

ATTACHMENT #15

**NEW MIDLAND TX SPECIAL EVENT
PERMIT ORDINANCE**

(15 Pages)

ORDINANCE NO. 9108

AN ORDINANCE AMENDING TITLE X, "TRAFFIC REGULATIONS", CHAPTER 1, "GENERAL TRAFFIC REGULATIONS", SECTION 2, "PERMIT REQUIRED FOR PARADES AND PROCESSIONS", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CLARIFY THE PERMITTING PROCESS AND OTHER REGULATIONS RELATED TO SPECIAL EVENTS; CONTAINING A PROCESS FOR APPEALING THE DENIAL OF A PERMIT; CONTAINING A CUMULATIVE CLAUSE AND EXPRESSLY REPEALING ANY ORDINANCE OR PORTION THEREOF IN CONFLICT WITH THIS ORDINANCE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00) AND NOT REQUIRING A CULPABLE MENTAL STATE; ESTABLISHING AN EFFECTIVE DATE OF MARCH 1, 2013; AND ORDERING PUBLICATION

WHEREAS, the City Council desires to protect the health and safety of special event participants and spectators;

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

SECTION ONE. That Title X, "Traffic Regulations", Chapter 1, "General Traffic Regulations", Section 2, "Permit required for parades and processions" of the City Code of Midland, Texas, shall hereby be amended to read as follows:

10-1-2 Permit Required for Special Events.

A. Definitions

- (1) **Special Event** - The term Special Event shall hereafter be defined as follows: any Parade, Race, Block Party, Festival or any event requiring the temporary closing or blocking of any public street, alley or sidewalk, or any combination thereof. The term Special Event shall not include funeral processions or City-sponsored special events as evidenced by a resolution approved by the Midland City Council.
- (2) **Parade** - The term Parade means any march, motorcade, or procession consisting of people, animals, vehicles of any type, or a combination thereof, upon any public street, alley or sidewalk or combination thereof, which does not comply with normal and usual traffic regulations or controls or requires the temporary blocking or temporary closing of any street, alley or sidewalk.
- (3) **Race** - The term Race means a competition or series of competitions of speed or endurance between humans, motorized or other vehicles, animals or a

combination thereof over a specified course or distance. The term also includes organizational walks and walks for fundraising or public awareness. The term also includes bicycle races or bicycle events for fundraising or public awareness.

- (4) **Block Party** - The term Block Party means a social or recreational gathering for which any public street, alley or sidewalk, or any combination thereof, is temporarily closed within an area zoned for or predominantly used as residential and in which some of the participants reside within the area of the street closure or are guests of such a resident.
- (5) **Festival** - The term Festival means a social or recreational gathering for which any public street, alley or sidewalk, or any combination thereof, is temporarily closed within an area both zoned and used for commercial or industrial use, or within downtown Midland.

B. Violation

No person shall participate in a Special Event that violates the terms of the permit required under this section or participate in a Special Event without the consent of the permittee or interfere in any manner with its progress or orderly conduct.

C. Permit Required

It is unlawful for any person to conduct or participate in any Special Event upon any public street, alley or sidewalk without a Special Event Permit issued by the City Manager. Applications for the Special Event Permit, as specified in this ordinance, shall be provided by the City Manager. An application for a Special Event shall be made not less than Thirty (30) days before the scheduled time for the Special Event and shall be accompanied by a non-refundable Fifty Dollar (\$50.00) Application Fee and a refundable Two-Hundred Fifty Dollar (\$250.00) Clean-up and Damage Fee.

D. Form of Application

The application for the Special Event permit shall be made in writing, on a form provided by the City Manager, as follows:

**CITY OF MIDLAND
SPECIAL EVENT APPLICATION**

Before any Special Event (The term "Special Event" means any Parade, Race, Block Party, Festival or any event requiring the temporary closing or blocking of any public street, alley or sidewalk, or any combination thereof) may be considered, this Special Event Application must be completed. Before a request can be considered for approval, the City Manager must:

1. Verify with the Planning Division (685-7400) if a Temporary Land Use Permit or other permit is also required. (y)___ (n)___ Planning Division signature: _____
Date: _____
2. Secure clearances and have authorized signatures in all designated areas of this Application prior to executing a Special Event Permit.
3. Complete or require an event map indicating the location or route of the Special Event

and other event logistics, as listed below.

4. The applicant must submit the completed Application and event map to the City Manager's Office at least **30 DAYS prior to the scheduled time for the Special Event.** The applicant may mail the completed application form to the City Manager, PO Box 1152, Midland, Texas, 79702, or return the Application to Room 310, City Hall, 300 N. Loraine Street, Midland, Texas, 79701.

5. The City Manager shall collect a refundable \$250.00 deposit for damages or the cleaning of any streets, alleys or sidewalks, before processing this Application.

6. The City Manager shall collect a non-refundable \$50.00 application fee before processing this application

Contact the City Manager at 685-7202 with any questions.

EVENT NAME: _____ **Est. # of Participants:** _____

SPONSORING ORGANIZATION: _____

CONTACT PERSON: _____ **ADDRESS:** _____
Phone No.:(h) _____ **(w)** _____ **(m)** _____

Event Date(s): _____ **Hours:** _____

(List approximate times when the event will assemble: _____

start: _____ **and terminate:** _____.)

LOCATION: _____

(Attach map of event area showing parking, dumpsters, tents, booths, stages, fences, barricades, etc. Applicant shall show proposed assembly area, route, disbanding area, the number and type of vehicles and or animals, the number of persons expected to participate, a general description of the organization of the Special Event and any other information the City Manager may deem reasonably necessary for the safety of event participants and the general public.)

Will the event be held on Midland County grounds? (y)__(n)___

If yes, please be aware that the use of Midland County property requires written permission from the County Commissioner's Court, the use of Sheriff Deputies for security on Midland County property, and may require additional clean-up and damage deposit fees.

DESCRIPTION OF ANY TENT, TEMPORARY STRUCTURES OR FENCING: _____

NO. OF RESTROOMS OR PORTABLE TOILETS PROVIDED: _____

CLEAN-UP/DAMAGE DEPOSIT: A \$250.00 clean-up or damage deposit is required for all Special Events; the total amount or a portion of which may be refunded following City inspection of the site of the Special Event. Also see above note regarding use of Midland County property.

SECURITY PLAN (No. Of City and/or County security officers): _____

PARKING PLAN: _____

(Attach written approval from the landowners, as needed)



.....
THE FOLLOWING SECTIONS MUST BE SIGNED BY AUTHORIZED STAFF. NO DEPARTMENT HEAD SHALL SIGN THIS FORM UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE HAS BEEN APPROVED BY THE CITY ATTORNEY'S OFFICE.
.....

I. CITY ATTORNEY'S OFFICE

The City of Midland requires that all Special Event applicants maintain at their sole expense Comprehensive General Liability Insurance covering their Special Event. The Commercial General Liability Insurance policy limits shall not be less than a Combined Single Limit for Bodily Injury, Property Damage, Accidental Death, and Personal Injury Liability of \$2,000,000.00 per occurrence and \$2,000,000.00 aggregate. The Commercial General Liability Insurance policy shall have a deductible that does not exceed \$10,000.00 per occurrence and must name the event sponsor as the insured. The Commercial General Liability Insurance shall be on a claims occurred basis. **The Commercial General Liability Insurance policy shall name the City of Midland as an Additional Insured. The Commercial General Liability Policy shall waive all rights of subrogation against the City of Midland.** The applicant must provide a Certificate of Insurance with this application which clearly indicates that all stated requirements have been met.

ADDITIONAL REQUIREMENTS: _____

COMMENTS: _____

_____ **DATE:** _____

Authorized Signature

Title

II. DEPT. OF ENGINEERING SERVICES

REQUESTED STREET CLOSING: _____

REQUIRED BARRICADES, CONES, OR OTHER CONTROLS: _____

COMMENTS or RECOMMENDATIONS: _____

_____ **DATE:** _____

Authorized Signature

Title

III. POLICE DEPARTMENT

ARE OFF-DUTY POLICE OFFICERS NEEDED? (y)__(n)___

If yes, how many? _____ Location? _____

COMMENTS or RECOMMENDATIONS: _____

_____ DATE: _____

Authorized Signature

Title

IV. COMMUNITY SERVICES DEPARTMENT (Complete this section if a City Park will be used)

PARK PROPERTY LOCATION: _____

FENCING IS AVAILABLE FOR RENT TO USE IN PUBLIC PARKS.

REQUESTED?(y)__(n)___

COMMENTS or RECOMMENDATIONS: _____

_____ DATE: _____

Authorized Signature

Title

V. HEALTH DEPARTMENT

WILL FOOD BE SERVED?(y)__(n)___ WILL PUBLIC RESTROOMS BE AVAILABLE (y)__(n)___ AMOUNT? _____ WILL PORT-A-POTTIES BE PROVIDED? (y)__(n)___

AMOUNT? _____

COMMENTS or RECOMMENDATIONS: _____

_____ DATE: _____

Authorized Signature

Title

VI. FIRE DEPARTMENT

IS AN OPEN FLAME, TENT, OR OTHER FLAMMABLE ITEM PLANNED?(y)__(n)___

IS A SITE INSPECTION REQUIRED PRIOR TO EVENT?(y)__(n)___

ARE CROWD MANAGERS/FIRE WATCH PERSONNEL REQUIRED?(y)__(n)___

If yes, How many? _____ Location? _____

ARE PARAMEDICS NEEDED?(y)__(n)___

If yes, how many? _____ Location? _____

COMMENTS or RECOMMENDATIONS: _____

_____ DATE: _____

Authorized Signature

Title

VII. SOLID WASTE DEPARTMENT

HAS CITY PICK-UP OF REFUSE BEEN SCHEDULED?(y)__(n)___

COMMENTS or RECOMMENDATIONS:_____

DATE:_____

Authorized Signature

Title

SUMMARY OF THE SPECIAL EVENTS APPLICATION REQUIREMENTS

- () Have you attached a map of the Special Event, particularly relating to closing of streets for a Parade, Race, party or assembly of a crowd in the street?
- () Have you verified with the Planning Division whether or not a Temporary Land Use Permit or other permit is also required?
- () Have you contacted the City of Midland Traffic, Police, and Legal representatives to determine proper barricade, security and insurance requirements? Such representatives of the City must sign this application.
- () Have you contacted a private barricade company to determine when and where the barricades will be set, along with necessary traffic markings?
- () If alcoholic beverages are to be sold, have you acquired a temporary permit as is required from the Texas Alcoholic Beverages Commission (TABC)?
- () Have you received and included Midland County approval as needed if any portion of your event will take place on County property?
- () If you need assistance contacting the State of Texas or the railroad company, please contact the Traffic Engineer.
- () Have you mailed or returned this application - completed and including a map - to the City Manager, PO Box 1152, Midland, Texas, 79702, at least 30 days prior to the Special Event?

E. Form of Permit

The Permit for the Special Event, if granted, shall be made in writing, on a form provided by the City Manager, as follows:

**CITY OF MIDLAND
SPECIAL EVENT PERMIT**

Permittee: _____

sponsoring organization

By: _____
title

Type of special event: _____

Does the Special Event include the consumption of alcoholic beverages? (y)___ (n)___

The City of Midland hereby extends this Permit to the above named Permittee to hold the Special Event described above on City of Midland right of way at the location as shown on the site plan, attached hereto as exhibit "A" and on the following dates and times: _____

Permittee acknowledges that the City of Midland may unilaterally revoke this Permit at any time. In consideration herefor, the Permittee agrees to the following conditions:

1. INDEMNITY - PERMITTEE WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY NEGLIGENT ACT OF PERMITTEE, ITS AGENTS OR EMPLOYEES, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE SPECIAL EVENT DESCRIBED ABOVE, AND PERMITTEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

PERMITTEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, TEXAS, AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY PERSONAL INJURIES, ACCIDENTAL DEATH OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF THE CITY OF MIDLAND, CITY'S OFFICERS, AGENTS, AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH PERMITTEE OR PERMITTEES EMPLOYEES, OR AGENTS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE SPECIAL EVENT DESCRIBED ABOVE AND PERMITTEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES INCLUDING ATTORNEY'S FEES.

2. INSURANCE - Permittee agrees to maintain, at Permittee's sole expense, Commercial General Liability Insurance covering the Special Event contemplated herein. Commercial General Liability Insurance policy limits shall not be less than a Combined Single Limit for Bodily Injury, Property Damage, Accidental Death, and Personal Injury Liability of \$2,000,000.00 per occurrence and \$2,000,000.00 aggregate. The Commercial General Liability Insurance policy shall have a deductible that does not exceed \$10,000.00 per occurrence and must name the Special Event sponsor as the insured. The Commercial General Liability Insurance shall be on a claims occurred basis. The Commercial General Liability Insurance policy shall name the City of Midland as an Additional Insured. The Commercial General Liability Policy shall waive all rights of subrogation against

the City of Midland. The Permittee must provide a Certificate of Insurance which clearly indicates that all stated requirements have been met.

3. LIQUOR LIABILITY INSURANCE - In the event that alcoholic beverages will be consumed in the right of way set forth in exhibit "A" during said Special Event, the Permittee shall carry legal liquor liability insurance from an insurance carrier licensed to do business in the State of Texas in the amount of \$500,000.00 which shall be in effect on each day of operation of the Special Event. A certificate of insurance setting forth the amount and type of such insurance shall be submitted to the City Attorney prior to the issuance of this Permit. The certificate of insurance shall name the event sponsor as the insured and shall further name the City of Midland, Texas, as an additional insured. The liquor liability insurance shall be on a claims occurred basis.

4. BARRICADES - To properly barricade the right of way described in exhibit "A" in accordance with the requirements set forth in the Texas Manual on Uniform Traffic Control Devices and any instructions issued by the City's Traffic Engineer.

5. SECURITY - To provide _____ number of certified peace officers at the special event during all hours the special event is being held.

6. COMPLIANCE WITH APPLICABLE LAWS - Permittee shall, at all times during the Special Event contemplated herein, comply with applicable federal, state, and local laws regarding Licensee's activities pursuant to this Agreement, including but not limited to all applicable sections of the Municipal Code of Midland, Texas, as may be amended, said sections being hereby incorporated by reference and made a part of this Agreement for all legal purposes. Failure to abide by any such law mentioned herein constitutes grounds for the immediate termination of this Agreement.

7. RELEASE - NOTWITHSTANDING ANY OTHER PROVISIONS, PERMITTEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES THE CITY OF MIDLAND, ITS EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH PERMITTEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR THE CITY OF MIDLAND'S NEGLIGENCE.

8. CONSIDERATION - The Permittee and the City of Midland acknowledge that this Permit is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

9. CONTRACT - The Permittee acknowledges and agrees that this Permit shall constitute a written contract between the City and the Permittee.

10. NOT A CONTRACT FOR GOODS OR SERVICES - The Permittee and the City agree that this Special Event Permit is not and shall not be construed as being a written contract for providing goods or services to the City of Midland as defined in Chapter 271 of the Texas Local Government Code.

11. Applicant and all participants shall be subject to the following conditions:

(A) All materials used in the construction of any floats shall be subject to requirements concerning fire safety as may be determined by the City Manager or his designee;

(B) The Permittee shall advise all participants in the Special Event, either orally or by written notice, of the terms and conditions of the Permit prior to the

- (C) commencement of the Special Event;
No participant in the Special Event may deviate from the Special Event route as it is described in the permit application;
- (D) The Parade shall continue to move at a fixed rate of speed not exceeding ten miles per hour and any delay or stopping by any participant in the Parade, except when reasonably required for the safe and orderly conduct of the Parade, shall constitute a violation of the permit; and
- (E) Any other requirements found by the chief of police to be reasonably necessary for the protection of persons or property.

12. OTHER PROVISIONS - _____

This Permit does not relieve the Permittee from the obligation of observing all applicable ordinances of the City of Midland, Texas.

SIGNED AND ISSUED this ___ day of _____, 20__.

CITY OF MIDLAND, TEXAS

By: _____
City Manager

NOTARY AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, personally appeared _____, known to me, and on oath stated that he executed the foregoing document for the purpose and considerations therein expressed as an act and deed of the City of Midland, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of _____, 20__.

Notary Public, State of Texas

PERMITTEE:

By: _____

NOTARY AFFIDAVIT

**STATE OF TEXAS §
 §
COUNTY OF MIDLAND §**

BEFORE ME, the undersigned authority, personally appeared _____, known to me, and on oath stated that s/he executed the foregoing document for the purpose and considerations therein expressed as an act and deed of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of _____, 20__.

Notary Public, State of Texas

F. Issuance

The City Manager shall issue a Special Event Permit to the Special Event chairman, unless the City Manager notifies the chairman in writing that:

- (1) The date; times when the Special Event will assemble, start or terminate; route; location of the assembly area; location of the disbanding area; or size of the Special Event will disrupt to an unreasonable extent the movement of other traffic;
- (2) The parade is of a size or nature that it requires the diversion of so great a number of police officers to properly police the line of movement and the areas contiguous thereto, that allowing the parade would deny reasonable police protection to the rest of the city;
- (3) The parade will interfere, with regard to proposed route, police supervision or other material factors, with another parade for which a permit has been issued; or
- (4) The information contained in the application is found to be false or incorrect in any material respect.

G. Assistance to Un-permitted Special Event

In the event of any Special Event without a permit as is required by this section, no City of Midland employee, while on duty or acting within the course and scope of his employment, shall participate in, escort, assist or in any way whatsoever aid said un-permitted Special Event. Further, no City of Midland employee, whether or not said employee is on duty or acting within the course and scope of his employment, shall use or allow to be used any equipment owned by the City of Midland, including but not limited to City-owned vehicles, barricades and other traffic control devices, or City-owned uniforms, to assist in the operation of said un-permitted Special Event in any way whatsoever.

H. Copies

Immediately upon the issuance of a Special Event Permit, the City Manager shall send a copy thereof to the following:

- (1) The Police Chief;
- (2) The Fire Chief;
- (3) The Director of Engineering Services; and
- (4) The Traffic Engineer.

I. Parking on Special Event Route

The Chief of Police is hereby authorized, whenever in his judgment it is necessary, to prohibit or restrict the parking of vehicles along a street or that part thereof constituting a part of the route of a Special Event, and to erect temporary traffic signs to that effect. It shall be unlawful to park or leave unattended any vehicle in violation of such signs.

J. Driving through Processions

No driver of a vehicle shall drive between the vehicles comprising a procession (funeral procession, City-sponsored special event or Special Event as defined by this ordinance) while said procession is in motion. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

K. Railroad Crossing and State Highway Crossing

The City Manager shall not issue any Special Event Permit for any Special Event proposed to cross over any railroad tracks. No Special Event Permit shall be granted wherein the proposed route for said Special Event crosses or uses a Texas State Highway until the applicant shows that they have contacted and received permission from the appropriate state officials to do so. The City Manager may issue Special Event Permits where the proposed route crosses under the railroad tracks on Texas State Highway 349 ("Big Spring Street") only if applicant shows permission from the appropriate state official. Only the City Council may issue Special Event Permits wherein the proposed route crosses through or on a railroad crossing. The City Council shall not consider an appeal regarding the denial of a Special Event Permit where the proposed route crosses through or on a railroad crossing until the applicant shows that they have contacted the appropriate Railroad officials and shows proof that they have received permission to cross through or on a railroad crossing from said officials.

L. Revocation

A Special Event Permit issued under this section may be revoked by the City Manager if a violation of any condition of the permit occurs or if, because of disaster, public calamity, riot or other emergency, the City Manager determines that the safety of the public requires revocation. Notice of the revocation shall be delivered in writing to the permittee by personal service or by certified mail. Upon revocation, a permittee may appeal the decision in the same manner as provided in this section.

M. Appeal

Any applicant wishing to appeal the payment of any fees, or the denial or revocation of any permit, established by this Ordinance may do so. Any applicant may appeal to the City Manager, or his designee, after denial of a permit, prior to paying the fees or after paying the fees. If an applicant wishes to appeal after payment of the fees, the person or operator shall appeal to the City Manager, or his designee, in writing within ten (10) calendar days of paying the fees. The City Manager or his designee, shall provide a full and meaningful review process. The City Manager, or his designee, shall provide a fair opportunity for any applicant to challenge the accuracy and legal validity of their permit denial or fee obligation. The City Manager, or his designee, shall also provide a clear and certain remedy for any erroneous or unlawful fee collection to ensure that the opportunity to contest the fee is a meaningful one. Options that the City Manager, or his designee, shall consider in providing a clear and certain remedy include but are not limited to a refund of any excess fees paid. Any person or operator may appeal to the City Manager, or his designee, if the person or operator believes that he or she cannot afford the fees. The person or operator may seek an exemption from all or part of the fees. The City shall not file criminal charges against any applicant if any fees described in this Ordinance are not paid. The City shall not file criminal charges against an applicant in an attempt to collect the fees.

The City Manager, or his designee, shall make his decision in writing within ten (10) days of receiving the appeal. An applicant shall incur no financial hardship by exercising his or her right to appeal. Said fees shall not be required from a person or operator that cause a loss of livelihood, or damage to a business.

SECTION TWO. The provisions of this Ordinance are to be cumulative of all other Ordinances or parts of Ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior Ordinances or parts of Ordinances 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 Chapter 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.

SECTION FIVE. The effective date of this Ordinance shall be March 1, 2013.

SECTION SIX. 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 law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D.,
2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney