MIDVALE CITY, UTAH
ORDINANCE NO. 2018-O-17

An Ordinance Amending Midvale Municipal Code 9.54.070

WHEREAS, Midvale City Council has determined that it is in the best interest of the public health, safety, and welfare of the City to regulate individuals who remain on or about premises to a degree that warrants alarm for the safety of a person or property located in the City of Midvale.

WHEREAS, Midvale City Council has also determined that it is in the best interest of the citizens of Midvale to provide certain protections for those individuals and businesses who may be affected by those who engage in the act of loitering.

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

Section 1. The City Council desires to amend section 9.54.070 of the Midvale Municipal Code as set forth in Exhibit A.

Section 2. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstance is held invalid or unconstitutional by a court of competent jurisdiction, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

Section 4. This Ordinance shall be effective upon date of first publication.

PASSED AND APPROVED this 11th day of December, 2018.

Robert Hale, Mayor

ATTEST:

Rori L. Andreason, MMC
City Recorder

Voting by the City Council  “Aye”  “Nay”
Bryant Brown   ✔  
Dustin Gettel  ✔  
Paul Glover   ✔  
Paul Hunt   ✔  
Quinn Sperry       

Published: December 11, 2018
EXHIBIT “A”

9.54.070  Loitering.
A. A person is guilty of loitering if that person:

1. appears at a place or at a time under circumstances that warrant alarm for the safety of a person or property in the vicinity, and upon inquiry by a law enforcement official, the person fails to give a reasonably credible account of his identity, conduct, or purposes;

2. remains, wanders, or lingers in or about a school without having a relationship with a student, employee, or guest of the school or any other specific, legitimate reason for being there, and upon inquiry by a law enforcement official, the person fails to give a reasonably credible account of his identity, conduct, or purposes;

3. remains, wanders, or lingers on a property where a sign prohibiting loitering has been posted without permission of the owner or tenant of said property or without visible or lawful business with the owner or tenant of said property;

4. remains, wanders, or lingers on a property that is vacant, abandoned, condemned, or closed to occupancy without permission of the owner of said property and, if an authority’s permission is necessary to access a structure on the property, permission of the authority;

5. remains, wanders, or lingers on any sidewalk or curb ramp for longer for a period longer than two minutes in such manner as to obstruct the free passage of a pedestrian or vehicle; or

6. willfully continues to obstruct the free passage of a pedestrian or vehicle after being requested to move by another.

B. A person may be cited under this section even if the person is in or on a vehicle.

C. A law enforcement official may disregard any form of identification which, based upon a reasonable suspicion under the circumstances, is altered or falsified or may belong to a third party. The provision of such identification shall be considered prima facia evidence of a violation of this section.

D. No person shall be convicted under this section if the explanation he gave of his conduct and purposes was true and, if believed by the law enforcement official at the time, would have dispelled the alarm.

E. Loitering is punishable:

1. as an infraction if the person has not had a loitering or criminal trespass conviction within one year of the current offense; or

2. as a class C misdemeanor if the person has been convicted of loitering or criminal trespass within one year of the current offense. (Prior code § 13-973)