

Midway City Council
2 May 2023
Regular Meeting

Ordinance 2023-03 /
Planning and Zoning
Administrator(s)



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: May 2, 2023
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Section 16.26.6: Appeal Authority

ITEM: 9

Midway City is proposing an amendment to Chapter 2.01.080: City Planning Administrator and Chapter 2.01.090 Zoning Administrator Appointed. The proposed amendment will state the standards for when a land use application will be placed on a Planning Commission or City Council agenda.

BACKGROUND:

Midway is proposing a code text amendment to the Midway Municipal Code. The proposed change will clarify that the Planning Administrator and the Zoning Administrator will only place items on a Planning Commission or City Council agenda if the application is complete and if the application substantively complies with City ordinances. The current code states the following (text in red is proposed to be added to the current text):

2.01.080 City Planning Administrator

The City Planning Administrator shall:

1. Advise the City Council and Planning Commission regarding regulation of and requests for development and re-development and other matters as assigned by the Mayor and City Council.
2. Coordinate and supervise work preparation by staff.
3. *Before allowing a land use application to be put on either a Planning Commission or City Council agenda, review the land use application to assure the application is complete and substantively complies with City zoning ordinances.*
4. Prepare documents for presentation to the City Council and Planning Commission.
5. Represent the Planning Commission in reporting recommendations from and action taken by said body.
6. Assist the Mayor, the Mayor Pro-tem, and the City Council in the exercise of their duties.

2.01.090 Zoning Administrator Appointed

- A. The City Council shall appoint a Zoning Administrator, usually the Planning Administrator, who shall be charged with the administration and enforcement of this Ordinance. The governing body may also appoint other officers to assist in the administration and enforcement of this Ordinance.
- B. Powers and Duties of Zoning Administrator:
 1. It shall be the duty of the Zoning Administrator to administer, enforce and interpret, when required, the provisions of this Ordinance. He or she shall enforce all the provisions of this Ordinance, entering actions in the courts when necessary; the failure to do so shall not legalize any action in violation of such provisions.
 2. *Before allowing a land use application to be put on either a Planning Commission or City Council agenda, review the land use application to assure the application is complete and substantively complies with City zoning ordinances.*
 3. The Zoning Administrator shall also refer matters to the City Attorney and City Council as set forth in this Ordinance.

The proposed amendments are important to clarify the application and approval process. Recently, an application was submitted to the City for development of a parcel to a use that the Planning Administrator/Zoning Administrator (administrator) determined did not comply with the land use code. The administrator then did not place the application on an agenda. The applicant appealed the administrator's decision and made the case that the administrator was in error and did not have the ability to leave an application off an agenda. It was determined by the City Council that the administrator did have the ability to determine that incomplete and noncompliant applications could be left off of agendas. Staff was also given the direction to propose code language that would clarify this issue. If an applicant does not agree with the determination made by the administrator that the

application is incomplete or noncompliant with the land use code, the applicant may appeal the administrator’s decision to the City Council. The appeal process, as outlined in Chapter 16.26.6 will then be followed.

POSSIBLE FINDINGS:

- The proposed code will clarify that the Planning Administrator/Zoning Administrator can determine if a land use application is incomplete or not compliant with the code.
- If an application is determined by the Planning Administrator/Zoning Administrator to be incomplete or not compliant with the land use code then the application will not be placed on a Planning Commission or City Council agenda.
- The proposed language will better serve the City and the public by clarifying the process.

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

2023-____

AN ORDINANCE TO AMEND CHAPTER 2.01 OF THE MIDWAY CITY MUNICIPAL CODE TO CLARIFY THE ROLES OF THE CITY PLANNING AND ZONING ADMINISTRATOR(S).

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

WHEREAS, the Midway City Council desires to amend certain sections of Chapter 2.01 of the Midway City Municipal Code to further outline and clarify the roles of the City Planning and Zoning Administrator(s).

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

The following Sections of Chapter 2.01 shall be amended to read as follows:

2.01.080 City Planning Administrator

The City Planning Administrator shall:

1. Advise the City Council and Planning Commission regarding regulation of and requests for development and re-development and other matters as assigned by the Mayor and City Council.
2. Coordinate and supervise work preparation by staff.
3. **Before allowing a land use application to be put on either a Planning Commission or City Council agenda, review the land use application to assure the application is complete and substantively complies with City zoning ordinances.**
4. Prepare documents for presentation to the City Council and Planning Commission.
5. Represent the Planning Commission in reporting recommendations from and action taken by said body.
6. Assist the Mayor, the Mayor Pro-tem, and the City Council in the exercise of their duties.

2.01.090 Zoning Administrator Appointed

- A. The City Council shall appoint a Zoning Administrator, usually the Planning Administrator, who shall be charged with the administration and enforcement of this Ordinance. The governing body may also appoint other officers to assist in the administration and enforcement of this Ordinance.
- B. Powers and Duties of Zoning Administrator:
 - 1. It shall be the duty of the Zoning Administrator to administer, enforce and interpret, when required, the provisions of this Ordinance. He or she shall enforce all the provisions of this Ordinance, entering actions in the courts when necessary; the failure to do so shall not legalize any action in violation of such provisions.
 - 2. Before allowing a land use application to be put on either a Planning Commission or City Council agenda, review the land use application to assure the application is complete and substantively complies with City zoning ordinances.
 - 3. The Zoning Administrator shall also refer matters to the City Attorney and City Council as set forth in this Ordinance.

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

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PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this ____ day of _____, 2023.

	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)