ORDINANCE NO. 2014-O-04

AN ORDINANCE MODIFYING THE ZONING STANDARDS FOR SEASONAL FOOD STANDS AND VENDING CARTS AND CREATING A SEASONAL FLOWER STAND PROVISION TO BE INCLUDED AS AN ITINERANT MERCHANT IN CERTAIN COMMERCIAL, INDUSTRIAL AND MIXED USE ZONE DISTRICTS WITHIN THE CITY; ALSO PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, pursuant to Sections 10-9-401 through 10-9-405 Utah Code, the City has the authority to make and amend a zoning plan which divides the City into zoning districts and within those districts to regulate the erection, construction, re-construction, alteration, and uses of buildings and structures and the uses of land to promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the municipality; and

WHEREAS, on January 2, 2002, the Midvale City Zoning Ordinance (Title 17) became effective and may be subject to amendments from time to time; and

WHEREAS, since this effective date, Midvale City has found a number of areas that require amendments to the text of the ordinance in order to correct errors and omissions, clarify the intent of the language, and/or include new provisions to further the purpose and intent; and

WHEREAS, it was found that allowing larger structures for some of the City’s itinerant merchants provides for a better situation for these operations to comply with health department regulations; and

WHEREAS, it was found that allowing temporary seasonal flowers stands under certain standards in certain areas promotes businesses within the City while providing a service to the residents; and

WHEREAS, the Planning Commission held a public hearing on February 26, 2014, continuing said public hearing to March 12, 2014, to review the proposed text amendment language regarding this issue, with such meeting being preceded by notice through publication in the Salt Lake Tribune and Deseret News on February 12, 2014, and the Planning Commission has forwarded a recommendation on such to the City Council on March 12, 2014; and

WHEREAS, the City Council of Midvale City, Utah held a public hearing on April 1, 2014, which meeting was preceded by notice by publication in the Salt Lake Tribune, on March 18, 2014; and

WHEREAS, the City Council has taken into consideration citizen testimony, planning and demographic data, the desires of the owners of the property and the Planning Commission’s recommendations, and has determined that this text amendment is appropriate and within the
best interests of the City as a whole in protecting and promoting the health, safety, welfare and aesthetic quality of Midvale City.

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

Section 1. The following chapters and sections of the Midvale City Zoning and Subdivision Ordinance are hereby amended as included in ATTACHMENT A of this document.

Section 2. If any part of this ordinance or the applications thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. This ordinance shall be effective upon publication of a summary thereof.

PASSED AND APPROVED this 5th day of April, 2014.

JoAnn B. Seghini, Mayor

ATTEST:

Rori Andreason, MMC
City Recorder

Date of first publication: April 9, 2014

Voting by City Council

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</table>
1. **Seasonal Food Stands**

The following changes shall be made to Sections 17-7-7.12 (B)(2), 17-7-12.11 (B)(2), 17-7-13.11 (B)(2) and 17-7-9.10 (B)(1) of the Midvale Municipal Code regarding seasonal food stands:

e. The maximum size of a food stand structure shall be five feet by eight feet by sixteen feet. The food stand must include four walls and a roof. It shall be constructed of surface materials that are smooth, easily cleanable, corrosion resistant, nontoxic, stable and constructed in accordance with the Salt Lake Valley health department regulations.

f. The vendor shall be limited to one outdoor storage bin (the bin shall not exceed fifteen square feet in size) and one trash receptacle external to the food stand. All other freestanding devices, i.e., signs, propane tanks, tables, racks, customer seating, overhead structures (i.e., tarps, awnings, umbrellas, enclosures, canopy extensions), etc., are prohibited.

g. Food stands are for walk-up traffic only; drive-up window service is prohibited.

h. Signage shall be attached to the food stand and occupy no more than twenty square feet. Signs shall not be internally illuminated or make use of flashing or intermittent lighting or animation devices. Pennants, streamers, lawn banners and other temporary signs are prohibited.

2. **Vending Carts**

The following changes shall be made to Sections 17-7-7.12 (B)(1), 17-7-8.13 (B)(1), 17-7-11.10 (B)(1) and 17-7-12.11 (B)(1) of the Midvale Municipal Code regarding Vending Carts:

b. The vending cart must be located no closer than a minimum of thirty feet from a single-family residential zone.

3. **Seasonal Flower Stands**

Add definition to Section 17-2-19 “S” definitions of the Midvale Municipal Code:

“Seasonal flower stand” means a temporary structure from which live flowers are sold.

Add “Seasonal Flower Stands” to Itinerant Merchant use type list as an allowed use and requiring a business license in Tables 17-7-7.2, 17-7-12.2, 17-7-13.2 and the following Sections and subareas:

Section 17-7-9.3

Subarea 1 – Urban
Subarea 2 – Urban
Subarea 3 – Urban
Subarea 4 – Urban
Subarea 5 – Urban

Section 17-7-9.12.1.3
Subarea 1 – Retail/Office/Flex
Subarea 2 – Retail/Office/Flex
Subarea 5 – Retail/Office/Flex

Section 17-7-9.12-2-3
Subarea 2 – Urban
Subarea 3 – Urban
Subarea 4 – Urban
Subarea 5 – Urban

of the Midvale Municipal Code, i.e. [see table format below].

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Add new subsection to Sections 17-7-7.12 (B), 17-7-12.11 (B), 17-7-13.11 (B), and 17-7-9.10 (B) of the Midvale Municipal Code regarding Seasonal Flower Stands:

Seasonal Flower Stand. Each business license application for a seasonal flower stand must comply with the following:

a. A flower stand shall not be located within two hundred feet of the primary public entrance of an existing business that sells live flowers as its primary merchandise.

b. One flower stand business shall be permitted on each parcel of private property.

c. A minimum of five on-site parking stalls are required for the flower stand use.

d. The business shall sell live flowers only; all other merchandise, including merchandise ancillary to the planting of live flowers, such as potting soil, separate pots and containers, watering cans, etc., are not allowed.

e. All live flowers shall be displayed under a tent or canopy structure that does not exceed 1,350 square feet in size. No live flowers shall be displayed beyond the drip line of this structure. The tent or canopy structure shall comply with all applicable Building Code requirements. A Building Permit may be required depending on the size of the tent or canopy.

f. The tent or canopy cover shall be made of a white or earth tone color canvas material; covers made of metal, wood or similar materials are prohibited.

g. Signage must be attached to the drip line of the tent or awning structure. This signage shall not extend above or below the tent or canopy cover and shall not exceed eighty percent of its length. Signs shall not be internally illuminated or make use of flashing or intermittent lighting or animation devices. Pennants, streamers, lawn banners and other temporary signs are prohibited.

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h. A portable fire extinguisher, Type 2A-10 BC minimum, must be available at the location.

i. The flower stand structure, cover and all related business items shall be maintained in good condition and repair at all times.

j. Seasonal flower stands can be operated between April 15th and June 15th each year. The temporary structure must be removed from the site by June 15th and cannot be put on the site before April 15th.

k. The business shall not be conducted before eight a.m. and after ten p.m.