



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: December 21, 2021
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Title 7.01.180

ITEM: 8

Midway City is proposing an amendment to Section 7.01.180 Sale from Vehicles, Temporary Structures, or Lots Prohibited. This proposal would clarify existing language that prohibits sales from vehicles, temporary structures, and lots. It would also add a list of restrictions and requirements for a valid retail business to engage in a “sidewalk” or “lawn” sale.

BACKGROUND:

The proposed code text amendment to Section 7.01.180 Sale from Vehicles, Temporary Structures, or Lots Prohibited would clarify existing language that prohibits sales from vehicles, temporary structures, and lots. It would also add a list of restrictions and requirements for a valid retail business to engage in “sidewalk” or “lawn” sales.

For several years, but especially over the past three years there have been inquiries about temporary stands, such as firework stands, and yard sales on properties along Man Street. The current doe prohibits sales, in almost every situation, from vehicles, temporary structures, and lots unless a valid business license has been issued. Because of the repeated inquiries and requests, staff is proposing the following language to be as clear as possible that temporary sales are not allowed and under what regulations a permanent business may sale their own products outside their commercial building:

The proposed adjustments help promote the vision, goals and objectives as described in the main Street chapter of the General Plan.

Main Street Vision

Midway's Main Street is the heart of the City and is a reflection of its residents. As the City grows, this main corridor has great potential to provide a public gathering place for residents and tourists to interact and coexist with one another. Future development in this area should integrate harmoniously along with the existing historic buildings, to create a lively and comfortable district. The area will cater to the pedestrian experience and incorporate access to open space such as plazas, street furniture, pocket parks, and trails. Architecture, characterized by a Swiss/European influence, should be used to create a unique identity that suits both the people and the surroundings of Midway.

GOAL 1: The most powerful and lasting image associated with Midway is Main Street so we need to preserve Main Street as the economic, architectural, and historical heart of the community which is a destination for residents, tourists, and visitors.

Objective 1: This commercial core should be developed as a distinctive shopping and business area emphasizing it as an attractive meeting place.

POSSIBLE FINDINGS:

- The proposed language more clearly states that temporary sales from vehicles, temporary structures, and lots is not prohibited.
- The General Plan describes a beautiful Main Street characterized by a Swiss/European influence. It would be difficult to assure that temporary sales would promote this vision.
- The proposed language states under what regulations a permanent business can have "sidewalk" or "lawn" sales.

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council finds that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings

2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again

3. Denial. This action can be taken if the City Council finds that the proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial



Midway
ORDINANCE
2021-36

**AN ORDINANCE TO AMEND SECTION 7.01.180 OF THE
MIDWAY CITY MUNICIPAL CODE TO PROHIBIT
RETAIL SALES FROM VEHICLES, LOTS, OR
TEMPORARY STRUCTURES.**

WHEREAS, pursuant to Utah Code Section 10-9a-509 the Midway City Council may formally initiate proceedings to amend city ordinances; and

WHEREAS, the Midway City Council desires to clarify that it is unlawful for merchants to engage in retail sales within the City without a valid retail business license; and

WHEREAS, the Midway City Council desires to prohibit retail and/or merchandise sales from vehicles, temporary structures, parking lots, or other parcels of land unless the sale qualifies as an on-site agricultural sale as established in City Code Section 16.13.49; and

NOW THEREFORE, be it ordained by the City Council of Midway City, Utah, as follows:

The following Section of **Chapter 7.01** shall be amended to read as follows:

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

It shall be unlawful for a merchant without a valid retail business license to engage in retail sales within Midway City. All retail business licenses shall be issued for a specific and permanent retail location that has been inspected and approved for retail sales. Sale of any merchandise from a vehicle, temporary structure, parking lot, or parcel of land is strictly prohibited unless the sale qualifies as an on-site agricultural sale in residential zones as established in Title 16 of Midway City Code.

This provision shall not prohibit merchants holding a valid retail business license from engaging in “sidewalk” or “lawn” sales at their designated location of business if the following restrictions and requirements are met:

1. The business must hold a current and valid "retail business" license that included at the time of issuance an inspection of the premises for purposes of affirming the location complies with applicable building and parking standards established by Midway City code.
2. No external sales booths, tents, racks, structures or goods may be placed on any existing parking stall or within a designated parking lot used by the retail business.
3. Third party vendors are strictly prohibited from engaging in any "retail sales" around, on or in any licensed retail business within Midway City. Those merchants holding a valid retail business license who allow third party vendors to violate this clause while on or within the licensed premises shall be subject to the possible suspension or even termination of their "retail business" license.
4. For purposes of accurately accounting for and paying applicable sales tax, and to assure no third-party vendors are violating City Code, all sales transacted in the outside sales booths shall be required to run through the cash register of the licensed retail business.
5. For purposes of this section, a licensed Retail Business is one which sells goods at retail directly to the consumer, dedicates at least 75% of its floor space for display and sale of goods, and pays a minimum of \$1,500.00 in sales tax annually.

This provision does not prohibit the sale of merchandise from authorized "booths" at "Swiss Days", with the understanding that booth approval for Swiss Days falls under Section 7.05.010 Festival Market Business Licenses.

This ordinance shall take effect upon publication as required by law.

[Signature Page Follows]

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this ____ day of December, 2021.

	AYE	NAY
Council Member Steve Dougherty	_____	_____
Council Member Jeff Drury	_____	_____
Council Member Lisa Orme	_____	_____
Council Member Kevin Payne	_____	_____
Council Member JC Simonsen	_____	_____

APPROVED:

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM:

Corbin Gordon, City Attorney

(SEAL)