



PLANNING COMMISSION MEETING STAFF REPORT

DATE OF MEETING: October 10, 2023

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of 16.02: Definitions, and Section 16:13.280: Cottage Industries, and any other sections referring to cottage industries.

ITEM: 4

Midway City is proposing a code text amendment of Section 16.02: Definitions, and Section 16:13.280: Cottage Industries and any other sections referring to cottage industries. The proposed code will modify the language or remove the provisions for Cottage Industries. The provision is rarely used, but in its current form, is difficult to interpret and limit the scope of permissible work and manufacturing.

BACKGROUND:

The Midway Municipal Code defines a Cottage Industry as follows:

Cottage Industry. A business in a residential area conducted primarily by the residents of the property where customers or clients come to the home and/or where items are manufactured within an attached or detached garage or other outbuilding. Neither manufacturing nor storage of items related to the business are allowed outside of a building(s), which building(s) is/are approved by the City Council as a part of the conditional use approval.

Section 16.13.280 of the Midway Municipal Code outlines the circumstances under which the City Council, upon recommendation of the Planning Commission, may approve a conditional use permit for a cottage industry as follows:

16.13.280 Cottage Industries

A conditional use permit for Cottage Industry may be approved by the City Council after a recommendation from the Planning Commission when in compliance with the following:

- A. A cottage industry is permitted in the zone.*
- B. No commercial vehicles are to be used by the Cottage Industry except one delivery truck, not to exceed one ton rated capacity.*
- C. Signs shall be as permitted as outlined in Title 16.*
- D. The cottage industry shall be licensed with a business license obtained from the City.*
- E. The physical appearance, size and number of accessory building(s), and other activities in connection with the cottage industry, shall not be contrary to the objectives and characteristics of the zone in which the cottage industry is located.*
- F. Any building on the property by the cottage industry must be specifically approved by the City Council. The City Council shall determine if the number, height and floor area of any accessory building devoted to the cottage industry is in harmony with the size of the property and the density of the surrounding area. All buildings must be completed with approved roofing materials, wall coverings, lighting, doors, and so forth before a business license can be issued by the City.*
- G. There shall be no outside storage of materials or products in connection with the cottage industry.*
- H. The cottage industry shall not have more than three customer/client vehicles parked at the residence at any time, provided all vehicles can be legally parked in normal parking places on the lot of the cottage industry. In addition to the foregoing, the cottage industry must not generate more than 20 vehicle trips to the residence per day. The cottage industry shall not generate any traffic before 7 a.m. or after 8 p.m. nor shall any vehicle weighing in excess of 12,000 pounds gross weight, travel to the residence for the purpose of servicing the cottage industry.*
- I. The cottage industry shall be in compliance with the requirements of Title 7.*
- J. No known zoning violations shall be in existence on the applicant's property in order to be approved for conditional use or for approval of subsequent business licenses thereafter.*
- K. If the applicant is leasing the property, written proof must be provided to the City that the applicant has the landowner's permission to operate the cottage industry business.*
- L. The applicant shall supply the City with a site plan showing the location and size of all buildings, either in existence or proposed, on the property and show which ones are to be used and in what manner in conjunction with the cottage industry*

business. Renderings of the building's elevations and a list of finish materials may be required by either the Planning Commission or City Council.

- M. The cottage industry is carried on only by members of the residing family and up to two employees, if off-street parking is provided for said employees, and the standards for said employment are pre-approved by the City either with the initial conditional-use approval or by subsequent amendment.*
- N. After a recommendation from the Planning Commission, a public hearing, as outlined in Title 16, shall be held by the City Council in order to obtain comments from citizens and neighbors in order to provide relevant information to assist the City Council to determine if the application meets the above criteria. In the event that complaints concerning a cottage industry are filed with the City, the Zoning Administrator shall investigate problems identified in the complaint to determine if the cottage industry is being conducted in violation of this Chapter. If the Zoning Administrator determines the cottage industry is in violation of this Chapter, the Administrator shall pursue the elimination of the violating activity in accordance with this Title.*

Section 16.13.280, **Cottage Industries**, is distinguishable from Section 16.13.270, **Home Occupations**, under the Code. Home Occupations occur completely within the home, are clearly incidental to the residential use of the dwelling and allow no customers or other business to be conducted at the home, while cottage industries may occur in an accessory building, allow customers and employees outside the residents of the home, and may require additional parking.

- Home Occupations are permitted uses in Residential Zones R-1-7, R-1-9, R-1-11, R-1-15, R-1-22, and RA-1-43, while Cottage Industries are conditional uses in these zones.
- Advantages of cottage industries parallel home occupations and may include the ability to work from home, decreased costs of manufacturing space, operations, and maintenance.
- Disadvantages of cottage industries (as opposed to home occupations) may include allowing non-residential use in residential areas; associated vehicular traffic; deliveries and customers; lack of practical oversight and control over conditions, hours, and use; slippery slope defining and limiting manufacturing suitable for “cottage industry” in residential areas.

DISCUSSION:

- The Home Occupation classification allows an avenue for residents to work from home while ensuring consistency with residential character of neighborhoods by requiring use to be secondary and subservient to residential use, that structures look residential, that work be restricted to residents, and no customer traffic. Cottage Industries, which do not share these restrictions, do not ensure consistency with residential zoning and use. Accessory buildings need not necessarily appear residential, customer and delivery traffic are permitted, and it is ambiguous where the line on manufacturing or light manufacturing falls.

- Cottage Industries, as defined under the Code, are businesses in residential areas “conducted primarily by the residents of the property where customers of clients come to the home and/or where items are manufactured within an attached or detached garage or other outbuilding.
- The cottage industries provision, in its current form, does not appear to limit the scope of permissible work and manufacturing. The code does not appear to set limits upon the number of employees so long as they reside on the property, or a majority reside on the property. There do not appear to be any limits on the type of manufacturing allowed.
- As more building occurs in Midway and density increases, deviations from residential use in residential zones logically may become more pronounced and bothersome to residents in these zones.
- Does the Cottage Industry classification remain valid and desired? The provision is rarely used (approximately one application in the last decade). Most work in residential areas falls under home occupations, which share the advantages of cottage industries, but not the disadvantages, as set forth above.
- For these reasons, should City Council consider removing the Cottage Industries provision from the Code?

POSSIBLE FINDINGS:

- The Home Occupations classification allows an avenue for residents to work from home while ensuring consistency with residential character of neighborhoods by requiring use to be secondary and subservient to residential use, that structures look residential, that work be restricted to residents, and no customer traffic. Cottage Industries, which do not share these restrictions, do not ensure consistency with residential zoning and use. Accessory buildings need not necessarily appear residential, customer and delivery traffic are permitted, and it is ambiguous where the line on manufacturing or light manufacturing falls.
- The Cottage Industries provision, in its current form, does not appear to set easily definable limits upon the scope of permissible work and manufacturing. The code does not appear to set limits upon the number of employees so long as they reside on the property, or a majority reside on the property. There do not appear to be any limits on the type of manufacturing allowed.
- As more building occurs in Midway and density increases, deviations from residential use in residential zones logically may become more pronounced and bothersome to residents in these zones.

- The Cottage Industries provision in its current form is rarely used (approximately one application in the last decade). Most work in residential areas falls under home occupations, which share the advantages of cottage industries, but not the disadvantages, as set forth above.

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 the 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 the 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 the staff report
 - b. List accepted findings
 - c. Reasons for denial