ORDINANCE 2012-04

AN ORDINANCE ALLOWING SEASONAL FOOD STANDS AS AN ALLOWED USE IN THE CLEAN INDUSTRIAL ZONE, AND ADDING SPECIFIC ITINERANT MERCHANT CRITERIA FOR SEASONAL FOOD STANDS IN THE CLEAN INDUSTRIAL ZONE; 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 Annotated 1953 as amended, 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 the seasonal food stand type of itinerant merchant is an appropriate use in the Clean Industrial Zone District provided the criteria for seasonal food stands utilized in other zones in the City is required; and

WHEREAS, the Planning Commission held a public hearing on March 28, 2012, to review 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 March 14, 2012, and the Planning Commission has forwarded a recommendation on such to the City Council on March 28, 2012; and

WHEREAS, the City Council of Midvale City, Utah held a public hearing on April 17, 2012 which meeting was preceded by notice through publication in the Salt Lake Tribune and Deseret News on April 3, 2012; and

WHEREAS, the City Council has taken into consideration citizen testimony, planning and building analysis, and the Planning Commission 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 7th day of April, 2012.

JoAnn B. Seghini, Mayor

**ATTEST:**

Roni L. Andreason, MMC
City Recorder

Date of first publication: April 29, 2012

Voting by City Council

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17-7-13.2 Uses.

If a use is not specifically designated, it is prohibited.

### Table 17-7-13.2 Uses

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17-7-13.11 Itinerant merchants.

B. Specific Itinerant Merchant Criteria:

- Seasonal Produce Stand. Each business license application for a seasonal produce stand must comply with the following:

1. **Seasonal Produce Stand.** Each business license application for a seasonal produce stand must comply with the following:

   a. One produce stand business shall be permitted on each parcel of private property.

   b. A minimum of three on-site parking stalls are required for the produce stand use. Two of these stalls shall be dedicated for the use of the itinerant merchant's patrons; the other for a business employee.

   c. The business shall sell fresh fruits and vegetables only; merchandise and nonperishable food items are not allowed.

   d. Produce shall be displayed under a tent, awning or canopy. This structure shall be an earthtone color and have a maximum size of one hundred square feet.
5. e. Signage must be attached to the tent, awning or canopy and shall not exceed ten square feet on each side of the structure. One A-frame sign complying with the city’s A-frame sign standards may be utilized. No flashing or animated lights or searchlights may be used. No off-site signage is allowed, including within the public right-of-way.

6. f. The produce stand and all related business items shall be maintained in good condition and repair at all times.

7. g. All aspects of the business shall be moved on and off the premises each day of operation. No overnight parking or outdoor storage is allowed.

8. h. Produce stands can be operated between June 1st and October 31st each year.

9. i. The business shall not be conducted before ten a.m. and after ten p.m.

2. Seasonal Food Stand. Each business license application for a seasonal food stand must comply with the following:

a. There shall be a minimum separation of six hundred sixty feet between all food stand locations. This separation shall be measured as a radius in all directions, with the food stand location being the center point.

b. A food stand shall not be located within two hundred feet of the primary public entrance of an existing restaurant use.

c. A minimum of two on-site parking stalls are required for the food stand use. One of these stalls shall be dedicated for the use of the itinerant merchant’s patrons and the other for a business employee.

d. The food stand must be a temporary structure with all wheels, trailers and hitches removed.

e. The maximum size of a food stand structure shall be five feet by eight 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 ten 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.

i. A portable fire extinguisher, Type 2A-10 BC minimum, must be mounted within
easy reach on the food stand.

j. The food stand and all related business items shall be maintained in good
condition and repair at all times.

k. Seasonal food stands can be operated between May 1st and September 30th
each year. The temporary structure must be removed from the site by September
30th and cannot be put on the site before May 1st.

l. The business shall not be conducted before six a.m. and after ten p.m.