ORDINANCE NO. 2012-08

AN ORDINANCE ALLOWING OUTDOOR DINING AS AN ADMINISTRATIVE CONDITIONAL USE AND ADDING SPECIFIC CONDITIONAL USE REVIEW CRITERIA FOR SUCH USE IN THE MIXED USE, STATE STREET COMMERCIAL, HISTORIC COMMERCIAL AND CLEAN INDUSTRIAL ZONE DISTRICTS; REVISING THE DEFINITION FOR OUTDOOR DINING; AND REVISING THE SPECIFIC CONDITIONAL USE REVIEW CRITERIA FOR OUTDOOR DINING IN THE ZONES AND OVERLAYS WITH SUCH CRITERIA; 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, reconstruction, 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 determined that outdoor dining is an important ancillary use to eating establishments throughout the City and can provide vitality to the surrounding area if done appropriately and with specific standards; and

WHEREAS, it was found that the opportunity for outdoor dining did not exist in all zone districts allowing eating establishments and the inequity needed to be corrected to benefit all eating establishments and the City as a whole; and

WHEREAS, the Planning Commission held a public hearing on May 23, 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 May 9, 2012, and the Planning Commission forwarded a recommendation on such to the City Council on May 9, 2012; and

WHEREAS, the City Council of Midvale City, Utah held a public hearing on June 19, 2012, which meeting was preceded by notice through publication in the Salt Lake Tribune and Deseret News on June 5, 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 14th day of June, 2012.

JoAnn B. Seghini, Mayor

ATTEST:

Rori Andreason, MMC
City Recorder

Date of first publication: June 24, 2012

Voting by City Council
Colleen Costello     "Aye"  "Nay"
Paul Glover
Robert Hale
Paul Hunt
Wayne Sharp
1. Section 17-2-15 "O" definitions.

(Revise existing definition)

"Outdoor dining" means an ancillary use occurring between the dates of April 1st to November 1st for the purpose of eating and/or drinking outside located exterior and continuous contiguous to a restaurant or other retail establishment that provides a place for the consumption of food and/or drink on the premises and offers indoor patron seating, to taverns, pubs, cafes, cocktail lounges associated with golf courses, restaurants and other food service establishments.

2. Tables 17-7-5.2, 17-7-7.2, 17-7-11.2, 17-7-13.2 - Uses

(Add use in each table identified above)

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<th>Administrative</th>
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3. Sections 17-7-5.8 B. 2, 17-7-7.11 B. 2, 17-7-9.9 B. 2, 17-7-10.9 B. 2, 17-7-11.8 B. 2, 17-7-13.9 B. 2 - Specific Review Criteria for Certain Conditional Uses/Administrative Conditional Use.

(Add new subsection in each chapter identified above)

Outdoor Dining. Each application for an outdoor dining use shall comply with the following:

i. The dining area shall be located on private property or leased public property and does not diminish parking or landscaping.

ii. The dining area shall not impede pedestrian circulation.

iii. The dining area shall not impede emergency access or circulation.

iv. The outdoor furnishings shall be compatible with the streetscape and associated building.

v. No music or noise is shall be in excess of the city noise ordinance, Section 8.01.070 of the city of Midvale Municipal Code. Outdoor music shall not be audible off premises.
vi. No use after ten-thirty p.m. and before seven a.m.

vii. No part of the outdoor dining area shall be located within 100 feet of any existing residential use (measured from the edge of the outdoor dining area to the closest property line of the residential use), unless the residential use is part of a mixed use building or the outdoor dining area is separated from the residential use by a commercial building.

viii. Cooking facilities shall be located within the primary building. No cooking utilities, including grills, shall be permitted in the outdoor dining area.

ix. The outdoor dining area shall be kept in a clean condition and free of litter and food items which constitute a nuisance to public health, safety and welfare.

4. Subsections 17-7-8.11 B. 2. b, 17-7-12.9 B. 2. b - Specific Review Criteria for Certain Conditional Uses/Administrative Conditional Use.

(Revise existing subsection identified above)

Outdoor Dining. Each application for an outdoor dining use shall comply with the following criteria:

i. The proposed seating/dining area is shall be located on private property or leased public property and does not diminish parking or landscaping.

ii. The proposed seating/dining area does shall not impede pedestrian circulation.

iii. The proposed seating/dining area does shall not impede emergency access or circulation.

iv. The proposed furniture outdoor furnishings is shall be compatible with the streetscape and associated building.

v. No music or noise is shall be in excess of the city noise ordinance, Section 8.01.070 of the city of Midvale Municipal Code. Outdoor music shall not be audible off premises.

vi. No use after ten-thirty p.m. and before seven a.m.

x. No part of the outdoor dining area shall be located within 100 feet of any existing residential use (measured from the edge of the outdoor dining area to the closest property line of the residential use), unless the residential use is part of a mixed use building or the outdoor dining area is separated from the residential use by a commercial building.

viii. Cooking facilities shall be located within the primary building. No cooking utilities, including grills, shall be permitted in the outdoor dining area.

xi. The outdoor dining area shall be kept in a clean condition and free of litter and food items which constitute a nuisance to public health, safety and welfare.
CUSTOMER NAME AND ADDRESS
MIDVALE CITY,
655 W CENTER ST.
MIDVALE UT 84047

ACCOUNT NUMBER	9001344979	DATE	6/25/2012

ACCOUNT NAME
MIDVALE CITY,

TELEPHONE	ADORDER# / INVOICE NUMBER
8015677207	0000802405 /

SCHEDULE
Start 06/24/2012	End 06/24/2012

CUST. REF. NO.
Legal Notice

CAPTION
MIDVALE CITY PUBLIC NOTICE Notice is hereby given that during a City Council meeting on

SIZE
28 Lines 1.00 COLUMN

TIMES
4

RATE

MISC. CHARGES
AD CHARGES

TOTAL COST
52.04

AFFIDAVIT OF PUBLICATION

AS NEWSPAPER AGENCY COMPANY, LLC dba MEDIAONE OF UTAH LEGAL BOOKER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF MIDVALE CITY PUBLIC NOTICE Notice is hereby given that during a City Council meeting on June 19, 2012, the Midvale City Council adopted Ordinance No. 2012-08 An Ordinance allowing Outdoor Dining as an Administrative Conditional Use and Adding Specific Conditional Use Review Criteria For such use in the Mixed Use, State Street Commercial, Historic Commercial and Clean Industrial Zone Districts; Revising the Definition for Outdoor Dining; and Revising the Specific Conditional Use Review Criteria for Outdoor Dining in the Zones and Overlays, with such Criteria. Published. June 24, 2012

PUBLISHED ON
Start 06/24/2012	End 06/24/2012

SIGNATURE

DATE 6/25/2012

THIS IS NOT A STATEMENT BUT A "PROOF OF PUBLICATION" PLEASE PAY FROM BILLING STATEMENT