MIDWAY CITY
Municipal Code

Title 7 BUSINESS LICENSES AND REGULATIONS

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Section 7.01.01 General Provisions

A. The general provisions of this Chapter shall apply to all City business licensing activities and to all licenses issued under this Title. Where the general provisions of this Chapter conflict with specific provisions relating to specific business types, the more specific provisions of this Title shall prevail.

B. The purpose of this Title is to promote business and trade within Midway City while providing regulations in order to protect its citizens and visitors.

Section 7.01.020 Definitions:

A. Business. All activities engaged in within this municipality 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.

B. Engaging in business. The sale of tangible personal property at retail or wholesale, 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.

C. Place of business. Each separate location maintained or operated by the license within this municipality from which business activity is conducted or transacted.

D. Employee. The operator, owner or manager of a place of business and any persons employed by such person in the operation of said place of business in any capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.

E. Wholesaler. A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

F. Wholesale. A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

G. Each separate place of business. Each separate establishment or place of operation, whether or not operating under the same name, within the municipality, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the municipality.

Section 7.01.030 Business License Required

A. It shall be a class C misdemeanor for any person to transact, engage in or carry on any business, trade, profession, calling, or to operate a vending, pinball, or coin-operated machine without first receiving the class or type of license required by the municipality. Each day of operation of any such business without a license shall constitute a separate offense.

B. Home Occupations do not require a business license if any of the following apply:
   a. Only occasionally in business; and
   b. By an individual who is under 18 years of age; or
   c. The combined offsite impact of the homebased business and the primary residential use does not materially exceed the offsite impact of the primary residential use alone.

(2017-20, Amended, eff. 12/12/17)

Section 7.01.040 License Approval Fee Assessment and or Collection

A. The City Planner is designated and appointed as the Business License Officer for Midway City. The City Council may designate, by resolution, another city official or employee to act as the Business License Officer. The Business License Officer shall have the authority to approve all applications for licensure and shall enforce all provisions of this Title, and shall cause to be filed complaints against all persons violating any of the provisions of this Title. Any applicant or other aggrieved person may appeal a decision of the Business License Officer to the City Council.
B. On receipt of any application for a license and annually thereafter, the Business License Officer shall assess business license fees based upon the rate established by the City Council from time to time.

C. The City Treasurer, or designee of the same, is hereby designated and appointed to receive business license fees for Midway City.

Section 7.01.050 Payment Dates

All license fees shall be due and payable as follows, except as may be otherwise provided in the applicable Title:

A. Annual fees shall be payable before each calendar year in advance. The annual license shall date from the first day of January of each year and shall expire on December 31 of the same year.

B. Annual fees shall be due on the first business day of January each year and shall become delinquent if not paid by February 1 of the same year.

C. One-half of the annual fee shall be payable for all licenses issued by the municipality pursuant to applications made after June 30 of each year, and licenses issued after July 1 shall expire on the December 31 of the same year. Payment shall be due within ten days of application approval.

Section 7.01.060 Penalty for Late Payment

If any license fee is not paid within 30 days of the due date, a penalty of 50 percent of the amount of such license fee shall be added to the original amount thereof for each 30 day period the fee is delinquent. No license shall be issued until all penalties legally assessed have been paid in full.

Section 7.01.070 Applications for License

A. All applications for license shall include:
1. The name of the person desiring a license
2. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced, or carried on (if more than one of the forgoing is to be done at the same location by the same applicant, each shall be listed).
3. The class of license desired, if such licenses are divided into classes.

4. The place where such business, calling, trade or profession is to be carried on, giving the street number if the business, calling, trade or profession is to be carried on in any building or enclosure having such number.
5. The period of time for which such license is desired to be issued.
6. The license number issued by the State of Utah Department of Commerce, Division of Occupational and Professional Licensing if required for the occupation or profession for which the business license application is being made.
7. The sales tax identification number issued by the State of Utah, if sales tax is required to be collected for any portion of the proposed business' functions.
B. In the event that the license application relates to a coin-operated machine or device, the application shall identify the machine or device to which it applies and the location thereof.

Section 7.01.080 Certificate

All certificates of license shall be signed by the Mayor and the City Recorder and shall contain the following information:

A. The name of the person to whom such certificate has been issued.

B. The amount paid.

C. The type of license and the class of such license if licenses are divided into classes.

D. The term of the license with the commencing date and the date of its expiration.

E. The place where such business, calling, trade or profession is to be conducted.

Section 7.01.090 Display

A. Every certificate issued under this Title 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 such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room 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.

C. A change of location for any business may be endorsed upon said license by the business license upon the payment of an amount as set by the City Council from time to time.

Section 7.01.100 Transfer of License Prohibited

No license granted or issued under any Title of this municipality shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than the therein named to do business or to authorize any other business, calling, trade or profession than is therein named unless by permission of the Business License Officer.

Section 7.01.110 Revocation or Denial of Business License

Any license issued pursuant to the provisions of this code or of any ordinance of this municipality may be revoked and any application denied by the Business License Officer or the City Council because of the following:

A. The failure of the licensee or applicant to comply with the conditions and requirements of this code or any ordinance of the municipality.

B. Unlawful activities conducted or permitted on the premises where the business is conducted.

Section 7.01.120 Branch Establishments

A separate license must be obtained for each separate place of business in the municipality and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license, provided that warehouses and distributing places used in connection with or incident to a business licensed under this part shall not be deemed to be separate places of business or branch establishments.

Section 7.01.130 Joint Licenses

Whenever any person is engaged in two or more businesses at the same location within the municipality, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license, which shall specify on its face all such businesses. The license tax to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement and fee. Where two or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business.

Section 7.01.140 Reciprocal Recognition of Licenses

A. No license shall be required for operation of any vehicle or equipment in this municipality when:
1. Such vehicle is merely passing through the municipality.
2. Such vehicle is used exclusively in inter-city or inter-state commerce.

B. No license shall be required of any person whose only business activity in this municipality is the mere delivery in the municipality of property sold by him at a regular place of business maintained by him outside the municipality where:

1. Such person's business is at the time of such delivery licensed by the Utah municipality or county in which such place of business is situated.
2. The authority licensing such business grants to licensees of this municipality making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this Section.
3. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of this municipality for compliance with health or sanitary standards prescribed by this municipality.
4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the said licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.

C. The Business License Officer shall, at the request of any person, certify a copy of this Section to any municipality or county of the state of Utah to which a copy has not previously been certified.

Section 7.01.150 Exemptions to License

No license fee shall be imposed under this Title on any person engaged in business for solely religious, charitable or other types of strictly non-profit purpose which is tax exempt in such activities under the laws of the United States and the State of Utah, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah.

Section 7.01.160 Temporary Sales Businesses

A. Every person who does not have a regular license place of business who shall bring within Midway City any goods, wares, merchandise or any articles thereof for the purpose of soliciting trade, in any place within the City, or selling or offering for sale, exchange or delivery, either immediately or with the intent of delivering or performing at some future date, any goods, wares or merchandise or any article thereof, or any agreement or arrangement whereby a contract of any sort is sought to be obtained, are hereby declared to be temporary sales businesses and doing business within Midway City.

B. Before commencing or engaging in any such business or activity within the limits of Midway City, a license must be first obtained therefore and such temporary sales agent(s) shall submit to a background check by the Business License Officer. The Business License Officer may deny a business license to any transient sales business license when the background check reveals convictions of crimes of theft, violence, moral turpitude, or other serious offenses that would show that the individual might pose a threat to the citizens of Midway City.
C. Each individual person engaged in a temporary sales business shall obtain a separate business license. Said license shall be obtained for at least three working days in advance of commencing to sell or offer to sell any products within the Midway City limits. No refunds shall be granted once the background check has been ordered.

D. There shall be excepted from the provisions of this Section any persons who are selling or offering for sale fresh fruits and vegetables.

E. Temporary Sales Business Licenses are valid for 30 days from the day of issuance, but are not valid during the Swiss Days celebration.

(2010-07, Subsection Added, eff. 4/14/2010)

Section 7.01.170 Circus-Menagerie Exhibitors

Circuses, carnivals, and other itinerants doing temporary business within the City not hereinabove enumerated, shall be licensed in such sum and for such time as the City Council shall, upon application, determine. In all cases where two or more of the above listed activities are undertaken with the confines of a single business establishment (that is to say within a store or building, or enclosure, all portions of which are located on contiguous territory) then the license fee shall be the amount of the fee for that activity and of all of the included activities for which the largest license fee is required, plus two-thirds of the total amount of the fees required for the additional activities undertaken. This Section shall not be construed to permit or authorize flea markets or swap meets.

(2012-16, Added, eff. 07/11/2012)

Section 7.01.180 Sale from Vehicles, Temporary Structures, or Lots Prohibited

It shall be unlawful for a temporary merchant to sell merchandise from a vehicle, temporary structure, parking lot, or parcel of land. This provision shall not prohibit "Sidewalk" or "Parking Lot" sales of the same merchandise or services that established businesses are licensed under this Title to market. This provision shall not prohibit the sale of merchandise from authorized "booths" at "Swiss Days" and other organized events authorized by the City.

Section 7.01.190 Licensed Business Subject to Other Provisions of the Code

A. Issuance of a business license or any other regulatory license does not excuse a licensee from compliance with applicable zoning codes, building codes, plumbing codes, mechanical codes, electric codes, fire codes, and other regulatory requirements. No license shall be issued without first obtaining written preliminary approval of the business location from the Planning Department and written preliminary approval as to regulatory code compliance from the building inspector and fire marshal.

B. The following shall be printed in large type on the face of each license: "**NOTICE: To engage in the business for which this license is issued, you must comply with all City and health and safety codes, including those relating to zoning, building, health and fire safety. If now, or in the future, you do not comply with these codes, this license does not authorize you to engage in business.**"

Section 7.01.200 Violations and Penalties

Violations of this Title shall be punished as a class C misdemeanor.

Section 7.01.210 Appeal

A. Any person subjected to an adverse decision by the Business License Officer pursuant to this Title shall have the right to appeal to the City Council.

B. Any appeal shall be requested in writing sent by mail to the City Recorder with a copy to the Business License Officer within ten business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

C. Within 45 calendar days of receiving notice of appeal, the City Council shall hold a public hearing at which the person appealing shall be entitled to be heard. Notice of the hearing shall be mailed to the person appealing at the person's last known address at least 14 calendar days before the hearing. The licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross-examine witnesses, and to present evidence. Within 30 calendar days after the hearing, the City Council shall affirm, reverse or modify the decision being appealed.

CHAPTER 7.02 DOOR TO DOOR SOLICITATION

Section 7.02.010 Definitions
Section 7.02.020 Solicitation Prohibited
Section 7.02.030 Exception for Invited Solicitor
Section 7.02.040 Exemptions from Title
Section 7.02.050 Charitable Exception
Section 7.02.060 Registration of Solicitors
Section 7.02.070 Application for Solicitation Business License
Section 7.02.080 License Photograph Required
Section 7.02.090 Business License Officer May Refuse to Issue License
Section 7.02.100 Refusal Must be Documented by Business License Officer
Section 7.02.110 Proof of Identification Required
Section 7.02.120 Fees
Section 7.02.130 Registration Complete with Issuance
Section 7.02.140 Form of License and Badge
Section 7.02.150 Maintenance of Registry
Section 7.02.160 Renewal of Solicitation Business License
Section 7.02.170 Non-transferability
Section 7.02.180 Deceptive Soliciting Practices Prohibited
Section 7.02.190 Revocation of Solicitation Business License
Section 7.02.200 Appeal
Section 7.02.210 "No Soliciting" Notice
Section 7.02.220 Duties of Solicitors
Section 7.02.230 Time of Day Restrictions
Section 7.02.240 Penalties

Section 7.02.010 Definitions

For the purposes of this Chapter, the following definitions shall apply:

A. Solicitation or soliciting. Any of the following activities conducted at a privately owned residence or dwelling:
1. Seeking to sell or to obtain orders for the sale or exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether contemporaneous, advance or delayed payment is sought.
2. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications.
3. Seeking to obtain contributions of money or any other thing of value for the benefit of any association, organization, corporation, or program.
4. Seeking to obtain orders or prospective customers for goods or services.
5. Other activities falling within the commonly accepted definition of "Soliciting."

B. Solicitor or solicitors. A person or persons engaged or intending to engage in the activities defined as "soliciting."

C. Solicitation Business License. A license described by and issued pursuant to this Title.

Section 7.02.020 Solicitation Prohibited

Unless otherwise authorized or permitted pursuant to the terms and provisions of this Title, solicitation, as defined by this Title, within the boundaries of Midway City, is prohibited and is punishable as set forth in this Title.

Section 7.02.030 Exception for Invited Solicitor

The prohibition under this Section shall not apply if the owner or occupant of the residence or dwelling has previously and specifically invited the solicitor to the residence or dwelling for purposes of solicitation.

Section 7.02.040 Penalties

The terms and provisions of this Title do not apply to persons engaged in noncommercial distribution of religious tracts and information, door-to-door canvassing and pamphleteering as vehicles for the dissemination of ideas, or political activities conducted by a candidate or on behalf of a candidate in a recognized national, state or local election.

Section 7.02.050 Charitable Exception

A solicitor shall not be required to obtain a solicitation business license if the solicitor represents a charitable organization recognized as such under regulations issued by the Internal Revenue Service (IRS) pursuant to its authority created by the terms of 26 U.S.C. Sec. 501. Any solicitor claiming such exception shall provide written verification to the Business License Officer and receive approval from the Business License Officer prior to engaging in any soliciting within the City. The charitable exception shall apply generally to persons making solicitations for a church, religious organization or charitable organization recognized by the IRS as a non-profit corporation, and shall include any unincorporated association or corporation under the supervision and control of any church, charitable organization or religious organization, if the church or organization is tax exempt under IRS regulations. The charitable exception shall apply to students soliciting contributions to finance educational and/or extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved by the school principal or superintendent of schools. Solicitation under this Section is permitted; however, if the owner or occupant of the residence or dwelling has complied with the "No Soliciting" provisions in this Chapter, then soliciting is prohibited.

Section 7.02.060 Registration of Solicitors

All persons not exempted or excepted as provided in this Title who desire to engage in soliciting within the City shall, prior to doing so, apply to the Business License Officer for a solicitation business license. The solicitation business license executed by the Business License Officer or designee shall be maintained by the Business License Officer and a legal copy shall be carried by the solicitor at all times while soliciting. While engaging in soliciting, a solicitor shall show proof of a

valid solicitation business license for inspection upon request by the Business License Officer or designee, an owner or occupant of a residence or dwelling, or a law enforcement officer.

Section 7.02.070 Application for Solicitation Business License

A. The Business License Officer shall provide a standard form business license application for solicitors. Applicants shall state upon oath or affirmation that the information is truthfully provided to the best of the knowledge and belief of the applicant. The applicant shall supply the following information on the application form:
1. The applicant's true, correct and legal name, including any former names and aliases;
2. The applicant's home mailing address;
3. The name and address of any organization for which the applicant will be soliciting;
4. The names and addresses of applicant's officers and managers and aliases, if any;
5. The type and nature of the soliciting that will be done and a description of the types of products or services that will be offered to consumers;
6. A brief description of the method of presentation that will be made;
7. The dates, times and location for which soliciting is planned;
8. Whether a permit, license or certificate of registration in connection with soliciting has ever been revoked by any jurisdiction, and if so, an explanation of the circumstances;
9. A statement of whether the applicant has been convicted of a felony or of any crime involving theft, violence, moral turpitude, or other serious offenses within five years prior to application and if so, an explanation of the circumstances. The Business License Officer shall have authority and discretion to verify said criminal history by background check, or by any lawful means, and the applicant shall be required to cooperate in such verification by providing authorization for release of information from government agencies or other entities as necessary. Such authority for investigation and requirement of cooperation shall continue in force throughout all periods during which a solicitor holds a solicitation business license issued by the City.

B. If any of the information listed in items 1. through 9. above has changed, a person holding a valid solicitation business license must notify the City in writing of such change prior to engaging in any further soliciting.

Section 7.02.080 License Photograph Required

A. The applicant shall provide to the Business License Officer two photographs of the applicant taken within 45 days of application showing the face, head and shoulders of the applicant. The portion of the photographs showing the face, head and shoulders of the applicant shall be approximately no larger than two and one-half inches on each side and no smaller than one and one half inches on each side.

B. Upon review of an application, the Business License Officer shall issue a solicitation business license by the close of business on the third business day (not including the day of application) after receipt of the application if the application is complete and satisfactory.

Section 7.02.090 Business License Officer May Refuse to Issue License

Upon review, the Business License Officer may refuse to issue a solicitation business license or renewal license to the applicant for any of the following reasons:

A. The location and/or time of solicitation would endanger the safety and welfare of solicitors or their customers.

B. The applicant has falsified information on the application.

C. The applicant has been convicted of a felony or of any crime involving theft, violence, moral turpitude, or other serious offenses within five years prior to application.

D. There is no satisfactory proof as to the authority of the applicant to serve as an agent to the principal.

E. The applicant has been denied a license under this Title within the immediate past year, unless the applicant can and does show to the satisfaction of the Business License Officer that the reasons for such earlier denial no longer exist.

F. The application is incomplete.

G. Any other reason rendering it manifestly inappropriate to issue a solicitation business license.

Section 7.02.100 Refusal Must be Documented by Business License Officer

In the case of rejection of an application, the Business License Officer's rejection and the reasons for rejection shall be communicated in writing to the applicant by personal service or by mail to the address shown on the application.

Section 7.02.110 Proof of Identification Required

A. No solicitation business license shall be issued to any applicant until the applicant establishes proof of identification.

B. The Business License Officer shall verify an applicant's true identity by use of any of the following which bear a photograph of said applicant:
1. A valid driver's license issued by any state within the United States.
2. A valid United States Uniformed Service Identification Card.
3. A valid passport of the United States.
4. Such other identification as the Business License Officer may deem acceptable.

Section 7.02.120 Fees

Any person applying for or renewing a solicitation business license shall pay to the City Treasurer the current applicable fee as set by the City Council from time to time.

Section 7.02.130 Registration Complete with Issuance

Registration shall be complete when the Business License Officer issues the solicitation business license.

Section 7.02.140 Form of License and Badge

A. Each solicitation business license shall list the name and address of the individual solicitor and of any organization on whose behalf the solicitor is authorized to solicit, the date on which the license expires, the kinds of goods or services to be offered for sale, and shall be dated and signed by the Business License Officer or designee.

B. Each registered solicitor shall, at all times while the solicitor is engaged in soliciting, wear prominently on his or her person a badge issued by the City displaying the name and address of the solicitor and the organization with which the solicitor is associated, and one of the two photographs submitted with the application.

Section 7.02.150 Maintenance of Registry

The Business License Officer shall maintain and make available for public inspection a record of every application received together with any information and photographs pertaining thereto, all solicitation business licenses issued, and all denials of applications.

Section 7.02.160 Renewal of Solicitation Business License

A solicitation business license shall be valid for the calendar year in which it was issued and shall expire at midnight on December 31st of the year issued without regard to the date of issuance. Any solicitation business license in good standing may be renewed upon request of the registered solicitor. The applicant shall be required to complete a renewal application providing the information required in the initial registration.

Section 7.02.170 Non-transferability

Solicitation business licenses shall be issued only in the name of the applicant and the firm, corporation, or association on whose behalf the applicant is authorized to solicit. The solicitation business license shall be non-transferable from an individual to another individual, from individual to firm, from firm to firm, and from firm to individual. It shall be a violation of this for Title a solicitor whose solicitation business license authorizes soliciting on behalf of a firm named in the license to solicit on behalf of any other firm, organization, or association, or for any purpose other than that specified on the application. Any solicitation business license used by a person other than the person for whom it was originally issued shall be forfeited, confiscated and immediately cancelled.

Section 7.02.180 Deceptive Soliciting Practices Prohibited

A. No solicitor shall intentionally or recklessly make any materially false or fraudulent statement in the course of soliciting.

B. A solicitor shall immediately disclose to all consumers during face-to-face solicitation the name of the solicitor, the name of the entity (if any) with whom the solicitor is associated, and the purpose of the solicitor's contact with the consumer.

C. No solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name and the true and correct name of the entity with whom he or she is associated.

D. No solicitor shall represent directly or by implication that the City endorses the solicitation or that the granting of a solicitation business license implies any endorsement by the City of the solicitor's product or service or of the individual solicitor.

Section 7.02.190 Revocation of Solicitation Business License

The Business License Officer shall revoke any solicitation business license issued pursuant to the provisions of this if t Title he registrant is determined to have violated this or is Title determined to no longer meet the qualifications for the license as set forth in this Title. Notice of revocation shall be immediately given to the licensee by personal service or by mail to the address listed on the application and to the organization, if any, with which the registrant is associated. Immediately upon the giving of such notice, the license shall become null and void and shall remain so unless the revocation order is rescinded.

Section 7.02.200 Appeal

Appeal shall be as provided in this Title.

Section 7.02.210 "No Soliciting" Notice

A. Any owner or occupant of a residence or dwelling desiring to secure the protection of this Title shall give notice of a desire to refuse solicitors by displaying a placard or sign no smaller than twelve square inches stating "No Soliciting," "No Solicitors," "No Trespassing" or words of similar import which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence or dwelling.
B. The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence or dwelling does not desire to receive and/or does not invite solicitors.

Section 7.02.220 Duties of Solicitors

A. Every solicitor shall, prior to entering the premises on which a residence or dwelling is located, examine the sidewalk leading to the residence or dwelling unit and the door and areas near the door for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Trespassing" and "No Solicitors" signs. If such sign or placard is posted the solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a solicitation business license does not in any way relieve any solicitor of this duty.

B. It is a violation of this Title for any solicitor to knock on the door, ring the doorbell or in any other manner attempt to attract the attention of an occupant of a residence or dwelling that bears a "No Soliciting" or similar sign or placard. It is a violation of this Title for any solicitor through ruse, deception, or concealment of a purpose to solicit, to take action calculated “or similar sign or placard.

C. Any solicitor who is at any time asked or told by the occupant of a residence or dwelling to leave shall immediately and peacefully depart.

Section 7.02.230 Time of Day Restrictions

It shall be unlawful for any person, whether licensed or not, to solicit any person at a residence or dwelling between the hours of 7 p.m. and 10 a.m. Mountain Standard Time, or 7 p.m. and 10 a.m. Mountain Daylight Time, unless the solicitor has prior express permission from the resident to do so.

CHAPTER 7.03 ALCOHOLIC BEVERAGES

Section 7.03.010 Application of Utah State Law to Alcoholic Beverages
Section 7.03.020 Licenses to be Issued by the Utah DABC
Section 7.03.030 Consent of Local Authority
Section 7.03.040 Event Permits
Section 7.03.050 License for Retail Sale of Beer for Off-Premise Consumption
Section 7.03.060 Conditional Use Process

Section 7.03.010 Application of Utah State Law to Alcoholic Beverages

The purchase, sale, consumption and use of alcoholic beverages within the Midway City limits shall be governed by, and subject to, the laws of the State of Utah, including, but not necessarily limited to, the Utah Alcoholic Beverage Control Act.

Section 7.03.020 Licenses to be Issued by the Utah DABC

Except as provided in Section 7.03.050, all licenses to sell alcoholic beverages within the Midway City limits shall be issued and regulated by the Utah Department of Alcoholic Beverage Control.

Section 7.03.030 Consent of Local Authority

Except as provided in Section 7.03.040, if the Utah Department of Alcoholic Beverage Control requires an applicant to obtain consent of the local authority in order to be issued a license to sell an alcoholic beverage in Midway City, the Midway City Council shall act as the body to deliberate and decide whether such consent will be granted or denied. Prior to making its decision on whether to grant or deny local consent to an applicant, the City Council shall advertise and hold a public hearing, in a manner similar to that required for a conditional use permit, in order to obtain public comment on the request for local consent. Midway City reserves and retains the maximum discretion allowed by law to grant or deny consent of the local authority for any reason or type of reason.

Section 7.03.040 Event Permits

Notwithstanding Section 7.03.030, when consent of the local authority is sought in conjunction with an application for a single event permit or temporary beer event permit, the Midway City Business License Administrator may, in his or her discretion: (a) grant local consent; or (b) refer the application to the City Council for a decision on local consent. Midway City reserves and retains the maximum discretion allowed by law to grant or deny consent of the local authority for any reason or type of reason.

Section 7.03.050 License for Retail Sale of Beer for Off-Premise Consumption

A. To the extent provided by the Utah Alcoholic Beverage Control Act, Midway City may issue a license for the retail sale of beer for off-premise consumption without the issuance of a state license by the Department of Alcoholic Beverage Control.
B. The decision whether to issue a license for the retail sale of beer for off-premise consumption is governed by the same procedures and standards as contained in Section 7.03.030 regarding consent of the local authority. Midway City reserves and retains the maximum discretion allowed by law to grant or deny an application for a license for the retail sale of beer for off-premise consumption for any reason or type of reason.
C. A licensee that has received a license from Midway City for retail sale of beer for off-premise consumption is subject to all applicable provisions of Utah law governing the sale of beer for off-premise consumption.

Section 7.03.060 Conditional Use Process

As provided by Title 16 of the Midway City Municipal Code, all alcohol-dispensing establishments are conditional uses in Midway City. Any applicant desiring to operate an alcohol-dispensing establishment shall first obtain the required consent of the local authority in the manner described elsewhere in this chapter. If, and only if, consent of the local authority is granted, the applicant's application for a conditional use permit will then be considered. During the conditional use permit consideration process, the City may impose upon a prospective alcohol-dispensing establishment any conditions allowed by law for conditional uses, notwithstanding the fact that the City has already made the decision to grant consent of the local authority to the applicant for the sale of alcoholic beverages.

(2013-08 Chapter Replaced, eff. 8/14/13; 2013-10 Chapter Amended, eff. 9/11/13)

Chapter 7.04 SEXUALLY ORIENTED BUSINESSES

Section 7.04.010 Incorporation.
Section 7.04.020 Definitions
Section 7.04.030 Location of Businesses - Restrictions
Section 7.04.040 Effect on Non-Conforming Businesses
Section 7.04.050 Signs
Section 7.04.060 Location and Zoning Restrictions

Section 7.04.010 Incorporation

The provisions of the Wasatch County Code Chapter 11.03 Sexually Oriented Businesses relating to the purpose of this Title, findings and definitions are incorporated herein by reference thereto as though fully set forth hereafter.

Section 7.04.02 Definitions

The term "sexually-oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center, more specifically defined as follows:

A. Adult Arcade. Any place to which the public is permitted or invited where either or both (a) motion picture machine, projectors, video or laser disc players, or (b) other video or image-producing devices are available, run via coin, token, or any form of consideration, to show images to five or fewer persons at one time; and where the images shown and/or live entertainment presented are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

B. Adult Bookstore. A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video reproductions, slides, or other representations that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas; " or instruments, devices, or paraphernalia other than prophylactics that are designed for use in connection with specified sexual activities.

C. Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment that:
1. Regularly features persons who appear in a state of semi-nudity;
2. Live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities;
3. Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or,
4. Films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

D. Adult Motion Picture Theater. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, other video or image-producing devices, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

E. Adult Theater. A theater, concert hall auditorium, or similar commercial establishment that regularly features persons who appear in a state of semi-nudity, live performances which are characterized by the depiction or description of specified anatomical areas specified sexual activities, or live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment.

F. Nude Model Studio. Any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include:
1. A proprietary school licensed by the State of Utah, or a college, junior college or university supported entirely or in part by public taxation;
2. A private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where, in order to participate in a class, a student must enroll at least three days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.

G. Sexual Encounter Center. A business or commercial enterprise that as one of its principal business purposes offers for any form of consideration:
1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female person and/or persons of the same sex when one or more of the persons is semi-nude.

Section 7.04.030 Location of Businesses - Restrictions

A. Adult/Sexually-oriented facilities and businesses may be constructed or operated as a permitted use within any areas zoned I-1 I-2 within the unincorporated County or any of the incorporated municipalities subject to the following additional restrictions:

B. No sexually-oriented business shall be located:
1. Within 1.000 feet of any, public or private school, public building, public or private recreation facility, day care center, public park, hospital, public library or religious institution. Public buildings for the purpose of this Section relates to a building frequented by the public and not a public building that is designed primarily for the workmen and employees, such as a public works facility or animal control shelter, nor does it include any public buildings located on the Heber City Airport property.
2. Within 600 feet of any residential use (excepting homes that were established or approved, as industrial caretaker's dwellings or any residential/agricultural zoning boundary.
3. Within 600 feet of any other sexually oriented business.

4. Within 350 feet of any gateway corridor. A 'gateway corridor' is defined as including any State or Federal Highway entering into Midway City and the main entrance to the Heber Airport known as "Airport Road". The distance shall be measured from the right-of-way boundary.
5. On the Premises of the Heber Airport.

B. Distance requirements between structures and uses specified in this Section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the property boundaries of the school, public park, religious or cultural activity, residential use, or other sexually-oriented business, or from the right-of-way line of a gateway to the structure of the sexually-oriented business.

C. Distance requirements from zoning districts for this Section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the closest zoning boundary of a residential or agricultural district to the sexually-oriented business structure.

Section 7.04.040 Effect on Non-Conforming Businesses

All existing, legal, non-conforming sexually-oriented businesses, as of the effective date of the Title codified in this Chapter, or any amendment hereto, shall comply with the provisions of this Chapter within nine months from the date this Title is enacted.

Section 7.04.050 Signs

A. Notwithstanding anything contrary contained in the Wasatch County Code or the code of any of its incorporated cities involved, the more restrictive requirements for signs shall prevail. Signs for sexually-oriented businesses shall be limited as follows:
1. Signs for such business shall require a permit as outlined in the Wasatch County sign or any city sign ordinance.
2. No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sign. Said signs shall contain alphanumeric copy only.
3. Other than the signs specifically allowed by this Chapter and the applicable City or County Sign Ordinance, the sexually-oriented business shall not attach, construct, or allow to be attached or constructed any temporary sign, banner, light, or other device designed to draw attention to the business location without a permit approved by the Zoning Administrator or such other body or staff member as designated by the governing body.

B. The location of such signs must be located on the premises of the actual business itself, and under no circumstances are they allowed to be erected outside of compliance with any of the Airport Protection Zones or easements in place to protect aviation.

Section 7.04.060 Location and Zoning Restrictions

It is unlawful for any sexually-oriented business to do business at any location within the City not zoned for such business. Sexually-oriented businesses licensed as adult businesses or semi- nude entertainment businesses pursuant to this Chapter shall only be allowed in areas zoned for their use pursuant to this Title.

CHAPTER 7.05 SPECIAL BUSINESS LICENSING RESTRICTIONS

Section 7.05.010 Festival Market Business Licenses
Section 7.05.020 Temporary Licenses Prohibited During Swiss Days
Section 7.05.030 Public Parking During Swiss Days
Section 7.05.040 Flea Markets and Swap Meets
Section 7.05.050 Periodic Sale of Prepared Food by Mobile Vendors

Section 7.05.010 Festival Market Business Licenses

Section 7.05.010 Festival Market Business Licenses

A. Definitions
1. Festival Market: A business activity by which a valid permanently-licensed retail business within the City contracts with or allows one or more other businesses or individuals to sell or display goods on the business premises of the business license holder.
2. Festival Market Business: Any retail business that holds a valid permanent business license to operate within the City and that contracts with or allows one or more other businesses or individuals to sell or display goods on the business premises of the business license holder.
3. Festival Market Business License: A special license that authorizes a valid permanently-licensed business to contract with or allow one or more other businesses or individuals to sell or display goods on the business premises of the business license holder.
4. Festival Market Vendor: A business or individual, including the Festival Market Business License holder that sells or displays goods at a Festival Market.
5. Festival Market Vendor Booth: A physical location at which a consumer views and/or purchases goods from a Festival Market Vendor. A Festival Market Vendor Booth may be no more than 150 square feet in size.
6. Retail Business: For purposes of this section, a retail business is one which sells goods at retail directly to the consumer and dedicates at least 75% of its floor space for display and sale of goods.

B. General Provisions Governing Festival Markets
1. A Festival Market may be located and operated only in the Festival Market Overlay District (FMOD) within the City, and only pursuant to the terms of this Chapter.
2. It shall be unlawful for any person or entity to sell or display goods in a Festival Market or similar activity unless the event is being conducted by a city-licensed retail business under the authority of a valid and current Festival Market Business License pursuant to the provisions contained in this section.
3. It shall be unlawful for any person or entity to authorize, conduct, or operate a Festival Market or similar activity unless the person or entity holds a valid and current Festival Market Business License and the event is conducted pursuant to the provisions contained in this section.
4. A Festival Market Business License holder may not contract with or allow any other businesses or individuals to sell food during the Festival Market.

5. All Festival market events must be conducted in a manner that, in the determination of the Business License Administrator, ensures the public health and safety, preserves proper traffic flow, and keeps open sidewalks, walkways and other public access areas.

C. Obtaining a License for Festival Markets
To receive a Festival Market Business License, a person or entity must:
1. Already hold a valid permanent Midway City business license at the time of application for the Festival Market Business License;
2. Conduct business under the permanent business license at the business license location for no fewer than 180 days during each calendar year. The City may require the applicant to provide proof to verify compliance with this requirement, including, but not limited to, records of the Utah State Tax Commission;
3. Submit an application for the Festival Market Business License on a form approved by the City, which application must contain a statement of the business's regular operating days and hours during the calendar year. The application for a Festival Market Business License must be submitted at least 60 days prior to the first day of any Festival Market that the applicant wishes to conduct under the authority of the license; and
4. Pay a fee for the Festival Market Business License in an amount set by the City.

D. Maintaining a License for Festival Markets
To maintain a valid Festival Market Business License, the license holder must:
1. Conduct business under the permanent business license at the business license location for no less than 180 days during each calendar year pursuant to the schedule of days and hours previously submitted to the City; and
2. Renew the Festival Market Business License using the same application method each year.

E. Preparation for Festival Markets
In order to conduct a Festival Market or similar activity, a Festival Market Business License holder must provide preliminary notice to the City in writing ~~3~~60 days prior to the first day of each Festival Market. The preliminary notice must:
1. Identify the week, days and hours in that week when the Festival Market will be held;
2. Identify all types of goods that will be sold or displayed at the Festival Market;
3. Identify the approximate number of vendors and vendor booths that are anticipated at the proposed Festival Market; and
4. Contain a preliminary site plan for the premises on which the Festival Market will be held, listing the dimensions of each vendor's area, and identifying parking, streets, buildings, sidewalks, walkways, restrooms and other items of health and safety concern.
In addition, no later than 30 days prior to the first day of the Festival Market, the Festival Market Business License holder must provide final notice to the City in writing for the Festival Market. The final notice must:
1. Identify the week, days and hours in that week when the Festival Market will be held;
2. Identify the name, mailing address and phone number for each Festival Market Vendor that will be selling or displaying goods at the Festival Market;
3. For each Festival Market Vendor, identify the type of goods that will be sold or displayed; and

4. Contain a detailed site plan for the premises on which the Festival Market will be held, listing the vendors who will be present in each location on the site plan and the dimensions of each vendor's area, and identifying parking, streets, buildings, sidewalks, walkways, restrooms and other items of health and safety concern.

F. Operating a Festival Market

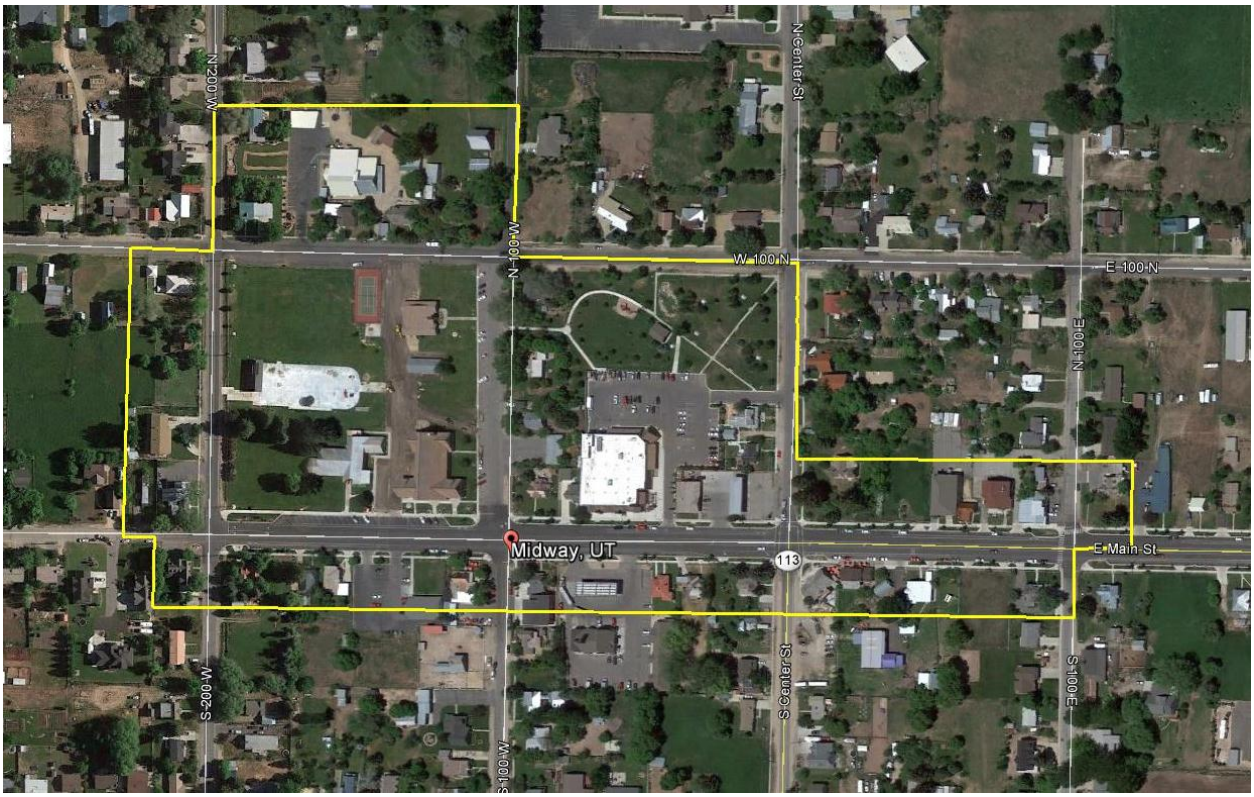
1. Each separate Festival Market Vendor must be issued a Festival Market Vendor Permit by the City Business License Administrator and will be assessed a daily fee for such permit in an amount to be set from time to time by the City Council by resolution. The holder of the Festival Market Business License will collect the fee for each vendor and will remit full payment for all vendors to the City at the time final notice is given to the City for the Festival Market Business License.
2. The Festival Market Business License holder must ensure that all vendors have been issued a Special Event Sales Tax License from the Utah State Tax Commission for each event.
3. No sales from vehicles will be allowed in a Festival Market.
4. Festival Market activities shall be conducted at all times in a manner that promotes public health and safety. All requirements of state and local health, safety, building and fire codes must be observed.
5. A minimum five-foot setback, or other setback as approved by the City Business License Administrator, from the City sidewalk must be maintained for all activity in a Festival Market. In areas where there is no sidewalk, a minimum 10-foot setback from the edge of the pavement must be maintained for all activity in a Festival Market.
6. A Festival Market Business License issued pursuant to this Chapter must be prominently displayed at all times on-site while the Festival Market is being conducted.
7. All goods sold or displayed at a Festival Market by any person or entity must be substantially related to the goods sold or displayed at that location throughout the year by the Festival Market Business License holder in the course of its regular business.
8. A Festival Market Business License holder may not contract with or allow any other businesses or individuals to sell food during the Festival Market.
9. A Festival Market activity located on the property of a Festival Market Business License holder that is conducted outside of the license holder's permanent ~~retail space~~ indoor commercial area may occupy a maximum of 2,500 square feet of the property, or an amount of the property equal to the size of the license holder's permanent ~~retail space~~ indoor commercial area, whichever is less.
10. When permitted by this Chapter, each Festival Market Business License holder will be allowed to engage up to five Festival Market Vendor Booths as part of the Festival Market Business License. For each 250 square feet of permanent indoor commercial area in the Festival Market Business License holder's premises, one additional Festival Market Vendor Booth will be allowed beyond the initial five booths, up to a maximum of fifteen Festival Market Vendor Booths in total.

G. Enforcement

1. The City Business License Administrator may deny an application for a Festival Market Business License or for approval of a particular Festival Market event if the application fails to comply with this section or if, in the determination of the Business License Administrator,

the proposed Festival Market or Festival Market Business License would otherwise endanger or compromise public health, safety or welfare, or if the applicant has previously engaged in persistent violations of this section.
2. The City Business License Administrator may impose conditions on the operation, size, number, configuration and/or location of activities within the proposed Festival Market area, including but not limited to parking, walkways, traffic, etc., and may deny a request to hold a Festival Market event for reasons of public health, safety or welfare. All activities, including but not limited to sales, advertising and display of products, shall be confined to the extent and location approved as part of the site plan and shall not extend beyond them.
3. The City Business License Administrator may close down an operating Festival Market for failure to comply with the provisions of this Chapter and/or the approved application and site plan and conditions. The City may also issue a citation and/or impose fines for violations.
4. The provisions of this Chapter do not apply to temporary events held on ~~the public~~ City-owned property pursuant to a rental or lease agreement with the City. For such temporary events held on City-owned property, the City, in its reasonable discretion, may set the terms and costs for such lease based on the event's impact and benefit to the City.

(2015-02, Section Amended, eff. 03/11/2015; 2015-16, Section Amended, eff. 12/9/2015)



Festival Market Overlay District

(2015-06, Section Amended, eff. 05/13/2015)

Section 7.05.020 Temporary Licenses Prohibited During Swiss Days

A. Except as provided in this section, no temporary business licenses shall be issued or valid for the Thursday, Friday, or Saturday of the Labor Day Weekend commonly falling the last week of August or the first week of September each year (Swiss Days).

B. No garage sales, yard sales or similar sales will be allowed within the Midway City boundaries on the Thursday, Friday, or Saturday of the Labor Day Weekend commonly falling the last week of August or the first week of September each year (Swiss Days). This restriction does not apply to activities conducted pursuant to this section by businesses that hold a valid, permanent business license and operate year-round.

C. Each business that holds a valid, permanent business license and operates year-round may sell items outside of the license holder's permanent indoor commercial area on the Thursday, Friday, or Saturday of the Labor Day Weekend commonly falling the last week of August or the first week of September each year (Swiss Days), provided that such activity may occupy a maximum of 2,500 square feet of the license holder's property, or an amount of the property equal to the size of the license holder's permanent indoor commercial area, whichever is less. The operation of a Festival Market is governed by Section 7.05.010 and not by this Section.

(2015-02, Section Amended, eff. 03/11/2015; 2015-16, Section Amended, eff. 12/9/2015)

Section 7.05.030 Public Parking During Swiss Days

A. On the Thursday, Friday, or Saturday of the Labor Day Weekend commonly falling the last week of August or the first week of September each year (Swiss Days): public parking will be allowed on any City street, alley, or roadway without cost or restriction; no person shall block, rope off or reserve parking on public streets; and no person shall park any vehicle so as to block or interfere with a private driveway or entrance into public property.

B. On the Thursday, Friday, or Saturday of the Labor Day Weekend commonly falling the last week of August or the first week of September each year (Swiss Days), residents who have no private driveway and throughout the year park in the City right of way in the area fronting their residence may receive a parking permit from the City, upon request, to reserve parking in front of their residence. The City may set reasonable standards governing the use of such parking permits.

(2011-11, Chapter Replaced, eff. 12/15/2011)

Section 7.05.040 Flea Markets and Swap Meets

A. As used in this Title, the terms "flea market" or "swap meet" shall be synonymous.

B. “Flea market” or “swap meet” shall mean an event or activity coordinated and held at one general location during which two or more individuals or entities display or offer their goods or services for sale or exchange by direct communication with consumers.

C. No person shall operate a flea market or swap meet or similar activity within the Midway City limits except pursuant to the provisions of Section 7.05.010, Festival Market Business Licenses.

D. The provisions of this Section do not apply to authorized and licensed temporary events held on the public property known as the Town Square.

(2012-16, Section Added, eff. 07/11/2012)

7.05.050 Periodic Sale of Prepared Food by Mobile Vendors

A. Purpose and Definitions:
1. This section is enacted to allow periodic sale of prepared food by mobile vendors pursuant to the standards and policies set forth herein. Unless authorized by this section, the sale of prepared food by mobile vendors in Midway City is prohibited.
2. The definition of “prepared food” contained in the Utah Sales and Use Tax Act shall govern this section.
3. “Mobile vendor” shall mean a person or entity that sells prepared food from a vehicle that is not permanently affixed to the site of sale and can be readily transported to and from that site. Vehicles used by such mobile vendors are often commonly referred to as “food trucks” and may be so referenced in this section.

B. Standards and Policies: A currently-licensed business with a physical, commercial presence on a parcel of land located in the C-2 or C-3 zones of Midway City may allow sales of prepared food on that parcel by a mobile vendor in accordance with the following standards and policies:
1. Sales may take place on any day except for days on which food will be sold at a special event to be held on City property.
2. Food trucks operating under this section must be located in a safe and appropriate location, which may include in the public right-of-way, as determined by the City Planner.
3. Preparation, serving and storage of food is subject to inspection and approval by the Wasatch County Health Department.
4. Any equipment or appliances used by the food truck must comply with City ordinances regulating noise.
5. The sale of prepared food by mobile vendors is subject to collection and payment of sales tax in the same manner as any other prepared food sold in Midway City.
6. The holder of the permanent business that is licensed at the location where the food sales occur is responsible to ensure compliance with this section. The City assumes no responsibility for any contractual or legal relationships between the business license holder and the operator of the food truck.
7. The City reserves the right to immediately regulate, modify or terminate the sale of prepared food by a mobile vendor, with or without prior notice, if necessary to protect the public, health, safety or welfare or to abate a nuisance.

8. No alcoholic beverages or tobacco products may be sold or served from a food truck.
9. The provisions of this section allowing sale of prepared food by mobile vendors may be amended or repealed at any time by the City Council.

C. Licensing Procedures: In order to allow the sale of prepared food by a mobile vendor at an existing business location in the C-2 or C-3 zones, the business license holder must comply with the following procedures:
1. File an application with the Midway City Planning Office identifying the date, time and location of the proposed food truck event, the name of the proposed vendor, and other required information required by the City, no later than the close of City office hours three business days before the proposed event.
2. Pay a one-time fee for a single event, or an annual fee for the calendar year, in an amount set from time to time by the City Council.
3. Submit a site plan with the application showing the proposed location of the food truck on the parcel. Location and placement of the food truck will be subject to review and modification by the City Planner for safety and access purposes.

D. Catering
1. Catering is allowed in all zones but there shall be no direct sales to clients from the mobile vendor. No City permit is required for catering under this section, however, Health Department permitting may be required.

E. Food Trucks on City Property.
1. Food Trucks (mobile vehicles selling prepared food on a temporary basis) may be allowed on City Property upon the following terms and conditions:
(a) The renter of public property shall apply for and receive a temporary permit to operate a Food Truck on City Property. No Food Truck shall be operated on City Property without a valid temporary permit.
(b) The temporary permit shall only be granted when the entire parcel of City Property (i.e. Town Square, Centennial Park or the Hamlet Park) has been rented as part of part of a larger event or gathering. The organizer of the event must rent the entire Park or Town Square, or one of the buildings on Town Square in order for a temporary permit described herein to be issued.
(c) Food Trucks are not allowed to operate on City Property if no larger event has been properly scheduled and permitted.
(d) The temporary permit shall be issued via administrative approval. The temporary permit may be issued based on conditions as approved by the Midway City Staff.
(e) An application for a temporary permit under this subsection shall be submitted on the form provided by the City. The application shall include an administrative fee covering the cost of reviewing and enforcing the permit. The applicant shall include a description of the Food Truck(s) that will be participating, a description of the event in which the Food Truck will participate, and a simple site plan showing the proposed location of the Food Truck, hours of operation, safety issues, access and traffic circulation around the Food Truck area, etc. The City shall impose reasonable restrictions on the location, hours of operation and other issues in order to promote the safety, health and well-being of the attendees at the event, the surrounding property owners, and the public at large.
(f) Food trucks operating under this section must be located in a safe and appropriate location, which may include in the public right-of-way, as determined by the City Planner.

(g) All Food Trucks operating under a temporary permit issued pursuant to this subsection shall comply with all other applicable City, County or State requirements, including all Wasatch County Health Department requirements.

(2016-10, Section Added, eff. 05/11/16; 2020-11, Section Amended, eff. 7/15/20)

CHAPTER 7.06 TRANSIENT LODGING UNITS

Section 7.06.010 Purpose
Section 7.06.020 Definitions
Section 7.06.030 Rental Period of Lodging Unit
Section 7.06.040 Commercial Lodging Facility
Section 7.06.050 Transient Lodging Unit Rental
Section 7.06.060 License of Transient Lodging Unit
Section 7.06.070 Unit License Application Procedure
Section 7.06.080 Physical Requirements of Transient Lodging Rental Units
Section 7.06.090 Usage Requirements of Transient Lodging Rental Units
Section 7.06.100 Revocation of Transient Lodging Unit License
Section 7.06.110 Transient Lodging Unit Manager
Section 7.06.120 Application to Obtain License as Transient Lodging Unit Manager
Section 7.06.130 Standards for Transient Lodging Unit Manager
Section 7.06.140 Duties of Transient Lodging Unit Manager
Section 7.06.150 Revocation of Transient Lodging Unit Manager License
Section 7.06.160 Business License Fees

Section 7.06.010 Purpose

The City Council of Midway City hereby makes the following findings:

A. Midway City is a small rural community that attracts many visitors. Our vision is that Midway City "be a place where citizens, businesses and civic leaders are partners in building a city that is family-oriented, aesthetically pleasing, safe, walk able and visitor friendly." We welcome visitors; we are pleased to have them come. Our resort and lodging establishments are valued and we appreciate all they contribute to our community.

B. There are many single and multi-family vacation homes and condominiums in Midway. Transient rental of some of these units provide a community benefit by expanding the number and type of lodging facilities available and assists owners of vacation homes by providing revenue which may be used for maintenance, upgrades and deferred costs.

C. Transient rental of homes and condominiums and individually owned units associated with commercial lodging establishments has, on occasion, created problems for City staff and the City's permanent residents. The City has been called upon to respond to complaints involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking and accumulations of refuse at transient rental units.

D. It has become necessary for Midway City to address transient rental of single family and multifamily homes, and individually owned units within, or associated with, commercial lodging establishments, to forestall future problems and provide an equitable balance of private and public interests.

E. Due to its limited resources and staff, the City must often rely on third parties (resorts, inns and property management firms) for assistance in the enforcement of this Chapter to maintain civic peace and tranquility for the benefit of both citizens and visitors.

Section 7.06.020 Definitions:

A. Commercial lodging facility. A motel, hotel, resort, bed and breakfast inn, or other facility, the operation of which is governed by the resort provisions of this code and/or a conditional use permit or development agreement issued by the City which allows, among other things, the rental of a lodging unit or units for periods of more or less than 48 hours.

B. Commercial lodging unit. A lodging unit located in a commercial lodging facility and which is wholly owned by said commercial lodging facility, the rental of which lodging unit is subject to the terms of a conditional use permit or a development agreement issued by the City for the commercial lodging facility.

C. Commercial lodging unit rental. The rental of a commercial lodging unit located in a commercial lodging facility for periods of more than or less than 48 hours. Commercial lodging unit rental is governed primarily by the conditional use permit or a development agreement issued for the commercial lodging facility (and other City ordinances as applicable), and not primarily by this Title.

D. Individually owned lodging unit. An apartment, condominium, house or other building or structure, or a room designed for human habitation not wholly owned by a commercial lodging facility.

E. Lodging unit. A house, apartment, condominium, or other building or structure or portion thereof, or a room designed for human habitation.

F. Owner. The person(s) or entity who possesses legal title to a lodging unit and/or possesses the legal right to allow entrance into the unit or to compel departure from the unit.

G. Transient lodging unit. A lodging unit which is rented for less than 30 days and which is not a commercial lodging unit.

H. Transient lodging unit manager. A person or entity designated by the owner of a transient lodging unit pursuant to this Title to manage the transient lodging unit in accordance with the terms of this and other applicable City ordinances.

I. Transient lodging unit owner. A person or entity who owns a transient lodging unit.

J. Transient lodging unit rental. The rental of a transient lodging unit located in the transient rental overlay district within the City. Transient lodging unit rental does not mean the rental of a commercial lodging unit located in a commercial lodging facility.
K. Transient rental overlay district. An additional district established by Midway City that may be more or less restrictive than one or more underlying primary zoning district(s). When a property is

located within an overlay district, it is subject to the provisions of both the primary zoning district and the overlay district. Where the provisions are in conflict, the overlay district governs.

Section 7.06.030 Rental Period of Lodging Unit

The rental of any lodging unit for a period less than twelve hours is prohibited in Midway City. A transient lodging unit may not be rented for a period less than 48 hours.

Section 7.06.040 Commercial Lodging Facility

A commercial lodging facility may not exist or operate unless pursuant to a conditional use permit or a development agreement issued by the City.

Section 7.06.050 Transient Lodging Unit Rental

A. Transient lodging unit rental may be conducted only in the transient rental overlay district within the City, and only pursuant to the terms of this Chapter. Transient lodging unit rental in the C-2, C-3 and Resort Zone (RZ) within the transient rental overly district is a permitted use. Transient lodging unit rental in any other zone within the transient rental overly district is a conditional use.

(2011-09, Sub-section Amended, eff. 12/15/2011; 2019-03, Sub-Section Amended, eff. 1/15/2019)

B. Whenever a lodging unit is rented for transient lodging purposes, the owner of the lodging unit is required to comply with all provisions of this Chapter.

C. The rental of any transient lodging unit within Midway City is prohibited unless conducted in compliance with the terms of this Title.

Section 7.06.060 License of Transient Lodging Unit

Prior to being rented as a transient lodging unit, and at all times while being rented or while being offered for rental, a transient lodging unit must be licensed as a transient lodging unit with Midway City.

Section 7.06.070 Unit License Application Procedure

The owner must provide the following information on the unit license application:

A. The name, street address, telephone and other contact information of the owner of the unit offered for transient rental.

B. The street address and telephone number of the rental unit.

C. Proof that all required health, building, and fire code inspections have been successfully completed.

D. A title report issued for the transient rental unit verifying ownership. For a new unit license application this report must have been issued within the past 30 days.

E. A schematic floor plan for the rental unit indicating all utility shut-off locations in case of emergency.

F. A statement granting Midway City the right to inspect the rental properties and authorize the entry of police or other emergency personnel in the case of an emergency.

(2010-03, Section Amended, eff. 5/26/2010)

Section 7.06.080 Physical Requirements of Transient Lodging Rental Units

In order for a lodging unit to receive and maintain a valid license as a transient lodging unit licensed by Midway City, the lodging unit must comply with the following physical requirements:

A. The transient rental is not specifically prohibited by zoning requirements or private development covenants, conditions, and restrictions (CC&R's) as a conditional use.

B. The Midway City Business License Officer has reviewed the application and has determined that the rental unit is in compliance with state and local health, building and fire codes. Inspection of the proposed rental by the appropriate inspector is required before this finding can be made by the Business License Officer. The applicant shall bear the cost of any such inspection, or any re-inspection, in accordance with the regular policies of each department.

C. If the structure and the layout of the unit are such that:
1. There is direct access to the public right of way such that trespass from the proposed rental unit onto adjoining private properties is not necessary to use the unit; or
2. The proposed rental unit is part of a multi-family structure and shares an access, hallway, common wall, or driveway with another dwelling.
Written consent of the owner(s) of the impacted dwellings is required prior to the initial application for a unit license. Written documentation of this permission shall be furnished with this application. Permission, once granted, shall be considered binding on the grantor and all successors and assigns so long as such dwelling is licensed as a transient rental unit in Midway City and such permission shall also be recorded at the office of the Wasatch County Recorder.

D. Lighting shall be shielded and operated in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from fixture surfaces, are directed away from an adjacent property and shall not detract from driver visibility on adjacent streets.

Section 7.06.090 Usage Requirements of Transient Lodging Rental Units

In order for a lodging unit to receive and maintain a valid license as a transient lodging unit licensed by Midway City, the lodging unit must comply with the following usage requirements:

A. Maximum overnight occupancy will be based on the number of designated bedrooms, with a limit of two occupants per bedroom plus two additional persons per residence up to a maximum overnight occupancy of 14 persons in any transient lodging unit. Designated bedrooms must meet all Midway City building and safety code standards.

B. The number of cars parked on site shall be limited to garage capacity plus two for each unit.

C. No on street overnight parking is permitted.

D. Visitor on street parking shall not result in an obstruction to traffic and pedestrian circulation or public safety.

E. Noise resulting from activities at the transient rental shall not intrude on adjoining properties by exceeding 55 dB at the property line between 11 p.m. and sunrise or exceeding 60 dB between 7 a.m. and 11 p.m. Violations of Midway City Code provisions regulating noise will not be permitted.

F. Transient rentals may not be converted to corporate sponsored or business houses which are used primarily to distribute retail products or personal services to invitees for marketing or similar purposes, regardless of whether such products or services are charged for.

G. Signs advertising transient lodging unit rental are prohibited.

H. No obscene or raucous activity, and no unsanitary or unsightly conditions, shall occur on the property.

I. All activities on the property must be conducted in a manner that does not disturb the peace or violate Midway City Code regulating nuisances.

Section 7.06.100 Revocation of Transient Lodging Unit License

The following are grounds for revocation of a transient lodging unit license:

A. Failure to maintain a licensed transient lodging unit manager for the property.

B. Any recurring activity on the property that disturbs the peace or violates the Midway City Code regulating nuisances.

C. Any activity on the property that violates State or Federal law or the Midway City Code or this Chapter.

D. Failure to collect and deposit all appropriate Midway City, Wasatch County and Utah State taxes.

E. Failure to renew the Midway City transient lodging unit license annually.

Section 7.06.110 Transient Lodging Unit Manager

The owner of a transient lodging unit, prior to allowing the unit to be rented as a transient lodging unit rental, and at all times while said unit is being so rented or is being offered as such a rental, shall designate and maintain a transient lodging unit manager for the transient lodging unit. The transient lodging unit manager shall have in force at all times a current and valid business license as a transient lodging unit manager and shall have for such business a valid business address and valid business office which is operating and in use and located within the C-2, C-3 or Resort Zones within Midway City.

Section 7.06.120 Application to Obtain License as Transient Lodging Unit Manager

The application to obtain a license as a transient lodging unit manager shall contain:

A. The name and address of the manager.

B. The Midway City street address for the manager and the street address of the office which will serve as the guest check-in and check-out location.

C. The office location must be in the C-2, C-3 or Resort Zones within Midway City.

D. The telephone number at which the manager is available 24 hours per day every day.

E. An appropriate Utah State tax collection account number, the address of which matches the Midway City street address of the check-in and check-out location that will assure that Midway City and Wasatch County receive all appropriate tax revenue. In no event shall any license authorized under this Section be effective until the tax account number is provided and verified by Midway City.

F. A list of all other licensed transient lodging rental units that the manager will manage.

G. Any other information deemed necessary by the Midway City business licensing official.

(2010-03, Section Amended, eff. 5/26/2010)

Section 7.06.130 Standards for Transient Lodging Unit Manager

A. The transient lodging unit manager must be available by telephone, or otherwise, 24 hours per day every day and must be able to respond to telephone inquiries immediately.

B. The manager shall also be designated as the agent for receiving and responding to all official communications from Midway City, Wasatch County, and the State of Utah required under this Section.

C. The manager must comply with all Midway City and Utah state laws, including state law provisions governing property management companies where applicable.

D. The manager must provide each year with the manager's license renewal application the following:

1. A list of all transient lodging units that the manager managed during the previous year.
2. A list of all transient lodging units that the manager will manage during the coming year.
3. All dates when each unit was rented during the previous one-year period (listed separately by date and by unit).
4. And the amount of rent that was charged for every rental during the previous one-year period (listed separately by date and by unit).

Section 7.06.140 Duties of Transient Lodging Unit Manager

Both the owner and the manager are responsible and liable to ensure that the following duties are performed by the manager:

A. Physically and in person check renters into and out of the unit at the beginning and ending of each rental.

B. Report any illegal conduct, or any other abuse, which violates any law regarding use of the premises. Midway City does not expect, nor desire, the owner or his or her agent to place themselves in harm's way. However, reporting and seeking assistance from qualified public agencies is required.

C. Provide adequate property maintenance services. The minimum services required include:
1. Structural maintenance to preserve substantial compliance with Midway City code as required.
2. Routine upkeep, including painting and repair to a level that is consistent with the level of maintenance on adjoining or nearby properties.
3. Trash collection which insures that adequate trash facilities are provided, that trash cans are not left at the curb for any period in excess of 24 hours and that the property is kept free from accumulated garbage and refuse.
4. Adequate housekeeping service to all rental units.
5. Snow removal during winter months to a level that allows safe access to the building over the normal pedestrian access to the unit.
6. Snow removal service to off-street parking facilities associated with the rental property so that off-street parking is at all times available for use of the occupants.
7. Summer yard maintenance, including landscaping, weed control, and irrigation to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties.

D. Provide emergency contact information to renters and describe appropriate emergency procedures.

E. Provide City access to the premises. Midway City has the right to inspect the rental properties at any time and authorize the entry of police or other emergency personnel in the case of an emergency.

F. Ensure that all required taxes are paid to Midway City, Wasatch County, and the State of Utah, as applicable.

G. The owner and manager may jointly authorize a person other than the manager to perform the duties required by this Section if the authorization is made in writing and signed by both the owner

and manager. Notwithstanding such authorization, the owner and manager shall continue to be responsible and liable for the fulfillment of the duties required by this Section.

Section 7.06.150 Revocation of Transient Lodging Unit Manager License

A transient lodging unit manager shall properly manage rental units fulfilling all the duties and responsibilities required by this Chapter. Failure to satisfy the conditions of this Chapter shall be grounds for forfeiture of the license and thereby the right to operate transient rentals. A party having lost a license may petition the City Council to have it reinstated after a period of at least six months.

Section 7.06.160 Business License Fees

The license fees for a transient lodging unit and a transient lodging unit manager shall be set by the City Council from time to time. The license fee for a transient lodging unit manager shall be based on the number of units the manager manages.

CHAPTER 7.07 SPECIAL EVENT LICENSE

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Section 7.07.010 Definitions

A. Applicant. The Applicant is the person, or group of people, who is the organizer who assumes the responsibility for conduct of the event. The Applicant signs the Special Event application and all other documents relevant to the event. The Applicant must be an actual person or persons, and not a corporation, corporate sponsor, business, or any other entity which is not an actual person.

B. Concession. A concession is a granted privilege to sell food, beverages, souvenirs, or copyrighted or logoed event memorabilia at a licensed event.

C. Fees. Charges assessed by Midway City for licensing, staffing, equipment use/rental, property use/rental, clean up, inspections, public employees, or public equipment assessed to an event and established within the event licensing process.

D. Licensee. The Applicant, as defined above, becomes the licensee when the Special Event License is signed by the Special Events Manager, upon meeting all the criteria in this Chapter. As the license holder, the licensee becomes the sole proprietor of the event and inherits the responsibilities connected with all licenses, fee assessments, copyrights, and insurance liabilities connected with the licensed event.

E. Private Property. Property other than public property owned by Midway City or any other government entity within Midway City limits.

F. Public Property. Property, including easements and rights of way, owned by Midway City.

G. Special Event. Special events are organized gatherings for a limited period of time for which licenses and permits are required and where large numbers of persons may gather or participate. Such events may include, but are not limited to parades, cultural programs, festivals, concerts, runs, walks, Town Square events, etc.

Section 7.07.020 Unlawful to Operate Without License

A. It is unlawful for any person to conduct a Special Event with or without charge for admission, on public property, or in some cases private property, without first applying for and being granted a Special Event License for the specific event and its venue(s). All licenses issued pursuant to this Title are non-transferrable and expire at the completion of the given event, or upon revocation, whichever is earlier.

B. Events on private property do not ordinarily need a Special Events license; only when the event requires a mass gathering permit or conditions listed in 7.07.050 A exist is a Special Events license required.

Section 7.07.030 Renewal of Licenses

Licensees under the provisions of the Chapter who successfully operate a Special Event under the provisions of this Chapter and who wish to have the event on an annual or periodic basis must renew each Special Event License as provided in this Chapter. Events which occur in series such as concerts falling under the criteria established in this Chapter must have a Special Event License which specifically authorizes each concert in performing on separate occasions.

Section 7.07.040 Special Event License Application Procedure

A. Application Submittal. Applications for Special Events shall be made in writing to the Special Events Manager. Application materials are available at the City offices and online, and must be completed and submitted to the Special Events Manager 75 days prior to the scheduled opening of any Special Event if City Council approval is needed, or 45 days prior to the event if administrative approval is needed, unless otherwise approved by the City Council or by the Special Events Manager, upon showing of good cause.

B. City Council Review.
1. The City Council of Midway City shall review only the following types of applications:
a. Applications for New Special Events that require a Mass Gathering Permit (estimated 500 or more attendees). As used herein, a New Special Event shall mean any Special Event being proposed for the first time, or a prior Special Event which was not renewed for a period exceeding one year.
b. Applications for Special Event license renewals that require a Mass Gathering Permit where material elements of the event have substantially changed from the previous application.
c. Appeals of administrative decisions made pursuant to this Section.
2. The City Council shall review applications for compliance with the standards for license approval described in this Section as follows:
a. Staff Review and Recommendation. Upon receipt of a complete Special Event License application and accompanying fee, City staff shall review the application for compliance with this Chapter. Staff shall subsequently return a copy of the application to the Applicant with comments and a recommendation, i.e. approve as is, approve with changes and/or conditions, or cause for denial. Incomplete applications will be returned to the Applicant and noted accordingly. Following review of

the Special Event License application and notice to the Applicant, the Special Event Manager shall schedule the application for a public hearing before the City Council.
b. City Council Hearing. Special Event applications requiring City Council review and appeals of administrative Special Event decisions shall be heard at a duly noticed public hearing of the City Council. The noticing requirement shall be fulfilled by a notice in a paper of general local circulation seven days prior to the hearing. The City Council shall review the application for compliance with the standards set forth in this Chapter, and shall record its decision with written findings of fact, conclusions of law, and conditions of approval, if applicable. Written notice of the City Council's decision shall be delivered to the Applicant within ten days of the date of decision.

C. Administrative Review.
1. The Special Event Manager shall review and shall have the authority to administratively approve, approve with conditions, or deny:
a. Applications for Special Events that do not require a Mass Gathering Permit (estimated less than 500 attendees).
b. Special Event Licenses that require a Mass Gathering Permit where material elements of the event have not substantially changed from the previously approved applications.
2. Upon receipt of a complete Special Event License application and accompanying fee, the Special Event Manager shall review the application for compliance with this Chapter. Following review of the application, the Special Event Manager shall record his/her decision with written findings of fact, conclusions of law, and conditions of approval, if applicable, and deliver written notice of such decision to the Applicant. Any Applicant whose application has been administratively denied may appeal the decision to the City Council by filing a written request to the Special Event Manager within ten days of the date of decision. The City Council shall hear the matter de novo (over again) and with public hearing.

D. The Special Event Manager shall report all events to the City Council, the Wasatch County Sheriff's Department and Wasatch Tourism and Development Director.

Section 7.07.050 Standards for License Approval

A. Applications for Special Events shall be reviewed for compliance with the standards provided herein. The Special Event Manager or City Council may prohibit or restrict any Special Event whenever any of the conditions enumerated in this Chapter is found likely to occur, unless the event is modified to eliminate said conditions.
1. The conduct of the event will substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its venue.
2. The conduct of the event will require the diversion of so great a number of police, fire or other essential public employees from their normal duties as to prevent reasonable police, fire or other public services protection to the remainder of the City/County.
3. The concentration of persons or vehicles will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health and safety services.

4. The event will substantially interfere with any other Special Event for which a license has already been granted or with the provision of City services in support of other such events or governmental functions.
5. Where applicable, the Applicant fails to provide the following:
a. The services of a sufficient number of traffic controllers, signs or other City required barriers or traffic devices.
b. Monitors for crowd control and safety.
c. Safety, health or sanitation equipment and services or facilities reasonably necessary to ensure that the event will be conducted without creating unreasonable negative impacts to the area and with due regard for safety and the environment.
d. Adequate off-site parking and traffic circulation in the vicinity of the event.
e. Required insurance, cash deposit, or other security.
f. Any other services or facilities necessary to ensure compliance with City noise, sign or other applicable ordinance(s).
g. The Applicant has not obtained the applicable approval of any other public agencies including the Wasatch County Fire District, Wasatch County Sheriff's Department, Wasatch County Health Department, the Midway City Building Official or Midway City Planning Department, within whose jurisdiction the event or a portion thereof will occur.
6. The event may create the imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
7. The Applicant demonstrates inability or unwillingness to conduct the event pursuant to the terms and conditions of this Chapter or has failed to conduct a previously authorized event in accordance with the law or the terms of a license or both.

B. Applications for Special Events shall comply with the following standards.
1. No animals or pets of any kind, except service animals where appropriate, are allowed on City property or to be a part of any Special Event.
2. Midway City prohibits any tobacco products, alcoholic beverages or controlled substances on City property. Licensee will be responsible for any violations of these provisions during the Special Event. Violations may result in immediate termination of event.
3. A site plan of the event is required with the application identifying street closures, signs, supply trucks, barricades, tents, activity location, portable toilets, bleachers, other temporary structures, water stations, headquarters, solid waste containers, entrance exits, walkways and any other details that would assist the Public Works Staff with understanding the setup of the event. For bikes, runs, walks, and parades, a site plan outlining the route must be submitted along with the Special Event Permit application. If the event will generate additional traffic, or interrupt existing traffic on any city street, a traffic control plan outlining necessary street closures or additional law enforcement is required before a Special Event Permit will be issued. If amplified sound is used a site and management plan is also required.

Section 7.07.060 Conflicting License Applications

A. No more than one Special Event shall be approved for the same date(s) unless the Special Event Manager or City Council finds that the events will not adversely impact one another and that concurrent scheduling of the events will not adversely impact the public health, safety and welfare. In

making this determination, the Special Event Manager or City Council will apply the following criteria:
1. Geographic separation of the events.
2. Proposed time and duration of the events.
3. Anticipated attendance volumes.
4. Necessity for public personnel, equipment and/or transportation services at the events; and
5. Anticipated traffic and parking impacts.

B. When more than one Special Event application is received for the same date(s), and the Special Event Manager finds that:
1. The events will adversely impact one another; or
2. Concurrent scheduling of the events will adversely impact the public health, safety and welfare, and the Special Event Manager shall resolve the conflict as provided herein.

C. The Special Event Manager shall first attempt to reach an agreement among the conflicting Applicants to modify the applications in order to resolve the conflicts and accommodate the public interest. If no voluntary agreement is reached, then the Special Event Manager shall resolve the issued based on the following order or priorities:
1. Historic usage: a Special Event where the same Applicant has been granted a license under this Chapter for use of a particular City forum at a particular date, time and place for more than three consecutive years.
2. Events planned, organized or presented by state, federal or City governmental entities or their agents shall have priority over conflicting applications if:
a. the application is timely filed and processed by the City.
b. said governmental application is made in good faith and not with the effect or purpose of improperly chilling constitutional rights of conflicting Applicants; and
3. If neither subsection one or two resolves the conflict, then the first-in-time application shall be given priority.

D. The conflicting Applicant shall be advised of other open dates on the City events calendar.

Section 7.07.070 Licenses, Permits and Approvals Necessary for a Special Event License

The Applicant/licensee shall provide to the Special Event Manager as a condition precedent to a valid Special Event License proof of:

A. A receipt acknowledging that all application fees have been paid.

B. A valid building permit, as applicable, for any temporary structure constructed under the provisions of a Special Event License.

C. The licensee must obtain all permits, as applicable, and must pass all inspections including fire, health and building inspections.

D. Approvals, as applicable, from Utah Department of Transportation, Wasatch County Sheriff's Office, Wasatch County Fire Department and Midway City Planning or Building Department.

E. Temporary concessions on public property may be approved in conjunction with a Special Event at the sole discretion of the City. Such concessions must be directly related to the event and meet a demonstrated need of participants. The applicant must obtain a Midway City business license. Where food is sold a temporary food permit from the Wasatch County Health Department must be obtained by each food concessionaire. All concessions must pay all applicable city, state and federal taxes.

Section 7.07.080 Fees to be Assessed

A. First-time Special Event applications and renewal applications shall be assessed a fee as set by the City Council from time to time. Application fees are due and payable upon submission of a completed application. Applications shall be considered incomplete unless and until the application fee is paid in full. All other fees are due 10 days prior to the event or as required.

B. City Service Fees. Upon receipt of a Special Event application, the Special Event Manager will provide the Applicant with an estimate of fees based on estimated costs for City services arising from the event, including but not limited to the use of City personnel and/or equipment, permits, inspections and user fees. A final assessment of City costs will occur upon completion of the Special Event.

C. Financial Security. The Special Event Manager is authorized to require an Applicant to post a cash deposit or other security accepted by the Legal Department for all estimated contingent costs prior to the issuance of a Special Event License, as a guarantee against fees, damages, clean up, or loss of public property.

D. Loss of Deposits. Failure to adhere to the rules and regulations stated will result in immediate closure of the event and forfeiture of all financial security deposits.

Section 7.07.090 Insurance Requirements

When submitting an application for a Special Event, applicants shall provide proof of liability insurance in the amount of at least $1,000,000 per occurrence/$2,000,000 aggregate as may be required by the Special Event Manager or the City Attorney and shall further name Midway City as an additional insured. All Applicants shall further indemnify the City from liability occurring at the event, except for any claim arising out of the sole negligence or intentional torts of the City or its employees. Midway City requires all certificates of insurance to be submitted on a standard ACORD form, or on the insurance company's letterhead. Event must have its own insurance in its own name and not go under the umbrella of another policy.

(2011-02, Section Amended, eff. 3/9/2011)

Section 7.07.100 Runs, Walks, Biking Event, Parade, etc.

Runs, walks, biking, parades, street fairs, concerts, Town Square events, and public demonstrations shall be considered a Special Event and must first be licensed under this Title.

Section 7.07.110 Criminal Penalty

Any person who willfully violates any provision of this Chapter shall be guilty of a Class B misdemeanor. Persons conducting Special Events without having first obtained a Special Event License are subject to arrest and the event is subject to closure.

Section 7.07.120 Enforcement

A. Notice to Cure. If the Special Event Manager or any sworn law enforcement officer determines that the conditions of any license issued pursuant to this Chapter have been or are being violated, then notice shall be given to the licensee, sponsor or designated organizer's representative of the Special Event to cure the violation.

B. Failure to Cure. It is unlawful for the licensee, sponsor or on-site organizer's representative of an authorized Special Event to fail to take reasonable steps to promptly cure any notice of violation in the Chapter. It is also unlawful for any participant or spectator to fail to comply with the lawful directions issued by the Special Event Manager or a sworn law enforcement officer. Any violation of this section is grounds for suspension or revocation of the license and/or immediate termination of the event.

Section 7.07.130 Non-Transferability

The Special Event licenses granted under this Chapter are not transferable without the written consent of the Mayor. If any transfer of the controlling interest in a license occurs without City approval, the license is immediately null and void and the event shall not operate until a separate new license has been properly issued by the City as herein provided. The City will not unreasonably withhold consent of transfer provided the proposed licensee is a non-profit organization within Midway City, meets all criteria of this Chapter and demonstrates experience managing Special Events.

Section 7.07.140 Events at Outdoor Music Areas

A. Purpose. It is the purpose and object of this Section that the City establish reasonable and uniform regulations governing the licensing and manner of operations of public outdoor music areas in Midway City. This Section shall be construed to protect the legitimate and important governmental interests recognized by this Section in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. These regulations are designed to provide for the regulation and licensing of public outdoor music areas within the City in a manner which will protect the property values of surrounding businesses, neighborhoods and residents from the potential adverse secondary effects, while providing to those who desire to perform in and patronize public outdoor music areas the opportunity to do so. These regulations are also designed to prevent and control the adverse effects of public outdoor music areas and thereby to protect the health, safety and welfare of the citizens and guests of Midway City, protect the citizens from increased noise, and preserve the quality of life. This Section imposes regulatory standards and license requirements on certain activities, which are characterized as "public outdoor music areas". It is not the intent of this Section to suppress any speech activities protected by the First Amendment to the United States Constitution and the Constitution of the State of Utah, but to impose content-neutral regulations which address the adverse secondary effects of public outdoor music areas. This Section is intended to supersede any

other related ordinances for the specific purposes set forth herein, including but not limited to Title 5 Chapter 5.02.010 (Noise) of the Municipal Code.

B. Definitions
1. Amplified Event or Music. An event or music utilizing an amplifier or other input of power so as to obtain an output of greater magnitude or volume through speakers or other electronic devices.
2. Stages. Stages are considered the raised platforms that are designed to attenuate sound, or as otherwise approved by the Special Events Manager.

C. Licensing
The public outdoor music areas identified in this Section may be scheduled for public performances and outdoor music, subject to the regulations and conditions of this Section and subject to the Special Event licensing provisions contained elsewhere in this Chapter. This Section is intended to be supplemental to the Special Event licensing provisions of this Chapter.

D. Time, Place and Manner Regulations
1. The following locations, dates and times may be scheduled for public performances and outdoor music as follows:
a. Block 10, commonly known as the Town Square. Programming, including any amplified sound, shall begin no earlier than 8a.m. and conclude no later than 9 p.m. unless special arrangements are approved in advance. Scheduling of this area shall not conflict with any City sponsored or duly licensed Special Event as approved by the Special Events Manager, including but not limited to dates reserved for Swiss Days.
b. Other locations as recommended by the Special Events Manager and approved by the City Council.
2. Event Management.
a. The licensee or his/her designee, shall provide on-site management for each event.
b. A sound technician shall provide on-site noise monitoring for each event with music, amplified or otherwise.
c. For amplified events, the licensee shall be responsible to ensure that the sound system maintains the sound at a maximum decibel level of 90 as measured 25 feet in front of the stage and any speakers.
d. All music events require a Special Event License.
e. The Sheriff's Department or other proper City official shall have access at all times to all public outdoor music areas under this Section, and may make periodic inspection of said premises whether the deputy or official is in uniform or plain clothes.
f. All events shall take place only on authorized stages and shall have clean-up services directly following each event so as to leave the area in a clean and litter free manner.
g. No tobacco products, alcoholic beverages or controlled substances are allowed on City property. The licensee is responsible for any violations of these policies during the event. Violations may result in immediate termination of the event and forfeiture of financial security deposits.

E. Responsibility
1. The licensee is responsible for general management of each public outdoor music area and on-site oversight for each event.
2. The licensee shall schedule events in accordance with the regulations set forth in this Chapter. The licensee shall at all times hold the City harmless and indemnify the City from all claims, actions and

liability arising from the licensee's use of the public outdoor music area. The licensee shall maintain liability insurance, with the City listed as an additional insured in a form approved by the City Attorney.

3. Nothing in this Chapter shall be interpreted to create a contract or implied contract between the City and any performer or licensee.

(2010-29, Chapter Added, eff. 10/27/2010)