The license administrator may waive such penalty fees only upon the following conditions:

   a. The business makes application for a city business license within five working days after being notified by the city that such a license is required; or the business voluntarily makes application for a business license prior to notification by the city; and

   b. The business has either been located in the city for less than two years or the purchase of the business occurred less than two years prior to the business application.

4. The license administrator may not, under any circumstances, waive the business license fee due the city for the current year or for prior years in which the business operated.

EF. **Notwithstanding the provisions of this section, the city administrator-manager may waive the imposition of license penalty fees for:**

1. Late renewal fees under the following circumstances:

   a. Nondelivery or delayed delivery of mail;

   b. Miscommunication between the business owner and city representative; or

   c. Other circumstances deemed to be in the best interest of the city.

2. The city administrator-manager may not, under any circumstances, waive the business license fee due the city for the current year or for prior years in which the business operated. (Ord. 11/20/2007O-16 § 1 (part), 2007: Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)
5.02.100 Term of business licenses.
A. All non-rental business licenses, except temporary business licenses, shall expire each year on December 31st.
B. All rental business licenses shall expire each year on August 31st.

BC. Temporary business licenses shall expire as indicated by the type of temporary business as defined herein.
(Ord. 10/28/20030-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.110 Exemptions to business license fees requirements.
A. A business license fee shall not be imposed on any person engaged in business solely for religious, charitable, eleemosynary or other types of strictly nonprofit purpose which is tax exempt under the provision of Section 501(c) of the United States Tax Code.
B. A business license fee shall not be imposed on any person engaged in a business type specifically exempted from paying business licensing fees by the laws of the state of Utah.
C. Any business exempt from paying the license fee as provided in this section shall still comply with all other requirements of this title. (Ord. 10/28/20030-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.120 Transfer of license restricted.
A. Business licenses are not transferable. In the event that a business is sold to a new owner while maintaining the same business type and location, a "change of owner" application shall be accepted by the license administrator in lieu of a new business application.
B. A business is not eligible to transfer ownership under a "change of owner" application unless all business license fees were paid in full at the last applicable renewal period and/or its initial fees were paid in full.
C. The business class is properly identified and maintained.
D. A "change of owner" application shall not be accepted for any business requiring a background check of the owner or principals. In the case of businesses requiring a background check, a new business application shall be submitted. (Ord. 10/28/20030-12 (part), 2003)

5.02.130 Display of licenses.
A. Every certificate of license for a business shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When the certificate of license has expired, it shall be removed and no certificate of license which is not in force and effect shall be permitted to remain posted within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.
B. In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued. (Ord. 10/28/20030-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.140 Reciprocal recognition of business licenses.
No license fee or tax shall be imposed by the city on any business whose only activity is the delivery of property sold at a regular place of business licensed and maintained outside the city where:
A. The business is at the time of such delivery licensed by a Utah municipality or county; and
B. The authority licensing such business grants to licensees of the city making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this section. However, before said business shall commence within the city a police background investigation may be required where appropriate; and
C. Neither the property delivered nor its manufacturing, producing or processing facilities are subject to inspection pursuant to any health or sanitary standards prescribed by the city; and
D. The delivery motor vehicle prominently displays a license plate or symbol issued by a Utah municipality or county evidencing compliance with its business license regulations;

E. Reciprocity shall not be granted to solicitors, mobile food units or any business requiring police checks or police I.D. cards. (Ord. 10/28/2003O-12 (part), 2003)

5.02.150  Penalty.
A. The provisions of this title may, at the sole discretion of Midvale City, be enforced through the provisions of Title 7, Midvale City Administrative Code Enforcement Program;

B. Any violations of this title shall be a class B misdemeanor;

C. Where applicable, each day of noncompliance shall constitute a separate violation. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.160  Constructive notice of time periods.
A. All businesses, owners, licensees or applicants are obligated to be aware of and are deemed to have constructive notice of all time periods and/or deadlines and the effect of noncompliance with such time periods and/or deadlines as set forth in this title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses, or any other licensing matters set forth in this title.

B. Nothing in this title shall be construed as requiring the city to take any affirmative action to notify businesses, owners, licensees or applicants of any time periods and/or deadlines or the effect of noncompliance with such time periods and/or deadlines set forth in this title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses or any other licensing matters as set forth in this title. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)