

Midway City Council
6 October 2020
Regular Meeting

Ordinance 2020-19 /
Tree Regulations and
Preservation



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: October 6, 2020
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Addition of Section 16.29: Tree Regulations and Preservation

ITEM: 10

Midway City is proposing to adopt new code text to the Midway City Municipal Code. Section 16.29: Tree Regulations and Preservation would be added to the land use code.

BACKGROUND:

The City is proposing an addition to the City's Municipal Code in the Land Use Chapter, Title 16. The proposed code would create regulations regarding trees. There are several reasons for this proposal. One is so Midway can apply to become a member of the Tree City USA program. One of the requirements to become a Tree City USA member is to adopt a tree ordinance. Another reason is to establish setback requirements for trees from public trails and from private trails with public trail easements. Third, the proposed code establishes the duties and responsibilities of the Parks, Trails, and Trees Advisory Committee. Lastly, the code establishes basic guidelines for tree care.

Tree City USA

Staff has been given direction from the City Council to pursue becoming a member of the Tree City USA program. There are four requirements to become a member which include the following:

- Establish a City Tree Board – The City has decided to reform the Trails and Parks Advisory Committee to the Parks, Trails, and Trees Advisory Committee. A code text amendment of Section 2.06 will be proposed to the City Council that will establish the required committee.
- Adopt a Community Tree Care Ordinance – The current proposal, if approved by the City Council, will meet the requirement of adopting a tree care code.
- Adopt a Budget for Tree Care – Midway must adopt a budget and spend at least \$2 per capita (about \$11,000 annually) toward planting, care, and removal of city trees. The City Council has already budgeted the proper amount and now needs to spend and document the spending of the funds for tree care.
- An Arbor Day Observance and Proclamation – The City must celebrate Arbor Day and adopt a proclamation. The Arbor Day observance will most likely be in conjunction with the Wasatch Mountain State Park. As the City moves forward in this process, a proclamation will be created and adopted, and the Arbor Day observance will be planned.

Tree Setbacks along Trails

It has become apparent that some species of trees, with their root systems, create issues for trails. We have many examples of trees with shallow root systems destroying trails. Once this happens, the trails become a safety hazard and need to be repaired. Repairing the trail is costly for the City so it is important to avoid this scenario. The proposed ordinance will create a setback for different species of trees from trails. The Trails and Parks Advisory Committee, along with staff, has worked with some tree experts and has developed a list of trees and the required setback from any trail for particular trees. The ordinance addresses the setback, but the Park, Trails, and Trees Advisory Committee will adopt the tree list as policy.

Establish Duties and Responsibilities of the Parks, Trails, and Trees Advisory Committee

The proposed code will establish the charge of the Park, Trails, and Trees Advisory Committee. This includes recommending tree related plans to the City Council, creating tree inventories, and create other tree related recommendations for the City Council.

Establish basic Guidelines for Tree Care

The proposed language will also basic guidelines for any trees on public property. This includes parks, park strips, and any other areas in the public right-of-way. The language may allow the City to remove any unsafe tress, even unsafe trees on private property once the proper process has been followed. Finally, there is a list of tree care responsibilities for the City and for residents that trees in the public right-of-way that front their property.

The proposed language is the following:

CHAPTER 16.29 TREE REGULATIONS AND PRESERVATION

Section 16.29.010 Purpose

Section 16.29.020 Duties and Responsibilities

Section 16.29.030 Acceptable Tree Species and Distance from Public Trails

Section 16.29.040 Public Tree Care

Section 16.29.010 Purpose

The City of Midway recognizes that the preservation of trees along with planting, replacement and a maintenance program are essential in preserving the environment, character, and aesthetic appearance of Midway. Midway values how trees are critical to enhance the livability of Midway because of their ecological importance such as improving air quality, shade and protection from heat, reduce noise pollution, limiting soil erosion, storm water run-off and enhancing wildlife habitat.

Section 16.29.020 Duties and Responsibilities

A. Based on perceived need or when requested by the City Council, the Parks, Trails, and Trees Advisory Committee shall develop and recommend a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas.

B. Parks, Trails, and Trees Advisory Committee shall be responsible to develop an active tree inventory of street and park trees based on perceived need or when requested by the City Council.

C. The Parks, Trails, and Trees Advisory Committee, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope

of its work.

D. The Parks, Trails, and Trees Advisory Committee shall periodically review this Chapter and recommend updates and revisions to the City Council.

Section 16.29.030 Acceptable Tree Species and Distance from Public Trails

A. The Parks, Trails, and Trees Advisory Committee maintains a list of trees that may be planted near trails. The trees listed are approved to be planted along trails with the following requirements:

1. Smaller trees that can be planted 10' away from any public trail or private trail with a public trail easement. Typical spacing should be 20' apart.

2. Medium trees not to be planted under power lines and can be planted 20' away from any public trail or private trail with a public trail easement. Typical spacing should be 30' apart.

3. All other trees shall be planted 30' from any public trail or private trail with a public trail easement.

4. Any other trees may be proposed but only after review and approval of the Parks, Trails, and Trees Advisory Committee.

Section 16.29.040 Public Tree Care

A. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, public trails, alleys, avenues, lanes, squares, and public grounds, as may be necessary to ensure public safety.

B. Citizens/property owners, occupants and their agents shall have the following responsibilities for the protection of trees in park strips and right-of-way abutting their real property, except in those which are maintained by the City.

1. Periodic watering and fertilization and pruning of street trees as necessary to maintain good health and vigor.

2. Protecting street trees from damage caused by lawn mowers, weed trimmers, snow blowers and similar equipment.

3. Protecting street trees from damage caused by attachment of any items

such as signs, nails, wires, ropes, and chains.

4. Planting a tree in the park strip or in the public right-of-way is a privilege and any tree planted in this area shall be maintained according to City standards.

5. Maintaining ground covers, except in those park strips maintained by the City.

6. Notifying the City of any hazard tree or hazard created by a tree.

7. Raking, cleaning up and properly disposing of leaves that fall from street trees and private trees, so leaf fall does not impede the storm water system.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Bouwhuis: I make a motion that we recommend adopting new code text to the Midway City Municipal Code. Section 16.29: Tree Regulations and Preservation would be added to the land use code. Accept findings lined out in the staff report and adopt the language in the staff report with the following modifications: in 16.29.30, after the words, advisory committee, that it says “maintain” instead of “compiled”. Item 4- underneath that section we modify it to say, “Any other tree may be proposed, but only approved after it has been reviewed and given approval by the Parks and Trails Advisory Committee.” Section 16.29.040, list paragraph A- after the words “all streets” add “public trails”, excreta. Unsafe conditions- add the words “as to the public” and remove the words: sewers, electrical power lines, gas lines, water lines and any other public improvements and add ”their injurious to the city/public improvements and or utilities. Add onto the last sentence “reasonable notice is given to the property owner, generally a two-week notice, except in the case of emergency. And correct the typo by replacing the “and” with an “a”.

Seconded: Commissioner Cliften

Chairman Nicholas: Any discussion on the motion?

There were some clarifications added to the motion

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Simons, Cliften, Bouwhuis, Whitney and Garland

Nays: None

Motion: Passed

TRAILS AND PARKS COMMITTEE RECOMMENDATION:

Add Tree Ordinance to Title 16.28 Motion- Kameron Keiffer made a motion to add 16.28 with the changes made at tonight’s meeting. Kristen Bellows seconded. Motion passed

Midway City to become a Tree City USA Motion- Clint Coleman made a motion to make Midway City a Tree City USA Kristen Bellows seconded. Motion passed.

POSSIBLE FINDINGS:

- The proposed code will fulfill one of the requirements to become a member of the Tree City USA program
- Setbacks from public trails or from private trails with public access easements will be established that will create a safer experience for pedestrians, reduce liability for the City, and save money for the City by avoiding costly repairs
- General tree care guidelines will be established for trees located on public property and in the public right-of-way

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

Tree City USA

The Tree City USA program is managed by the Arbor Day Foundation and has been greening up cities and towns across America since 1976. It is a nationwide movement that provides the framework necessary for communities to manage and expand their public trees.

More than 3,400 communities have made the commitment to becoming a Tree City USA, including Park City and Kamas. They have achieved Tree City USA status by meeting four core standards of sound urban forestry management: maintaining a tree board or department, having a community tree ordinance, spending at least \$2 per capita on urban forestry and celebrating Arbor Day.

There are 4 requirements (Standards) to obtain a "Tree City" designation as highlighted below. Additional information can be found at <https://www.arborday.org/programs/treecityusa/index-become.cfm>

Standard I: A City Tree Board or Department - List date of establishment of board, board members, and meeting dates for the past year; or name of city department and manager.

Someone must be legally responsible for the care of all trees on city- or town-owned property. By delegating tree care decisions to a professional forester, arborist, city department, citizen-led tree board or some combination, city leaders determine who will perform necessary tree work. The public will also know who is accountable for decisions that impact community trees. Often, both professional staff and an advisory tree board are established, which is a good goal for most communities.

The formation of a tree board often stems from a group of citizens. In some cases a mayor or city officials have started the process. Either way, the benefits are immense. Involving residents and business owners creates wide awareness of what trees do for the community and provides broad support for better tree care.

Standard 2: A Community Tree Care Ordinance - Date ordinance established. Attach ordinance.

A basic public tree care ordinance forms the foundation of a city's tree care program. It provides an opportunity to set good policy and back it with the force of law when necessary.

A key section of a qualifying ordinance is one that establishes the tree board or forestry department—or both—and gives one of them the responsibility for public tree care (as reflected in Standard 1). It should also assign the task of crafting and implementing a plan of work or for documenting annual tree care activities.

Ideally, the ordinance will also provide clear guidance for planting, maintaining and removing trees from streets, parks and other public spaces as well as activities that are required or prohibited. Beyond that, the ordinance should be flexible enough to fit the needs and circumstances of the particular community.

Standard 3: A Community Forestry Program with an Annual Budget of at Least \$2 Per Capital - Total community forestry expenditures\$ Community population Attach annual work plan outlining the work carried out during the past year. Attach breakdown of community forestry expenditures.

City trees provide many benefits—clean air, clean water, shade and beauty to name a few—but they also require an investment to remain healthy and sustainable. By providing support at or above the \$2 per capita minimum, a community demonstrates its commitment to grow and tend these valuable public assets. Budgets and expenditures require planning and accountability, which are fundamental to the long-term health of the tree canopy and the Tree City USA program.

To meet this standard each year, the community must document at least \$2 per capita toward the planting, care and removal of city trees—and the planning efforts to make those things happen. At first this may seem like an impossible barrier to some communities. However, a little investigation usually reveals that more than this amount is already being spent on tree care. If not, this may signal serious neglect that will cost far more in the long run. In such a case, working toward Tree City USA recognition can be used to reexamine the community's budget priorities and redirect funds to properly care for its tree resources before it is too late.

Standard 4: An Arbor Day Observance and Proclamation - Date observance was held - Attach program of activities and/or news coverage. Attach Arbor Day proclamation. A Grant would apply to helping fund (only) Standard 4: An Arbor Day Observance and Proclamation.

An effective program for community trees would not be complete without an annual Arbor Day ceremony. Citizens join together to celebrate the benefits of community trees and the works accomplished to plant and maintain them. By passing and reciting an official Arbor Day proclamation, public officials demonstrate their support for the community tree program and complete the requirements for becoming a Tree City USA!

This is the least challenging—and probably most enjoyable—standard to meet. An Arbor Day celebration can be simple and brief or an all-day or all-week observation. It can include a tree planting event, tree care activities or an award ceremony that honors leading tree planters. For children, Arbor Day may be their only exposure to the green world or a springboard to discussions about the complex issue of environmental quality.

The benefits of Arbor Day go far beyond the shade and beauty of new trees for the next generation. Arbor Day is a golden opportunity for publicity and to educate homeowners about proper tree care. Utility companies can join in to promote planting small trees beneath power lines or being careful when digging. Fire prevention messaging can also be worked into the event, as can conservation education about soil erosion or the need to protect wildlife habitat.

Benefits of the Tree City USA Program

The Tree City USA program provides direction, assistance and national recognition for your community. It's the framework for a healthy, sustainable urban forestry program in your town. And the benefits are substantial.

- **Reduce costs for energy, stormwater management, and erosion control.** Trees yield 3–5 times their cost in overall benefits to the city.
- **Cut energy consumption by up to 25%.** Studies indicate that as few as three additional trees planted around each building in the United States could save \$2 billion annually in energy costs.
- **Boost property values across your community.** Properly placed trees can increase property values from 7–20%. Buildings in wooded areas rent more quickly, and tenants stay longer.

- **Build stronger ties to your neighborhood and community.** Trees and green spaces directly correlate to greater connections to neighbors.
- **Honor your community** and demonstrate your commitment to a healthier environment through Arbor Day celebrations and Tree City USA recognition.
- **Benefit from a framework for action provided by the four core standards.** Many communities use the Tree City USA standards as a way to begin caring for city trees. Others regularly enhance urban forest management through improved ordinances, innovative programs and increased emphasis on planting and care.
- **Educate people living in your city about the value of trees and the importance of sustainable tree management.** Annual participation as a Tree City USA community provides this opportunity and makes it easier to engage individuals and organizations throughout the city. Tree City USA status can also create a strong working relationship with your state forestry agency and other groups.
- **Improve community pride.** Participation in the Tree City USA program helps residents feel good about the place they live and work. Annual recognition shows visitors and prospective residents that trees, conservation, and the environment are important to your community.
- **Gain publicity with recognition materials.** Tree boards, parks departments, public works officials and volunteers are recognized for the valuable work they provide to the community. Many communities share their Tree City USA recognition across city departments as well as with elected officials, students and business leaders.



ORDINANCE 2020-19

AN ORDINANCE TO EXPAND TITLE 16 OF THE MIDWAY CITY LAND USE CODE TO PROVIDE REGULATIONS FOR TREE CARE AND PRESERVATION

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

WHEREAS, Midway City desires to become a member of the Tree City USA program; and

WHEREAS, to become a member of the Tree City USA program, Midway City must establish a City Tree Board, adopt a community tree care ordinance, adopt a budget for tree care, and observe Arbor Day and make an Arbor Day proclamation; and

WHEREAS, the City Council of Midway City desires now to adopt a community tree care ordinance providing regulations for tree preservation; and

WHEREAS, the City Council now desires to expand Title 16 of the Midway City Land Use Code to accomplish these purposes.

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

Title 16 of the Midway City Land Use Code shall be expanded to include the following:

CHAPTER 16.29 TREE REGULATIONS AND PRESERVATION

Section 16.29.010 Purpose

Section 16.29.020 Duties and Responsibilities

Section 16.29.030 Acceptable Tree Species and Distance from Public Trails

Section 16.29.040 Public Tree Care

Section 16.29.010 Purpose

Midway City recognizes that a program focused on planting, preserving, replacing and maintaining trees is essential in preserving the environment, character, and aesthetic appearance of Midway. Midway values the critical ecological importance of trees in enhancing the livability of Midway by improving its air quality, providing shade and protection from heat, reducing noise pollution, limiting soil erosion and storm water run-off, and enhancing wildlife habitat.

Section 16.29.020 Duties and Responsibilities

- A. Based on perceived need or when requested by the City Council, the Parks, Trails, and Trees Advisory Committee shall develop and recommend a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas.
- B. The Parks, Trails, and Trees Advisory Committee shall be responsible for developing an active tree inventory of street and park trees based on perceived need or when requested by the City Council.
- C. The Parks, Trails, and Trees Advisory Committee, when requested by the City Council, shall consider, investigate, report, and make findings and recommendations upon any special matter or question coming within the scope of its work.
- D. The Parks, Trails, and Trees Advisory Committee shall periodically review this Chapter and recommend updates and revisions to the City Council.

Section 16.29.030 Acceptable Tree Species and Distance from Public Trails

- A. The Parks, Trails, and Trees Advisory Committee maintains a list of trees that may be planted near trails. The trees listed are approved to be planted along trails with the following requirements:
 - 1. Smaller trees may be planted ten feet (10') away from any public trail or private trail with a public trail easement. Typical spacing should be twenty feet (20') apart.
 - 2. Medium trees are not to be planted under power lines. Medium trees may be planted twenty feet (20') away from any public trail or private trail with a public trail easement. Typical spacing should be thirty feet (30') apart.
 - 3. All other trees shall be planted thirty feet (30') from any public trail or private trail with a public trail easement.

- 4. Any other trees may be proposed but only after review and approval of the Parks, Trails, and Trees Advisory Committee.

Section 16.29.040 Public Tree Care

- A. The City shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, public trails, alleys, avenues, lanes, squares, and public grounds, as may be necessary to ensure public safety.

- B. Citizens/property owners, occupants, and their agents shall have the following responsibilities for the protection of trees in park strips and rights-of-way abutting their real property, except in those areas which are maintained by the City.
 - 1. Periodic watering, fertilization, and pruning of street trees as necessary to maintain good health and vigor;
 - 2. Protecting street trees from damage caused by lawn mowers, weed trimmers, snow blowers, and similar equipment;
 - 3. Protecting street trees from damage caused by attachment of any items such as signs, nails, wires, ropes, and chains;
 - 4. Planting a tree in a park strip or public right-of-way is a privilege and any tree planted in this area shall be maintained according to City standards;
 - 5. Maintaining ground covers, except in those park strips maintained by the City;
 - 6. Notifying the City of any hazard tree or hazard created by a tree;
 - 7. Raking, cleaning up, and properly disposing of leaves that fall from street trees and private trees, so leaf fall does not impede the storm water system.

These ordinances shall take effect upon publication as required by law.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
 this day of , 20 .

| | 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)

DRAFT