

Midway City Council
5 October 2021
Regular Meeting

Ordinance 2021-35 /
Bed and Breakfast Establishments



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: October 5, 2021
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Addition of Section 16.13.35(L): Bed and Breakfast Establishments

ITEM: 15

Midway City is proposing an amendment to Section 16.13.35 (L) Bed and Breakfast Establishments to the Midway City Municipal Code. This proposal will align language in City code with rules and regulations governing conditional uses.

BACKGROUND:

The purpose of this item is to amend the current ordinance for Bed and Breakfast Establishments (B&B), so that it is in alignment with rules and regulations governing conditional uses. Specifically, it will adjust current language that states the conditional use will cease when the property is sold and that new owners are required to apply for a conditional use permit before operating the B&B.

Conditional uses run with the land because they are an objective permit. It does not matter who owns the permit, just whether the conditions of approval are fulfilled. If new owners fulfill the commitments of the permit, the conditional use permit should remain valid.

Staff is proposing the following amendments to Section 16.13.35(L) (proposed adjustments is red):

Section 16.13.35 Bed and Breakfast Establishments

L. The bed and breakfast establishment shall, at the time of approval and thereafter, be the property owner's primary residence. ~~Conditional use approval shall cease upon sale of the property. The new owner shall apply for conditional use approval before operating the bed and breakfast establishment.~~ If a bed and breakfast establishment with an active permit is sold, the new owner will be required to apply for a business license and submit a signed affidavit stating that the property is their primary residence before operation of the establishment resumes.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Clifton: I make a motion that we recommend to approve an amendment to Section 16.13.35 (L) Bed and Breakfast Establishments to the Midway City Municipal Code. This proposal will align language in City code with the language in State code as outlined in the staff findings.

Seconded: Commissioner Ream

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Clifton, Ream, Bouwhuis and Garland

Motion: Passed

POSSIBLE FINDINGS:

- The proposed adjustment will align requirements in the land use code with rules and regulations regarding conditional uses
- The proposed adjustment will require future property owners to acknowledge that the property is their primary residence.

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- _____

AN ORDINANCE TO AMEND SECTION 16.13.35(L) OF THE MIDWAY CITY LAND USE CODE TO ALIGN ITS LANGUAGE WITH RULES AND REGULATIONS GOVERNING CONDITIONAL USES.

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

WHEREAS, the current language of Midway City Land Use Code Section 16.13.35(L) states that the conditional use permit required to operate a bed and breakfast establishment ceases when the property is sold and that new owners of the property must reapply for a conditional use permit in order to operate the Bed and Breakfast; and

WHEREAS, the City Council desires to amend the language in Section 16.13.35(L) to align with the rules and regulations governing other conditional uses in Midway City, specifically the rule that conditional uses run with the land and that if new owners fulfill the requirements of the conditional use permit, it will remain valid; and

WHEREAS, the City Council of Midway City now desires to amend Section 16.13.35(L) of the Midway City Land Use Code to align its language with rules and regulations governing conditional uses.

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

The following section of **Chapter 16.13** shall be amended to read as follows:

16.13.35 Bed and Breakfast Establishments

- L. The bed and breakfast establishment shall, at the time of approval and thereafter, be the property owner's primary residence. If a bed and breakfast establishment with an active permit is sold, the new owner will be required to apply for a business license and submit a signed affidavit stating that the property is their primary residence before operation of the establishment resumes.

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

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this ____ day of October, 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)