



**Midway**

**PLANNING COMMISSION MEETING STAFF REPORT**

**DATE OF MEETING:** September 14, 2021  
**NAME OF APPLICANT:** Midway City  
**AGENDA ITEM:** Code Text Addition of Section 16.13.35(L): Bed and Breakfast Establishments

**ITEM: 8**

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 the language in State code.

**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.

#### **POSSIBLE FINDINGS:**

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

#### **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 of 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