



**Midway**

**PLANNING COMMISSION MEETING STAFF REPORT**

**DATE OF MEETING:** September 13, 2022  
**NAME OF APPLICANT:** Midway City  
**AGENDA ITEM:** Code Text Amendment of Section 16.15.8.C

**ITEM: 3**

Midway City is proposing a code text amendment of Section 16.13.7: Kitchen Units in Motels and Hotels. The proposed code will clarify if, and under what requirements, kitchens are allowed in rental units, motels, and hotels.

**BACKGROUND:**

Midway is proposing a code text amendment to the Midway Municipal Code. The proposed change will clarify when kitchen facilities are allowed for transient rental units. The current code states the following in Section 16.13.7 Kitchen Units in Motels and Hotels:

*Lot area per dwelling unit shall apply to motels and hotels for those that include kitchen facilities.*

This section of code dates to, at least, the 1977 Midway Zoning Code and it is difficult to interpret how it applies to the current land use code. Staff receives an ever-increasing number of inquiries regarding creating rental units that include kitchens and laundry facilities. The aforementioned code does regulate kitchens for motels and hotels, but it is difficult to interpret what lot area means in a zone that does not have a minimum lot area. Staff is proposing to amend the code so that it will better regulate when kitchen facilities are allowed in rental units, specifically for the C-2 and C-3 zones.

Midway allows rental units in the Transient Rental Overlay District (TROD). The TROD covers commercial, resort, and portions of some residential zones. The issue of kitchens in residential zones and resort zones is not an evident problem because those zones regulate when kitchens are allowed, and those zones also do not allow apartments. The problem lies in the commercial zones where mixed-use is allowed along with short-term lodging facilities.

In the C-2 and C-3 zones, mixed-use is permitted as a conditional use and allows for one residence per acre along with any permitted commercial uses. One of the permitted uses is short-term lodging facilities. This allows for a residence to be built on a parcel along with any type of short-term lodging facility that could include a hotel, motel, transient rental unit (VRBO, AIRBNB, etc.). It has been asked by potential land buyers if transient rental units could be built with kitchens and laundry facilities. The code is currently silent regarding laundry facilities, but it does regulate when kitchens are allowed, though the current code is almost unusable with the current language.

The concern is if any short-term rental unit has a kitchen, and possibly laundry facilities, then the unit is really an apartment. The only difference between a short-term lodging unit that includes a kitchen, and an apartment is the amount of time each is rented. Currently the code does not allow apartments in the C-2 zone, except for properties over two acres, so staff has stated that any short-term lodging facilities are not allowed to have kitchens, based on Section 16.13.7.

Short-term lodging facilities are useful to Midway in a couple of ways. They do help produce transient rental tax, they help Midway qualify for the resort tax, and they do help other businesses by creating lodging opportunities for visitors that will spend money in Midway businesses. If a short-term lodging facility has a kitchen, then it is less likely that visitors will eat out as much in Midway businesses. Further, making sure the unit is not rented on a long-term basis becomes more problematic for the City to enforce. It is unlikely that anyone will live long-term in a unit without a kitchen, but it is more likely that that will happen if the unit does have a kitchen and laundry. The City does want to address attainable housing issues, and this will happen in the future after the General Plan has been revised and adopted, but this issue must also be addressed.

To address the aforementioned issues and concerns, staff is proposing the following language:

*Section 16.13.7 Transient Rental Units in Commercial Zones*

*Kitchen and laundry facilities for individual short-term rental units (hotels, motels, Airbnb, VRBO, etc.) are not allowed in the C-2 and C-3 zones except for a residence that has been approved by the Land Use Authority as part of a mixed-use development.*

The proposed language would assure that short-term rental units are built as traditional hotel rooms except for the one full unit that is allowed as part of a mixed-use development in the C-2 and C-3 zones. The proposed language is clearer than the current language and accomplishes the same goal, but it also helps make administration of the code much easier for staff and it is also easier for the public to understand.

#### **POSSIBLE FINDINGS:**

- The current code is dated and is difficult to interpret for staff and the public.
- The proposed language is clearer than the current language and accomplishes the same goal, but it also helps make administration of the code much easier for staff and it is also easier for the public to understand.
- The proposed language will require the creation of traditional short-term lodging rooms that will in turn help the local economy by generating more taxes and may stimulate more economic activity.

#### **ALTERNATIVE ACTIONS:**

1. Recommendation of Approval. This action can be taken if the Planning Commission 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 Planning 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. Recommendation for Denial. This action can be taken if the Planning Commission 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