

Midway City Council  
21 September 2021  
Regular Meeting

Ordinance 2021-27 /  
Open Space Requirements



## **CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** September 21, 2021

**NAME OF APPLICANT:** Midway City

**AGENDA ITEM:** Code Text Amendment of Title 16.16.10

### **ITEM: 8**

Midway City is proposing an amendment to Section 16.16.10 Open Space General Requirements of the Midway City Municipal Code. The proposed amendment would address the ability of sensitive lands to be included as required open space within standard large-scale subdivisions and planned unit developments. This item is based on amendments previously made to the General Plan.

### **BACKGROUND:**

The purpose of this item is to review and possibly amend the City's land use ordinance regarding open space and to consider whether there should be a limit on how much of a proposed developments required open space can be sensitive lands. This item was previously considered by the Planning Commission and the City Council in 2017. The Planning Commission's recommendation was that sensitive lands should not count towards any portion of the required open space. The City Council ultimately voted to not approve any adjustments to the ordinance, so sensitive lands continue to be counted towards open space requirements.

The purpose of reviewing the ordinance was based on the previously revised Midway City General Plan that was adopted in January of 2017. Two of the main goals of the General Plan revisions were to promote open space and to preserve the rural character of Midway. These two goals were developed as a response to the City's General Plan survey that was conducted in 2016. In that survey, information was gathered regarding the

residents' preferences of the vision they have for Midway. 66% of the 483 responses to that survey stated the rural atmosphere was very important to them. 88% felt that preserving open space was very important.

During the 2016 update of the General Plan, the Community Vision Committee expressed concern that sensitive/undevelopable land could qualify as open space. The Committee felt that open space requirements should require a portion of required open space to be usable/developable land rather than using just sensitive/undevelopable land to meet the open space requirement. If a development has significant sensitive lands, it is possible that any required open space, including benefits that come from bonus open space, could be 100% sensitive lands and therefore not useable. The committee felt this provision should be reconsidered so that developments have some portion of usable open space. Below are some examples from the General plan that promote protecting open space:

*Elements of the Community Vision*

- *Effective planning through clustering, setbacks, Transfer Development Rights and animal/agriculture ordinances will help Midway to preserve its view corridors, maintain open spaces and reinforce a country/rural feeling.*
- *Midway is characterized by valuable open space resources that contribute to the community's character and overall quality of life. Open spaces hold value for ecological, agricultural, cultural and recreational qualities, and these lands are worthy of careful planning and conservation.*
- *Midway will retain a rural atmosphere through open space preservation*
  - *Through effective zoning, Midway will plan for density closer to its core reinforcing more open space and less density as the City grows to its limits.*
  - *All developments will incorporate various kinds of open space into their projects.*
  - *Open spaces will be accessible, visible, appropriately landscaped (depending on the open space purpose and use) and will be aesthetically pleasing.*
  - *Development and City entryways will be landscaped, aesthetically pleasing and, where appropriate, will reinforce a Swiss/ European theme.*
  - *Effective planning through clustering, setbacks, Transfer Development Rights and animal/agriculture ordinances will help Midway to preserve its view corridors, maintain open spaces and reinforce a country/rural feeling.*
  - *Animal rights will be protected and promoted to help preserve the rural atmosphere and preserve open space.*

- *Guideline 5: Encourage the preservation of prime agricultural land and open space within Midway and the surrounding valley. High-quality, well-planned residential areas with open spaces that support and complement the unique rural quality and character of the City;*
- *Goal 2: Encourage open space to preserve a high quality of life and to preserve Midway's rural atmosphere.*

*Development Vision*

1. *High-quality, well-planned residential areas with open spaces that support and complement the unique rural quality and character of the City;*
  2. *Open space areas, while preserving sensitive lands.*
- *Objective 1: Protect all of the environmental and natural resources of the City by requiring development to occur in a manner and location which respects sensitive environmental lands: wetlands, flood plains and natural drainage patterns, steep slopes, productive agricultural lands, geologically unstable areas, critical wildlife areas, vegetation and important scenic features such as ridge lines hillsides and view corridors.*
  - *Guideline 1: Consider reviewing the Municipal Code to possibly reduce density where appropriate.*

There is clearly support for protecting open space in Midway. One of the best ways to accomplish this goal is by evaluating land that may currently be counted as open space through the subdivision ordinance. The code states the following in Section 16.16.10: Open Space General Requirements:

*D. Sensitive lands, as defined elsewhere in this Title, may be counted as open space, provided the lands also satisfy the other characteristics of open space set forth herein and shall be protected by the proposed development plan. Development alterations of any sensitive lands shall be prohibited except as allowed and defined elsewhere in this Title.*

Staff feels that protecting open space is one of the main goals of the General Plan and has become an increasingly important priority in recent years as is evident by the approved open space bond and creation of the open space committee. Open space shouldn't be limited to just sensitive lands but should include usable land. Staff would propose amending the ordinance to reflect this adjustment, allowing for more useable open space. Developments should have a certain amount of open space that is usable and can be irrigated and used for activities. This is a legislative item so public input is part of the process, therefore, staff has not defined code but is seeking guidance regarding code requirements. Here are some ideas of items that should be considered with this proposal:

- Allow only a percentage of sensitive lands to be counted as required open space. This number can be 0% or it can be somewhere in the range of 0-100%.
- Changing the open space requirements will not necessarily reduce density in all developments but it could reduce density in some.
- The General Plan also encourages reducing density wherever appropriate. Requiring more open space can help reduce density and the impacts of the density on the City in many aspects that include traffic, financial impact, and the quality of life of the residents of the City.

Possible language could be the following (proposed language in red):

*D. Sensitive lands, as defined elsewhere in this Title, may be counted as open space, provided the lands also satisfy the other characteristics of open space set forth herein and shall be protected by the proposed development plan. For developments that have less than 50% sensitive lands of the entire acreage, a maximum of 50% of the required open space may consist of land that is defined as sensitive lands. For developments that have more than 50% sensitive lands of the entire acreage, a maximum of 75% of the required open space may consist of land that is defined as sensitive lands. Development alterations of any sensitive lands shall be prohibited except as allowed and defined elsewhere in this Title.*

**PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Whitney: I make a motion that we recommend approval of amending the City’s land use ordinance of open space requirements and sensitive lands. If the total acreage has 0 – 50% sensitive lands, 50% may be used as open space and if the total acreage is 50 – 100% sensitive lands 75% may be used as open space.

**Seconded:** Commissioner Simons

**Chairman Nicholas:** Any discussion on the motion?

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners Cliften, McKeon, Ream, Wardle, Whitney, Garland and Simons

**Motion: Passed**

## **POSSIBLE FINDINGS:**

- Preserving open space is a main goal of the community as outlined in the General Plan
- Allowing only a percentage of sensitive lands to be counted as open space will assure that some usable land is counted towards open space
- Density will not reduce in many developments because of this change but it will require more clustering of the units

## **ALTERNATIVE ACTIONS:**

1. Approval. This action can be taken if the City Council finds that the proposed language is an acceptable addition 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 Commission 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

2021-27

**AN ORDINANCE TO AMEND SECTION 16.16.10 OF THE MIDWAY CITY LAND USE CODE TO CLARIFY THAT OPEN SPACE WITHIN DEVELOPMENTS SHOULD NOT BE LIMITED TO SENSITIVE LANDS BUT SHOULD INCLUDE USABLE LAND ALSO.**

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

**WHEREAS**, two of the main goals of the Midway City General Plan are to promote open space and to preserve the rural character of Midway; and

**WHEREAS**, to further these goals, the City Council of Midway City desires to clarify that open space within developments should not be limited to sensitive lands, but should also include usable land that can be irrigated and used for activities; and

**WHEREAS**, the City Council of Midway City now desires to amend Section 16.16.10(D) of the Midway City Land Use Code to make this clarification.

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

The following section of **Chapter 16.16.10** shall be amended to read as follows:

### **Section 16.16.10 Open Space General Requirements**

(D) Sensitive lands, as defined elsewhere in this Title, may be counted as open space, provided the lands also satisfy the other characteristics of open space set forth herein and shall be protected by the proposed development plan. For developments that have less than 50% sensitive lands of the entire acreage, a maximum of 50% of the required open space may consist of land that is defined as sensitive lands. For developments that have more than 50% sensitive lands of the entire acreage, a maximum of 75% of the required open space may consist of land

that is defined as sensitive lands. Development alterations of any sensitive lands shall be prohibited except as allowed and defined elsewhere in this Title.

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

*[Signature Page Follows]*

DRAFT

**PASSED AND ADOPTED** by the City Council of Midway City, Wasatch County, Utah  
this 21<sup>st</sup> day of September, 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)