



PLANNING COMMISSION MEETING STAFF REPORT

DATE OF MEETING: August 16, 2017
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Title 16

ITEM: 2

Midway City is proposing a Code Text Amendment of Midway City's Land Use Code that would amend the ordinance for animal rights in all zones. This item is based on amendments made to the General Plan that were adopted earlier this year. Those amendments promote allowing animal rights in zones where they are currently not allowed.

BACKGROUND:

The purpose of this item is to review and amend the City's land use ordinance regarding animal rights with the goal of promoting larger lots and retaining the rural atmosphere in Midway. The purpose of reviewing the ordinance is based on the newly revised Midway City General Plan that was adopted in January of this year. Two of the main goals of the General Plan revisions was to promote open space and to preserve the rural character of Midway. These two goals developed from the City's General Plan survey that was conducted in 2016. In that survey information was gathered regarding the residents' preferences of the vision they have for Midway. 66% of the 483 responses to that survey stated the rural atmosphere was very important to them. 70% felt that the quietness of Midway was very important. 77% preferred large lots as the type of housing they would like to see if land is developed. 67% stated that residential zones should accommodate large animal rights (horses and cows) and small animal rights (chickens, etc.).

The idea that developed in the Community Vision Committee that was formed that reviewed that chapter of the General Plan was to promote the rural atmosphere and quietness of Midway, the City should promote large lots if property is developed. To promote large lots, animal rights should be allowed in more areas of Midway so residents will be able to use the area of larger lots by having animals on their property. By doing this the City will help retain its rural atmosphere. The language adopted to the General Plan is the following:

Elements of the Community Vision

- *Effective planning through clustering, setbacks, Transfer Development Rights and animal/agriculture ordinances will help Midway to preserve its view corridors, maintain open spaces and reinforce a country/rural feeling.*
- *Animal rights will be protected and promoted to help preserve the rural atmosphere and preserve open space.*

Guideline 8: Encourage agriculture, including animal rights, throughout the City to help promote a rural atmosphere.

Currently, there are two ways that a property has animal rights. The first is if the property is in the RA-1-43 zone (residential-agricultural zone). In this zone, the number of animals allowed is based on a point system:

*RA-1-43 Residential-Agricultural Zone
Section 16.12.2 Permitted Uses*

D. The keeping of animals and fowl in numbers according to the following point system:

- 1. Animals may total 50 points per ½ acre.*
- 2. Animals shall be worth the following points each:*
 - a. Chickens, pigeons, pheasants, and other similar birds; 2 points.*
 - b. Geese, ducks, peafowl, turkey and other similar birds; 10 points.*
 - c. Sheep, llamas, calves, foals, and other similar sized animals; 25 points.*
 - d. Horses, cattle, and other similar sized animals; 40 points.*
 - e. For the purpose of this point system, an animal and one offspring shall be considered to be one animal until six months after the birth of the offspring.*
- 3. The keeping of swine in any numbers shall not be allowed. Permission may be granted by the Zoning Administrator to raise swine for FFA, 4-H, and similar projects. Permission must be granted annually. The number of animals requested and location of pens shall be made known to the Zoning Administrator in order to determine approval.*

4. The above requirements do not apply to commercial farming and dairy operations in existence at the time of the adoption of this Title.

The other way that a property has animal rights is if the property is “grandfathered” with the right by having animals on the property before the adopting of a zoning ordinance that prohibited animal rights. The code defines this situation as a legal non-conforming use. Both State code and Midway code protects legal non-conforming uses. Per code, the only way to lose that right is to discontinue the use for more than a year. This is why there are animals on fields next to Main Street even the zoning is commercial and having animals in this zone is not a permitted or conditional use.

Staff would like to propose amending the ordinance so that animal rights are not based on zoning but instead, the right is based on acreage. This is a legislative item so public input is part of the process, therefore, staff has not defined code but is seeking guidance regarding code requirements. Hence, only ideas are shared in this report and the code will be written for the next Planning Commission meeting. Here are some ideas of how an ordinance may work:

- The point system would remain unchanged but it would apply to all zones in Midway.
- A one-acre lot or greater with no dwelling would have animal rights and would be allowed 100 points per acre.
 - A one-acre lot with a dwelling would not have animal rights except chickens (see below)
- A one-and-a-half-acre lot or greater, with a dwelling, would have animal rights and be allowed 100 points per acre.
- Chickens would be allowed in all zones and there would not be an acreage requirement.
 - Heber’s Ordinance:
 - A. Hens (females) of any chicken species may be kept. However, roosters (males) are prohibited.
 - B. Chickens shall be kept for personal family use only. Commercial uses (the selling of chicken products) of chickens are prohibited.
 - C. Chickens shall be kept controlled on the property at all times.
 - D. Coops shall not be located within the front yard, and shall be located at least twenty-five (25) feet from any neighboring dwellings, and shall be located at least twenty (20) feet from the edge of any open waterway that drains into a natural stream. Surface drainage from coops shall not be permitted to drain into a waterway that drains into a natural stream.
 - E. Up to three (3) chickens may be kept on a detached single-family home lot which contains at least 5,000 square feet. One (1) additional chicken may be kept for each 1,000 square feet of lot area above the 5,000 square foot minimum, for a maximum of eight (8) chickens permitted on each lot.
 - F. The premises upon which chickens are kept shall be maintained in a clean, sanitary, and reasonably odor-free condition.

G. Definitions. 1. "Coop" means a cage, pen, enclosure, or building for the sheltering of chickens.

POSSIBLE FINDINGS:

- Allowing greater animal rights will give property owners more options of how to use their property
- The General Plan and survey both promote more animal rights
- Allowing more animal rights will help preserve a more rural atmosphere

ALTERNATIVE ACTIONS:

1. 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

2. Recommendation of Denial. This action can be taken if the Planning Commission feels 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