

ORDINANCE NO. 9270

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", CHAPTER 10, "SIDEWALK SALES AND SELLING FROM FIXED LOCATIONS", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO MAKE COMPREHENSIVE REVISIONS TO THE REGULATION OF SIDEWALK SALES AND SELLING FROM FIXED LOCATIONS WITHIN THE CITY OF MIDLAND; SETTING FORTH REQUIREMENTS FOR ISSUANCE OF CERTIFICATES, PERMITS, AND LICENSES; PROVIDING FOR A FEE OF ONE HUNDRED DOLLARS (\$100.00) FOR FIXED LOCATION PERMITS AND LICENSES; PROVIDING FOR IMPOUNDMENT UPON FAILURE TO COMPLY WITH AN ORDER TO CEASE OPERATION; SETTING FORTH APPEAL PROCEDURES; NEGATING AND DISPENSING WITH THE CULPABLE MENTAL STATE REQUIREMENT; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

WHEREAS, the City Council finds it to be in the public interest to make certain amendments to the Midland City Code regarding the regulation of sidewalk sales and selling from fixed locations; and

WHEREAS, the City Council finds that a fee of One Hundred Dollars (\$100.00) is less than or equal to the cost to the City of processing application materials and regulating a vendor doing business at a fixed location for one year; and

WHEREAS, the City Council finds that the public health, safety, and general welfare will be best served by such amendments;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:

SECTION ONE. That the Midland City Code Title V, "Business Regulations", Chapter 10, "Sidewalk Sales and Selling from Fixed Locations", shall hereby be amended to read in its entirety as follows:

5-10-1. SIDEWALK SALES.

(a) An individual or business organization shall, prior to conducting a sidewalk sale, file with the Chief of Police a sworn application on a form furnished by the Chief of Police which shall contain the following information:

- (1) Description of the business and the name of the owner or manager of such business;
- (2) Name, description, local address, and business telephone number of such applicant, including local business address;
- (3) Length of time such applicant has maintained a place of business within the corporate limits of the City;
- (4) Name, local address, and telephone number of each employee, servant, and agent who will participate in the sidewalk sale;
- (5) A signature line for the owner and authorized representative of the subject property;
- (6) The address at which the goods are to be sold; and
- (7) The entire length of time for which the right to do business is desired.

(b) If the applicant meets the requirements for a sidewalk sale certificate, the Chief of Police shall issue said certificate to said applicant upon the payment of a fee of \$4.00 by the applicant, and no further fee, permit, or license under this Chapter shall be required. Notwithstanding anything in this Section, an individual who maintains a retail business location which conforms to zoning regulations may conduct, at that business location, the sale of the following seasonal items:

- (1) Christmas trees, from November 15 through December 25, inclusive;
- (2) Pumpkins, from October 1 through November 30, inclusive;
- (3) Firewood, from October 1 through March 1, inclusive; and
- (4) Potted plants, trees, shrubbery, sod, mulch, fertilizer, seed and other plant material items, from April 1 to September 1, inclusive, provided that such

items are not placed or stored in any area normally designated for parking or vehicular traffic.

(c) A sidewalk sale certificate holder shall not be required to obtain a new certificate for each subsequent sidewalk sale unless the certificate has expired. However, the sidewalk sale certificate holder shall notify the City Manager in writing before conducting a sidewalk sale. Said notification shall specify the location and duration of the sidewalk sale.

(d) If a sidewalk sale certificate holder hires or otherwise procures the service of an employee, servant, or agent who was not identified on the application, the sidewalk sale certificate holder shall submit the employee's, servant's, or agent's name, local address and telephone number in writing to the Chief of Police before the employee, servant, or agent participates in a sidewalk sale.

(e) An individual who is physically present at a sidewalk sale and who displays or assists with the display of goods, transfers or assists with the transfer of goods, prepares food, serves food, handles money, or otherwise exercises care, custody, or control over goods, food, or money in connection with a sidewalk sale, shall be presumed to be conducting a sidewalk sale, or if another individual or business organization holds a sidewalk sale certificate in connection with the sidewalk sale, shall be presumed to be an agent of the sidewalk sale certificate holder.

(f) A certificate shall be issued to any person who applies for said certificate and who otherwise meets the requirements of this Chapter. Said person may apply for a certificate for each employee, servant, and agent engaged in said business.

(g) A person shall not conduct a sidewalk sale that lasts longer than three days, and a person shall not conduct a sidewalk sale at the same location until 15 days have passed since the end of the last sidewalk sale.

(h) All individuals and business organizations who have maintained a legal place of business within the corporate limits of the City of Midland for at least twelve months

preceding the date of the sidewalk sale may conduct a sidewalk sale at the business location only with a sidewalk sale certificate.

5-10-2. PERMIT AND LICENSE REQUIRED IF SELLING FROM A FIXED LOCATION.

(a) A person who desires to do business from a fixed location, without traveling from place to place, shall make application for a permit and a license from the City of Midland Code Administration Division to do business at a fixed location. Said permit and license shall be valid for a one-year term. For each vending vehicle or trailer that an applicant desires to operate within the City of Midland, the applicant shall pay a fee of One Hundred Dollars (\$100.00). No permit or license shall be issued for the operation of such business in a fixed location in zoning districts AE, Agricultural-Estate District through MF-2, Multiple-Family Dwelling District, as enumerated in Title XI, "Zoning Regulations," Chapter 1, "Zoning," of this Code.

(b) An individual or business organization shall, prior to conducting business from a fixed location, file with the Code Administration Division a sworn application on a form furnished by the Code Administration Division which shall contain the following information:

- (1) Description of the business and the name of the owner or manager of such business;
- (2) Name, description, local address, and business telephone number of such applicant, including local business address;
- (3) Length of time such applicant has maintained a place of business within the corporate limits of the City;
- (4) Name, local address, and telephone number of each employee, servant, or agent who will participate in the operation;
- (5) A signature line for the owner and authorized representative of the subject property;
- (6) The address at which the goods are to be sold; and

(7) The entire length of time for which the right to do business is desired.

(c) An applicant for a permit and license under this Section shall satisfy the following conditions:

(1) Submit to the City of Midland Police Department a current Texas Comptroller Sales Tax Certificate and a current Federal Tax Identification Certificate (EIN Certificate), and obtain a vendor's clearance letter from the Police Department following a criminal background check that reveals no final conviction for a felony or a crime involving moral turpitude within the previous five years;

(2) For each location at which an applicant wishes to operate, submit to the Code Administration Division an approval letter from the location's property owner of record according to the records of the Midland Central Appraisal District;

(3) Submit to the Code Administration Division copies of the vendor's clearance letter, current Texas Comptroller Sales Tax Certificate, current Federal Tax Identification Certificate (EIN Certificate), and, if applicable, a City of Midland Health Department Mobile Food Vendor permit; and

(4) For each location at which an applicant wishes to operate, obtain a permit and license from the Code Administration Division prior to conducting business at that location.

(d) If a vendor who holds a permit and license under this Section hires or otherwise procures the service of an employee, servant, or agent who was not identified on the vendor's application, the vendor shall submit the employee's, servant's, or agent's name, local address and telephone number in writing to the Code Administration Division before the employee, servant, or agent participates in the operation.

(e) A vendor who holds a permit and license under this Section and an employee, servant, and agent of the vendor:

- (1) Shall display the permit in a visible location on the vendor's equipment;
- (2) Shall operate from a paved surface, and not on vacant, unimproved property;
- (3) Shall not provide or allow off-street customer parking unless the area designated for off-street customer parking is paved;
- (4) Shall conduct business from the fixed location only between the hours of 7:00 a.m. and 10:00 p.m.;
- (5) Shall not leave a vending vehicle, trailer, equipment, or merchandise at the fixed location between the hours of 10:00 p.m. and 7:00 a.m.;
- (6) Shall provide covered trash receptacles in conjunction with the vendor's operation while the vendor is conducting business, shall be responsible for the disposal of all trash collected in the receptacles, and shall remove the receptacles when the vendor leaves the fixed location;
- (7) Shall not provide tables or seating for customers at the fixed location;
- (8) Shall attach all signage to the vending vehicle or trailer, shall comply with all statutes, ordinances, rules, and regulations applicable to the signage, and shall not display free-standing signs, banners, flags, or similar objects;
- (9) Shall, if the vendor is a food vendor, possess a current City of Midland Health Department Mobile Food Vendor permit; and
- (10) Shall, if the vendor is food vendor who cooks at the fixed location, cook only within the vending vehicle or trailer, and, prior to cooking, receive the Midland Fire Department's approval of the cooking equipment.

(f) An individual who is physically present at a fixed location and who displays or assists with the display of goods, transfers or assists with the transfer of goods, prepares food, serves food, handles money, or otherwise exercises care, custody, or control over a vending vehicle, trailer, equipment, goods, food, or money in connection with business at the fixed location shall be presumed to be conducting

business from the fixed location, or if another individual or business organization holds a permit and license in connection with the operation under this Section, shall be presumed to be an agent of the holder of the permit and license.

(g) A licensed and Health Department-approved food vendor who desires to conduct business within the designated Texas Avenue right-of-way directly adjacent to Centennial Plaza or Tennessee Avenue right-of-way directly adjacent to the Midland County Courthouse, located on Block 42, Homestead Addition, shall obtain a permit from the Building Official in the Code Administration Division, 4th Floor, City Hall, to conduct business for up to one business week beginning on Monday and ending on Saturday; however, sanctioned special events in Centennial Plaza may alter this schedule. A vendor may not obtain a permit for successive weeks. There shall be a maximum of three vendors allowed per business week at Centennial Plaza. The permit can be obtained beginning Monday of the week prior to vending from Centennial Plaza or the Tennessee Avenue right-of-way. Business hours shall be from 7:00 a.m. to 10:00 p.m. Equipment shall be removed each day and the space shall be cleaned. The mobile equipment used at this location must be inspected and receive approval from the Building Official prior to obtaining a permit. The inspection shall ensure the equipment is in acceptable physical condition and appearance.

(h) A licensed and Health Department-approved mobile food vendor may conduct business from a delineated parking space in a City of Midland right-of-way, except in zoning districts AE, Agricultural-Estate District through MF-2, Multiple-Family Dwelling District, as enumerated in Title XI, "Zoning Regulations," Chapter 1, "Zoning," of this Code, provided that the vendor obtains a permit from the Code Administration Division for On-Street Parking Vending. A mobile food vendor seeking to obtain a permit under this subsection shall indicate the duration of the proposed vending operation on the vendor's permit application. A mobile food

vendor conducting business under this subsection and the vendor's employees, servants, and agents:

- (1) Shall display the permit in a visible location on the vendor's equipment;
- (2) Shall legally park in the delineated space and adhere to all parking statutes, ordinances, rules, and regulations applicable to the space;
- (3) Shall not park or operate from a parking space within 5 parking spaces in each direction from an entrance to a restaurant or from a parking space adjacent to Centennial Plaza or the Midland County Courthouse;
- (4) Shall not conduct business within the travel or parking portion of the street, or in such a manner that results in an obstruction or interference with travel or parking;
- (5) Shall not block the use of any sidewalk and shall insure that a width of at least four feet of sidewalk remains passable at all times;
- (6) Shall not leave a vending vehicle, trailer, equipment, or merchandise on the street between the hours of 10:00 p.m. and 7:00 a.m.;
- (7) Shall provide covered trash receptacles in conjunction with the vendor's operation while the vendor is conducting business, shall be responsible for the disposal of all trash collected in the receptacles, and shall remove the receptacles when the vendor leaves the site;
- (8) Shall not provide tables or seating for customers at the site; and
- (9) Shall attach all signage to the vending vehicle or trailer, shall comply with all statutes, ordinances, rules, and regulations applicable to the signage, and shall not display free-standing signs, banners, flags, or similar objects.

(i) It is an affirmative defense to prosecution under this Section that:

- (1) The defendant was engaged in the business of selling ice cream from an ice cream truck which traveled from place to place;

(2) The defendant was a licensed mobile food vendor traveling from place to place rather than operating from a fixed location; or

(3) The defendant held an annual seasonal permit from the Code Administration Division and was operating a Snow Cone Stand that:

(A) Was located on a lot or parcel that was not within zoning districts AE, Agricultural-Estate District through MF-2, Multiple-Family Dwelling District, as enumerated in Title XI, "Zoning Regulations," Chapter 1, "Zoning," of this Code;

(B) Was the only Snow Cone Stand located on the lot or parcel;

(C) Had maximum dimensions of ten feet by twenty feet (10' × 20');

(D) Was occupied only temporarily, seasonally during the months of April through September, and was stored in an area away from its normal place of business operation during off-season periods;

(E) Was wired in conduit;

(F) Had a minimum of fifteen feet (15') between the Snow Cone Stand and any other structure, and a minimum of fifteen feet (15') between the Snow Cone Stand and any lot line other than a lot line adjacent to a street or alley; and

(G) Had adequate rest room facilities readily available on the premises.

(j) An individual engaging in business by virtue of a valid permit and license obtained under the provisions of this Section shall be allowed to display, sell, and store goods, merchandise, commodities, and other wares in the open, outside of a building, for the temporary period stated in such permit and license to the extent that such display, sale, and storage are not prohibited by the provisions of this Chapter, notwithstanding the provisions of Title XI, "Zoning Regulations," of this Code prohibiting such open display, sale and storage in certain zoning districts.

5-10-3. APPLICATION FOR BACKGROUND CHECK; FEE FOR INVESTIGATION.

(a) A person who applies for a permit and license under this Chapter shall first pay to the Chief of Police a fee of four dollars (\$4.00), which is reasonably related to the cost of conducting a criminal background check, and file with the Chief of Police a sworn application in writing on a form to be furnished by the Chief of Police, which shall provide all of the following information:

- (1) Name and description of the applicant;
- (2) Permanent home address and full local address of the applicant, including the local business address if applicable;
- (3) A brief description of the nature of the applicant's business and the goods to be sold;
- (4) If the applicant is employed, the name and address of the applicant's employer, together with credentials establishing the exact relationship;
- (5) A statement as to whether or not the applicant has been convicted of a felony or crime involving moral turpitude;
- (6) A copy of a current Texas Comptroller Sales Tax Certificate and a current Federal Tax Identification Certificate (EIN Certificate); and
- (7) If the applicant is a food vendor, a current City of Midland Health Department Mobile Food Vendor permit.

(b) Upon submission of the sworn application to the Chief of Police, the Police Department shall conduct a criminal background check of the applicant. If the criminal background check reveals that the applicant has not been finally convicted of a felony or a crime involving moral turpitude within the five years preceding the application, then the Chief of Police shall issue to the applicant a vendor's clearance letter.

5-10-4. APPEALING A DENIAL OR REVOCATION OF A PERMIT, LICENSE, OR CERTIFICATE.

(a) Upon the denial or revocation of a permit, license, or certificate under this Chapter, the official who denied or revoked the permit, license, or certificate shall provide to the applicant or vendor written notice of the right to appeal described in this Section.

(b) Any applicant or vendor aggrieved by an action of the Chief of Police, Building Official, or Code Administration Division official in the denial or revocation of a permit, license, or certificate as provided in this Chapter may appeal this action by submitting to the City Manager, within 14 days after notice of the action complained of has been mailed to such applicant's or vendor's last known address, a written request for a hearing setting forth fully the grounds for the appeal.

(c) If a person requests a hearing under this Section, a hearing shall be held before the City Manager within five business days of the date that the request is received, at a time to be determined by the City Manager, and notice of the hearing shall be given to the appellant.

(d) The purpose of the hearing shall be to determine whether an action of the Chief of Police, Building Official, or Code Administration Division official resulted in the improper denial or revocation of a permit, license, or certificate under this Chapter.

(e) If an appellant completed and submitted a sworn application and fee to the Chief of Police under Section 5-10-3 and was denied a permit, license, or certificate solely due to the denial of a vendor's clearance letter by the Chief of Police, then evidence that the appellant was not finally convicted of a felony or crime of moral turpitude within the five years preceding the application shall be prima facie evidence that the action of the Chief of Police resulted in the improper denial of the permit, license, or certificate.

(f) If an appellant was denied a permit and license solely due to the appellant's failure to pay the fee required under Section 5-10-2(a), then evidence of the appellant's inability to pay the fee shall be prima facie evidence that the action of a Code

Administration Division official resulted in the improper denial of the permit and license.

(g) The City Manager shall issue a written decision and order within 48 hours following the hearing. The decision and order of the City Manager shall be final and conclusive.

(h) If, after considering the evidence, the City Manager finds that an action of the Chief of Police, Building Official, or Code Administration Division official did not result in the improper denial or revocation of a permit, license, or certificate under this Chapter, then the City Manager shall affirm the denial or revocation and order that the permit, license, or certificate shall remain denied or revoked.

(i) If, after considering the evidence, the City Manager finds that an action of the Chief of Police, Building Official, or Code Administration Division official resulted in the improper denial or revocation of a permit, license, or certificate under this Chapter, then the City Manager shall overrule the denial or revocation and order that the permit, license, or certificate shall be issued or reinstated. If the City Manager finds that the appellant cannot afford the fee required under Section 5-10-2(a), the City Manager may reduce the fee to an amount that he or she finds the appellant can afford, down to zero dollars (\$0.00), and order the issuance of a permit and license upon the appellant's payment of the reduced fee to the Code Administration Division.

5-10-5. EXPIRATION OF PERMIT, LICENSE, AND CERTIFICATE.

A permit, license, and certificate issued under the provisions of this Chapter shall expire on the date specified on the permit, license or certificate. The date of expiration specified on a permit, license, or certificate shall be no more than twelve (12) months after the date on which the permit, license, or certificate was issued.

5-10-6. TRANSFER OF PERMIT, LICENSE, AND CERTIFICATE PROHIBITED.

(a) A person to whom a permit, license, or certificate was issued shall not allow another to use the permit, license or certificate.

(b) A person shall not use a permit, license, or certificate issued under the provisions of this Chapter at any time except the person to whom it was issued.

5-10-7. HEALTH PERMIT REQUIRED.

An individual who offers for sale to the public food in any form not in the original package shall, before a license, permit, or certificate is issued to him or her under this Chapter, obtain a Mobile Food Vendor permit from the Health Officer. Said individual shall comply with all provisions enumerated in Title VIII, "Food Establishments, Health and General Sanitation," Chapter 4, "Mobile Food Vendors," of this Code.

5-10-8. ENFORCEMENT.

Officers and inspectors of the Police Department, Fire Department, Health Department, and Code Administration Division shall enforce the provisions of this Chapter.

5-10-9. FAILURE TO CEASE OPERATION AND IMPOUNDMENT.

(a) An individual who operates in violation of this Chapter shall cease operation immediately upon discovery of the violation and not restart operation until the violation is corrected. When an officer or inspector of the City of Midland Police Department, Fire Department, Health Department, or Code Administration Division identifies a violation of this Chapter and orders an individual to cease operation, the individual shall cease operation immediately and shall not restart operation until the violation is corrected. If an individual fails to cease operation immediately upon the order of an officer or inspector of the City of Midland Police Department, Fire Department, Health Department, or Code Administration Division, or subsequently restarts operation before correcting the violation, then a peace officer employed by the City of Midland Police Department shall impound, or direct the impoundment of, the vending vehicle, trailer, equipment, and merchandise used by the individual in the operation.

(b) Upon impoundment, the peace officer shall provide written notice of the right to appeal described in Section 5-10-10 to the vendor identified in the permit, license, or

certificate issued for the operation. If the vendor is not present at the time of impoundment, or if no permit, license, or certificate was issued for the operation, the peace officer shall provide the notice to the individual who failed to cease operation.

(c) The impounded vending vehicle, trailer, equipment, and merchandise shall be returned to the vendor upon the vendor's payment of the appropriate impound fees.

5-10-10. APPEALING AN IMPOUNDMENT.

(a) A vendor whose vending vehicle, trailer, equipment, or merchandise is impounded under Section 5-10-9 may appeal this action by submitting to the City Manager within five business days after impoundment a written request for a hearing.

(b) If a vendor requests a hearing under this Section, a hearing shall be held before the City Manager within five business days of the date that the request is received, at a time to be determined by the City Manager, and notice of the hearing shall be given to the appellant.

(c) The purpose of the hearing shall be to determine:

(1) Whether the vendor or the vendor's employee, servant, or agent operated in violation of this Chapter;

(2) Whether an officer or inspector of the City of Midland Police Department, Fire Department, Health Department, or Code Administration Division ordered the vendor or the vendor's employee, servant, or agent to cease operation; and

(3) Whether the vendor or the vendor's employee, servant, or agent failed to cease operation immediately, or subsequently restarted operation before correcting the violation.

(d) The City Manager shall issue a written decision and order within 48 hours following the hearing. The decision and order of the City Manager shall be final and conclusive.

(e) If, after considering the evidence, the City Manager finds (1) that the vendor or the vendor's employee, servant, or agent operated in violation of this Chapter, (2) that an

officer or inspector of the City of Midland Police Department, Fire Department, Health Department, or Code Administration Division ordered the vendor or the vendor's employee, servant, or agent to cease operation, and (3) that the vendor or the vendor's employee, servant, or agent failed to cease operation immediately, or subsequently restarted operation before correcting the violation, then the City Manager shall affirm the impoundment and order that the impounded vending vehicle, trailer, equipment, and merchandise shall remain impounded until the vendor pays the appropriate impound fees.

(f) If, after considering the evidence, the City Manager finds (1) that the vendor and the vendor's employees, servants, and agents operated in compliance this Chapter, (2) that an officer or inspector of the City of Midland Police Department, Fire Department, Health Department, or Code Administration Division did not order the vendor or an employee, servant, or agent of the vendor to cease operation, or (3) that the vendor or the vendor's employee, servant, or agent immediately ceased operation and did not subsequently restart operation before correcting the violation, then the City Manager shall overrule the impoundment, order the release of the impounded vending vehicle, trailer, equipment, and merchandise to the vendor, and direct the City to pay the appropriate impound fees.

5-10-11. OFFENSE; PENALTY; AFFIRMATIVE DEFENSES; JUDICIAL NOTICE.

(a) Any person, corporation, or association who shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not to exceed \$500.00. Each day on which the violation shall exist shall constitute a separate and distinct offense. Evidence of a culpable mental state is not required to prove a criminal offense under this Chapter. It is hereby declared that, for all offenses under this Chapter, the culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.

(b) If a defendant is accused of operating while not holding a permit, license, or certificate required by this Chapter, it is an affirmative defense to prosecution that:

- (1) The defendant properly applied for the required permit, license, or certificate;
- (2) The defendant completed and submitted a sworn application and fee to the Chief of Police under Section 5-10-3;
- (3) The defendant was denied the required permit, license, or certificate solely due to the denial of a vendor's clearance letter by the Chief of Police; and
- (4) The defendant was not finally convicted of a felony or crime of moral turpitude within the five years preceding the submission of the application.

(c) If a defendant is accused of failing to display a permit in a visible location on equipment as required by this Chapter, it is an affirmative defense to prosecution that:

- (1) The defendant, or the person for whom the defendant acted as an employee, servant, or agent, possessed a valid permit of the type that was required to be displayed; and
- (2) The defendant, or the person for whom the defendant acted as an employee, servant, or agent, subsequently displayed the permit in a visible location on the equipment.

(d) The City of Midland Municipal Court upon its own motion may, or upon the motion of a party shall, take judicial notice of:

- (1) This Chapter;
- (2) All records of the Midland Central Appraisal District;
- (3) All records of Midland County, Texas; and
- (4) All records of the City of Midland, Texas.

SECTION TWO. The provisions of any ordinance which are inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding five hundred dollars (\$500.00) pursuant to State law. The definition of all offenses under this ordinance does not require a culpable mental state. The definition of all offenses under this ordinance plainly dispenses with any mental element as authorized by Section 6.02 of the Texas Penal Code. It is hereby declared, that for all offenses under this ordinance, that the culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 22nd day of April, A.D., 2014; and passed to second reading on motion of Council member Love, seconded by Council member Lacy, by the following vote:

Council members voting "AYE": Hotchkiss, Love, Sparks, Morales, Dufford, Lacy

Council members voting "NAY": None

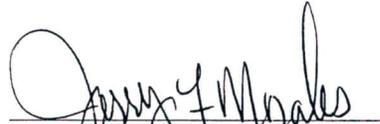
The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Love, seconded by Council

member Lacy, on the 6th day of May, A.D., 2014, at a regular meeting of the City Council:

Council members voting "AYE": Hotchkiss, Love, Sparks, Morales, Lacy

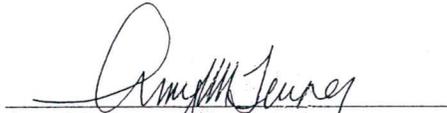
Council members voting "NAY": None

PASSED AND APPROVED THIS 6th day of May, A.D., 2014.



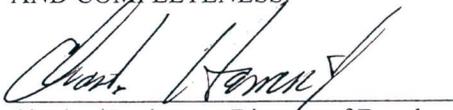
Jerry F. Morales, Mayor

ATTEST:



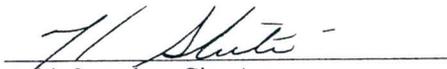
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:



Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:



Keith Stretcher, City Attorney