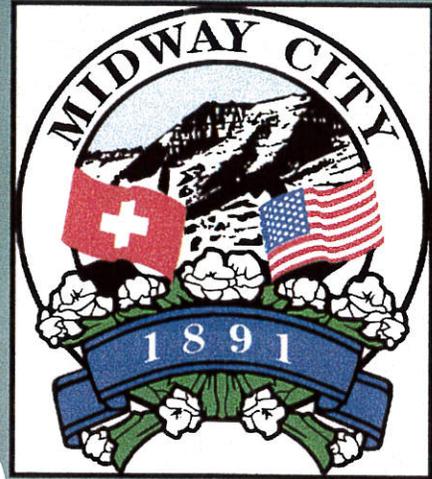


MIDWAY CITY CORPORATION

LAND USE ORDINANCE BOOK



FILE COPY
Return to Recorder's Office



Effective : July 11, 2006, Adopted July 7, 2006

DO NOT REMOVE FROM FILE



TABLE OF CONTENTS

02.01	TITLE, INTENT, AND PURPOSE	1
02.02	APPLICATION	2
02.03	DECLARATION	2
02.04	INTERPRETATION	2
02.05	DEFINITIONS	3-12
02.06	SUPPLEMENTARY REQUIREMENTS AND PROCEDURES	
	APPLICABLE WITHIN ZONES	13
02.06.001	Yard Space for One Building Only	13
02.06.002	Every Dwelling to be on a Zoning Lot	13
02.06.003	Sale or Lease or Required Space Prohibited	13
02.06.004	Yards to be Unobstructed—Exceptions	13
02.06.005	Area of Accessory Buildings	13
02.06.006	Accessory Buildings Prohibited as Living Quarters	13
02.06.007	Kitchen Units in Motels and Hotels	13
02.06.008	Storage of Commercial Vehicles in Residential Zones Prohibited	13
02.06.009	Storage of Junk and Debris in Residential Zones Prohibited	14
02.06.010	Maximum Height Provisions for all Buildings	14
02.06.011	Minimum Height Allowed for Buildings	14
02.06.012	Minimum Width Allowed for Buildings Containing Dwelling Units....	14
02.06.013	Location of Barns	14
02.06.014	Drainage	14
02.06.015	Clear View of Intersecting Streets.....	15
02.06.016	Effect of Street Plan.....	15
02.06.017	Exception to Front and Side Setback Requirements	15
02.06.018	Concessions in Public Parks and Playgrounds	15
02.06.019	Sewage Disposal.....	15
02.06.020	Location of Gasoline Pumps	15
02.06.021	Off-Street Parking and Loading	16
02.06.022	Motor Vehicle Access	18
02.06.023	Landscaping Required	19
02.06.024	Maintenance of Undeveloped Areas- Large Scale Developments	20
02.06.025	Trails.....	20
02.06.026	Signs	20
02.06.027	Pollution Prevention	27
02.06.028	Recreational Vehicles, Manufactured Homes, and Mobile Homes.....	27
02.06.029	Home Occupations	27
02.06.030	Cottage Industries	28
02.06.031	Frontage on a Public Street.....	29
02.06.032	Transitional Use.....	30
02.06.033	Moving of Homes.....	30
02.06.034	Similar Uses	31

02.06.035	Fences, Walls, and Hedges	31
02.06.036	Heliports and Private Aircraft	31
02.06.037	Bed and Breakfast Establishments	31
02.06.038	Commercial PUD's and Condominium Projects.....	32
02.06.039	Wireless Telecommunications Ordinance	33
02.07	GENERAL PROVISIONS.....	46
02.07.001	Non-Conforming Buildings and Uses	46
02.07.002	Non-Conforming Lots of Record	47
02.07.003	Annexations.....	47
02.07.004	Amendments to Ordinance and Map.....	47
02.07.005	Conditional Use Approvals and Regulations.....	48
02.07.006	Nightly Rentals/Accommodations.....	50
02.07.007	Vested Rights	50
02.08	ESTABLISHMENT OF ZONES.....	52
02.08.001	Zones Established.....	52
02.08.002	Official Zone Map	52
02.08.003	Boundaries of Zones.....	53
02.09	REGULATIONS WITHIN ZONES	54
02.09.001	Business and Manufacturing Park Zone (B&MP).....	54
02.09.002	Commercial C-2 and C-3 Zones	60
02.09.003	Central Business District Overlay Zone (CBD-OV)	62
02.09.004	R-1-7 Residential Zone.....	63
02.09.005	R-1-9 Residential Zone.....	65
02.09.006	R-1-11 Residential Zone.....	66
02.09.007	R-1-15 Residential Zone.....	68
02.09.008	R-1-22 Residential Zone.....	70
02.09.009	Recreational Resorts Overlay Zone (RR-OV).....	72
02.09.010	RA-1-43 Residential-Agricultural Zone.....	74
02.09.011	Sensitive Lands Overlay Zone (SL-OV).....	76
02.10	LARGE SCALE DEVELOPMENTS	96
02.10.001	Permitted Large Scale Developments.....	96
02.10.002	Manufactured Home Parks	96
02.10.003	Recreational Vehicle Park	105
02.10.004	Planned Unit Developments (PUD's).....	115
02.10.005	Subdivisions	129
02.11	ADMINISTRATION AND ENFORCEMENT.....	144
02.11.001	Building Permits Required—Application	144
02.11.002	Plans Required.....	144
02.11.003	Permits to Comply with Ordinance	144
02.11.004	License to Comply with Ordinance	144
02.11.005	Permits Required	144
02.11.006	Construction and Use to Comply with Application.....	145
02.11.007	Certificate of Zoning Compliance Required	145
02.11.008	Zoning Administrator Appointed	145
02.11.009	Powers and Duties of Zoning Administrator	145

02.11.010	Board of Adjustment Created, Members, Terms.....	146
02.11.011	Board of Adjustment, Organization, Meetings, Records.....	146
02.11.012	Powers and Duties of the Board of Adjustment	147
02.11.013	Authority Limited for Board of Adjustment.....	147
02.11.014	Vote of the Board of Adjustment	147
02.11.015	Application to Appear Before the Board of Adjustment.....	147
02.11.016	Procedure of the Board of Adjustment.....	148
02.11.017	Hearings of the Board of Adjustment.....	148
02.11.018	Action of the Board of Adjustment	148
02.11.019	Recourse from Decision of Board of Adjustment	148
02.11.020	Planning Commission Created, Members, Terms	148
02.11.021	Powers and Duties of the Planning Commission.....	150
02.11.022	Powers and Duties of Governing Body	150
02.12	SEVERABILITY	151
02.13	RESPONSIBILITY FOR VIOLATIONS	151
02.14	PENALTIES	151
02.15	EACH DAY OF VIOLATION A SEPARATE VIOLATION.....	151
02.16	CONFLICTING PROVISIONS REPEALED.....	152
02.17	EFFECTIVE DATE	152
02.18	CITIZEN PARTICIPATION	152
02.18.001	Purpose	152
02.18.002	Applicability	152
02.18.003	Citizen Participation Plan	153
02.18.004	Citizen Participation Report	153
02.18.005	General Regulations	154
02.19	NOTIFICATION OF PUBLIC HEARINGS CONCERNING THE GENERAL PLAN AND ZONING ORDINANCE PROVISIONS	154
02.19.001	Notification.....	154
02.19.002	Posting	155
02.19.003	Notice to Surrounding Government Entities	155
02.19.004	Notice Regarding Changes to Certain Zoning Ordinance Req.....	155
02.19.005	Findings	156
02.20	APPEAL AUTHORITY.....	156



ORDINANCE NO. 2006- 20

LAND USE ORDINANCE

An Ordinance establishing zones within Midway City, Utah. It shall regulate and restrict within said zones the use, location, height, and size of buildings and structures, the use of land, the size of lots and yards, and other open spaces. It shall provide methods of administration and enforcement. It establishes penalties for the violation thereof. It shall also repeal the current Zoning Ordinance of Midway City and all other ordinances or parts of ordinances in conflict herewith.

BE IT ORDAINED BY THE CITY COUNCIL OF MIDWAY CITY, UTAH:

02.01 TITLE, INTENT, AND PURPOSE

This Ordinance shall be known as, and shall be entitled

THE REVISED LAND USE ORDINANCE OF MIDWAY CITY, UTAH, 2006.

It is the intent and purpose of the City Council of Midway City, Utah, to promote the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of the City by guiding development within the City in accordance with a comprehensive plan prepared and adopted by the City to accomplish the following:

- A. Encourage and facilitate orderly growth and development in the City.
- B. Facilitate adequate provision for transportation, trails, water, sewage, schools, parks and other public requirements.
- C. Promote sanitation and health of the inhabitants.
- D. Promote safety from fires, floods, traffic hazards, and other dangers.
- E. Discourage the overcrowding of land and undue concentration of population.
- F. Discourage undue scattering of population and unnecessary expenditure of monies for excessive streets, water and sewer lines, and other public requirements.
- G. Stabilize and improve property values.
- H. Protect the residents from objectionable noise, odor, dust, fumes, and other deleterious substances or conditions.
- I. Promote a more attractive and wholesome environment.
Promote the inclusion of a variety of household types, age groups, and income levels.
Promote the historic downtown area with shops and workplace in close proximity to each other, the scale of which accommodates pedestrian travel for trips within the community. Promote the retention of Midway City's rural atmosphere and preserve a variety of types of open spaces, scenic vistas, agricultural lands, and natural areas.

02.02 **APPLICATION**

The regulations and restrictions as set forth in this Ordinance shall be so interpreted and applied as to further the purposes of this Ordinance.

02.03 **DECLARATION**

In establishing the zones, the boundaries thereof, and regulations and restrictions applying within each of the zones, due and careful considerations was given, among other things, to the suitability of the land for particular uses, and to the character of the zone, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

02.04 **INTERPRETATION**

In interpreting and applying this Ordinance, the provisions thereof shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. In the case that this Ordinance imposes a greater restriction than is imposed or required by other existing provisions of law or ordinance, then in such case the provisions of this Ordinance shall control.

02.05 DEFINITIONS

In this section it is the intent of the City Council to define certain words and phrases in order that they may be understood when used in other sections of the Zoning Ordinance. Words used in the present tense include the future, the singular includes the plural and the plural the singular. Further questions concerning definitions as defined in this section shall be referred to the Zoning Administrator.

02.05.001 AGRICULTURE

Agriculture shall mean the growing of soil crops in the customary manner in the open. It shall not include livestock raising activities nor shall it include retailing of products on the premises.

02.05.002 BOARDING HOUSE

A building containing not more than one kitchen, where for compensation, meals are provided pursuant to previous arrangements on a daily, weekly, or monthly basis as distinguished from a motel, café, or rooming house.

02.05.003 BUILDING

Any structure built for the support, shelter, or enclosure of persons, animals, or property of any kind.

- A. Building accessory: A subordinate building, the use of which is incidental to that of the main building.
- B. Main building: One or more of the principal buildings upon a lot.
- C. Building line: A line designating the minimum distance which buildings must be set back from a street or lot line.

02.05.004 CARPORT

A structure with one (1), two (2), or no walls for the shelter of automobiles.

02.05.005 CLINIC

A building used for the diagnosis and treatment of ill, infirm, and injured persons, but which building does not provide board, room, or regular hospital care and services.

02.05.006 CLUB

A building used, occupied, and operated by an organized association of persons for social, fraternal, religious, or patriotic purpose, whose activities are confined to the members and their guests, but shall not include any organization, group or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.

02.05.007 COMMON AREA

Common area means property that a community association, as defined in Utah Code Section 57-8a-102, owns, maintains, repairs or administers.

02.05.008 GENERAL PLAN

A coordinated plan, which has been prepared and adopted by the Planning Commission and City Council for the purpose of guiding development. The plan may include, but is not limited to, a plan of land use, circulation, housing, public facilities and identified City goals and objects.

02.05.009 CONDITIONAL USE

A use which requires a recommendation from the Planning Commission and an approval from the City Council prior to the Zoning Administrator issuing a permit for construction or prior to the use commencing. A use which requires individual consideration of surrounding conditions and circumstances prior to approval. Approval by the Planning Commission or City Council may be given with conditions.

02.05.010 CONVENIENCE STORES OR SHOPS

Establishments which are designed and intended to serve the daily or frequent trade or service needs of surrounding population. Such establishments typically include grocery stores, variety stores, drug stores, coin operated laundry, dry cleaning, beauty shops, barber shops, or a combination thereof. Convenience stores do not include repair garages, automobile sales or service, or clothing stores.

02.05.011 CONVALESCENT HOME OR REST HOME

A building for the care and keeping of elderly or infirm people afflicted with infirmities or chronic illness.

02.05.012 COTTAGE INDUSTRY

Cottage industry means 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.

02.05.013 CURB CUT

A cut in the curb line for the passage of vehicles.

02.05.014 DENSITY

- A. Gross Density: The number of dwelling units per gross acre of land in a project.
- B. Net Density: The number of dwelling units per acre within a specified area in a project.

02.05.015 DRIVE-IN-RETAIL

Any form of merchandising, serving, or dispersing of goods in which the customer is serviced while in his/her automobile.

02.05.016 DWELLING

- A. Dwelling Unit: One or more rooms in a building designed for living purposes, having one kitchen and an independent water closet and bathing facility.

- B. Dwelling, One-Family: A building containing one (1) dwelling unit, which is designed for or occupied by one (1) family.
- C. Dwelling, Two-Family: A building containing two (2) separate dwelling units each of which is designed for or occupied by one (1) family.
- D. Dwelling, Multiple-Family: A building containing three (3) or more separate dwelling units each of which is designed for or occupied by one (1) family.
- E. Dwelling, Caretaker: A dwelling which is occupied by a person whose function it is to watch or take care of a business or industry which is located on the same premises as the dwelling.
- F. Dwelling, Bachelor: A dwelling unit, which is occupied by three (3) or more non-related adults.

02.05.017 ENVIRONMENTAL ASSESSMENT REVIEW STATEMENT

A statement prepared by an engineer in conjunction with a geologist, or other person qualified by training or experience, as determined by the Planning Commission, which indicates or describes the impact that the development will likely have on the natural features of the immediate area, and which describes the measures that will be taken to lessen the occurrence of adverse conditions. The impact statement shall describe the impact the development will likely have on the natural features of the immediate area. The statement shall also indicate the measures that will be taken to mitigate any negative conditions that will occur as a result of the project with respect to:

- A. Control of erosion within the project area.
- B. Re-seeding of cuts and fills.
- C. Provisions for potable water, including ability of existing or proposed infrastructure to deliver culinary water, provide fire flow, water storage capacity, and any other concerns of the City Engineer.
- D. Disposition of geologic hazards which will be hazardous to safety or any aspect of the development. Special attention shall be given to the discussion concerning soil conditions. A soils engineer shall be consulted in the preparation of the impact statement. The statement shall include preliminary information concerning the existing water table, bed rock conditions, road design criteria, and approximate cost estimates for utility installation.
- E. Provisions for proper disposal of sanitary sewer wastes, including ability of existing or proposed infrastructure to take sewer water, provide for treatment and storage capacity for treated effluent in the existing facility, and any other concerns of the Midway Sanitation District and Heber Valley Special Service District engineers.
- F. Prevention of the accumulation of weeds and debris both during construction of the infrastructure and throughout the build out of the entire project, including if a project is to be phased into more than one plat.
- G. Disposition of existing vegetation and the establishment of new vegetation.
- H. Disposal of surface water run-off and conditions relating to flood hazards for a 25-year, 24-hour storm disposal of storm water run-off in relation to offsite requirements. Study shall also show the affects of a 100-year storm on the development and affected surrounding areas as directed by the City Engineer.

- I. Costs of services or facilities (both off-site and on-site), which may devolve upon the public as a result of the construction of the project, as planned.
- J. Study declaring existence of and showing protection for wetlands, wildlife habitat (including migration patterns) ridgelines/hillsides, stream corridors, subsurface or surface geothermal features and mounds (whether active or not), and other natural features as required in Section 02.09.011 Sensitive Areal Overlay Zone (SA-OV).
- K. Provisions for disposal of solid wastes.

02.05.018 EXACTION

A requirement imposed as a condition of land use that is subject to the following standard: The City may impose an exaction or exactions on proposed land use development if:

- (1) an essential nexus exists between a legitimate governmental interest and each exaction; and
- (2) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

02.05.019 FAMILY

An individual or two or more persons related by blood, marriage, or adoption living together in a single dwelling unit and maintaining a common household. A family may include two, but not more than two non-related persons living as guests with the residing family. The term family shall not be construed to mean a group of non-related individuals, a fraternity, club, or institutional group.

02.05.020 FENCE, SIGHT-OBSCURING

A fence having a height of at least six (6) feet above the general surrounding grade of the area which permits vision through not more than ten (10) percent of each square foot. General grade shall be determined by the Zoning Administrator or referred to the Planning Commission for their determination.

02.05.021 FINAL COMPLETION

All items required in "Substantially Complete" plus all street lights, street signs, and roadway striping. The entire development or phase of the development shall be complete and functioning as shown on the construction plans and as determined by the City Engineer.

02.05.022 FLOOR AREA, GROSS

The gross floor area of a building is the total of all square footage within the structure measured from outside faces of each wall.

02.05.023 FRACTIONAL NUMBERS OR MEASUREMENTS

In meeting the requirements of this Ordinance, all fractions of numbers above one-half shall be construed to mean the next highest whole number. All fractions one-half or less shall be construed to mean the next lowest whole number.

02.05.024 GARAGE, PRIVATE

A building or part thereof designed for the parking or temporary storage of automobiles of the occupants of the premises.

02.05.025 GRADE, NATURAL

Elevation of the existing surface of the land prior to commencement of construction of any improvements proposed or any previous site disturbance. Natural grade, when not readily established due to prior modifications in terrain, shall be fixed by reference elevations and slopes at points where the prior disturbance appears to meet the undisturbed portions of the subject property or the undisturbed grade of adjacent properties. The estimated natural grade shall tie into the elevation and slopes of adjoining properties without creating a need for new retaining walls, or abrupt differences in the visual slope and elevation of the land, and not change the direction or flow of run-off water.

02.05.026 GUEST

A person staying or receiving services at a hotel, motel, boarding house, rooming house, house, rest home, or similar use.

02.05.027 HEIGHT OF BUILDING

The vertical distance from natural grade to top of the highest portion of the roof at any point directly above.

02.05.028 HOME OCCUPATION

Any occupation conducted within a dwelling, which is clearly secondary in importance to the home as a dwelling or place to live and carried on only by persons residing in the dwelling and where customers do not come to the home to conduct business. In other words, the business is conducted over the telephone or Internet and any products are shipped to the customer. The business owner does paperwork within the home and any meetings with or services to clients are rendered away from the home (such as an accountant, decorator or consultant)

02.05.029 JUNK YARD

A place where scrap, waste, discarded, or salvaged materials are bought, sold, exchanged, disassembled, or handled or stored, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where uses are conducted entirely within a completely enclosed building or where salvaged materials are kept incidental to manufacturing operations conducted on the premises.

02.05.030 KENNEL

Land or buildings used in the keeping of four or more dogs over four months old.

02.05.031 LANDSCAPING

Landscaping shall mean some combination of planted trees, shrubs, vines, ground cover, flowers, or lawns. In addition, the combination of design may include rocks and such structural features as fountains, pools, art works, screens, walls, fences, walks, or benches,

but such objects alone shall not meet the requirements of this Ordinance. The selected combination of objects for landscaping purposes shall be arranged in a harmonious manner as determined by the Planning Commission.

02.05.032 LAND USE PLAN

A plan recommended by the Planning Commission and adopted and maintained by the City Council, which shows how land should be used. It is also an element of the General Plan.

02.05.033 LARGE SCALE DEVELOPMENT

A development that contains two or more main buildings on a zoning lot and which development is planned and developed as a single entity.

02.05.034 LIVESTOCK CORRAL

A place or pen where livestock are kept on a seasonal basis as part of an agricultural operation as distinguished from a livestock feed yard.

02.05.035 LIVING OPEN SPACE

Living open space is that portion of the yard on a zoning lot which is not used by automotive vehicles, but reserved for outdoor living space, recreational space and landscaping.

02.05.036 LODGING HOUSE, ROOMING HOUSE

A building, where for compensation, rooming and sleeping accommodations are provided for four (4) or more persons pursuant to previous arrangements on a daily, weekly, or monthly basis. Not a motel or hotel.

02.05.037 LOT

A single parcel or tract of land.

- A. Lot, corner: A lot situated at a junction of two (2) public streets or situated on a curved street where the radius of the curve is thirty-five (35) feet or less and where the angle formed by the intersection of the tangent is one-hundred and five (105) degrees or less.
- B. Lot, interior: A lot other than a corner lot.
- C. Lot of record: A lot designated in an approved subdivision or a lot legally created, said lot or subdivision being created prior to the current zoning designation. This lot would be recorded pursuant to statute in the County Recorder's office. A lot of record may or may not coincide with existing zoning requirements.

02.05.038 MANUFACTURED HOME

See State of Utah law and definitions.

02.05.039 MANUFACTURED HOME PARK

An area or tract of land used to accommodate manufactured homes.

02.05.040 MODULAR HOME

See State of Utah law and definitions.

02.05.041 MOBILE HOME

See State of Utah law and definitions.

02.05.042 MOTEL

Shall mean one (1) or more buildings containing individual sleeping rooms or living units designed for use by automobile tourists or transients with parking spaces conveniently located by each unit.

02.05.043 NON-COMPLYING STRUCTURE

A structure that: (a) legally existed before its current land use designation; and (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations which govern the use of land.

02.05.044 NON-CONFORMING BUILDING

A building, structure, or portion thereof, which does not conform to the regulations of the Ordinance applicable to the zone or district in which such building is situated but which was in existence on the effective date of this Ordinance.

02.05.045 NON-CONFORMING USE

A use of land that: (a) legally existed before its current land use designation; (b) has been maintained continuously since the time the land use ordinance governing the land changed; and (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

02.05.046 NURSERY, DAY CARE

A home or building in which children are tended or kept for compensation. Does not include overnight accommodations for such children.

02.05.047 PARKING SPACE

Space within a building or parking area, exclusive of driveways, ramps, columns, office and working area, for the parking of a motor vehicle, not less than twenty (20) feet in length and not less than nine (9) feet in width.

02.05.048 PASTURING OF ANIMALS

Keeping of farm animals in an enclosure, in which no feed is provided except that which the animals obtain by grazing. Farm animals may only be kept in numbers allowed under the point system in Section 02.09.010 B-3 of this ordinance. The intent of this section is to allow animals to graze off grass and weeds from pastures where animals are not allowed as a permitted use.

02.05.049 PLANNED UNIT DEVELOPMENT (PUD)

A tract of land which is planned and developed as a single entity, wherein the requirements applying to all buildings and improvements are modified to conform to the approved plan.

For the purposes of this Ordinance, condominium projects shall be processed under the PUD requirements when meeting the PUD standards and requirements and the condominium requirements of the laws of the State of Utah.

02.05.050 PLANTING (LANDSCAPE) PLAN

A plan showing the location, type, and size of plants. It shall indicate irrigation equipment, curbs, berms and other protective features around the edge of the planting beds.

02.05.051 PUBLIC PARKS AND PLAYGROUNDS

Shall mean a tract of land which is owned by the public and which has been partially or totally developed or designated for recreational purposes.

02.05.052 REST HOME--NURSING HOME-CONVALESCENT HOME

A building for the care and keeping of elderly or infirm people afflicted with infirmities or chronic illness.

02.05.053 RECREATIONAL VEHICLE CAMPER-TRAVEL TRAILER-MOTOR HOME

A vehicle unit, other than a mobile or manufactured home, primarily designed as a temporary dwelling for travel, recreational and vacation use, which is either self-propelled or is mounted on or pulled by another vehicle; including but not limited to: a travel trailer having a width of eight (8) feet or less and a length of thirty-two (32) feet or less, a camping trailer having width of eight (8) feet or less and a length of thirty-two (32) feet or less, a truck camper, and motor home comprised of a self-propelled vehicle primarily designed as a temporary dwelling for travel, recreational use, and vacation use.

02.05.054 RECREATIONAL VEHICLE COURT

An area or tract of land used to accommodate two (2) or more recreational vehicles.

02.05.055 SALVAGE YARD

see "junk yard".

02.05.056 SET-BACK

The shortest distance between the property line and the foundation, wall, or a framing member of the building supporting a floor or roof (a deck shall not be considered a floor; however, a support for a roof over a deck shall be the point for measuring setbacks).

02.05.057 SIGN

Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public but not including a flag pole.

- A. Sign, Accessory: A sign which directs attention to a business or profession, conducted on the premises.
- B. Sign, Area of: The area of a sign shall be considered to include all lettering, wording, and accompanying designs or symbols together with any background material whether painted or applied. Where a sign consists of individual letters attached to or painted on a building or wall or window the

area of the sign shall be considered to be that of the smallest rectangle which encompasses all the letters or symbols.

- C. Sign, Non-accessory Billboard: A sign which directs attention to a business, com-mod, service, or entertainment, which is conducted, sold, or offered elsewhere than on the premises.

02.05.058 STREET, PRIVATE

A street located on private property, for which the City has no responsibility.

02.05.059 STREET, ARTERIAL OR COLLECTOR

A principal thoroughfare, as shown or designated in the Comprehensive Street Plan.

02.05.060 STREET, LOCAL

Any dedicated street serving as the principal means of access to property, which street is not shown on the Comprehensive Street Plan, as a principal thoroughfare.

02.05.061 SUBDIVISION

The term "subdivision" means the division of a tract, or lot, or parcel of land into two (2) or more lots, plots, sites, or other division of land for the purpose, whether immediate or future, of sale or for building development.

02.05.062 SUBSTANTIALLY COMPLETE

The culinary water, secondary water, sewer, and storm water, must be installed and tested as a complete system. All road base, asphalt roads, curb, gutter, sidewalks and/or trails, must be installed. All electrical and natural gas utilities installed and all utility conduits have been installed as a complete and functioning system.

02.05.063 SWISS/ALPINE ARCHITECTURE

Compliance with Swiss Architecture as stated in this ordinance shall be determined by the City Council following a recommendation by the Planning Commission.

02.05.064 VARIANCE

A waiver of a specific regulation of this Ordinance granted by the Board of Adjustment in accordance with the provisions set forth in this Ordinance for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same zone.

02.05.065 YARD

An open space on the same lot with a building unoccupied or unobstructed from the ground upward, except as otherwise provided in this Ordinance.

A. Yard, front: The minimum horizontal distance between the street line and the front line of the building or any support posts for projections thereof, excluding non-enclosed steps. On a corner lot, the front yard may be applied to either street.

B. Yard, Rear: An open area or unoccupied space on the same lot as a building, measured from the rear line of the building (exclusive of steps) to the rear line of the lot, and extending for the entire width of the lot. On a corner lot, the rear yard may be applied to either of the interior lot lines, but does not enter the front or side yard, which faces the street.

C. Yard, Side: The open space between the building and the sideline of the lot and extending from the front yard to the rear lot line. On a corner lot, one of the side yards must face upon the remaining street after the front yard street frontage has been designated.

02.05.066 ZONING LOT

A tract of land designated for purposes of this Ordinance as the development site. A zoning lot may or may not coincide with a lot of record.

02.06 SUPPLEMENTARY REQUIREMENTS AND PROCEDURES APPLICABLE WITHIN ZONES

The intent of this chapter is to accumulate, under one heading, regulations which apply to two or more zones, rather than to repeat them several times.

02.06.001 YARD SPACE FOR ONE BUILDING ONLY

No required yard or other open space around an existing building, or which is hereafter provided around any building, which is needed to comply with the provisions of this Ordinance shall be considered as providing the yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing the yard or open space on the lot whereon a building is to be erected or established.

02.06.002 EVERY DWELLING TO BE ON A ZONING LOT

Only one building which contains a dwelling shall be located and maintained on a zoning lot as defined in this Ordinance, except for dwellings within a planned unit development, manufactured home park, or other large scale development, not including subdivisions.

02.06.003 SALE OR LEASE OR REQUIRED SPACE PROHIBITED

No space needed to meet the width, yard, area, coverage, parking, or other requirement of this Ordinance for a lot or building may be sold or leased apart from such lot or building unless other space so complying is provided.

02.06.004 YARDS TO BE UNOBSTRUCTED--EXCEPTIONS

Every part of a required yard shall be open to the sky and unobstructed except for permitted accessory buildings and except for ordinary and customary projection of sills, cornices, and other ornamental features and unenclosed steps and un-walled stoops and porches, which may project up to three feet into a required yard.

02.06.005 AREA OF ACCESSORY BUILDINGS

Accessory buildings in any residential zone shall not cover more than twenty-five (25) per cent of the rear yard.

02.06.006 ACCESSORY BUILDINGS PROHIBITED AS LIVING QUARTERS

Living and sleeping quarters in any building other than the main residential building is prohibited.

02.06.007 KITCHEN UNITS IN MOTEL AND HOTELS

Lot area per dwelling unit shall apply to motels and hotels for those units that include kitchen facilities.

02.06.008 STORAGE OF COMMERCIAL VEHICLES IN RESIDENTIAL ZONES PROHIBITED

It shall be unlawful to park a double axle truck having a rated capacity of two tons or more on any public street in any residential zone for continuous length of time of three hours or more. It shall also be unlawful to so park any construction equipment, such as graders,

compressors, etc., provided that construction equipment may be stored on a lot during construction of a building thereon, but not to exceed nine (9) months.

02.06.009 STORAGE OF JUNK AND DEBRIS IN RESIDENTIAL ZONES PROHIBITED

No yard or other open space surrounding an existing building in any residential zone, or which is hereafter provided around any building in any residential zone, shall be used for the storage of junk, debris, or obsolete vehicles; and no land shall be used for such purposes, except as specifically permitted herein.

02.06.010 MAXIMUM HEIGHT PROVISIONS FOR ALL BUILDINGS

The height of any building shall not exceed thirty-five (35) feet. The total height shall be measured as the vertical distance from the natural grade, as defined in this ordinance, to the highest point of a roof. To allow for unusual conditions or appurtenances the following exceptions apply:

- A. Antennas, chimneys, flues, vents, or similar structures may extend up to five (5) feet above the specified maximum height limit.
- B. Water towers and mechanical equipment may extend up to five (5) feet above the specified maximum height limit.
- C. Church spires, bell towers, and like architectural features as well as flag poles, may extend above the specified maximum height limit by up to fifty (50) percent of the height limit, but shall not contain any habitable spaces above the maximum height.
- D. Public buildings and churches may be erected to any height provided the building is set back from required building setback lines a distance of a least one (1) foot for each additional foot of building height above the maximum height permitted.

02.06.011 MINIMUM HEIGHT ALLOWED FOR BUILDINGS

No dwelling shall be erected, which has a ceiling height of less than seven feet six inches (7'6") or one story above grade, whichever is greater.

02.06.012 MINIMUM WIDTH ALLOWED FOR BUILDINGS CONTAINING DWELLING UNITS

No dwelling shall be erected, for which the narrowest width is less than twenty (20) feet from outside face of opposing walls. This shall not include bay windows or offsets less than six feet in depth.

02.06.013 LOCATION OF BARNES

No barn, corral, or coop shall be constructed closer than one hundred (100) feet from any existing dwelling on an adjacent lot or parcel or public street, nor shall any corral, pen, or coop be constructed or maintained closer than thirty (30) feet to any open waterway that drains into a natural stream. Surface drainage from corrals or coops shall not be permitted to drain into a waterway that drains into a natural stream.

02.06.014 DRAINAGE

Surface water from rooftops, lots or irrigation ditches shall not be allowed to drain onto adjacent lots or streets.

02.06.015 CLEAR VIEW OF INTERSECTING STREETS

No obstruction which will obscure the view of automobile drivers shall be placed on a corner lot within a triangular area formed by the street property lines and a line connecting them at points forty-five (45) feet from the intersection of the street lines.

02.06.016 EFFECT OF STREET PLAN

Wherever a front or side yard is required for a building which abuts on a proposed street which has not been constructed but which has been designated by the Planning Commission as a future street, the depth of such front or side yard shall be measured from the planned street lines.

02.06.017 EXCEPTION TO FRONT AND SIDE SETBACK REQUIREMENTS

The setback from the street for any dwelling located between two existing dwellings in any residential zone may be the same as the average for the said two dwellings, provided the existing dwellings are on the same side of the street and are located within one hundred fifty (150) feet of each other. But no dwelling shall be located closer than twenty (20) feet from the street.

02.06.018 CONCESSIONS IN PUBLIC PARKS AND PLAYGROUNDS

Concessions, including but not limited to amusement devices, recreational buildings, and refreshment stands, shall be permitted on a public park or playground when approved by the City Council.

02.06.019 SEWAGE DISPOSAL

Domestic liquid waste facilities in all dwellings and other buildings used for human occupancy which buildings are located within three hundred (300) feet to an available public sewer shall be connected to a public sewage system. Where domestic liquid waste facilities are located further away than three hundred (300) feet from any available public sewer, a public sewer shall either be extended to connect with such facilities or else the facilities must be constructed in accordance with health department standards before a building permit shall be issued for the building in which the sewage facilities are to be constructed.

02.06.20 LOCATION OF GASOLINE PUMPS

Gasoline pump islands shall be set back not less than twenty (20) feet from any street line or residential zone boundary line. If the pump island is set in an angle on the property, it shall be so located that automobiles stopped for service will not extend over the property line. In no case shall pumps be set closer than ten (10) feet from any side or rear property line. Lots from which gasoline is dispensed to customers at retail shall be not less than seventy-five (75) by one hundred (100) feet in size. Canopies over pump islands may extend to within five (5) feet to the property lines.

02.06.021 OFF-STREET PARKING AND LOADING

The following regulations are established to increase safety and lessen congestion in the public streets, to provide adequately for parking needs associated with the development of land and increased automobile usage, to set standards for off-street parking according to the amount of traffic generated by each use, and to reduce the on-street storage of vehicles.

A. The number of spaces required below for each land use are established as minimum requirements.

1. Residential structures shall provide two (2) parking spaces per unit.
2. Boarding houses and bachelor dwellings shall have one parking space for each one hundred (100) feet of floor space devoted to bedrooms or one (1) space for each two (2) persons living on the premises, whichever is greater.
3. Hospitals shall have one (1) visitor parking space per two (2) patients beds, plus one (1) parking space for each employee at work in the hospital during daylight hours.
4. Convalescent, nursing, and other such institutions shall have one (1) visitor parking space per three (3) patient beds, plus one (1) parking space for each employee at work in the home during daylight hours.
5. Hotels and motels shall have one (1) parking space per room or suite, plus one (1) parking space for each employee at work on the premises during daylight hours.
6. Private clubs and lodge halls shall have one (1) parking space per two (2) persons based on the design capacity of the facility.
7. Commercial recreation uses shall have one (1) parking space per two (2) patrons, based on the design capacity of the facility.
8. Churches shall have one (1) parking space per three (3) seating spaces in the main assembly room.
9. Theaters, auditoriums, sports arenas, and spaces of assembly shall have one (1) parking space per two (2) people based on the design of the structure.
10. Mortuaries or funeral parlors shall have thirty (30) parking spaces or one space for each twenty-five (25) square feet of floor space in all assembly rooms, whichever is greater.
11. Medical clinics shall have four (4) parking spaces per staff doctor, plus one (1) parking space for each non-doctor employee at work on the premises during daylight hours.
12. Restaurants, taverns and lounges shall have one (1) parking space per two hundred-fifty (250) square feet of dining room floor space.
13. Banks, professional offices, and other business buildings not specifically mentioned elsewhere in this sub-section shall have one (1) parking space per two hundred-fifty (250) square feet of floor area in the building devoted to public use.
14. Retail stores, personal service shops, and other business buildings shall have parking spaces at the rate of four (4) per one thousand (1000) square feet of retail floor area.
15. Drive-in restaurants shall have at least twelve (12) off-street parking spaces or sufficient off-street parking spaces to accommodate all patrons or customers, whichever is greater. No patron or customer may be served in automobiles, which are parked on public streets.

16. Industrial, manufacturing, and wholesale establishments shall have one (1) parking space per two (2) employees based on the largest shift.
17. Living quarters above or below the main level of a business in the commercial zone shall have one (1) parking space assigned to each dwelling unit.
18. Uses not mentioned. The required off-street parking for any use not listed above shall be determined by the Planning Commission. The Planning Commission shall make the determination based on similar uses listed above.

B. Location and Control of Parking Facilities

The off street parking facilities required by this Ordinance shall be located on the same lot or parcel of land as the use they are intended to serve, unless a cross parking agreement has been entered into with a neighboring party; said agreement must be approved by City Council.

C. Computation of Required Parking Spaces

For the purpose of computing off-street parking spaces (a space nine (9) feet wide and eighteen (18) feet deep), which are required by this Ordinance, the following rules shall apply:

1. Floor area shall mean gross floor area, unless otherwise specified for a particular use.
2. In stadiums, sports arenas, churches, and other places of assembly in which benches or pews are used in place of seats, each eighteen (18) inches of length of such benches or pews shall be counted as one (1) seat.

D. Combined Parking Areas

The required off-street parking and loading facilities may be provided collectively for two (2) or more buildings or uses, provided that the total number of parking spaces shall not be less than the sum of the requirements for each of the individual uses. Nevertheless, if the applicant can show, by using nationally recognized studies, the City Council may reduce the amount of parking.

E. Mixed Uses

In the event that two (2) or more uses occupy the same zoning lot or parcel of land, the total requirements for off street parking and off-street loading space shall be the sum of the requirements of the various uses computed separately. Nevertheless, if the applicant can show, by using nationally recognized studies, the City Council may reduce the amount of parking.

F. Access to Parking Facilities

1. Access driveways shall be a minimum of twenty-four (24) feet in width and provide for ingress to and egress from all parking and loading facilities. Each parking and loading space shall be easily accessible to the intended user.
2. Forward travel in an automobile to and from parking facilities from a dedicated street or alley shall be required for all uses, except for parking, which has been provided in connection with one and two family dwellings. The parking area

shall be adequate to facilitate the turning of vehicles to permit forward travel upon entering a street.

3. Access to all off-street parking facilities shall be designed in a manner that will not interfere with the movement of vehicular and pedestrian traffic.

G. Circulation Within a Parking Area

Circulation within a parking area shall comply with the following requirements:

1. Parking area with more than one (1) aisle must be so arranged that a car need not enter the street to reach another aisle within the same parking area. Aisles must be at least twenty-four (24) feet wide.

2. Directional signs shall be required to differentiate between entrance and exit access points to the streets.

H. Location of Parking Facilities

Restricted parking and loading facilities shall be located at the side and rear of buildings. Off-street parking space which is required in connection with a use shall be construed to be part of that use and shall not be located within a zone unless expressly permitted herein.

I. Lighting of Parking Areas

Any lighting used to illuminate off street parking facilities or vehicle sales areas shall be so arranged as to reflect the light away from the adjoining premises in any residential zone. Lighting shall meet the requirements of the Midway City Nuisance Ordinance.

J. Continuing Obligation

The required off-street parking and loading facilities shall be a continuing obligation of the property owner so long as the use requiring vehicle parking or vehicle loading facilities continues. It shall be unlawful for an owner of any building or use to discontinue or dispense with the required vehicle parking or loading area which meets the requirements of this Ordinance.

K. Plot Plan Approval Required

At the time a building permit is requested for any building or structure, or at the time the use of land is changed which requires additional off street parking spaces, a plot plan shall be submitted showing the location and layout of such required spaces along with access aisles, roadways, curbs and curb cuts. The Planning Commission shall disapprove such plans if it finds that the required spaces are not usable for standard sized automobiles or do not comply with the requirements for off-street parking as set forth in this Ordinance.

02.06.022 MOTOR VEHICLE ACCESS

Access to all lots and parcels of land having frontage on a public street shall be controlled as follows:

- A. Access shall be by not more than two (2) driveways from any one street, except as may be permitted by the Planning Commission, when it can be shown that additional driveways will promote traffic safety.
- B.. On corner lots, no driveway shall be closer than forty (40) feet to the point of intersection of the front property line with the side property line which abuts upon a street.

02.06.023 LANDSCAPING REQUIRED

At least seventy percent (70%) of the area contained within a required front or side yard adjacent to a street shall be landscaped. The purpose of the landscaping requirement in this Ordinance shall be to enhance the appearance of buildings, to protect and enhance the beauty of the landscape, and to stabilize property values by encouraging pleasant and attractive surroundings and thus create the necessary atmosphere for the orderly development of a pleasant community. Landscaping also contributes to the relief of heat, noise, and glare through the proper placement of green plants and trees.

- A. **Scope of Requirement**
Where landscaping is required, such landscaping shall comply with the requirements set forth in the Ordinance for the specific use and location.
- B. **Maintenance**
Required landscaped areas shall be maintained in a neat, clean, orderly, and healthful condition. This is meant to include proper pruning, mowing lawns, weeding, removal of litter, fertilizing, replacement of dead plants, and the regular watering of all plantings.
- C. **Screening Requirements**
Where landscaping screening is required, said screening shall consist of evergreen shrubs, closely spaced and maintained at substantially the specified height of said required screening. When not otherwise specified, natural screening shall be maintained at a height of from four (4) to six (6) feet.
- D. **Plot Plan Required**
Where landscaping is required in this Ordinance, a plot plan showing the proposed landscaping development, watering system and use of the property shall be submitted to the Planning Commission, except that a plot plan shall not be required for one and two-family dwellings. The same plot plan used to show parking layout or other requirements for the issuance of a building permit may be used to show landscaping, providing all proposed landscaping is detailed adequately on said plot plan. The Planning Commission may disapprove such plans if it determines that they are not consistent with the requirements and purposes of this Ordinance.
- E. **Non-Conforming Status**
Any use of property, which, on the effective date of this Ordinance, is non-conforming only as to the regulations relating to landscaping, may be continued in the same manner as if the landscaping were conforming.

02.06.024 MAINTENANCE OF UNDEVELOPED AREAS WITHIN LARGE SCALE DEVELOPMENTS

All areas within a large scale development shall be maintained and, other than noxious weeds, kept mowed to six inches or less by the developer, until permanent landscaping and infrastructure are installed. Noxious weeds, as identified by the Wasatch County Weed Board, shall be controlled using Board approved treatment procedures for the selected weed species.

02.06.025 TRAILS

All large scale developments shall connect any trails shown on the city master trails plan for the area. Approval of trails by the Midway City Trails Committee shall be required before final approval shall be granted.

02.06.026 SIGNS

Identification is vital to the success of any business. These provisions regarding the regulation of signage have been created to promote signage that will be consistent with the nature of the Midway City setting. The intention of this provision is to create signs that are colorful, interesting, and tastefully designed and that will inform, stimulate interest, and identify the business to which it is related. Prior to a sign being approved for either location or appearance by the Zoning Administrator, a recommendation shall be requested and received from the Architectural Review Committee (ARC) regarding the sign. The Zoning Administrator and ARC shall act in a timely manner on the consideration of sign approvals. In review of signage, the ARC shall make its recommendations and evaluations based on sign compatibility with the property it represents and the immediate vicinity of the commercial area in which it is located. The following regulations shall apply to all signs in Midway installed after the approval date of this Ordinance. Handcrafted, carved or ornamental iron signs are encouraged. In order to encourage this type of sign, bonuses are allowed in both height and area allowances.

A. PERMITS

Regardless of cost, no sign, unless specifically exempted in Table 02.06.026, shall be erected or placed within the City without first making application for and obtaining a sign permit. Cost of such permit is \$25.00 or as may be from time to time amended by resolution of the City Council.

B. DEFINITIONS

For the general purpose of this code, certain abbreviations, terms, phrases and their derivatives shall be construed as specified herein. Words in singular include the plural. Words used in the masculine include the feminine; the feminine the masculine.

1. **Animated Sign:** The movement, or the optical illusion of movement of any part of the sign structure, design or pictorial segment including the movement of any illumination or the flashing, flickering, or varying of light intensity. The automatic changing of all or any part of the facing of a sign or any sign or part of a sign set in motion by movement of the atmosphere shall be considered to be animation under this code.

2. **Banner:** Any sign of lightweight fabric or similar material intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentations of any kind. National flags, flags of political subdivisions or other public entity shall not be considered banners for the purpose of this code. Refer to definition of Flag.
3. **Billboard:** A sign, regardless of size or type, that has a changeable face or faces and said face or faces are leased for advertising business, services, entertainment, and so forth which is conducted or sold elsewhere than on the premises on which the sign is located.
4. **Building-Mounted Sign:** Signs directly mounted to a building. Building-mounted signs shall include canopy, fascia, parapet, mansard, projecting, and roof/wall mounted signs.
5. **Canopy Sign:** A type of building-mounted sign mounted under and supported by a permanent canopy, arcade, or portal, and the faces of which are perpendicular to the nearest facade.
6. **Center:** (Business, Commercial, or Industrial): A group of three (3) or more businesses associated by common agreement or under common ownership which comprises a contiguous land parcel unit with common parking facilities.
7. **Decorative Sign:** A sign and sign frame that are made of the following:
 - a. Wood or simulated wood (carved, routed, and painted);
 - b. Rock or stone;
 - c. Stucco;
 - d. Metal (made with a combination of wrought iron, brass, steel, copper, and some painted metals); or
 - e. A combination of the above.

Architectural signs that make use of statuary, fountains, and Alpine architectural elements shall be considered decorative signs and are also eligible for bonus increases under the decorative sign category. The ARC must approve the sign as meeting these requirements in order for the Zoning Administrator to grant the bonus(es) allowed in table 02.06.026.
8. **Dedication Plaques:** Non-illuminated names of buildings, dates of erection, monument citations, commemorative tables and the like when carved in stone, concrete, metal, or any other permanent type construction and made an integral part of a permitted structure or made flush to the ground.
9. **Development-Entrance Sign:** A permanent sign erected at the entrance(s) of a residential or commercial development.
10. **Directional Sign:** Any sign which is designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property to which or on which the public is directed, and which contains no advertising copy.
11. **Flag:** Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other public entity.
12. **Free-Standing Sign:** A sign which is erected on its own self-supporting permanent structure, detached from any supporting elements of a building. Signs on walls or fences which are not an integral part of a building are free-

- standing signs.
13. **Governmental Sign:** A sign required by law or sign of a duly constituted governmental body, such as traffic sign, warning sign, or no trespassing sign.
 14. **Grand Opening Pennant, Banner and Display:** Those pennants, banners or displays used to announce the opening of a new business or special sale.
 15. **Identification Sign:** A sign which directs attention to a business, commodity, service, entertainment or product related to uses on the site where the sign is located and which is not otherwise defined in this code.
 16. **Illuminated Sign:** A sign whose surface is lighted internally (backlit) or externally (front lit).
 17. **Incidental Sign:** A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.
 18. **Maintenance:** The repairing or repainting of a sign structure, changing of reader panels or directory signs, or renewing copy of which has been made unusable by ordinary wear or tear of weather or accident, which does not exceed fifty percent (50%) of the total replacement value of the sign or sign structure as determined by the Zoning Administrator. "Maintenance" shall not include copy changes due to ownership changes or name changes.
 19. **Menu Board:** A sign for drive-in and drive-thru businesses which lists those items and services available at the premises.
 20. **Non-Conforming Sign:** Signs which lawfully existed within the City of Midway prior to the effective date of this code, but which do not comply with the requirements of this code, and which uninterruptedly continue to advertise the same business name and exist past the effective date of this code in a state of non-compliance, shall be deemed non-conforming signs.
 21. **Off-Premise Sign:** A sign which directs attention to a business, commodity, service, entertainment or product not related to uses on the premises where the sign is located.
 22. **Pennant:** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.
 23. **Political Sign:** A temporary sign which supports the candidacy of any candidate for public office or urges action of any other matter on the ballot of primary, general or special elections.
 24. **Projecting Sign:** A type of building-mounted sign, other than a wall sign or canopy sign, which projects more than twelve (12) inches from and is supported by a wall of a building.
 25. **Property Sale, Rental or Lease Sign:** Temporary sale, rental or lease sign placed on the property to which the sign refers.
 26. **Public Utility Sign:** Signs placed by a public utility for the safety, welfare, or convenience of the public, such as signs identifying high voltage, public telephone, or underground cables.
 27. **Sign:** Any identification, description, illustration, or device which is affixed directly or indirectly upon a building, structure or land which directs attention

to a product, place, activity, person, institution, or business, and which is visible from any public street, alley or public place, BUT NOT TO INCLUDE MENU BOARDS OR BANNERS AS DEFINED IN THIS SECTION. A vehicle-mounted sign on a vehicle that is habitually parked or stationed at the site of a business and serves to advertise or identify the business shall be construed as a sign for the purpose of this Ordinance. National flags and flags of political subdivisions shall not be construed as signs.

28. **Sign Structure:** The supports and framework of the sign.
29. **Temporary Development Sign:** A non-illuminated temporary sign allowed to be erected upon a parcel to designate future occupancy by a business, development or other concern designated thereon.
30. **Temporary Holiday Decorations:** Those temporary decorations used to commemorate a recognized holiday.
31. **Temporary Sign:** Any sign that is used temporarily, NOT TO EXCEED 90 DAYS, and is not permanently mounted, excluding portable signs.
32. **Vehicle Sign:** Any identification, description, illustration, symbol, or device which is affixed directly or indirectly upon a truck, bus, car, boat, trailer or other vehicle which identifies or directs attention to a product, place, activity, person, institution, or business. Signs upon a vehicle are exempt from permit requirements, provided that any such vehicle with a sign face of over two (2) square feet is not conspicuously parked so as to constitute a sign; nothing herein contained shall prevent such a vehicle from being used for bona fide delivery or other vehicular purposes when all of the following conditions are adhered to:
 - a. Primary purpose of such vehicle or equipment is not the display of signs.
 - b. Such signs are magnetic, decals, or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
 - c. Vehicle/equipment is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used in the daily function of the business to which such signs relate.
 - d. Vehicles and equipment are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.
 - e. During periods of inactivity exceeding forty-eight (48) hours such vehicles/equipment are not so parked or placed that the signs thereon are displayed to the public; and
 - f. Vehicles and equipment engaged in construction projects, and the on-premise storage of equipment and vehicles offered to the general public for rent or lease, shall not be subjected to this condition.
33. **Wall-Mounted Sign:** A sign mounted flat against a wall, projecting less than twelve (12) inches, or painted on the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of said wall.
34. **Window Sign:** Any sign, picture, symbol, or combination thereof, designed

to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

C. ABANDONED OR OBSOLETE SIGNS

Any sign which does not correctly direct or exhort any person, advertise a bonafide business, lessor, owner, product, activity conducted, or product available either on or off the premises where such sign is displayed for a period of ninety (90) days, shall be considered an obsolete sign. Sign structures that are abandoned and not in compliance with this Ordinance shall be removed 90 days after the sign(s) have been removed as required in the paragraph above. The owner of said abandoned sign structure may appeal this requirement for removal to the Board of Adjustment. The Board of Adjustment may allow the sign structure to remain in place for future or continued use if the Board finds that the sign structure is of historical value to the community. Obsolete sign copy and abandoned sign structures shall be removed by the owner of the property, his agent, or persons having the beneficial use of the building or structure upon which such sign or sign structure is erected within thirty (30) days after written notice from the Zoning Administrator, or in the case of an appeal, the Board of Adjustment.

D. SIGN REGULATIONS

Signs shall be regulated according to Table 02.06.026, including the notes at the end of the table.

Table 02.06.026 Sign Regulations
See Notes at end of Table

Use	Signs-No Permit Required	Number Allowed	Maximum Area in Square feet.	Signs-Permit Required	Number Allowed	Maximum Area in Square feet.	Maximum Height in lineal feet
Single/Multi Family Residential (R-1-7, R-1-9, R-1-11, R-1-15, R-1-22, & RA-1-43)	Nameplates	3	2	Temp. Devel. Signs	2	32 total	6
	Address Numbers	3	4	Development	1/entrance		
	Sale/Rent/Lease	1	6/frontage	Entrance Signs		32	6
	Dedication Plaques	1	4	Home Occupation	1	2	4
Residential/Recreational (RR-1-15)	Temp Political Signs						
	Nameplates	3	2	Temp. Devel. Sign	2	32 total	6
	Address Numbers	3	4	Development	1/entrance	32	5
	Sale/Rent/Lease	1	12	Entrance Signs			
Commercial Public and Quasi-Public Services Zone (C-2, C-3, C-PO, and C-PO)	Dedication Plaques	1	4	Home Occupation	1	2	4
	Temp Political Signs			Monument Signs for recreational business	1 per frontage	16	5
	Address Numbers	3	2	Temp. Devel. Sign	2	32 Total	8
	Temp Political Signs			Monument or Ground Wall, projecting, or canopy	1	32 Total	8
Commercial Public Services Zone (C-2, C-3, C-PO, and C-PO)	Dedication Plaques	1	4	Portable Menu Board	1 per wall face		10
	Incidental Window	1	4	Gas Price Board	1	16	See Note 4
	Grand Opening (Max two weeks)	As approved	2 per sign	Combined Business or Shopping Center	1	16	5
	Temporary Sale	No Limit	No Limit		1	12	6
	Promotion Banners (Max 72 hrs)	4	64 Total		1	8 per business up to max. 64	6
	Pennant Strings	4	64 Total		1 per frontage		15
		200 Lineal Feet					

Notes to Table 2.06.026:

1. There shall be no illuminated signs in the residential zones;
2. Signs not specifically listed in Table 02.06.026 are not allowed;
3. There shall be no exposed neon, flashing, or animated signs allowed in any zone.
4. No wall, projecting, or canopy sign shall project above the parapet or roof line of the building to which it is attached. Minimum heights shall be 8 feet over walking surfaces and 14 feet over vehicle surfaces.
5. All signs must be decorative signs as described in the definition section of the sign ordinance. If illuminated, signs must be illuminated from the front side. Backlit (or interior lit) signs are not allowed in any zone (backlit signs shall mean a sign with a cabinet that has a light source within and a plastic or similar face).
6. Business or Shopping Centers shall be allowed only one ground or monument sign. Sign may contain area for the center name and individual plaques for the businesses within the center as allowed in the table above.
7. Back to back signs shall count as one sign and square footage shall be calculated for one side only.
8. No sign shall be placed in a manner as to interfere in any way with or confuse traffic or present a traffic hazard.
9. Off-premise signs other than ladder signs described in section 13 below are not allowed.
10. Government signs, public utility signs, and temporary political signs are allowed in any district with no permit required.
11. Decorative tops may exceed the maximum height of approved decorative signs by 18 inches.
12. No billboards shall be allowed in any zone.
13. Ladder style business and real estate development directional signs may be allowed in any zone when approved by the City Council.
14. No inflatable signs shall be allowed except for temporary sales promotions not to exceed 72 hours.
15. Height of sign is measured from curb to the highest point of the sign structure; if no curb exists, then the height shall be measured from the crown of the road.
16. The sign area shall be measured as per Section 02.05.55 B of this Code.
17. Vehicle signs shall be prohibited (see Section 02.06.026 B for definition).
18. Temporary holiday decorations shall be allowed in all zones.
19. No sign shall be erected that will violate section 02.06.015 of the Zoning Ordinance.

02.06.027 POLLUTION PREVENTION

Any use which emits or discharges gases, fumes, dust, glare, noise, or other pollutants into the atmosphere in amounts which exceed the standards as prescribed by the Utah State Air Conservation Board or the Board of Health and any use which emits or discharges liquids or solid material onto the soil or water in amounts exceeding the standards prescribed by the Utah State Water Pollution Control Board or the Board of Health, shall be prohibited. This section shall not prohibit the use of burning for agricultural purposes.

02.06.028 RECREATIONAL VEHICLES, MANUFACTURED HOMES, AND MOBILE HOMES.

- A. It shall be unlawful to place a mobile home within the corporate limits of Midway City.
- B. A recreational vehicle shall not be placed on any lot or parcel of land in an area covered by the zone map and to use the same for human habitation except in compliance with one or more of the following conditions:
 - 1. When temporarily parked on a lot and occupied by relatives or friends of the residing family, but not to exceed fourteen (14) days.
 - 2. When temporarily located on a lot on which a building is being constructed provided the recreation vehicle is connected to approved water and sewer facilities and that a bond in the amount of two hundred (200) dollars shall first be posted with the City Treasurer guaranteeing the removal of the recreational vehicle from the lot upon completion of construction, but no later than one year from the date of permit.
- C. Any two of the following shall be *prima facie* evidence of human habitation of a recreational vehicle:
 - 1. Connection to an electrical power source,
 - 2. Connection to water source, or
 - 3. Connection to a private or public sanitary sewer system.
- D. Manufactured homes may be placed within the residential areas of Midway City, when they meet all zoning criteria for a residential dwelling unit, the home is placed on a permanent foundation, and when meeting the criteria of State law.

02.06.029 HOME OCCUPATIONS

A conditional use permit for home occupations, as described below, may be approved by the Zoning Administrator when he or she finds the application to be in compliance with the following:

- A. Home occupations are permitted in the zone.
- B. The home occupation is clearly incidental to and secondary to the residential use of the dwelling unit and does not occupy more than five hundred (500) square feet or twenty five (25) percent of the total floor area of such dwelling unit whichever is less.
- C. The home occupation is carried on entirely within the dwelling unit by one or more of the residents residing within the dwelling. For the purposes of this section, a garage, carport, patio, breezeway or any accessory building is not considered to be part of the

- dwelling.
- D. It shall not be permitted to conduct any activity of the home occupation outside of the dwelling unit or store materials or products outside of the dwelling unit. There shall be no external evidence of the home occupation. Signs shall be as permitted as in section 02.06.026 (Signs) of this Ordinance.
 - E. The home occupation shall not have customers or other persons coming to the home to conduct business. Note: Home-based businesses where customers come to the home are regulated in Section 02.06.030 (Cottage Industries).
 - F. The home occupation shall be in compliance with the Midway City Nuisance Ordinance.
 - G. The home occupation must comply with all Midway City building and fire codes.
 - H. The home occupation shall apply for, be issued, and keep current a Midway City business license after conditional use approval and before commencing operations.
 - I. No known zoning violations shall be in existence on the applicant's property in order to be approved for a conditional use or for approval of subsequent business licenses thereafter.

In the event that complaints concerning a home occupation are filed with the City, the Zoning Administrator shall investigate problems identified in the complaint to determine if the home occupation is being conducted in violation of this Ordinance. If the Zoning Administrator determines the home occupation is in violation of this Ordinance, the Administrator shall pursue the elimination of the violating activity in accordance with Section 02.11.009 and other pertinent sections of this Ordinance.

02.06.030 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 (see Section 02.05.012 for a definition of a Cottage Industry) :

- 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 in section 02.06.026 (Signs) of this ordinance.
- 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 premises occupation.

- H. The cottage industry shall not have more than three (3) 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 twenty (20) vehicle trips to the residence per day. The cottage industry shall not generate any traffic before 7:30 a.m. or after 8:00 p.m. nor shall any vehicle weighing in excess of twelve thousand (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 Midway City Nuisance Ordinance.
- J. No known zoning violations shall be in existence on the applicant's property in order to be approved for a 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. Employees must be 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 in compliance with Section 02.18.004 with notice given in compliance with Section 02.19.003, 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 Ordinance. If the Zoning Administrator determines the cottage industry is in violation of this Ordinance, the Administrator shall pursue the elimination of the violating activity in accordance with Section 02.11.009 and other pertinent section of this Ordinance.

02.06.031 FRONTAGE ON A PUBLIC STREET

Except in large scale developments and on approved private streets, one side on each lot used as a dwelling site shall abut upon a street which has been designated or dedicated to the public for street purposes, and the length of such abutting side measured at the setback line shall be at least as great as the width required for dwelling sites in the zone in which such building site is located.

02.06.032 **TRANSITIONAL USE**

Uses which are permitted on either portion of a lot which lot is divided by a zone boundary line or which is coterminous with a zone boundary line may be permitted to extend to the entire lot, but not more than one hundred (100) feet beyond the boundary line of such zone in which such use is permitted. Before a permit for such a use may be granted, however, the Board of Adjustment must find that the Comprehensive Plan of zoning will be maintained and that a more harmonious mixing of uses will be achieved thereby.

02.06.033 **MOVING OF HOMES**

The legal moving of a dwelling from one location to another is defined and permitted as follows:

Dwellings, which have had prior use, shall be permitted within all zones in which dwellings are permitted when approved by the Board of Adjustment, subject to the following conditions:

- A. An application has been filed with the Board of Adjustment containing the following information:
 - 1. Location and address of both the old and new sites.
 - 2. Plot plan of the new site, showing adjacent lots on all sides of the property and indicating all structures and improvements on said lots.
 - 3. Plans and specifications for the proposed improvements at the new location, including plans for landscaping treatment.
 - 4. Certification by a licensed structural engineer that the structure is sound enough to be moved shall be provided to the Building Inspector. A site plan and other documents showing that the condition, location, and use of the building will comply with the Zoning Ordinance and all other applicable codes and ordinances.

- B. The Board finds:
 - 1. That the building will have no appreciable detrimental effect on the living environment and property values in the area into which the structure is to be moved.
 - 2. That the building is in conformity with the quality of buildings existing in the area into which it is proposed to be moved.
 - 3. That said building and the lot on which the building is to be located will conform to the requirements of the Zoning Ordinance and other applicable codes, ordinances, and regulations.
 - 4. That the location on the lot does not in any substantial way adversely affect buildings or uses on abutting properties.
 - 5. That all landscaping, walkways and masonry work about the premises and the required dedications and improvements for streets and facilities and buildings shall be provided in conformity with the standards of the City.
 - 6. That a bond or other assurance has been posted as a guarantee that the building and grounds will be improved as stipulated by the Board of

Adjustment before the building is occupied, and that the vacated site will be restored to a safe and sightly condition. The amount of the bond or other assurance shall be at least equal to the cost of employing a contractor to make the improvement to the buildings and premises as required by the Board of Adjustment.

02.06.034 SIMILAR USES

A similar use is a use ruled by the City Council, after a recommendation has been given by the Planning Commission, to be in harmony with and not be in conflict with the objectives and characteristics of the particular zoning district in which it is being proposed. The use must be similar to the uses expressly permitted or conditionally permitted in the zone in which it is proposed with respect to traffic requirements, appearance, and emissions of noise and odor. Upon the determination of the City Council that a use is similar to those listed as permitted or conditional uses, that use shall be considered as a permitted or conditional use in the zone in which the determination was made.

02.06.035 FENCES, WALLS, AND HEDGES

Fences, walls, and hedges shall be permitted in all zones to a height of six (6) feet provided that no fences, wall, or hedge shall exceed four (4) feet in height within thirty (30) feet of any existing or proposed city street right-of-way or within fifty-five (55) feet of a center line of a proposed or existing city street or right-of-way, whichever is the greater distance. However, for an existing dwelling that is closer to the street right-of-way than the above requirements and is legally non-conforming, the fence or hedge may align with the edge of the dwelling parallel to said street right-of way line, but not closer than twenty (20) feet.

02.06.036 HELIPORTS AND PRIVATE AIRCRAFT

Due to the close proximity of the City of Midway to the regional airport located in Heber City, the need for additional land within the city limits to be designated for heliports or the landing of other types of aircraft has been determined to not be necessary. Temporary landing of helicopters may be permitted only after request and approval by the City Council in a regularly scheduled City Council meeting. Nevertheless, the landing of emergency medical or fire fighting aircraft, regardless of its type, shall be permitted within the City limits in the event of emergency situations. It is not intended to regulate or restrict the use of non-motorized aircraft by the passage of this Ordinance.

02.06.037 BED & BREAKFAST ESTABLISHMENTS

Bed and breakfast establishments shall be allowed as a conditional use in all zones where they are not specifically excluded by the zoning requirements of that zone and by private covenants, conditions, and restrictions (CC&R's) of the development and if the establishment complies with said CC&R's and the following requirements:

- A. The lot shall have at least one-hundred (100) feet of frontage on a dedicated street;
- B. One (1) off-street parking space shall be provided for each employee plus one (1) space per sleeping room. Parking shall not be allowed in the front setback area. Parking must be paved.

- C. Breakfast shall be the only meal served. Breakfast meals shall only be served to residents, employees, and overnight lodgers.
- D. No cooking facilities shall be allowed in the sleeping rooms.
- E. Such use shall conform to all applicable health, safety and building codes.
- F. No structural alterations shall be allowed which change the residential character of the structure.
- G. Alcoholic beverages may not be served unless a license has been granted by the Utah Department of Alcoholic Beverage Control and the City Council has specifically approved the same as part of the conditional use permit.
- H. Receptions, banquets, or catering may be permitted as an additional use to an approved bed and breakfast conditional use when the applicant can show adequate facilities and parking exists on the lot or when arrangements are made with the permission of surrounding lot owners.
- I. Any commercial or retail use shall be incidental to the bed and breakfast establishment use, i.e. gift shop, and shall be limited to five percent (5%) of the total square footage of the main floor of the residence.
- J. All signs shall comply with the current Midway City Sign Ordinance and as amended.
- K. A Midway City business license shall be acquired as a condition of approval.
- 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.
- M. Supervision by an on-site manager or owner shall be required on an overnight basis when the establishment has guests.
- N. Care shall be taken to insure that no exterior lighting shines directly onto adjoining property. Incident light at the property line shall not measure more than ten (10) foot-candles.
- O. A fire hydrant shall be within two hundred-fifty (250) feet from the property.
- P. The Midway City Fire Marshal shall determine maximum occupancy.
- Q. A site plan shall be submitted with the conditional use application.

02.06.038 COMMERCIAL PUD'S AND CONDOMINIUM PROJECTS

Commercial projects within the C-2, C-3 and CBD-OV Zones may be approved and recorded as PUD's or condominiums under the following criteria:

- A. Commercial condominium projects shall be considered a conditional use and in addition to these requirements, shall be subject to the State of Utah Condominium laws and Section 02.07.005, Conditional Use and Special Exception Approvals and Regulations.
- B. Standards & Requirements. Commercial PUD's & condominiums shall meet the standards and requirements of the CBD-OV Zone, Section 02.09.002, Commercial C-2 and C-3 Zones, and Section 02.06 Supplementary Requirements.
- C. Approval Process: Any person wishing to construct a commercial PUD or condominium project shall obtain information from the City regarding the City's plan of land use, streets, public facilities and other

requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received and the process outlined in Section 02.10.004 et seq.

- D. See also Section 02.06, Supplementary Requirements and Procedures applicable within the zones.

02.06.039 WIRELESS TELECOMMUNICATIONS ORDINANCE

A. PURPOSE

The purpose of this section is to establish general guidelines for the site locating of wireless communications towers and antennas. The goals of this section are to: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, locating, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) consider the public health and safety of communication towers; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful site location of tower structures. In furtherance of these goals, the City of Midway shall give due consideration to the City of Midway General Plan, the City of Midway Zoning Code, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

B. DEFINITIONS

As used in this section, the following terms shall have the meanings set forth below:

1. **Alternative Tower Structure:** Man-made trees, clock towers, bell steeples, light poles and similar alternative- design mounting structures that camouflage or conceal the presence of antennas or towers.
2. **Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
3. **Backhaul Network:** The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

4. **Co-Location:** The use by two or more wireless communications providers of the same support structure or the same site, as defined in Subsection "I" below.

5. **Existing Structure:** Light poles, power poles, chimneys, billboards, and other similar structures which are placed within the City at the time of adoption of this Chapter, except existing buildings.

6. **FAA:** The Federal Aviation Administration.

7. **FCC:** The Federal Communications Commission.

8. **Height:** When referring to a tower or other structure, the vertical distance measured from the natural grade level to the highest point of the structure directly above the natural grade when such structure is not located in a platted subdivision. If the structure is located in a platted subdivision, the height shall be the vertical distance measured from the finished grade as shown on the subdivision grading plans or finished grade as shown on the individual lot's grading plans (whichever is lower), to the highest point of the structure directly above the finished grade. In the event that terrain problems prevent an accurate determination of height, the City Planning Director shall rule as to height, and appeal from that decision shall be to the Board of Adjustment.

9. **Preexisting Towers and Preexisting Antennas:** Any tower or antenna for which a building permit has been properly issued prior to the effective date of this Ordinance, including permitted towers or antennas that have not yet been constructed, so long as such approval is current and not expired.

10. **Site:** The physical location upon which wireless telecommunications facilities are located. Unless otherwise stated in this Section, "site" shall be limited to the area occupied by a single tower and its accompanying ground or roof-mounted equipment.

11. **Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term also includes the structure and any support thereto.

12. **Wireless Communication:** Any technology for transmitting communication through the air.

13. **Wireless Communications Facility:** Any combination of one or more antennae, towers and/or structures or equipment used for the transmission of wireless communication.

C. **APPLICABILITY**

1. **New Towers and Antennas-** All new towers, equipment or antennas in the City of Midway shall be subject to these regulations.

2. **Exceptions**

- a. Amateur Radio Station Operators and/or Receive Only Operations. This Section shall not govern any tower, or the installation of any antenna, that is under the maximum building height of the zoning district in which such structure is located and which is solely used by a federally-licensed amateur radio station operator or is used exclusively for receive only operations, including devices necessary for individual subscriptions to commercial wireless services.
- b. Preexisting Towers or Antennas. Legally established preexisting towers and preexisting antennas shall not be required to meet the requirements of this Section, other than the requirements of Subsections 02.06.040-D-6, 02.06.040-D-7 02.06.040-J and 02.06.040-K..
- c. AM Array. For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

D. GENERAL REQUIREMENTS

- 1. Principal or Accessory Use Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- 2. Lot Size: For purposes of determining whether the installation of a tower or antenna complies with zoning district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- 3. Inventory of Existing Sites: Each applicant for an antenna and/or tower shall provide to the City Planning Director an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City of Midway or within one mile of the border thereof, including specific information about the location, height, and design of each tower. Each applicant shall also provide a one-year build-out plan for all other proposed wireless communications facilities within the City. The City Planning Director may share such information with other applicants applying for administrative approvals or special use permits under this Section or with other organizations seeking to locate antennas within the jurisdiction of City of Midway, provided, however that the City Planning Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

4. Aesthetics Towers and antennas shall meet the following requirements:
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure, so as to make the antenna and related equipment as visually unobtrusive as possible.
5. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views; provided however, that the City Council may waive such requirements, as it deems appropriate.
6. State or Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
7. Building Codes & Safety Standards: To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association (EIA) and by the Telecommunications Industries Association (TIA), as amended from time to time. If, upon inspection, the City of Midway concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
8. Measurement: For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Midway, irrespective of municipal and county jurisdictional boundaries.

9. Not Essential Services: Towers and antennas shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
10. Franchises: Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City of Midway have been obtained and shall file a copy of all required franchises with the City Planning Director.
11. Public Notice: For purposes of this Section, any special use request shall be pursuant to notification requirements of this Zoning Code, except that the notice required shall include posting of the property, and mailing to all property owners within 1,000 feet of the proposed use, and publication in a newspaper of general circulation regardless of any expression to the contrary to said notification requirements.
12. Signs: No signs shall be allowed on an antenna, on a tower, or on any portion of the premises leased for wireless telecommunication use.
13. Buildings and Support Equipment: Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 02.06.040-.H of this Code.
14. Co-Location and Multiple Antenna/Tower Plan: The City of Midway encourages tower and antenna users to submit a single application for approval of multiple towers and/or antenna sites and to submit applications, which utilize co-location with an existing wireless telecommunications provider. Applications for approval of multiple sites or for co-location with an existing provider shall be given priority in the review process.
15. Security Fencing: Towers shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height and shall be constructed of block or masonry, and shall be equipped with an appropriate anti-climbing device; provided, however, that the City Council may waive such requirements as it deems appropriate.
16. Landscaping: The following requirements shall govern the landscaping surrounding towers; provided, however, that the City Council may waive such requirements if the goals of this Section would be better served thereby.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - c. Existing mature plant growth and natural landlords on the site shall be preserved to the maximum extent possible.

E. PERMITTED USES

1. **General**: The uses listed in this Subsection are deemed to be permitted uses and shall not require a special use permit.

2. Permitted Uses: The following uses are specifically permitted:
 - a. Antennas or towers located on property owned, leased, or otherwise controlled by the City of Midway; provided, however, a license or lease authorizing such antenna or tower has been approved by the Midway City Council. No such license or lease shall be issued for a tower located within three hundred (300) feet of any residentially zoned property until an informational hearing has been held at a regular or special City Council meeting and notice of such hearing has been advertised according to Subsection 02.06.040-D-11 at least seven (7) days but not earlier than fourteen (14) days prior to such hearing. The maximum height of freestanding towers or antennas shall not exceed forty (40) feet in height without a special use permit, and that roof mounted antennas shall not extend more than ten (10) feet above the tallest point on such roof and in no case shall the total combined height of the building and the roof-mounted antenna exceed fifty (50) feet in height without a special use permit.
 - b. Antennas or towers located in any Industrial or Manufacturing Zoning District; provided, however, that freestanding towers or antennas shall not exceed forty (40) feet in height without a special use permit, and that roof-mounted antennas shall not extend more than ten (10) feet above the tallest point on such roof and in no case shall the total combined height of the building and the roof mounted antenna exceed fifty (50) feet in height without a special use permit.

F. SPECIAL USE PERMITS

1. General: There is hereby created for this section only a special use permit for wireless towers and antennas which may be granted by the City Council as follows:
 - a. If the tower or antenna is not a permitted use under Subsection 02.06.040-E of this Section, a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts. The primary height of any tower within the City shall be sixty (60) feet from natural grade. The City Council may approve a variance to increase this height if the applicant can show that a higher tower is unquestionably necessary for the operation of the equipment and that no other alternative is available. The maximum height of any such tower shall be eighty (80) feet from natural grade.
 - b. Applications for special use permits under this Section shall require a public hearing before the City Council and be subject to the procedures and requirements regarding public participation and public hearing notification within the Midway City Zoning Ordinance.
 - c. In granting a special use permit, the City Council may impose conditions to the extent such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

- d. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a Utah licensed professional engineer.
- e. An applicant for a special use permit shall submit the information described in this section and a non-refundable fee established pursuant to a Resolution of the City Council.
- f. A special use permit issued under this Section shall be conditioned upon verification by the City Engineer or designee that such tower structure is structurally sound. Such verification shall be received by the applicant prior to submission and shall be reviewed annually.

2. **Towers**

- a. Information required. In addition to any information required for applications for special use permits pursuant to this Zoning Code, applicants for a special use permit for a tower shall submit the following information:
 - (1) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), General Plan classification of the site and all properties within the applicable separation distances set forth in Subsection 02.06.40-G-2, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, and other information deemed by the City Planning Director to be necessary to assess compliance with this article.
 - (2) The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties.
 - (3) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Subsection 02.06.040- D-3 shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - (4) Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 - (5) A description of compliance with Subsections 02.06.040-D-3, 4, 5, 6, 7, 10, 12, 13, 14, 15 and 16, 02.06.040-.G-1 and 2 and all applicable federal, state or local laws.
 - (6) A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
 - (7) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
 - (8) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of

towers or structures to provide the services to be provided through the use of the proposed new tower.

(9) Description of the feasible alternative locations of future towers or antennas within the City of Midway based upon existing physical, engineering, technological, or geographical limitations in the event the proposed tower is erected.

(10) A statement of compliance with Federal Communications Commission (FCC) Radio Frequency (RF) exposure standards.

- b. Noise. No permit shall be issued for any facility, which generates a noise level greater than fifty decibels (50 db), as measured at the edge of the property upon which such facility is sited.
- c. Factors considered in granting special use permits for towers. In addition to any standards for consideration of applications pursuant to Section 02.06 et seq. of this Zoning Code, the City Council shall consider the following factors in determining whether to issue a special use permit, although the City Council may waive or reduce the burden on the applicant of one or more of these criteria if the City Council concludes that the goals of this Ordinance are better served thereby:
 - (1) Height of the proposed tower;
 - (2) Proximity of the tower to residential structures and residentially zoned district boundaries;
 - (3) Nature of uses on adjacent and nearby properties;
 - (4) Surrounding topography;
 - (5) Surrounding tree coverage and vegetation;
 - (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - (7) Proposed ingress and egress; and
 - (8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Subsection 02.06.040-.F-2.d of this Section.
- d. Availability of suitable existing towers, other structures, or alternative technology. **No new tower shall be permitted unless** the applicant demonstrates to the reasonable satisfaction of the City Council that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the City Council related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 - (1) No existing towers or structures are located within the geographic area, which meet applicant's engineering requirements.

- (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable
- (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low- powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

G. MINIMUM SETBACKS AND SEPARATION

1. Setbacks: The following setback requirements shall apply to all towers and antennas; provided, however, that the City Council may reduce the standard setback requirements if the goals of this Section would be better served thereby.
 - a. Towers must be set back a distance equal to at least one hundred percent (100%) of the height of the tower from any adjoining lot line; provided, however, that separation distances from residential uses shall be in accordance with Table 02.06.040 -1, set forth below.
 - b. Accessory buildings must satisfy the minimum zoning district setback requirements.
2. Separation: The following separation requirements shall apply to all towers and antennas; provided, however, that the City Council may reduce the standard separation requirements if the goals of this Section would be better served thereby.
 - a. Separation from off-site uses/designated areas.
 - (1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 02.06.040-1, except as otherwise provided in Table 02.06.040-1.
 - (2) Separation requirements for towers shall comply with the minimum standards established in Table 02.06.040-1.

Table 02.06.040-1.
 Separation Requirements from Off-Site Uses/Areas

Off-Site Use/Designated Area	Separation Distance
Single-family or duplex of tower residential units ¹	200 feet or 300% of tower height, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has a preliminary plat approval which has not expired	200 Feet or 300% of tower height, whichever is greater ¹
Vacant, unplatted residentially zoned lands	100 feet or 100% of tower height, whichever is greater
Existing multi-family residential units greater than duplexes	100 feet or 100% of tower height, whichever is greater
Non-residentially zoned lands or non-residential uses	None, only setbacks apply

b. Separation distances between towers.

- (1) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 02.06.040-2.
- (2) Exception. The minimum separation requirements of this Section shall not apply to towers, which are allowed by the City Council to be co-located on a single site.

**Table 02.06.040-2
Minimum Separation Distances Between Towers Monopole**

	Monopole 65 ft. in height or greater	Monopole less than 65 ft. in height but greater than 40 ft. in height	Monopole less than 40 ft. in height
Monopole 65 ft. in height or greater	2,000 feet	1,500 feet	1,000 feet
Monopole less than 65 ft. in height but greater than 40 ft. in height	1,500 feet	1,500 feet	1,000 feet
Monopole less than 40 ft. in height	1,000 feet	1,000 feet	750 feet

1 Includes, manufactured, mobile, and modular homes used for living purposes.

2 Separation measured from base of tower to closest building setback line.

H. BUILDINGS OR OTHER EQUIPMENT STORAGE

1. The equipment cabinet or structure used in association with antennas shall comply with the following:
 - a. The cabinet or structure shall not contain more than one hundred-twenty (120) square feet of gross floor area or be more than eight (8) feet in height and shall be located on the ground.
 - b. Equipment storage buildings or cabinets shall comply with all applicable building codes.
2. Antennas Mounted on Utility Poles, Light Poles, or Towers
The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
 - a. In residential zoning districts, the equipment cabinet or structure may be located:
 - (1) In a required front yard or required street side yard, provided the cabinet structure is no greater than three and one-half (3.5) feet in height or twenty (20) square feet of gross floor area and the cabinet/structure is located a minimum of three (3) feet from all lot lines. The cabinet/structure shall be screened by sight-obscuring landscaping which obscures at least ninety-five percent (95%) of the structure at planting and throughout the duration of the cabinet or structure's existence with an ultimate height not to exceed forty-two (42) inches.
 - (2) In a required rear yard, provided the cabinet or structure is no greater than five (5) feet in height or one hundred twenty

- (120) square feet in gross floor area. The cabinet/ structure shall be screened by sight-obscuring landscaping which obscures at least ninety-five percent (95%) of the structure at planting and throughout the duration of the cabinet or structure's existence with an ultimate height of six (6) feet.
- (3) The entry or access side of a cabinet or structure shall be gated by a solid, sight-obscuring gate that is separate from the cabinet or structure.
- b. In commercial or industrial districts the equipment cabinet or structure shall be no greater than fourteen (14) feet in height or three hundred (300) square feet in gross floor area. The structure or cabinet shall be screened by sight-obscuring landscaping with an ultimate height of sixteen (16) feet and a planted height of at least six (6) feet. The entry or access side of a cabinet or structure shall be gated by a solid, sight-obscuring gate that is separate from the cabinet or structure. Such access way shall not face residentially zoned property.
3. Modification of Building Size Refinements
The requirements of Subsections 02.06.040-H-1 through 3 may be modified by the City Council in the case of uses permitted by special use to encourage co-location.

I. CO-LOCATION

1. Required: Any new tower constructed in connection with an application under this Section shall be suitable for co-location. The applicant shall accept for co-location an FCC-licensed wireless communication provider (hereinafter "additional user") using any compatible technology on commercially reasonable terms. Any additional user seeking co-location shall submit specifications for its equipment and use to the applicant and the applicant shall, within thirty (30) days from receipt, respond to the additional user, in writing, furnishing all technical requirements, which must be resolved before co-location.
2. Good Faith: Applicants, additional users and permittees shall cooperate and exercise good faith in co-locating wireless telecommunications facilities on the same support structures or site. For the purposes of this Section only, a "site" may accommodate more than one tower and its accompanying equipment; provided, however, that no "site" shall exceed ten (10) acres. Good faith shall include sharing technical information to evaluate the feasibility of co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an excuse to the duty of good faith.
3. Third Party Technical Review: In the event a dispute arises as to whether an applicant or permittee has exercised good faith in accommodating other users, the City may require the applicant or additional user to obtain a third party technical study at the applicant's or additional user's expense. The City may

review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.

4. Exceptions: No co-location may be required where the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing wireless telecommunications facilities or failure of the existing wireless telecommunications facilities to meet federal standards for emissions. The City Council may, upon a determination that the City's citizens would be better served, waive any portion of the requirements of this Subsection.
5. Violations; Penalty: Failure to comply with co-location requirements may result in denial of a permit request or revocation of an existing permit.

J. REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of ninety (90) days shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City of Midway notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day period shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower for the prescribed period.

K. NONCONFORMING USE

1. Not Expansion of Nonconforming Use Towers that are constructed, and antennas that are installed in accordance with the provisions of this Chapter, shall not be deemed to constitute the expansion of a nonconforming use or structure.
2. Preexisting Towers: Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.
3. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas: Notwithstanding other provisions of this Section, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a special use permit and without having to meet the separation requirements specified in Subsections 02.06.040-G-1 and 2. The type, height, and location of the tower on-site shall be of the same type and intensity as the original facility approval; provided, however, that any destroyed lattice or guyed tower shall be replaced with a monopole structure only. Building permits to rebuild the facility shall comply with the then-applicable building codes and shall be obtained within ninety (90) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in subsection 02.06.040-.J.



02.07 GENERAL PROVISIONS

The intent of this Section is to accumulate provisions applying to all land and buildings within the incorporated area of the City into one section rather than to repeat them several times.

02.07.001 NON-CONFORMING BUILDINGS AND USES

In view of the fact that no further development or change in use can be undertaken contrary to the provisions of this Ordinance, it is the intent of this Ordinance that non-conforming uses shall not be increased nor expanded except where a health or safety official, acting in his official capacity, requires such increase or expansion. Such expansion shall be no greater than that which is required to comply with the minimum requirements as set forth by the health or safety official. Nevertheless, a non-conforming building or structure or use of land may be continued to the same extent and character as that which legally existed on the effective day of the applicable regulations. Repairs may also be made to a non-conforming building or to a building housing a non-conforming use.

A. Damaged Building May be Restored:

A non-conforming building or structure or a building or structure occupied by a non-conforming use which is damaged or destroyed by fire, flood, wind, earthquake, or other calamity or act of nature may be restored, and the occupancy or use of such buildings, structure, or part thereof which legally existed at the time of such restoration is started within a period of one year from the date of destruction and is diligently prosecuted to completion, and provided that such restoration does not increase the floor space devoted to the non-conforming use over that which existed at the time the building became non-conforming.

B. Discontinuance or Abandonment

A non-conforming building or structure or portion thereof or a lot occupied by a non-conforming use which is, or hereafter becomes abandoned or is discontinued for a continuous period of three hundred sixty-five (365) days or more shall not thereafter be occupied, except by a use which conforms to the use regulations of the zone in which it is located.

C. Change to a Conforming Use

A non-conforming use or building may be changed to a conforming use or building. Any non-conforming use or building which has been changed to a conforming use or building shall not thereafter be changed back to a non-conforming use.

D. Change to another Non-Conforming Use Prohibited

A non-conforming use of a building or lot shall not be changed to another non-conforming use whatsoever. Changes in use shall be made only to a conforming use.

E. Reclassification of Territory

The provision pertaining to non-conforming uses of land and buildings shall also apply to land and buildings, which hereafter become non-conforming due to an amendment in the Zoning Ordinance.

F. Permits Granted Prior to Passage of this Ordinance or amendments thereto:

Notwithstanding the issuance of a permit therefore, no building which becomes non-conforming upon the passage of this Ordinance or which becomes

non-conforming due to an amendment to this Ordinance shall be built unless construction has taken place thereon to the extent of at least five hundred (500) dollars in replaceable value by the date on which this Ordinance or said amendment becomes effective. Replaceable value shall be construed to mean the expenditure necessary to duplicate the materials and labor at market prices.

02.07.002 NON-CONFORMING LOTS OF RECORD

Notwithstanding any other provision of this Ordinance, a one-family dwelling may be permitted on any lot of record in any zone in which dwellings are permitted, even though such lot fails to meet the area or width requirements for one-family dwellings within the zone, provided that where two (2) or more contiguous lots of record having continuous frontage are owned by the same persons at the time of the passage of the controlling ordinance, the land included in the lots shall be considered to be an undivided parcel and no portion of said parcel shall be used as a dwelling site or sold which does not meet the area and width requirements of the zone in which the lot is located. Yard dimensions and other requirements not involving area or width shall conform to the regulations of the zone in which the lot is located except when granted a variance by the Board of Adjustment.

02.07.003 ANNEXATIONS

All land annexed shall be classified as shown on the future zoning map and the General Plan .

02.07.004 AMENDMENTS TO ORDINANCE AND MAP

This Zoning Ordinance, including the map, may be amended as hereinafter provided.

- A. Intent with Respect to Amendments
It is hereby declared to be public policy that this Ordinance shall not be amended except to more fully carry out the intent and purpose of the Comprehensive Plan of the City and of this Ordinance.
- B. Procedure
Any person seeking an amendment of this Zoning Ordinance or map shall submit to the Planning Commission a written petition designating the change desired and the reasons therefore and shall pay the required fee to the City. Upon receipt of the petition and the paying of the filing fee, the Planning Commission shall consider the request and shall certify its recommendations to the City Council with respect to the request within thirty (30) days from receipt of the request. Failure on the part of the Planning Commission to certify its recommendations to the City Council within thirty (30) days shall be deemed to constitute approval unless a longer period is granted by the City Council. The fee required herein shall not be returned to the applicant. The Planning Commission or City Council may also initiate amendments to this Ordinance or map.
- C. Public Hearing Required Before Amending--Notice
Amendments to this Ordinance may be adopted only after a public hearing is held in relation thereto before the City Council at which parties in interest and citizens shall have an opportunity to be heard. A notice of the time and place of such hearing shall be published in a newspaper of general circulation within the area, or by posting said

notice in three (3) public places within the City. Public notice shall be per Utah law and per section 02.19 of the Midway City Zoning Ordinance.

02.07.005 CONDITIONAL USE APPROVALS AND REGULATIONS:

The consideration of an application for a conditional use shall be governed by the following standard of Utah Code Section 10-9a-507:

- (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

The following approval requirements and regulations shall apply to all conditional use applications. These requirements are in addition to any conditions specifically or requirements specifically listed for a given conditional use. In the case of conflicting requirements, the more restrictive shall apply.

- A. **General Standards for Conditional Use Approval:**
An applicant for a conditional use approval shall provide within the application information to clearly demonstrate to the City compliance with the following, in addition to any specific requirements of this ordinance attached to the conditional use applied for:
 - 1. General Welfare Standard: The establishment, maintenance or conducting of the use for which a use permit is sought will not, under the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
 - 2. Nuisance Standard: Any use found to be objectionable or incompatible with the character of the City and its environs due to noise, light, traffic, dust, odors or other undesirable characteristics may be prohibited.
 - 3. General Plan Consistency Standard: To obtain a use permit, the applicant must generally show that the contemplated use is compatible with the City's land use policies in terms of the general plan and zoning ordinances, and that such use would be essential or desirable to the public convenience or welfare, and will not impair the integrity and character of the zoned district or be detrimental to the public health, safety, morals or welfare.
- B. After receiving the application at its next available regular meeting, the Planning Commission shall recommend the granting or denying of the conditional use permit based on the standards set forth in this Section. The Planning Commission may also recommend conditions to be imposed on the use if the permit is granted. After the Planning Commission makes its recommendation, the City Council shall advertise and hold a public hearing in the same manner specified in (B) above. After the public hearing, the City Council shall make a decision whether to grant or deny the proposed

conditional use permit. The Council shall record its decision in writing and shall recite the findings upon which the decision is based. The City Council may approve and/or modify a conditional use or special exception permit application in whole or in part, with conditions, only if all of the following findings are made:

1. The proposed use is conditionally permitted within the Zoning Ordinance, and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all of the applicable provisions of this Ordinance;
2. The proposed use is consistent with the General Plan;
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations;
4. There will be no potential significant negative effects upon environmental quality and natural resources that could not be properly mitigated and monitored;
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City;
6. The subject site is physically suitable for the type and density/intensity of the use being proposed; and
7. There are adequate provisions for public access including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety.

C. The Planning Commission may recommend, and the City Council may impose, conditions on the requested use which are additional to any conditions which are specifically listed in conjunction with all conditional uses or special exceptions prescribed within this Ordinance. All conditions imposed shall meet the following criteria:

1. The condition is within the police powers of Midway City;
2. The condition must substantially further a legitimate public purpose;
3. The condition must further the same public purpose for which it was imposed;
4. The property owner may not be required to carry a disproportionate load in furthering the public purpose; and
5. Dedications of land and other contributions as conditions of approval must be "reasonably related" to the use of the property for which the conditional use or special exception permit is requested. There must also be a "rough proportionality" between the extent of the condition and the particular

demand or impact of the project. In addition, a performance bond cannot be required for the installation of public improvements that are not reasonably related to the property use. The conditions which are imposed on a conditional use permit must be expressly attached to the permit and cannot be implied. For example, if a conditional use permit contains language that restricts a building's height to 25 feet and requires the developer to submit and obtain Planning Commission approval of a landscaping plan, among other things, the permit itself does not imply a height limitation on trees within the development.

- D. Public Participation and Notification. The public participation requirements of Section 02.18 for conditional use permits and special exceptions shall be required. Public notice shall be per Utah law and per section 02.19 of the Midway City Zoning Ordinance.
- E. Appeal. The decision of the City Council on the granting or denying of the conditional use permit or special exception shall be the final decision of the City on the matter. Appeal shall be to a court of competent jurisdiction in the manner and within the time prescribed by Utah law.
- F. Right to Conditional Use. The right to a conditional use shall benefit only the particular land applied for by the applicant and shall not be transferable to other land. A conditional use approval shall remain valid for only one year, i.e., if the approved use has not begun in one year from approval, the approval shall expire and must be applied for again, unless otherwise specified in the approval conditions.
- G. In the event that complaints concerning a conditional use or special exception are filed with the City, the Zoning Administrator shall investigate problems identified in the complaint to determine if the conditional use is in violation of this Ordinance. If the Zoning Administrator determines the conditional use is in violation of this Ordinance, the Administrator shall pursue the elimination of the violating activity in accordance with Section 02.11.009 and other pertinent sections of this Ordinance.

02.07.006 NIGHTLY RENTALS/ACCOMMODATIONS

Nightly rentals/accommodations shall be defined as any accommodation for overnight lodging for a period of thirty (30) days or less. Nightly rentals/accommodations shall be allowed only within approved and licensed bed & breakfast establishments, recreational vehicle parks, recreational resorts, hotels and motels. All approved nightly rental/accommodations shall be subject to Midway City and Wasatch County adopted transient room taxes and other State and local sales and use taxes.

02.07.007 VESTED RIGHTS

(1)

- (a) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the City's zoning map and applicable land use

ordinance in effect when a complete application is submitted and all fees have been paid, unless:

- (i) the City Council, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or
- (ii) in the manner provided by local ordinance and before the application is submitted, the City has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) The City shall process an application without regard to proceedings initiated to amend the municipality's ordinances if:

- (i) 180 days have passed since the proceedings were initiated; and
- (ii) The proceedings have not resulted in an enactment that prohibits the approval of the application as submitted.

(c) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) The City shall not impose on a holder of an issued land use permit a requirement that is not expressed: (i) in the land use permit or in documents on which the land use permit is based; or (ii) in the City's ordinances.

(f) The City will not withhold issuance of a certificate of occupancy because of an applicant's failure to comply with a requirement that is not expressed: (i) in the building permit or in documents on which the building permit is based; or (ii) in the City's ordinances.

- (2) The City is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

02.08 ESTABLISHMENT OF ZONES

02.08.001 ZONES ESTABLISHED In order to carry out the purposes of this Ordinance, Midway City, Utah is hereby divided into zones as follows:

B&MP BUSINESS & MANUFACTURING PARK ZONE

C-2 COMMERCIAL ZONE

C-3 COMMERCIAL ZONE

CBD-OV CENTRAL BUSINESS OVERLAY ZONE

R-1-7 RESIDENTIAL ZONE

R-1-9 RESIDENTIAL ZONE

R-1-11 RESIDENTIAL ZONE

R-1-15 RESIDENTIAL ZONE

R-1-22 RESIDENTIAL ZONE

RA-1-43 RESIDENTIAL-AGRICULTURAL ZONE

RR-OV RECREATIONAL RESORTS OVERLAY ZONE

SL-OV SENSITIVE LANDS OVERLAY ZONE

02.08.002 OFFICIAL ZONE MAP

The location and boundary of each of the zones are shown on the Official Zone Map of Midway City, Utah, and said map is hereby declared to be an official record and a part of this Ordinance. Whenever amendments or changes are made in zone boundaries such amendments or changes shall be made on the Official Zone Map promptly. No amendment or change shall become effective until after it has been properly noted and attested to on the Official Zone Map. Regardless of the existence of purported copies of the Official Zone Map

which may from time to time be made or published, the Official Zone Map which shall be located in the office of Midway City shall be the final authority in determining current zoning status.

02.08.003 **BOUNDARIES OF ZONES**

Where uncertainty exists with respect to the boundaries of various zones, the following rules shall apply:

- A. Where the intended boundaries on the zone map are approximately street or alley lines, said street or alleys shall be construed to be the zone boundaries.
- B. Where the indicated boundaries are approximately lot lines, said lot lines shall be construed to be the zone boundaries, unless otherwise indicated.
- C. Where land has not been subdivided into lots, the zone boundary shall be determined by the use of the scale of measurement shown on the map.
- D. Where other uncertainty exists, the Board of Adjustment shall interpret the map.

02.09 REGULATIONS WITHIN ZONES

Within each of the zones, the use, location, height, and size of buildings and structures; the use of land and size of lots, yards, courts, and other open spaces; the density of population, are regulated as hereinafter set forth.

02.09.001 BUSINESS & MANUFACTURING PARK ZONE (B&MP)

A. PURPOSE AND OBJECTIVES:

1. The purpose of the Business and Manufacturing Park (B&MP) Zone is to provide for development of offices, research and development institutions, and light manufacturing establishments. The general categories of uses allowed within this zone are more limited than other commercial or manufacturing zones. These restrictions are based on operating characteristics and land use impacts rather than type of service or product. The essential purpose of this district is to achieve development in a setting that is an economic asset to the community. The zone may be located adjacent to quality residential development and must be beautified to create the highest degree of compatibility. The zone should always be located adjacent to collector or arterial streets. It is not the intent of this Chapter that a B&MP zone should become a catalyst for strip commercial development around its perimeter. Unless the General Plan calls for a commercial center near the park's boundary, commercial development shall not be allowed, particularly where the park is surrounded by residential development.
2. Objectives. The objective of this chapter is to establish rules, regulations, standards, and procedures for approval of all Business and Manufacturing parks in order to:
 - a. Strengthen and sustain the economic potential of the City and to create jobs;
 - b. Advance and promote business development; and
 - c. Implement the adopted policies of the Midway City General Plan.

B. ALLOWED USES WITHIN A BUSINESS AND MANUFACTURING PARK

1. Permitted Principal Uses. The following principal uses are permitted in the B&MP zone:
 - a. Research Services - (including laboratories, scientific, medical, chemical, applied physics, mechanical, electronic, biological, genetic or other similar experimental research, product development or testing facilities).
 - b. Manufacturing, processing, and fabricating establishments, except those in which explosives or other highly dangerous materials are used or fabricated.

- c. Communications - including radio and television broadcasting (studios only), telephone company offices, recording and sound studios, and motion picture studios.
 - d. Data Processing Services
 - e. Other uses similar to the foregoing uses which are ruled by the Planning Commission to be in harmony with the intent of this zone.
2. Permitted Secondary Uses. The following secondary activities which support or are accessory to the primary activities are permitted subject to the development and performance standards and conditions set forth herein. When located in the same building with another main use, secondary uses shall not occupy more than 30% of the total floor space.
- a. Support and maintenance shops for the above uses.
 - b. Concessions and services which are provided for the convenience of the occupants of the buildings, provided they are located within a main building and there is no exterior evidence of such accessory uses such as signs or display windows.
 - c. Printing, publishing and allied industries.
 - d. Storage activities and warehouse facilities are permitted only as part of a primary activity.
 - e. Day care center in support of primary activity.
 - f. Off-street parking and parking structure incident to the above building uses.
 - g. Administrative offices for the permitted uses. These offices must be either in the same building or in a separate building on the same parcel as the permitted use.
3. Conditional Uses. The following uses and structures are permitted in the B&MP zone only after a Conditional Use Permit has been issued, and subject to the terms and conditions thereof:
- a. Marketing, telemarketing, and advertising services.
 - b. Auto, electronic, and other repair establishments.
 - c. Other similar and compatible uses. Other similar uses not specifically listed above may be approved by the Planning Commission, with the issuance of a conditional use permit, upon findings that the proposed use most closely fits within one of then listed categories, and that any expected impacts will be no greater than that of other uses listed.
4. Prohibited Uses: The permitted uses enumerated above shall not be construed to include, either as a main or accessory use, any of the following uses. This list of prohibited uses is not exhaustive, but is intended to be illustrative of the type of uses which are not allowed:

- a. Terminals, including truck or bus terminals, and other distribution facilities;
- b. Sand, gravel and other extraction mining;
- c. Junk or salvage yards;
- d. Liquor Stores;
- e. Explosive, flammable or highly combustible material, storage, sales, processing or production;
- f. Asphalt and concrete mixing and similar operations; and
- g. Retail sales except as otherwise specified.

C. TRACT AND LOT AREA, YARD, COVERAGE, AND HEIGHT REQUIREMENTS

- 1. Tract Area. The minimum size of any tract zoned and developed for a Manufacturing and Business Park shall be twenty (20) acres.
- 2. Lot Area. There shall be no requirements for individual buildings or lots within the zone, except that the area shall be sufficient to provide for setbacks, landscaping and off-street parking.
- 3. Perimeter Buffer L. No lot within a B&MP Zone shall border a residential zone. The boundary between any B&MP zone and a residential zone shall consist of a city standard street and right-of-way.
- 4. Building Setbacks. Buildings on all lots shall be set back a minimum of thirty (30) feet from any dedicated street and ten (10) feet from any other property line (except twenty-five (25) feet when abutting a residential zone boundary). All setbacks shall be landscaped as set forth in Section 02.09.001-F, Landscaping , except for permitted driveways.
- 5. Height. No building shall be constructed to a height exceeding two (2) stories with the highest part of the building being thirty-five (35) feet, unless as per Section 02.06.010 of this zoning ordinance.
- 6. Lot Width. Minimum lot width shall be one hundred (100) feet.
- 7. Minimum Lot Frontage. Each lot or parcel of land in the B&MP zone shall abut a public or private street for a minimum distance of one hundred (100) feet.
- 8. Minimum Perimeter Street Frontage. The B&MP tract shall have a minimum of one hundred (100) feet frontage on a public arterial street. Planning Commission and City Council shall be required for all buildings and other improvements on any lot within a Business and Manufacturing Park.
- 9. Site Plan Approval. Before any building permit shall be issued for any building or other improvement, site plan approval shall be obtained by the applicant from the Planning Commission and City Council for each lot.

10. Buildings Per Lot. More than one main building may be placed on a lot; however, amended site plan approval shall be required for buildings that are in addition to those on the original site plan approval.
11. Building Separation. A separation of at least twenty (20) feet shall be maintained between buildings.
12. No building shall be larger than 20,000 square feet in gross floor area.

D. PERFORMANCE STANDARDS

1. In the B&MP zone, no primary or secondary use shall be so conducted as to cause the discharge of any harmful waste materials into or upon the ground; into or within any sanitary or storm sewer system; into or within any water system or water; or into the atmosphere; and no use or activity shall be conducted or permitted which is dangerous or offensive to persons or property by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes. In addition, no use shall be permitted or conducted where the same creates a public or private nuisance.
2. Without limiting the generality of the proceeding paragraph, the following specific standards shall apply in the B&MP zone:
 - a. Incineration. There shall be no incineration on any site of any waste material.
 - b. Vibration. There shall be no activity on any site which causes ground vibration which is perceptible, without instruments, at the boundary line of the lot.
 - c. Air Pollution. There shall be no emission on any site of air pollutants in excess of levels permitted by the Utah Bureau of Air Quality. Water vapor is not considered a pollutant. The normal venting of a building shall not be prohibited.
 - d. Wastes. The quality and nature of industrial wastes shall not overburden the public sewage disposal facilities or cause odor and unsanitary effect beyond the property line, nor shall such wastes be discharged into the ground, or any surface or subsurface waterways. Disposal of all wastes shall comply with all applicable federal and state regulations. Sewage shall also comply with all local, state and federal regulations.
 - e. Storm Water. Storm water management shall be incorporated into the development plans so that the rate of storm water runoff from the sites will not be increased as a result of the proposed development. The facilities shall be designed to control the storm water runoff from at least a 25-year, 24-hour return frequency storm as certified by a professional engineer.

E. PARKING, LOADING, AND ACCESS REQUIREMENTS

1. One parking space for every two (2) occupants of a building as calculated in the Building Code.
2. Parking Layout and Construction Standards. All parking spaces, parking areas and driveways must be constructed in accordance with standards established in Section 02.06.021. All parking areas shall be hard surfaced.
3. Parking Setbacks. No parking will be allowed in the required setback areas. Parking areas shall be at the side or rear of the building.
4. Parking Structures. Any parking structures above the finished ground elevation shall have the same setback requirements as outlined for buildings, and shall be architecturally integrated through use of the same or similar materials, colors, rhythm, landscaping, etc.
5. Parking Structure Height. Freestanding parking structures shall comply with the same height requirements for main buildings.
6. Emergency Access. Suitable access for emergency equipment shall be provided to all buildings and areas as per fire code requirements.

F. LANDSCAPING

All land not covered by off-street parking or buildings shall be planted into lawn, trees or shrubs, and otherwise landscaped and maintained with lawns, trees and shrubs, except for permitted driveways and sidewalks. Landscaping and site drainage plans shall be approved as a part of conditional use and site plan approval.

G. PLANNING COMMISSION APPROVAL

The Planning Commission shall recommend approval or denial of the application and preliminary development plan to the City Council. The recommendation of the Planning Commission may contain conditions, limitations, or amendments to the preliminary development plan to ensure that the Business and Manufacturing Park is integrated into its surroundings and serves the public interest to the greatest extent possible. The Commission shall be guided in its decision by the policies of the General Plan and the standards and conditions of this Ordinance. The Planning Commission shall also review and approve any request for a conditional use permit as provided Section 02.07.005.

H. CITY COUNCIL APPROVAL

The City Council, after holding a public hearing, may approve or disapprove a petition for a Business and Manufacturing Park within the B&MP Zone, or if they choose, they may send it back to the Planning Commission for further study. The Council shall be guided in its decision by the policies of the General Plan and the standards and conditions of this Ordinance. In the case of conditional use approval requests, City Council decisions shall be guided by Section 02.07.005 Conditional Use and Special Exception Approvals and Regulations.

I. GUARANTEES AND COVENANTS

1. As a part of the submission packet, a Declaration of Covenants, Conditions and Restrictions for said development shall be submitted to and be approved by the Midway City Planning Commission and City Council and shall be recorded with the Wasatch County Recorder's Office with the Final Plat.
2. The following assurances and standards shall be included within the Declaration of Covenants, Conditions, and Restrictions recorded in conjunction with any B&MP development:
3. The Declaration shall contain provisions requiring owners of individual parcels of land or condominium units within the B&MP development to install landscaping to a standard at least equivalent to that established within the typical landscaping plan approved as an element of the preliminary project plan. Said landscaping must be installed within one (1) year of the issuance of Certificates of Occupancy for condominium units or buildings on individual parcels of property. Common area landscaping shall be installed with each phase.
4. The Declaration may provide for the creation and perpetual provision of an architectural committee, the number of members and composition of which shall be clearly stipulated. The Declaration shall also establish design guidelines governing the appearance of the site buildings, signs, lighting, landscaping, street furniture, fencing, and mechanical equipment.
5. The Declaration shall stipulate the method and procedure by which the declaration may be amended.
6. The Declaration shall specify the maximum percentage of lot area which will be set forth in the approved preliminary project plan.
7. The Declaration shall specify the maximum building height approved by the Planning Commission.
8. The Declaration may contain a Traffic and Parking Management Plan aimed at encouraging car pooling among the park's employees.
9. The Declaration may also contain use restrictions which are more restrictive than the City's Zoning provisions, but in no case shall they be more permissive.
10. The Declaration shall set up the provisions for maintenance of all common areas and private streets and utilities.
11. The Declaration shall state the following: Midway City shall have the right, but not the duty, to require, and if necessary, perform, at the Association's expense, landscaping, maintenance, and snow removal within the common areas if the Association fails adequately to perform such. In the event Midway City exercises this right, the City shall be entitled to recover any associated costs and attorney fees from the Association. This section shall not be amended or deleted without the approval of Midway City.

02.09.002 **COMMERCIAL C-2 AND C-3 ZONES**

A. **OBJECTIVES AND CHARACTERISTICS OF ZONE**

These zones have been established as districts in which the primary use of the land is for planned and integrated commercial and service uses. It is intended that these zones shall be characterized by a harmonious grouping of a variety of stores, shops, office buildings, or other permitted uses in an organized development. These zones have also been established to create new development which is characterized by well landscaped frontages, safe access and egress, proper parking design, coordinated site planning, and buildings which follow, whenever possible, the objectives of the City Master Plan, i.e. Swiss architecture and use of the local bedrock in construction. Emphasis in the approval of plans in the C-2 zone shall be to protect the appearance of the entrances to the City. Development in the C-3 zone is intended to create a shopping and financial center for the City and surrounding territory. Another objective of the commercial zones is to mitigate potential negative impacts upon residential zones caused by commercial activity. The City commercial zones are surrounded by residential areas on all sides and buffering restrictions are necessary.

B. **PERMITTED AND CONDITIONAL USES**

The peculiar character and nature of conditional uses (those designated by "C") require special consideration. Therefore, the Planning Commission review of these conditional uses shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development in accordance with existing and future needs. The City Council shall deny or approve these conditional uses based upon, among other things, the character of the zone, the surrounding land use, traffic, utilities and other public requirements.

In the following list of possible uses in the C-2 and C-3 zones, those designated "P" will be a permitted use. Uses designated as "C" will only be allowed when approved as a conditional use by the Planning Commission and City Council. Uses designated as "N" will not be allowed in the zone.

	<u>USES</u>	<u>C-2</u>	<u>C-3</u>
	Retail, grocery, and service stores (up to 25,000 square feet in gross floor area)	P	P
	Professional offices and clinics	P	P
	Auto and body repair and painting	C	N
	Service stations and car washes	C	N
	Alcohol dispensing establishment	C	C

Furniture and appliance stores	P	P
Engraving, publishing and printing	P	P
Fraternity buildings, clubs and lodges	C	C
Mortuaries and wedding chapels	P	P
New and used car sales	C	N
Hospitals	P	P
Photo, art & craft galleries and retail show rooms	P	P
Hotels, motels, and Bed & Breakfast Establishments	C	C
Cafes and restaurants	P	P
Public and quasi-public buildings including Police & Fire Stations	P	P
Warehousing and mini-storage units (when located as least 60 feet from the street and doors do not face directly onto the street)	C	N
Recreational activity businesses	P	C
Recreational vehicle and All-terrain vehicle sales	C	N
Convenience store & shops (up to 5,000 square feet gross floor area)	C	C
Personal service shops such as barber & beauty shops	P	P
Vehicle parking	P	P
Financial, insurance, and real estate offices	P	P
Repair shops (other than auto)	C	C
Veterinarian services	C	C
Walk-in theaters	C	N
R-1-7 Residential	P	N
Dwelling units above or below the main floor of an otherwise permitted use when all building and fire codes are met.	P	C

	Commercial Planned Unit Developments & Condominium Projects	C	C
	Recreational vehicle parks	C (but not allowed in the CBD-OV)	N
	Private academies and studios such as art, dance, sports, and other similar types.	C	C
	Carpentry and Woodworking Shops	C	C
	Electrician Shops	C	C
	Plumbing Shops	C	C

C. SITE DEVELOPMENT STANDARDS

1. Minimum lot area: none
2. Minimum building setback from property line for all structures
 - a. Front: 30 feet from all streets
 - b. Side: none
 - c. Side facing a street on a corner lot: 30 feet
 - d. Rear: none
 - e. Fuel pumps: 20 feet from any street
 - f. Setback from residential zones or 15 feet property lines with existing residential uses.
3. Building Heights
 - a. Minimum: 8 feet (see Section 02.06.011).
 - b. Maximum: 35 feet (see Section 02.06.010).
4. All building sizes and setbacks are also subject to the requirements of the building code adopted by the City Council. Building heights shall be subject to Section 02.06.010 of this code.

02.09.003 CENTRAL BUSINESS DISTRICT OVERLAY ZONE (CBD-OV)

A. PURPOSE

The general purpose of the Central Business Overlay Zone is to provide standards, guidelines and criteria that will help promote the Central Business District as well as surrounding business and residential areas within the Midway City boundaries.

B. DEFINITIONS

Central Business District Overlay Zone: The Central Business District Overlay Zone (CBD-OV) shall consist of the C-2 and C-3 Zoned region from the center of 200 West to the center of 400 East.

C. GENERAL PROVISIONS

The following provisions shall apply within the Central Business District Overlay Zone and shall take precedence over another conflicting requirements within the Midway City Zoning Ordinance: A. Setback from Main Street: Setbacks from Main Street for main buildings shall be a minimum of ten (10) feet and a maximum of thirty (30) feet from the property line; however, an accessory or secondary building may be allowed by the Planning Commission and City Council to be set back further provided all other provisions of this ordinance are met.

D. PARKING:

All parking shall be located at the side or rear of the main building on each commercial zoning lot.

02.09.004 R-1-7 RESIDENTIAL ZONE

A. OBJECTIVES AND CHARACTERISTICS OF ZONE

The objective in establishing the R-1-7 Residential Zone is to provide appropriate locations within the city for development with a higher amount of residential density. In general, this zone is located in the central part of the city, adjacent to commercial areas where the impact of vehicular travel and parking is consonant with adjacent use of land, and where multiple dwellings can best be supplied with necessary public facilities. This zone is characterized by more compact development and somewhat higher volumes of traffic than is characteristic of the R-1-11 and R-1-9 Zones. Representative of the uses within the R-1-7 Zone are one and two-family dwellings and related community facilities. However, commercial uses are prohibited in this zone. In order to accomplish the objectives and purposes of this Ordinance, and to promote the characteristics of this Zone the following regulations shall apply in the R-1-7 Zone:

B. PERMITTED USES

The following uses shall be permitted in the R-1-7 Residential Zone:

1. One-family dwellings and related accessory buildings and uses.
Accessory uses and buildings include garages and carports.
2. Customary household pets, including but not limited to cats, dogs and canaries. This does not including the breeding of dogs and cats or other pets for sale or other use.
3. Agriculture and the pasturing of animals on lots with the minimum area required.

4. Temporary buildings and yards for the storage of materials and equipment incidental to the construction of dwellings and other permitted uses provided that a permit for such temporary buildings shall not be effective for more than one year.
5. Two-family Dwellings

C. CONDITIONAL USES

1. Public buildings, public schools, churches, but not temporary revival tents or buildings.
2. Planned Unit Developments
3. Home Occupations and Cottage Industries.
4. Child day care centers and foster family care homes.

D. AREA REQUIREMENTS

An area of not less than seven thousand (7000) square feet shall be provided and maintained for each one-family dwelling and three thousand (3000) additional square feet shall be provided for a two family dwelling. Boarding houses shall provide the same area as a multiple unit. An area of not less than two (2) acres shall be provided and maintained for each main church or school building.

E. WIDTH REQUIREMENTS

The minimum width of any building site for a dwelling shall be seventy (70) feet. An additional thirty (30) feet shall be provided for a two family dwelling.

F. LOCATION REQUIREMENTS

1. FRONT SETBACK--All buildings and structures shall be set back at least thirty (30) feet from the front lot line or projected street right-of-way.
2. SIDE SETBACK--All dwellings shall be set back from the side property lines a distance of at least ten (10) feet. The minimum side setback for accessory buildings shall be the same as for main buildings, except that a three (3) foot side setback shall be required for accessory buildings which are located more than one hundred (100) feet from the front lot line and at least twelve (12) feet to the rear of any dwelling.

On corner lots, the side setback from any street shall not be less than thirty (30) feet for l

3. REAR SETBACK--For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet. Accessory buildings on interior lots shall be set back not less than ten (10) feet from the rear property line, except that a two (2) foot rear setback shall be permitted for accessory buildings meeting fire resistive requirements of the building code. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet, except that for dwellings having an attached garage or carport, the setback shall not be less than twenty (20) feet. Accessory buildings on corner lots shall be set back from the rear property line a distance of not less than

three (3) feet.

4. **SIZE OF DWELLING** The ground floor area of all dwellings shall be not less than nine hundred (900) square feet except as may be approved in a large scale development.

G. SUPPLEMENTARY REQUIREMENTS

See also Section 02.06 Supplementary Requirements and Procedures applicable within the zones.

02.09.005 R-1-9 RESIDENTIAL ZONE

A. OBJECTIVES AND CHARACTERISTICS OF ZONE

The objective in establishing the R-1-9 Residential Zone is to provide a residential environment within the city which is characterized by smaller lots and somewhat more dense residential environment than is characteristic of the R-1-11 Zone. Nevertheless, this zone is characterized by spacious yards and other residential amenities adequate to maintain desirable residential conditions. The principal uses permitted in this zone shall be one and two family dwellings and certain other public facilities needed to promote and maintain stable residential neighborhoods.

B. PERMITTED USES

The following uses shall be permitted in the R-1-9 Residential Zone:

1. One-family dwellings and related accessory buildings and uses. Accessory uses and buildings include garages and carports.
2. Customary household pets, including but not limited to cats, dogs and canaries. This does not including the breeding of dogs and cats or other pets for sale or other use.
3. Agriculture and the pasturing of animals on lots with the minimum area required.
4. Temporary buildings and yards for the storage of materials and equipment incidental to the construction of dwellings and other permitted uses provided that a permit for such temporary buildings shall not be effective for more than one year.
5. Two-family dwellings.

C. CONDITIONAL USES

1. Public buildings, public schools, churches, but not temporary revival tents or buildings.
2. Planned Unit Developments
3. Home Occupations and Cottage Industries..

4. Child day care centers and foster family care homes.
5. Manufactured Home Parks.

D. AREA REQUIREMENTS

An area of not less than nine thousand (9000) square feet shall be provided and maintained for each one-family dwelling and uses accessory thereto. For two-family dwellings, child day care centers, and foster family care homes, the building site shall contain at least twelve thousand (12,000) square feet. An area of not less than two (2) acres shall be provided and maintained for each main church building.

E. WIDTH REQUIREMENTS

A minimum width of any building site for a dwelling shall be ninety (90) feet. An additional ten (10) feet shall be provided for a two-family dwelling.

F. LOCATION REQUIREMENTS

1. FRONT SETBACK--All buildings and structures shall be set back at least thirty (30) feet from the front lot line or projected street right-of-way.
2. SIDE SETBACK--All dwellings shall be set back from the side property lines a distance of at least ten (10) feet. The minimum side setback for accessory buildings shall be the same as for main buildings, except that a three (3) foot side setback shall be required for accessory buildings which are located more than one hundred (100) feet from the front lot line and at least twelve (12) feet to the rear of any dwelling. On corner lots, the side setback from any street shall not be less than thirty (30) feet for both main and accessory buildings.
3. REAR SETBACK--For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet. Accessory buildings on interior lots shall be set back not less than ten (10) feet from the rear property line, except that a two (2) foot rear setback shall be permitted for accessory buildings meeting fire resistive requirements of the building code. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet, except that for dwellings having an attached garage or carport, the setback shall not be less than twenty (20) feet. Accessory buildings on corner lots shall be set back from the rear property line a distance of not less than three (3) feet.

G. SIZE OF DWELLING

The ground floor area of all dwellings shall be not less than nine hundred (900) square feet except as may be approved in a large scale development.

H. SUPPLEMENTARY REQUIREMENTS See also Section 02.06 Supplementary Requirements and Procedures Applicable Within Zones.

02.09.006 R-1-11 RESIDENTIAL ZONE

A. OBJECTIVES AND CHARACTERISTICS OF ZONE

The objective in establishing the R-1-11 Residential Zone is to encourage the creation and maintenance of residential areas within the City which are characterized by medium-size lots on which single-family dwellings are situated, surrounded by well kept lawns, trees and other plantings. A minimum of vehicular and pedestrian traffic and quiet residential conditions favorable to family living are also characteristic of this zone. In order to accomplish the objectives and purposes of this Ordinance and to promote the characteristics of this zone, the following regulations shall apply in the R-1-11 Residential Zone.

B. PERMITTED USES

The following uses shall be permitted in the R-1-11 Residential Zone:

1. One-family dwellings and related accessory buildings and uses. Accessory uses and buildings include garages and carports.
2. Customary household pets, including but not limited to cats, dogs and canaries. This does not include the breeding of dogs and cats or other pets for sale or other use.
3. Agriculture and the pasturing of animals on lots with the minimum area required.
4. Temporary buildings and yards for the storage of materials and equipment incidental to the construction of dwellings and other permitted uses provided that a permit for such temporary buildings shall not be effective for more than one year.

C. CONDITIONAL USES

1. Public buildings, public schools, and churches, but not temporary revival tents or buildings.
2. Planned Unit Developments.
3. Home occupations and Cottage Industries.
4. Manufactured Home Parks.

D. AREA REQUIREMENTS

An area of not less than eleven thousand (11,000) square feet shall be provided and maintained for each one-family dwelling and uses accessory thereto. An area of not less than two (2) acres shall be provided and maintained for each main church building.

E. WIDTH REQUIREMENTS

The minimum width of any building site for a dwelling shall be one hundred (100) linear feet.

F. LOCATION REQUIREMENTS

1. FRONT SETBACK--All buildings and structures shall be set back at least thirty (30) feet from the front lot line or projected street right-of-way.

2. **SIDE SETBACK**--All dwellings shall be set back from the side property line a distance of at least ten (10) feet, and the total distance of the two side setbacks shall be at least twenty-four (24) feet. The minimum side setback for accessory buildings shall be the same as for main buildings, except that a three (3) foot side setback shall be required for accessory buildings which are located more than one hundred (100) feet from the front lot line and at least twelve (12) feet to the rear of any dwelling. On corner lots, the side setback from any street shall not be less than thirty (30) feet for both main and accessory buildings.
3. **REAR SETBACK**--For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet. Accessory buildings on interior lots shall be set back not less than ten (10) feet from the rear property line, except that a two (2) foot rear setback shall be permitted for accessory buildings meeting fire resistive requirements of the building code. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet, except that for dwellings having an attached garage or carport, the setback shall not be less than twenty (20) feet. Accessory buildings on corner lots shall be set back from the rear property line a distance of not less than three (3) feet.

G. SIZE OF DWELLING

The ground floor area of all dwellings shall be not less than one thousand (1,000) feet except as may be approved in a large scale development.

H. SUPPLEMENTARY REQUIREMENTS

See Section 02.06 Supplementary Requirements and Procedures Applicable Within Zones.

02.09.007 R-1-15 RESIDENTIAL ZONE

A. OBJECTIVES AND CHARACTERISTICS OF ZONE

The objective in establishing the R-1-15 Residential Zone is to encourage the creation and maintenance of residential areas within the City which are characterized by medium size lots on which single-family dwellings are situated, surrounded by well kept lawns, trees and other plantings. A minimum of vehicular and pedestrian traffic and quiet residential conditions favorable to family living are also characteristic of this zone. In order to accomplish the objectives and purposes of this Ordinance and to promote the characteristics of this zone, the following regulations shall apply in the R-1-15 Residential Zone.

B. PERMITTED USES

The following uses shall be permitted in the R-1-15 Residential Zone:

1. One-family dwellings and related accessory buildings and uses. Accessory uses and buildings include garages and carports.

2. Customary household pets, including but not limited to cats, dogs and canaries. This does not include the breeding of dogs and cats or other pets for sale or other use.
3. Agriculture and the pasturing of animals on lots with the minimum area required.
4. Temporary buildings and yards for the storage of materials and equipment incidental to the construction of dwellings and other permitted uses, provided that a permit for such temporary buildings shall not be effective for more than one year.

C. CONDITIONAL USES

1. Public buildings, public schools, and churches, but not temporary revival tents or buildings.
2. Planned Unit Developments.
3. Home occupations and Cottage Industries.

D. AREA REQUIREMENTS

An area of not less than fifteen thousand (15,000) square feet shall be provided and maintained for each one-family dwelling and uses accessory thereto. An area of not less than two (2) acres shall be provided and maintained for each main church building.

E. WIDTH REQUIREMENTS

The minimum width of any building site for a dwelling shall be one hundred (100) linear feet.

F. LOCATION REQUIREMENTS

1. **FRONT SETBACK**--All buildings and structures shall be set back at least thirty (30) feet from the front lot line or projected street right-of-way.
2. **SIDE SETBACK**--All dwellings shall be set back from the side property line a distance of at least ten (10) feet, and the total distance of the two side setbacks shall be at least twenty-four (24) feet. The minimum side setback for accessory buildings shall be the same as for main buildings, except that a three (3) foot side setback shall be required for accessory buildings which are located more than one hundred (100) feet from the front lot line and at least twelve (12) feet to the rear of any dwelling. On corner lots, the side setback from any street shall not be less than thirty (30) feet for both main and accessory buildings.
3. **REAR SETBACK**--For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet. Accessory buildings on interior lots shall be set back not less than ten (10) feet from the rear property line, except that a two (2) foot rear setback shall be permitted for accessory buildings meeting fire resistive requirements of the building code. For corner lots, all dwellings and other main buildings

shall be set back from the rear property line a distance of at least thirty (30) feet, except that for dwellings having an attached garage or carport, the setback shall not be less than twenty (20) feet. Accessory buildings on corner lots shall be set back from the rear property line a distance of not less than three (3) feet.

G. SIZE OF DWELLING

The ground floor area of all dwellings shall be not less than one thousand two-hundred (1,200) feet except as may be approved in a large scale development.

H. SUPPLEMENTARY REQUIREMENTS

See Section 02.06 Supplementary Requirements and Procedures Applicable Within Zones.

02.09.008 R-1-22 RESIDENTIAL ZONE

The objective in establishing the R-1-22 Residential Zone is to encourage the creation and maintenance of residential areas within the city which are characterized by medium to large size lots on which single-family dwellings are situated, surrounded by well kept lawns, trees and other plantings. A minimum of vehicular and pedestrian traffic and quiet residential conditions favorable to family living are also characteristic of this zone. In order to accomplish the objectives and purposes of this Ordinance and to promote the characteristics of this zone, the following regulations shall apply in the R-1-22 Residential Zone.

A. PERMITTED USES

The following uses shall be permitted in the R-1-22 Residential Zone:

1. One-family dwellings and related accessory buildings and uses. Accessory
2. Customary household pets, including but not limited to cats, dogs and canaries. This does not including the breeding of dogs and cats or other pets for sale or other use.
3. Agriculture and the pasturing of animals on lots with the minimum area required.
4. Temporary buildings and yards for the storage of materials and equipment incidental to the construction of dwellings and other permitted uses, provided that a permit for such temporary buildings shall not be effective for more than one year.

B. CONDITIONAL USES

1. Public buildings, public schools, churches, but not temporary revival tents or buildings.
2. Planned Unit Developments
3. Home Occupations and Cottage Industries.

C. AREA REQUIREMENTS

The minimum area for lots for one-family dwellings shall be one-half (1/2) acre (21,780 square feet), except for dwellings which are located within an approved large-scale development. All church sites shall contain at least two (2) acres of land.

D. WIDTH REQUIREMENTS

The minimum width for a lot for a one-family dwelling shall be one hundred and fifteen (115) feet.

E. LOCATION REQUIREMENTS

1. FRONT SETBACK--All buildings and structures shall be set back at least thirty (30) feet from the front lot line or projected street right-of-way.
2. SIDE SETBACK--All dwellings shall be set back from the side property line a distance of at least twelve (12) feet, and the total distance of the two side setbacks shall be at least twenty-eight (28) feet. The minimum side setback for accessory buildings shall be the same as for main buildings, except that a three (3) foot side setback shall be required for accessory buildings which are located more than one hundred (100) feet from the front lot line and at least twelve (12) feet to the rear of any dwelling. On corner lots, the side setback from any street shall not be less than thirty (30) feet for both main and accessory buildings.
3. REAR SETBACK--For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet. Accessory buildings on interior lots shall be set back not less than ten (10) feet from the rear property line, except that a two (2) foot rear setback shall be permitted for accessory buildings meeting fire resistive requirements of the building code. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet, except that for dwellings having an attached garage or carport, the setback shall not be less than twenty (20) feet. Accessory buildings on corner lots shall be set back from the rear property line a distance of not less than three (3) feet.

F. SIZE OF DWELLINGS

The ground floor area of all dwellings shall be not less than one thousand four-hundred (1,400) square feet except as may be approved in a large scale development.

G. SUPPLEMENTARY REQUIREMENTS

See also Section 02.06 Supplementary Requirements and Procedures Applicable Within the Zones.

02.09.009 RECREATIONAL RESORTS OVERLAY ZONE (RR-OV)

A. OBJECTIVES AND CHARACTERISTICS OF THE ZONE

The Recreational Resorts Overlay Zone is a zone that may be created anywhere within the R-1-11, R-1-15, R-1-22, or RA-1-43 zones. The purpose of this zone is to allow a place where resorts can be considered and placed in accordance with the unique physiographic requirements of resort properties. Midway has unique characteristics that lends itself to resort development because of its spectacular scenery, location between major metropolitan areas, good roads in and out of the Heber Valley, proximity of major airports, abundance of fishing and other recreational opportunities, three National Forests, three Utah State Parks, natural geothermal springs, etc. The Resort Overlay Zone is a zone that allows resort developers to request resorts throughout the City where they find the unique characteristics available to them to successfully operate a resort. It relies on the underlying characteristics of the primary zone established on the City Zoning Map, while being subject to the provisions of the Sensitive Lands Overlay Zone, reasonable planning objectives related to traffic, public utilities, neighborhood compatibility and the City's ability to serve the project. This Zone sets forth a conditional use procedure that allows an applicant to proceed with the planning and approval of the resort after the decision has been made to allow the resort zoning.

B. APPLICATION REQUIREMENTS FOR RECREATION RESORT ZONING

1. To apply for an amendment to the Zoning Map to rezone property to the Recreation Resort Overlay Zone an applicant must not only respond to the requirements for a zone change request as required in Section 02.07.004 of this Ordinance, but must also submit an application that demonstrates how the proposed resort will meet the standards of the Recreation Resort Conditional Use section of this Zone.
2. The application shall also contain an analysis of the effect of the Sensitive Lands Overlay Zone on the properties proposed for rezoning.
3. In cooperation with City staff, the applicant shall prepare a study to show how the rezoned property may impact the City's Transportation Master Plan.
4. The application shall also include a Citizen Participation Report prepared to meet the requirements of Section 02.18.004.
5. The application shall include a report that proposes how the applicant can supply sufficient water, water rights and sewer service to the property.
6. The application must show the property can conform to the City's Trails, Parks and Recreation Plan.
7. The application must show that the proposed resort use will effectively foster the Midway City Vision Statement, the General Plan, and business and tourism objectives.

C. CONDITIONAL USES:

1. Recreation Resorts

D. RECREATION RESORT CONDITIONAL USE STANDARDS AND PROCEDURE

A recreational resort is a conditional use centered around recreational activities with broad open space areas in which recreational activities are conducted. The intent of the City in allowing recreational resorts is to create a substantial economic benefit to the City through the generation of commercial and recreational activities. The Planning Commission and City Council shall determine if a proposed recreational resort complies with the intention as stated in this section. If it cannot be demonstrated that a proposed recreational resort will meet the intent of these requirements, the City shall not grant conditional use approval for the resort. Recreational resorts shall be designed in accordance with the following provisions:

1. Recreational resorts shall include eating establishments, shops, conference and seminar facilities, hotel rooms or sleeping room accommodations, and recreational activities that enhance the above listed uses. Examples of recreation activities include, but are not limited to golf courses, swimming facilities, fishing, tennis, ice skating, trails, club houses, nature observatories, gymnasiums, horseback riding, and cross-country skiing.
2. A recreational resort shall have at least fifty-five percent (55%) of the total area of the resort dedicated to open space and recreational activities. Parking areas and buildings shall not qualify as open space.
3. Building coverage per acre shall not exceed twelve thousand (12,000) square feet. Building coverage shall include all structures built on the property.
4. One (1) parking space shall be provided for each separate guest room or suite. All other activities shall provide parking based on the provisions of this Ordinance.
5. If overnight accommodations are contemplated for the resort, the minimum room size per accommodation room shall be three hundred (300) square feet.
6. The applicant for a recreational resort shall submit all documentation that will establish the present and future ownership and management of the proposed resort.
7. All recreational resorts shall have sufficient acreage and size to comply with the intent of this Ordinance. The City shall make this determination.
8. The maximum height of all buildings shall be determined as part of the development review process for the resort. For heights greater than thirty-five (35) feet, the applicant shall submit to the City sufficient documentation indicating that heights above thirty-five (35) feet are justified and not detrimental to the surrounding property owners. It is suggested that a scale model of the site be submitted to clearly illustrate the potential impacts of increased height on adjacent landowners.
9. All structures shall be set back from public streets a minimum of one-hundred (100) feet. All parking spaces shall be set back from public streets a minimum of one hundred (100) feet. Setbacks from private streets within the development shall be thirty (30) feet unless it is determined by the Planning Commission that a lesser setback is justified.
10. Prior to the construction of a recreational resort in any zone, a site plan shall be submitted to the Planning Commission for approval. The Commission may approve, deny (based on the standards identified in the ordinance), or approve based on

conditions that must be satisfied prior to a building permit being issued. The site plan submitted shall include those items listed in this Ordinance in section 02.10.004 B.

The applicant need not comply with section 02.10.004-C-1-u.

11. Following a recommendation by the Planning Commission, the City Council shall hold a legally advertised public hearing concerning the proposed recreational resort. Following the public hearing the Council shall make a determination. Should the Council approve the proposed resort, final engineering drawings shall be submitted to the City prior to a building permit being issued and construction started. The building inspector shall not issue a building permit for a recreational resort until all engineering drawings have received written approval from the City Engineer.
12. The City may require additional information as needed to determine compliance with the intent of this Ordinance.
13. Campgrounds and recreational vehicle pad sites may be allowed as part of a recreational resort; however, no more than ten percent (10%) of the land area may be devoted to such use.

02.09.010 RA-1-43 RESIDENTIAL-AGRICULTURAL ZONE

A. OBJECTIVES AND CHARACTERISTICS OF THE ZONE

The RA-1-43 Zone has been established for the primary purpose of providing low-density areas in the City where livestock can be maintained. This zone is currently characterized by large lots or tracts of land with occasional dwelling units, barns, corrals, and agricultural service buildings in connection with farming operations. In order to accomplish the objectives and purposes of this Ordinance and to stabilize and protect the essential characteristics of this zone, the following regulations shall apply in the RA-1-43 Zone.

B. PERMITTED USES

The following buildings, structures and uses of land shall be permitted in the RA-1-43 Zone upon compliance with requirements as set forth in this Ordinance.

1. Agriculture.
2. One-family dwellings and buildings accessory thereto located on one (1)-acre lots or larger.
3. The keeping of animals and fowl in numbers according to the following point system:
 - a. Animals may total 50 points per ½ acre.
 - b. Animals shall be worth the following points each:
 - (1) Chickens, pigeons, pheasants, and other similar birds: 2 points.
 - (2) Geese, ducks, peafowl, turkey and other similar birds: 10 points.
 - (3) Sheep, llamas, calves, foals, and other similar sized animals:

25 points.

- (4) Horses, cattle, and other similar sized animals: 40 points.
 - (5) 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.
 - c. 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.
 - d. The above requirements do not apply to commercial farming and dairy operations in existence at the time of the adoption of this Ordinance.
- 4. Farm machinery and farm products maintenance and storage sheds.
 - 5. Barns, corrals, pens, coops, and feed storage buildings for the keeping of animals and fowl and the storage of farm products, provided uses for the care and keeping of livestock and fowl are located at least one hundred (100) feet distance from any existing dwelling on a neighboring lot or parcel or fifty (50) feet from side and rear property lines, whichever is greater, and one hundred (100) feet from the front property lines; also, small animal hospitals without outside runs.
 - 6. Churches, not to include temporary revival tents or buildings.

C. CONDITIONAL USES

- 1. Public buildings, public schools, and churches.
- 2. Day-care nurseries.
- 3. Rest homes.
- 4. Public utility facilities and buildings.
- 5. Golf courses and golf clubhouses (private and public).
- 6. Cemeteries.
- 7. Plant nurseries.
- 8. Planned unit developments.
- 9. Private schools for not more than 100 students, but not behavior modification private schools.
- 10. Home occupations and Cottage Industries.

D. AREA REQUIREMENTS

The minimum area for lots for one-family dwellings shall be one (1) acre except for

dwellings which are located within an approved large-scale development. All church sites shall contain at least two (2) acres of land.

E. WIDTH REQUIREMENTS

The minimum width for a lot for a one-family dwelling shall be one hundred and fifty (150) feet except within an approved large scale development.

F. LOCATION REQUIREMENTS

1. **FRONT SETBACK**--All buildings and structures shall be set back at least thirty (30) feet from the front lot line or projected street right-of-way.
2. **SIDE SETBACK**--All dwellings shall be set back from the side property line a distance of at least fourteen (14) feet, and the total distance of the two side setbacks shall be at least thirty (30) feet. The minimum side setback for accessory buildings shall be the same as for main buildings, except that a three (3) foot side setback shall be required for accessory buildings which are located more than one hundred (100) feet from the front lot line and at least twelve (12) feet to the rear of any dwelling. On corner lots, the side setback from any street shall not be less than thirty (30) feet for both main and accessory buildings.
3. **REAR SETBACK**--For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet. Accessory buildings on interior lots shall be set back not less than ten (10) feet from the rear property line, except that a two (2) foot rear setback shall be permitted for accessory buildings meeting fire resistive requirements of the building code. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty (30) feet, except that for dwellings having an attached garage or carport, the setback shall not be less than twenty (20) feet. Accessory buildings on corner lots shall be set back from the rear property line a distance of not less than three (3) feet.

G. SIZE OF DWELLINGS

The ground floor area of all dwellings shall be not less than one thousand four-hundred (1,400) feet except as may be approved in a large scale development.

G. SUPPLEMENTARY REQUIREMENTS

See also Section 02.06 Supplementary Requirements and Procedures Applicable Within Zones.

02.09.011 SENSITIVE LANDS OVERLAY ZONE (SL-OV)

A. PURPOSE

This Sensitive Lands Overlay Zone and Ordinance recognizes and provides protection for the unique Sensitive Lands features that are of major interest to the City. Thus, the purposes of

this Sensitive Lands Overlay Zone and Ordinance shall be to provide standards and guidelines for the protection of these features for the City, the public and the natural resources of the City of Midway. These purposes include, as examples, but are not limited to:

1. Encourage development designed to reduce risks associated with natural hazards from storm water runoff and erosion by requiring drainage facilities and the minimal removal of vegetation.
2. Minimize the threat and consequential damages of fire in hillside areas by establishing fire protection measures.
3. Preserve natural features, wildlife habitat and open space.
4. Preserve public access to mountain areas and natural drainage channels.
5. Retain natural topographical features such as drainage channels, streams, ridgelines, rock outcroppings, vistas, trees and other natural plant formations.
6. Preserve and enhance visual and environmental quality by the use of natural vegetation and prohibition of excessive excavation and terracing.
7. Assure adequate transportation systems for sensitive areas to include consideration of the *Midway City Transportation Master Plan*. This system design will consider densities and topography with minimal cuts, fills or other visible scars.
8. Establish on-site and off-site traffic facilities that ensure ingress and egress for vehicles (including emergency vehicles) into all developed areas at any time.
9. Encourage a variety of development designs and concepts that are compatible with the natural terrain of sensitive areas and with the flexibility to enable developers to preserve open space and the natural landscape.
10. Establish land use management criteria that will encourage protection of natural features while allowing a harmonious and high quality residential environment.
11. Encourage location, design and development of building sites to provide maximum safety and human enjoyment while adapting the development to the best use of natural terrain.
12. Encourage the use of creative design teams composed of professional landscape architects, engineers and others.
13. Preserve the visual and aesthetic qualities of the foothills, including prominent ridgelines, which are vital to the attractiveness of foothill areas.
14. Identify and protect environmentally sensitive areas of the City.
15. Protect these areas from flooding, erosion, storm water damage or fire hazard.
16. Conserve and protect the public safety and public costs thereof.
17. Protect the scenic and natural character and views of these areas.

18. Retain the natural topographic features and natural grade of these areas.
19. Protect the flora and fauna and habitat of these areas.
20. Encourage public access to these areas.
21. Ensure that traffic and trail patterns are planned in accordance with these purposes.
22. Encourage land use management and architectural criteria that encourage protection and enhancement of these natural features.
23. Encourage clustering of developments, where appropriate.
24. Encourage the preservation of large and contiguous areas of open space.
25. Preserve the reasonable use of the lands to the owner or developer.

B. DEFINITIONS

Bench Line Overlay Zone Map. A map provided by the City showing the general areas of benches in the City. To be used in conjunction with the Bench methodology.

Bench. An abrupt rise in the land of at least 20 feet in elevation across a distance of 100 feet or less (20% grade or more) in otherwise level or near level (5% grade or less) land.

Certified Agency. A public agency with regulatory oversight as delegated by applicable law or regulation.

Certified Engineer. An engineer or firm licensed in Utah or otherwise professionally recognized in a particular field of expertise.

City Engineer. An approved engineer acting as the engineer for Midway City.

City Planning Staff. Those members of the City Staff with the professional experience and responsibility to review and enforce this Ordinance.

Clustering. A development technique that grants density and concentrates buildings in specific areas on a site to allow the land in question to be used for recreation, common open space, and preservation of environmentally sensitive areas (see also Planned Development).

Community Viewing Stations. Those selected public vantage points within and adjacent to the municipal boundaries from which computer and field observations are used to assess the visual significance of development on prominent land forms.

Critical Value Wildlife Habitat. Sensitive use areas necessary to sustain the existence of one or more species of "high interest wildlife" during critical periods of their life cycles. Examples of critical value habitats are: concentration areas for big game on winter ranges, important movement corridors, breeding and rearing complexes, developed wetlands, and riparian habitats critical to high interest wildlife. High interest wildlife are all game species, any economically important species, any species of special aesthetic, scientific or educational significance which may include all protected wildlife, or habitats for threatened or endangered species.

Development. Disturbance of the property for a structure, road, utility service, retaining wall, or any other improvement that is used to support human habitation or structures of any use.

Drainage Corridor. An above-ground water, gully or impression in the landscape that carries storm water runoff or spring water.

Environmental Hazards. Any hazard created by a condition of the environment such as fault line, liquefaction, flood danger, steep and/or unstable slope, etc.

Geologic Feature. A natural feature such as a geothermal pool, spring, mound, or other feature unique and indigenous to the area.

Grottos. Open areas or voids beneath pot rock or tufa, being open or closed, that form caverns or other open volumes, whether wet or dry.

High Water line. The elevation of a drainage occurring because of "100 year storm" flows, or by a FEMA map, or by steep banks, either adjacent to or some distance from the river bed, which act to contain flood waters.

Hot or warm water source. A source of groundwater where the temperature is warmer than normal groundwater, usually capable of depositing tufa mineral, typical of many Midway warm and hot springs.

Hot Pots. Mounds or features made by geothermal activity, consisting of tufa, locally and commonly known as Pot Rock.

Inflection line. The line along either the top or toe of a bench area, where the most abrupt change of the slope begins and ends.

Major hot pots. Those at Mountain Spa, The Homestead, the Coleman Hot Spring Area, The Mound (400 N 200 W), and those active hot pots in the vicinity of Homestead Drive and Lime Canyon Road.

Minor hot pots. Smaller hot pots, whether wet or dry, as shown on the "2004 aerial photo and the 2000 Midway Irrigation Company Two Foot Contour Map" greater than three feet in height.

Natural Grade. The grade of the land or property as defined by a combined study of the "2004 aerial photo and the 2000 Midway Irrigation Company Two Foot Contour Map". Natural Grade shall conform to the Year 2000 elevations.

Normal High Water Line. The water elevation of a drainage occurring because of an approximate two (2) year recurrence interval flows. The stream corridor also includes an area up to sixty (60) feet beyond the high water line of the riverbed.

Planned or Cluster Development. A development approach allowed under the Zoning Ordinance and the General Plan in which dwelling units are clustered in order to maximize economy, infrastructure, and open space. For the purposes of this title, "Cluster Zoning" or "Clustering" shall mean the same as a "Planned Development."

Ridgeline/Skyline Overlay Zone Map- A map provided by the City showing the overlay zone and applicability of ridgeline/skyline ordinance in the City. To be used in conjunction with the ridgeline methodology, but secondary to the GIS analysis and final field inspection.

Ridgeline. The horizon between a land form and a visually higher land form to the rear, such as a hill in front of a mountain.

Sensitive Vegetation. Vegetation that may be subject to this Ordinance, for example, due to its association with wetlands, hillsides, geologic features, mature trees or natural vegetation indigenous to Midway.

Sink holes. Areas where the ground is collapsed due to geological or hydrological activity.

Skyline. The horizon between land and sky.

Skyline/Ridgeline Area. An area in which all or part of a permanent structure constructed thereon would be visible along the skyline or ridgeline - i.e., it would extend higher than the highest land form located either in front or behind the structure - when viewed from any one or more of the Community Viewing Stations.

Soils at Risk. Those soils that are unstable, collapsible, have shrink/swell characteristics or are part of an active fault zone as defined by geotechnical or other soils reports.

Stream Corridor/Waterway. A drainage that supports running water or a riparian habitat and is regulated by the Utah State Engineering Office, Division of Water Rights and/or the Army Corps of Engineers, or is an area of potential water or flood flow, or as regulated by FEMA.

Traditional Subdivision Development. A residential development approach where lots are relatively uniform in size and dispersed consistently throughout the development and streets are generally laid out in a standard grid pattern.

Water source. A source of groundwater, such as a surface spring, subsurface spring or wetland.

Waterway. The area between the high water mark on either bank.

Wetland. An area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to maintain saturated conditions and to support a prevalence of vegetation. These may be either preexisting natural wetlands (e.g. marshes, swamps, bogs, etc.) or constructed wetland systems. Also defined by certain species of plants and soil types. Further definitions given in the wetland general provision.

C. AREA, SCOPE AND APPLICABILITY

1. **Area.** The Sensitive Lands Overlay Zone and Ordinance, and every sensitive land concept incorporated therein, shall apply to the full incorporated limits of Midway, and to any proposed annexation.
2. **Scope.** Though, logically, not every one of the seven subsections shall be fully applicable to all areas of the City, the intent is to ensure that a review of all seven sections of the ordinance is performed for all applications. Though not all may be found applicable, all must be reviewed. The Sensitive Lands Ordinance will be applied to those areas throughout the corporate limits of Midway City that fit within the definitions of sensitive areas contained in this section, or as mapped and adopted by Midway City or other regulatory bodies having jurisdiction. Any development project or structure proposed or other land use which could affect the sensitive lands within the City shall be reviewed by City staff for compliance with this section at the initial stage of the application process. City staff shall have the authority to direct the applicant to prepare the needed documents and/or studies to show compliance with this Ordinance before the appropriate approving person or body.
3. **Applications Affected.** This Ordinance shall apply to all land use applications and to any level of development or improvement or other use with the potential to change the sensitive character of the land, including, but not limited to: subdivisions and PUD's, amendments to current subdivisions and PUD's, and to all other land use applications, including residential and commercial applications.
4. **Annexations.** Annexation petitioners must conduct a sensitive lands analysis of the full area being considered for annexation. Any findings of sensitive lands will be updated into the City maps and inventories herein described. This initial annexation inventory notwithstanding, future development applications within the annexation must also submit to a future sensitive lands analysis at the time of application for development.

5. **Conflict.** In the event of overlapping or conflicting requirements between this Sensitive Lands Ordinance and other provisions or regulations under other sections of the City Code, the more restrictive provision shall apply.

D. SENSITIVE LANDS IDENTIFICATION AND REVIEW PROCEDURE

For all types of sensitive lands governed by this Ordinance, the following general method and outline shall be employed: Initial baseline information and a sensitive lands checklist shall be provided by the City, along with information available from other public review agencies, to the extent that they have been previously identified. These resource guidelines, however, are only minimum guidelines, and are not considered all inclusive. It is not expected that these initial inventories, maps or regulations will comprehensively define all of the possible sensitive lands considerations for the City. Individual applicant analysis and review are an integral part of the process of confirming the applicability of sensitive lands herein identified to each project, and to further define sensitive areas not heretofore identified, but which conform to the definitions, purpose and intent of this Ordinance. Therefore, for every development proposal or annexation brought before the City, the owner, developer or proponent shall, as part of the application for preliminary approval, evaluate and return the sensitive lands analysis checklist, along with supporting data for each section of the checklist concerning its applicability to the property. This completed checklist is to facilitate a review of the sensitive lands by the City Planning Staff and Planning Commission. The checklist is by no means comprehensive, but is an initial guideline for the benefit of both the City and the applicant. Upon review, the City may require further and more comprehensive analysis of any of the sections. Analysis of each of the types of sensitive lands governed by this Ordinance, and the applicable requirements contained herein, may be required to be conducted by professionally licensed engineers or the appropriate public review agency, or firms sanctioned by such agencies, at the expense of the owner or developer.

E. REFERENCE MATERIALS AND RESOURCES

The following materials and resources may be available for reference by the applicant. These items are not exhaustive. The requirements of this Ordinance apply to the types of sensitive lands described by this Ordinance whether or not these materials specifically identify an applicant's particular parcel of land. Under all circumstances, the applicant has the responsibility to identify all sensitive lands on property proposed for development, and to comply with the requirements imposed by this Ordinance for each specified type of sensitive land, regardless of the identification or non-identification of the property by any official or unofficial map, chart, study or survey.

1. The 2004 Aerial Photo and the 2000 Midway Irrigation Company Two Foot Contour Map showing natural grade.
2. Hillside and bench area percent slope delineation map: a guideline to actual GIS analysis of each proposal.
3. Ridgeline overlay map, along with view stations.
4. Bench areas location map: a guideline to actual GIS bench area analysis of each proposal.

5. Streams, waterways and ditches map of the 100-year flood plain
6. Wetlands and other water resources map: a guideline to actual GIS analysis and extensive field inspection and Agency approval or denial of each proposal.
7. Spring and Well Protection Zone map identifying these locations and protection zones.
8. Geological and hydrological features map, delineating major features and marking minor features: a guideline to actual GIS analysis and extensive field inspection of each proposal.
9. Landslide areas map indicating the areas of known landslide hazard.

F. CATEGORIES OF SENSITIVE LANDS AND REGULATIONS APPLICABLE THERETO

1. Hillsides, slopes and natural grade.
 - a. Slope analysis and natural grade -Slope analysis and natural grade shall be as determined by the “2004 Aerial Photo and the 2000 Midway Irrigation Company Two Foot Contour Map”, and the Percent Slope Delineation Map. “Natural grade” shall conform to the 2000 Midway Irrigation Company Two Foot Contour Map. In areas of conflicting data or maps, the City Engineer shall be the authority advisor to the City.
 - b. Boundary Delineation. A sensitive hillside or slope area shall be delineated where any slope is ten percent (10%) or greater.
 - c. Identification of Category of Use. Uses in the hillside areas shall be according to the following requirements:
 - i. Residential land uses shall be allowed on areas up to twenty five percent (25%) slope if the development meets all the requirements of this Section. Slopes greater than 25% shall not be used for sites for building pad entitlement, but may be included within a lot boundary, used as open space, and/or for density credit, as described in this Ordinance.
 - ii. Commercial or office uses shall be allowed in areas with slopes of up to twelve percent (12%).
 - iii. Light industrial uses shall be allowed in areas of the appropriate zoning district with slopes up to eight percent (8%).
 - iv. A geotechnical report is required for building on any slope over ten percent (10%).
 - d. Subdivisions: Allowable lot sizes, densities and credits, as a function of slope: Minimum lot sizes in the hillside and mountainside areas of the Sensitive Lands Overlay Zone shall be as indicated in Table 02.09.011-1 according to the corresponding slope. If specific zoning requirements are in conflict with Table 02.09.011, then the larger lot size requirement of the two shall govern. These densities shall apply to both subdivisions and individual parcels.

Table 02.09.011-1

<u>% of Slope</u>	<u>Acreage</u>	<u>Square Footage</u>
Under 10%	As per Zone Req.	As per Zone Req.
10-14%	1.00	43,560
15-19%	5.00	217,800
20-24%	10.00	435,600
25% or greater	20.00 (see note*)	871,200

*Note: A structure may not be built on a site of slope 25% or greater. However, land with slope 25% or greater is entitled to the density credit specified in the table, to be used elsewhere on the subject parcel, if possible, or on another parcel, as applicable. If a structure is proposed on a parcel containing slopes of 25% or greater, a suitable building pad with a slope less than 25% is required. The building pad must be able to be reached by a road or driveway meeting the standards contained elsewhere in this Ordinance, and the building pad must have a home-and-garage footprint of at least 3,000 square feet, plus an average 30-foot extra border surrounding the home, with both the footprint and the border area being less than 25% in slope.

- e. Planned Unit Developments: Allowable densities and credits, as a function of slope: PUD's in hillside and mountainside areas shall use the density requirements specified for their zones except that the densities in those zones shall be modified to reflect the density shown in Table 02.09.011-2.

Table 02.09.011-2

<u>% of Slope</u>	<u>Density</u>
Under 10%	As per Zone Req.
10-14%	1.00 unit per acre
15-19%	0.2 units per acre
20-24%	0.1 units per acre
25% or greater	0.05 units per acre (see note*)

*Note: A structure may not be built on a site of slope 25% or greater. However, land with slope 25% or greater is entitled to the density credit specified in the table, to be used elsewhere on the subject parcel, if possible, or on another parcel, as applicable. If a structure is proposed on a parcel containing slopes of 25% or greater, a suitable building pad with a slope less than 25% is required. The building pad must be able to be reached by a road or driveway meeting the standards contained elsewhere in this Ordinance, and the building pad must have a home-and-garage footprint of at least 3,000 square feet, plus an average 30-foot extra border surrounding the home, with both the footprint and the border area being less than 25% in slope.

- f. Density Transfers: Owners and developers are encouraged not to build on slopes of 15% or greater. To this end, for slopes of 15% or greater, the applicant may ask the City to consider transfer of hillside entitlements to other areas of the development site or other areas in the City consistent with the zone in the area where the units are to be transferred or to transfer of development rights to receiving areas, or to retire the property from building development through the purchase of development rights if such a transfer policy is in effect for the City.
- g. Grading, terracing, filling, benching and retaining wall considerations.
The use of grading, filling, terracing or benching to either create or increase building lot size, numbers of pads to increase density, or to modify building height objectives, is prohibited. However, the practice of excavating to “nest” the basement and better preserve the natural grade is encouraged, so long as the material excavated from the cut is not used to alter the rest of the existing grade, except as noted in this section. This concept notwithstanding, reasonable fill may be used within 30 feet of the dwelling to provide for driveways, parking, yard and public safety access. Furthermore, if it can be demonstrated that minor grading will facilitate or accommodate the clustering of units and provide for the preservation of more open space or of the reduction of access road cut requirements, such grading shall be considered. Grading in hillside areas shall be in accordance with City standards. In order to preserve the sensitive lands throughout the City, grading and filling permits and pre-inspections shall be required throughout the entire City, regardless of slope.
- h. Retaining Walls: Retaining walls are discouraged, and the use of blended natural contours is encouraged. However, if it can be demonstrated by the applicant to the satisfaction of the Planning Staff and Planning Commission that there is no other alternative, then a retaining wall may be constructed in order to reduce the impact of cut banks and fill slopes or more than six (6) vertical feet. Such retaining walls must be made of natural stone and blend into the colors and contours of the hillside.
- i. Allowable streets, driveways and grade crossings: The following restriction shall be placed upon the development of streets and driveways in a hillside sensitive area:
- 1) Maximum Grades.
 - A. All streets shall be constructed at a maximum of twelve percent (12%) grade. Streets in grade between ten percent (10%) and twelve percent (12%) shall be no more than two hundred and fifty (250) feet in length and only upon City Engineer and Fire Marshal approval.
 - B. Driveways to all residential dwellings shall be constructed at a maximum of fifteen percent (15%). However, driveways may be approved at a grade above 15% only if they receive approval from the City Engineer.
 - 2) Criteria for Streets and Driveways Traversing Steep Slopes. All roads and driveways in hillside areas must receive full review of the City Engineer and Staff, and final approval of the City. Sensitivity to the land forms, erosion,

plant life, wildlife and view shed are key considerations. Streets, roads, private access roads driveways, and other vehicular routes shall not be allowed to traverse slopes between twenty-five percent (25%) and fifty percent (50%) unless specifically authorized by the City Council upon recommendation from the Planning Commission. Any drive so authorized shall meet the following criteria:

- A. No alternative location for access is feasible or available.
 - B. No individual segment of the street, road, private access road, driveway or other vehicular route that will cross slopes between twenty-five percent (25%) and fifty percent (50%) shall exceed one hundred (100) feet in length or, if greater than 100 feet, ten percent (10%) of the total length of the street, road, private access road, or other vehicular route.
 - C. No significant adverse visual, environmental, or safety impacts will result from the crossing.
 - D. Fifty Percent (50%) Slope Crossings. Under no circumstances shall any street, road, private access road, driveway or other vehicular route cross slopes greater than fifty percent (50%).
 - E. Natural Contour. Streets, roads, private access roads, driveways and other vehicular routes shall follow the natural contour lines as much as possible. No street or road shall either traverse or follow a ridge or follow up a ridge line.
- 3) Grading for streets, roads, private access roads, and other vehicular routes shall be limited to the roadway portion of the right-of-way, plus up to an additional ten (10) feet on either side of the roadway as needed, except that when developing access on slopes in excess of twenty-five percent (25%), only the roadway portion of the right-of-way shall be graded plus the minimum area required for any necessary curb, gutter, or sidewalk improvements. The remainder of the access right-of-way shall be left undisturbed to the maximum extent possible.
 - 4) Other Roads. Roads, other vehicle routes, or trails may be required to provide access or maintain existing access to adjacent lands for vehicle, pedestrians, emergency services, and essential service and maintenance equipment.
 - 5) Shared Driveways. Driveways in sensitive land hillside areas may be shared by no more than four (4) residential dwelling units or by four (4) or more principal nonresidential uses provided such nonresidential uses together do not exceed a total of 25,000 square feet of gross floor area. Shared driveways are strongly encouraged in these areas.
 - 6) Restoration – all cuts, fills, berms, roadsides grades or other disturbances created as a result of the road or driveway construction shall be protected from erosion and be restored to as natural of state as possible by restoration of natural vegetation.
- j. Landslide considerations- It is the intent of the City that no construction shall occur in areas susceptible to landslides, nor shall any construction or disturbance

create an area more susceptible to erosion or landslides or that will destabilize a pre-existing landslide. Areas with potential for landslides may be identified on City maps. The applicant is responsible to search for, perform studies that will identify, and disclose any information that is available to identify areas of instability. For all areas identified on City materials as potential landslide areas, a slope stability analysis must be performed by a licensed geotechnical engineer before development is approved on those sites. The applicant, Planning Commission, and City Council must then use this information to guide the development of the property.

- k. Architectural height, color, reflectivity, lighting, and fencing guidelines (to apply to all slopes over 10%).
 - i. Height- Maximum Height of Buildings. Buildings in the hillside and mountainside areas shall be not more than 35 feet in height, as measured from the lowest flooring level which has an exterior entrance or a partially or fully exposed wall on the downhill side of the dwelling, and then as measured from that flooring level to the highest point of the roof, chimney or parapet, except when the ridgeline provisions of this section require a lower height.
 - ii. Color- All occupied and accessory structures and fencing shall be constructed and maintained so that the predominate exterior wall colors (including exposed basements) and roofing materials (a) repeat the predominant colors most commonly found in the land and vegetation surrounding the dwelling (earth tones) and (b) are materials and colors that are low gloss and of low and diffuse reflectivity. Reflective materials and bright colors or light colors that contrast dramatically with the land and vegetation shall not be used. An exception for solar panels will be considered.
 - iii. Exterior lighting- Floodlights shall not be used to light all or any portion of any primary or accessory structure façade. All outdoor light sources mounted on poles or buildings or trees to illuminate streets, sidewalks, walkways, patios, porches, parking lots or driveways or other outdoor areas shall use full cutoff fixtures. All such fixtures shall be installed or shielded so that the point light source or light bulb is not visible beyond the property boundary, and in more particular, not observable as point light sources from the Community Viewing Stations, as defined in the Ridgeline section of this Ordinance.
 - iv. Architectural review- The selections of materials, colors and lighting shall be reviewed and approved by the City's Architectural Review Committee, should one exist. In the absence of a formal Architectural Review Committee, the Planning Commission must fill this responsibility for the purposes of this Ordinance only.
- l. Vegetation preservation and re-vegetation guidelines: All disturbed slopes of greater than ten percent (10%) grade shall be revegetated with native plants and trees, and properly maintained.

- m. Fire Protection: The following fire protection measures shall be taken when developments are placed in hillside areas:
 - i. Each development site and building permit shall comply with current fire regulations.
 - ii. Spark arresters shall be installed in every fireplace constructed indoors or outdoors. Screen openings in such arresters shall not be in excess of ¼-inch diameter.

- 2. Ridgelines and benches
 - a. Purpose and Intent. Within the corporate limits of the City of Midway there are many significant land forms, including hills and mountains with distinct ridgelines and benches, at higher elevations than the surrounding flat lands. These topographical features constitute a unique natural resource meriting protection and preservation. Construction of structures in locations on these land forms, which are visible from many areas of the City and County, degrades this natural heritage. The regulations adopted by this Section place restrictions on the siting of any development in visually significant areas. These regulations are promulgated and applied as a zoning overlay district as a legislative exercise by the City Council of the police powers of the City. These regulations apply uniformly to all zoned development encompassing land forms with visually sensitive areas.

 - b. Ridgeline area definition map- A map, based on the “2004 aerial photo and the 2000 Midway Irrigation Company Two Foot Contour Map” will be prepared by City Staff as a general guideline as to the location of ridgeline areas. This map constitutes an official delineation of the areas subject to this ordinance. It is the responsibility of the owner or developer of the property to provide analysis, per the methodology below, to identify effects of potential development on ridgeline and bench areas.

 - c. Ridgeline Building Restrictions—Development Prohibited. No development, as defined in this Ordinance, shall be allowed to be located either on or across any ridgeline or skyline, as viewed from any single Community Viewing Station. Anyone desiring to build a structure or any other form of development within a Ridgeline/Skyline protection area, as delineated on the official map, shall submit the proposed building to the Planning Commission for approval using the following GIS and field analysis: The highest point of any building or structure, whether the building or structure is on the near or far side of the subject hill, including roof lines, chimneys, steeples, parapets, and so forth, shall not be higher than an imaginary line drawn from six feet off the ground at any single Community Viewing Station viewing platform point to the ridgeline/skyline behind or in front of the proposed structure. An initial prescreening analysis shall be performed by the applicant by suggested methods such as “topography line of sight” graphing from each viewing platform to the top of the proposed structure (using two foot or better resolution), through visual analysis from each viewing

platform using raised balloons, laser analysis, GIS analysis, or any other method of pre-screening analysis found acceptable to the City Planner and/or Engineer in order to indicate that the proposed structure will not obviously breach the ridgeline. This initial analysis is for pre-screening purposes only, prior to submittal to official GIS analysis, and is performed so as not to create undue burden on the official GIS system. For those structures that do not obviously breach the ridgeline from any one of the viewing platform on this pre-screening analysis, the proposal shall be submitted for final analysis to the official City GIS administrator for computer-generated finite element analysis. The results of this GIS finite element analysis must show that none of the proposed structures will violate the ridgeline ordinance from any of the viewing platforms. This analysis and result must be submitted as a condition of approval. All costs of analysis by the City shall be borne by the applicant.

- d. Community Viewing Station -- Community Viewing Stations are defined as specific locations that are important to the City of Midway or the general public, and are public locations that protect the views of the ridgelines and skylines for the benefit of the City and the public. Specifically they are as follows:
1. State Park Visitors Center
 2. Homestead Drive- Lime Canyon Road
 3. Homestead Drive- Kohler Lane
 4. 400 North- Pine Canyon Road
 5. 400 West- Main Street
 6. Town Square
 7. Burgi Lane- Interlaken Drive
 8. River Road- Dutch Fields
 9. River Road- 600 North
 10. 500 South- 250 West
 11. 500 South at Cemetery
 12. 960 South Center Street
 13. Center Street and Tate Lane
 14. Tate Lane and Stringtown Road
 15. Stringtown Road -960 South
- e. Single Station Policy-The Ridgeline/Skyline development restrictions shall apply when a ridgeline or skyline is visibly impeded from any single Community Viewing Station.
- f. Bench Area Restrictions - A map shall be provided by the City showing the general areas of bench locations. A Bench shall be defined as an abrupt rise in the land of at least twenty (20) feet in elevation across a distance of 100 feet or less (20% grade or more) in otherwise level or near level land (5% grade or less). The 20-foot rise in elevation shall be measured from the bottom inflection to the top inflection of the slope. Structures along the top of the bench area, whether primary structures or secondary structures, shall be restricted in height as a

function of their setback from the top inflection point of the bench. Single story dwellings shall be limited to seventeen (17) feet in height, at a setback of forty (40) feet from the inflection point. Two story structures shall be set back a distance of at least eighty (80) feet and limited to thirty-five (35) feet in height.

3. Streams, waterways and ditches

- a. Intent. The intent of this section is to protect the stream corridors, waterways, riparian areas and ditches of Midway.
- b. Classifications. There shall be two classifications of drainages considered in Midway City. They are:
 - i. Streams, creeks and rivers. These shall not be piped, covered, altered, moved or destroyed in any way, except for a City approved roadway or driveway crossing. Irrigation ditches that do not follow the natural channel are not considered stream corridors unless the majority of the stream flow has been diverted from the natural channel to accommodate water flow and drainage.
 - ii. Washes, drainages, and irrigation ditches. These types of waterways may be considered for piping if minimal impact and conveyance can be achieved as approved by the City Engineer. Careful consideration for the use of irrigation ditches as historical or critical storm drain channels or as perennial wetland or water drainage channels, along with the historical nature and visual value of the open ditches, should be given priority when considering piping or closing of an irrigation ditch, along with appropriate drainage mitigation measures.
- c. Boundary delineations- Unless previously delineated by Wasatch County or Midway City, boundaries for stream corridors shall be delineated according to the following provisions: Stream corridors shall be delineated by the line elevation of a drainage occurring because of "100-year storm" flows as designated by the FEMA map. In addition, a further 50-foot setback from this flood zone shall be observed.
- d. Stream and Waterway Building Restrictions —Development Prohibited. Building within the above described boundary delimitations shall be prohibited.
- e. Applicable Agencies. Approval may be required from the following agencies, other than Midway City, for any proposed plan:
 - i. U.S. Army Corps of Engineers.
 - ii. Utah State Engineers Office, Division of Water Rights.
 - iii. United States Environmental Protection Agency (EPA)
- f. Density. The stream, waterway, and ditch areas regulated by this Ordinance shall receive a density credit of one unit per ten (10) acres, to be applied to areas

of unfilled but allowable densities located elsewhere within the project, or to future Transfer of Development Rights receiving areas, or retired through Purchase of Development Rights policies, if such policies are in effect in the City.

- g. Grading. No grading shall be done within the stream corridor that will disturb the natural vegetation or natural terrain of the area.
- h. Streets and Bridges.
 - i. Streets. No streets or roads shall encroach upon the stream bank as defined in this Section or as determined by the applicable agencies.
 - ii. Crossings. The construction of crossings over a stream corridor and within the stream setback area is permitted, provided such crossings are planned and constructed so as to minimize impacts on the stream corridor to the maximum extent possible. Bridges shall be constructed where they reach from the top of the bank to the top of the bank on the other side of the waterway, as approved by the City Engineer. Natural rock bottoms may be required where it is found that the velocity of water flow would cause erosion of surrounding banks.
- i. Filling or Dredging of Waterways. Filling or dredging of watercourses, stream or creek beds, rivers, washes, drainages, swells, wetlands, gullies, or other storm water runoff channels is prohibited unless approval is received by all applicable agencies listed in this section and the City Engineer.

4. Wetlands and other water resources

- a. Purpose and intent- The following requirements and standards have been developed to promote, preserve, and enhance wetlands and to protect them from adverse effects and potentially irreversible impacts. Public access to or trail rights of way through wetland areas is highly encouraged.
- b. Boundary Delineation. Unless previously delineated by Midway City or Wasatch County, boundaries for wetlands shall be delineated according to the following provisions: Boundary delineation for wetlands shall be established using the current version of the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*. No development or disturbance of any kind shall occur in areas of delineated wetlands and in a twenty-five (25) foot buffer surrounding these areas. The following agencies, in addition to the staff of Midway City, may review and approve any proposed plan, if needed: (1) US Army Corps of Engineers. (2) US Environmental Protection Agency.

- c. Density. Wetland areas and their buffer zones shall receive density credit for clustering purposes at the rate of one unit per ten (10) acres, to be applied to areas of unfilled but allowable densities, located elsewhere within the project, to future Transfer of Development Rights receiving areas, or retired through Purchase of Development Rights policies, if such policies are in effect in the City.
 - d. Grading. No surface grading shall be done that will impact any wetland areas. Also, no surface grading shall be done within twenty-five (25) feet of any wetland area unless necessary and approved by the City Engineer.
 - e. Disturbance of Wetlands. No activity will be permitted which will disturb, fill, dredge, clear, destroy or alter any area, including water, soils and vegetation, within wetlands and their setbacks as set forth in this Section, except where approved by the City, the Army Corp of Engineers and/or the U.S. Environmental Protection Agency.
5. Spring and well protection zones
- a. Policy. Midway City will cooperate to protect areas within the Source Protection Area of a Public Drinking Water Source, as defined on the Midway City Spring and Well Protection Zone Map, or as such zones are defined by the Utah State Division of Drinking Water, from concentrated sources of pollution.
 - b. Procedure. All development affecting properties within these areas must be reviewed by the Wasatch County Health Department, City Engineer, and the Midway City Public Works Department, and also may be reviewed by others who have a property interest in the water source. The applicant shall prepare a request considering this information and other material relevant to the use of property within Source Protection Areas. The Planning Staff shall review this request and prepare a recommendation using this information and public health principles. The Planning Commission and City Council must consider the recommendations of City Staff and the Health Department before development can be approved in these areas.

6. Trees and vegetation.

The following requirements shall apply throughout the City:

- a. Existing Trees and Vegetation. Every effort to save all full size existing trees on a property proposed for development shall be made by the developer. Existing trees shall not be cut unless absolutely required for placement of structures or infrastructure or for public safety purposes. All existing trees, regardless of species, over five (5) inches diameter at breast height (DBH) in caliper, along

with tree types and tree locations, shall be shown and submitted to the Planning Commission along with the landscape planting plan. In areas determined by the Midway City Fire Marshall to be highly susceptible to fire hazards, vegetation up to thirty (30) feet from the perimeter of a structure shall be selectively pruned and thinned, but not clear cut, for fire protection purposes.

- b. Replacement of Significant Trees. Where trees more than five (5) inches in caliper are removed, the applicant or developer shall replace such trees. Replacement trees shall be maintained and guaranteed for a period of three (3) years except for residential lots, where the period shall be one (1) year. All replacement trees shall be selected by a licensed landscape architect. Trees shall be replaced according to the following schedule:
 - i. Deciduous trees removed: Replace with two (2) trees with a minimum of two (2) inch caliper.
 - ii. Coniferous tree removed: Replace with two (2) trees with a minimum height of five (5) feet.
 - iii. Gamble Oak (scrub Oak): Due to the scenic quality and slow growing nature of this species, Gamble Oak shall only be selectively and minimally removed as required for a building pad and associated reasonable-sized yards, streets and driveways, or selective strategic removal to provide views. No additional clearing for yard or land use purposes shall be allowed, except as in section (a) above, per Fire Marshal recommendations.

7. Geological and hydrological features, rocks and soils unique to Midway.

- a. Intent and purpose. The most singular and unique sensitive natural resource to Midway is its ancient heritage of geothermal activity, marked by the presence of many unique geological and geothermal features, both surface and subsurface. It is also important to note that many of these subsurface water features may or may not be interconnected. These geothermal features may be defined as:
 - i. Major hot pots, such as the Mountain Spa pot, the 400 N 200 W hill (the "Mound"), the Homestead, and the Coleman Hot Spring area.
 - ii. Minor hot pots or mounds of tufa, whether wet or dry, as identified on the 2004 Aerial Photo and 2000 Midway Irrigation Company Two Foot Contour Map, or as otherwise identified at the time of application.
 - iii. Hot or warm water sources, identified by water that deposits tufa.
 - iv. Grotto or other underground hollow features.
 - v. Unstable, collapsible, shrink/swell or sinkhole soils or features.
 - vi. Fault Zones.
 - vii. Landslide zones.
- b. Protection.
 - i. Major hot pots- The geographical extent of a major hot pot is identified and delineated by slope, inflection, rock type, vegetation, or

warm water. These larger hot pots shall not be developed or disturbed.

- ii. Minor hot pots or mounds of tufa, whether wet or dry, as identified on the 2004 Aerial Photo and 2000 Midway Irrigation Company Two Foot Contour Map, or as otherwise identified at the time of application, shall be fully protected if over three (3) feet in height or if they are otherwise visually significant.
 - iii. Hot or warm water sources, identified by water that deposits tufa, shall be protected in the same manner as wetlands and waterways.
 - iv. Grotto or other underground hollow features: Any area of extensive pot rock at or near the surface, or areas that exhibit mounds of tufa of any size, must be inventoried for the presence of underground hollow areas such as grottos or capped domes. This regulation is not only for the protection of Midway's subterranean water resources, but also for the protection of the landowner or developer. Such studies must be performed by competent and licensed geological engineers, using techniques standard to the inspection of subsurface rock formations and strata; such as ground-penetrating radar, electrical resistivity techniques, high resolution gravimetric studies, near-surface seismic studies, or other techniques standard to the geotechnical community.
 - v. Soils at Risk: Areas of unstable, collapsible, shrink/swell or sinkhole soils shall be left undisturbed.
 - vi. Fault Zones, as identified by the Utah Geological Survey, must be considered as a part of any site development process.
 - vii. Areas subject to landslides, as designated on the official map, are not suitable for development, but may be counted as part of otherwise buildable lots and given density credit.
- c. No person shall disturb the natural flow or hydrostatic pressure associated with geothermal or geohydrological features because of the potential for irreversible disruption of historical water flows and water rights that may occur.

8. Wildlife habitat areas.

- a. Purpose and Policy: It is the policy of Midway City to provide for wildlife and wildlife habitat within the City to the extent that is practical and prudent. It is the intention of the City to administer this policy based on three principles: 1) The initiative and desires of individual City residents and landowners acting on the principle of informed consent; 2) A recognition that wildlife and wildlife habitat (open space) are in general highly valued amenities contributing to a high quality of life within the city and to property values within the City; and 3) An intention to

provide incentives to the owners and developers of lands within the City that provide wildlife habitat, buffers and corridors.

- b. Standards: All development and developments subject to this subsection, to the maximum extent possible, as judged by the Planning Commission and approved by the City Council, shall incorporate the following principles and procedures when locating site elements in relation to wildlife habitat:
- i. Applicable Areas – This policy shall apply to all Critical Habitat Areas as defined by the City map based on information from the Utah Division of Wildlife Resources and the Utah Sensitive Species List and other creditable and documented sources. Critical Areas may also include other areas of important or critical habitat as determined by on-the-ground survey(s) conducted by the City wildlife biologist(s) and verified by a written report submitted to the Planning Commission.
 - ii. Maintenance of Buffers – Buffers shall be maintained between areas dominated by human activities and core areas of wildlife habitat by relegating intense human activities such as automobile and pedestrian traffic to areas more distant from core habitat areas. The appropriate type and character of the buffer for a particular project shall be determined by the biological review process described in this section.
 - iii. Facilitation of Wildlife Movement – Development shall facilitate wildlife movement across areas dominated by human activities by:
Maintaining connections between open space parcels on adjoining parcels of land.

Minimizing fencing that unduly inhibits the movement of wildlife species.

- Minimizing abrupt breaks in habitat between areas dominated by human activities including individual lots, roads, etc. and less disturbed terrain in surrounding areas (for example, by retaining or establishing native vegetation).
 - iv. Control of Domestic Pets – Residents and visitors to the City are responsible to maintain control of domestic pets and to prevent pets from molesting wildlife within the City.
- c. Notice of Wildlife Policy. Notice shall be included on subdivision plats and in development agreements and covenants, conditions and restrictions (CC&Rs), as appropriate, of the City's wildlife policy and the requirements thereof.
- d. Procedures. The following procedures shall apply when applications are made in or adjacent to critical or important wildlife habitats:
- i. Biological Review. Site development applications are subject to biological review and recommendations. Based on the standards contained in this section, the City Planning Office shall make a determination as to whether a biological review is necessary for a given application. Review shall be performed by a qualified wildlife biologist retained by the City. The cost of the review and report shall

be borne by the applicant. If applicants desire, they may also retain their own qualified biologist separately to prepare an additional report. Comments from the above review(s) shall be incorporated into the staff report or in some other way transmitted in writing to the Planning Commission and City Council prior to preliminary action on the submitted development application. The Planning Commission and City Council shall consider and decide any disputes contained in different reviews submitted in applying the standards contained in this ordinance.

- ii. Special Considerations for Wildlife. The Planning Director, Planning Commission, and City Council shall follow the Purpose and Policy which introduces this section to the extent possible and shall give special consideration to important wildlife habitats as identified on the City map and overlays and to habitats identified during a biological review to be of unique or critical value. The Planning Commission and City Council shall require that modifications or special conditions, as recommended to mitigate impacts on critical wildlife habitat, be considered and incorporated into development plans.
- iii. Denial Based on Significant Adverse Impacts. The City Council, upon recommendation from the Planning Commission, may deny a development proposal if it finds that the proposed development will have significant adverse impacts on critical wildlife habitat that cannot be adequately mitigated.
- iv. Definition of Significant Adverse Impact. For the purposes of this subsection, "significant adverse impact" shall mean the elimination, reduction, and/or fragmentation of wildlife habitat to the point that the viability of an individual species and the diversity of wildlife species occurring within the boundaries of Midway City are reduced.

G. APPROVAL PROCEDURES

Determinations as to compliance with the procedures and regulations of the sensitive lands provisions of this Ordinance shall be recommended by the Planning Commission and decided by the City Council as part of the consideration of preliminary approval of a development application. The Planning Commission may recommend, and/or the City Council may impose, conditions pursuant to which preliminary approval is granted in order to uphold and enforce the provisions of this Ordinance.

H. APPEAL AND VARIANCE PROCEDURES

Appeal of determinations made by the City Council pursuant to this section shall be governed by Section 02.20 of this Ordinance. Variances to the requirements of this section shall be governed by Utah law and by section 02.11.011 of this Ordinance.

02.10 LARGE SCALE DEVELOPMENTS

The intent of this section is to provide for the construction of certain large scale developments which will permit increased flexibility in land development, increased efficiency in the use of land and a more satisfactory living environment than can be obtained under traditional lot by lot development, and to establish minimum standards and procedures for the construction and maintenance of such development.

All improvements within any large scale development shall be installed per the most current Midway City Standard Specifications and Drawings.

02.10.001 PERMITTED LARGE SCALE DEVELOPMENTS

The following large scale developments shall be permitted upon compliance with the regulations set forth herein, but only in the zones in which such large scale developments are specifically permitted.

- A. Manufactured home parks
- B. Recreational vehicle parks
- C. Planned unit developments (residential and commercial)
- D. Subdivisions (residential and commercial)

02.10.002 MANUFACTURED HOME PARKS

The intent of this section is to provide regulations that will further the objectives of the Community Master Plan relating to manufactured home parks. It is the intent to achieve an excellent balance between open space and manufactured home units, harmony between new development and the surrounding area, superior maintenance and appearance of structures and premises and an overall project atmosphere that concurs with goals for a more attractive City. These regulations are intended to create a manufactured home park living environment that approaches the standard of living obtained through regular lot by lot development. It is understood that inherent features of a manufactured home park are that density is greater and open space is less than a standard subdivision. However, development plans for a manufactured home park should create other features such as the amenity package, quality of open space, design of entrance, outward appearance, street design, and streetscape that will compensate for the lack of open space and increased density. It is further intended to create regulations that encourage the use of Swiss architecture and native bedrock in the design of fences and permanent structures in the park. A developer should demonstrate by the materials submitted for approval that the objectives and goals of the Community Master Plan have been fostered. If this cannot be shown, approval of the inherent density increases allowed through the use of these regulations shall not be allowed. Upon approval of a manufactured home park, the approved site plan shall then constitute the zoning restrictions and regulations of the zoning district as applied to the territory shown on the plan.

A. PROCEDURE

Any person wishing to construct a manufactured home park shall obtain information from the City regarding the City's plan of land use, streets, public facilities and other requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received.

B. PRELIMINARY PLANS AND DOCUMENTS

1. Concept Plan
2. Preliminary Plan and Environmental Impact Statement (02.05.017).
3. Project Density: The maximum gross density (number of units per acre for the total acreage of the project, including all uses) shall be six (6) units per acre. When specific goals or objectives of the Community Master Plan have been made a part of the development plan, the Planning Commission may permit an increase of up to ½-unit per acre. The amount of increase shall be determined by the opinion of the Planning Commission as to the extent the goals and objectives of the Community Master Plan have been fostered, i.e. the use of Swiss architecture and decorative designs, use of local bedrock in design, special designs for streets capes, etc.
4. Standards and Requirements: The following standards, requirements and conditions shall apply to all manufactured home parks:
 - a. The project must be prepared by a design team of at least a licensed civil engineer, a land planner, and a licensed land surveyor.
 - b. All manufactured home units shall be served by a public sewer and a city approved water supply. All utilities within the manufactured home park shall be placed underground, including telephone, power and television.
 - c. The area proposed for a manufactured home park shall be in one ownership during development to provide for full supervision and control of said development and to ensure conformance with these provisions and all other conditions imposed by the Planning Commission upon the preliminary and final plans.
 - d. The minimum initial site size for a manufactured home park shall be four (4) acres.
 - e. An individual manufactured home lot shall not be less than forty-five hundred (4,500) square feet in size.
 - f. Each lot shall have a minimum frontage on an access road of fifty (50) feet. In the event a lot is located on a cul-de-sac circle, minimum frontage on the access road shall be thirty-five (35) feet, measured at the setback line.
 - g. In the event that the land contained within a manufactured home park is traversed by a proposed collector or arterial street, the development shall be designed in accordance therewith and the right-of-way across

the development for said collector or arterial streets shall be dedicated to the public with improvements.

- h. All areas not covered by buildings, parking, streets or drives shall be planted with grass, trees, shrubs or other plant materials as approved by the Planning Commission in the submittal of the final landscape plan. A permanent sprinkler system shall be installed in all landscaped areas to provide irrigation of planted areas.
- i. The required yard space as a result of setbacks from public streets shall not be used for parking, but shall be landscaped.
- j. Two (2) parking spaces shall be provided on-site for each manufactured home with an additional one-third (1/3) of a parking space for each manufactured home provided for guest parking. Guest parking shall be located not more than three hundred (300) feet from the home it serves.
- k. Each lot shall have a minimum of sixty (60) square feet of outside storage (storage unit) located to the rear of each lot. All storage units shall be uniform in appearance and location and kept in good repair.
- l. All streets, drives and parking areas shall be hard surfaced as indicated in the development plans.
- m. No less than ten (10) percent of the gross area of the manufactured home park shall be landscaped and maintained as common area for the use of all individuals living in the park. The open space shall be, to the extent possible, located centrally, offering easy access to residents of the manufactured home park.
- n. No manufactured home or add-on in a rental park shall be located closer than fifteen (15) feet from the nearest portion of any other manufactured home or add-on. In a manufactured home subdivision, a manufactured home or add-on shall not be located closer to the side property line than seven and one-half (7.5) feet.
- o. No manufactured home shall be located closer than fifteen (15) feet from the rear property line.
- p. No manufactured home shall be located closer than ten (10) feet from the front property line. The tongue of the manufactured home shall be removed.
- q. A clubhouse for resident use shall be provided with finished square footage appropriate to the size and intent of the manufactured home park in which it will be located.
- r. All area not covered by manufactured homes, buildings, parking spaces, or driveways shall be planted and landscaped within one year from the recording date of the final plat.

- s. A strip of land at least fifteen (15) feet wide surrounding the manufactured home park, except for public streets, shall be left unoccupied by manufactured homes and shall be planted and maintained in lawn, shrubs, and trees designed to afford privacy to the development.
- t. All manufactured homes shall be located at least thirty (30) feet back from any public street and the resulting setback space must be landscaped, except for permitted roadways. The area between the curb and gutter along the public street and the sidewalk or street right-of-way line must also be landscaped.
- u. Occupancy in a rental park shall be by written lease, which shall be made available to the officials of the municipality upon request.
- v. Roadways shall be of adequate width to accommodate anticipated traffic as follows:
 - (1) Minor streets - thirty-seven (37) feet in width (2-foot curb and gutter on both sides, 3-foot sidewalk on one side, and thirty (30) feet of asphalt).
 - (2) Entrance streets - forty-two (42) feet in width (specifications same as above with thirty-five (35) feet of asphalt). The use of a divided entrance with appropriate landscaping and cross-section is encouraged.
- w. A manufactured home park shall provide at least one formal entrance and an additional entrance for emergency use only. All entrances shall be at least two-hundred (200) feet apart and located not closer than one-hundred and twenty (120) feet from an intersection.
- x. Yard lighting shall be provided on each lot.
- y. A minimum of one hundred-eighty (180) square feet shall be provided for each manufactured home site in the park for the storage of recreational vehicles. The R.V. storage area shall be hard surfaced and fenced with a six (6) foot visual barrier decorative fence or wall and shall be lighted.
- z. When it is necessary in order to implement the intent of this section, the Planning Commission may impose development standards in excess of the minimums identified herein.

C. PRELIMINARY PLANNING COMMISSION ACTION

Upon presentation of the preliminary plan and documents, the Planning Commission shall approve them as submitted, approve them with conditions or may refer them back to the developer for one or more of the following reasons:

- 1. Due to the type of buildings, layout of structures, design of plan, or other aspects of the preliminary submittal, the Planning Commission determines

the project to be inconsistent with the intent of this Ordinance or the Community General Plan.

2. The Planning Commission requires that certain specific changes be made within the plans.
3. The plans or documents have not been completed.
4. The fees have not been paid by the developer.

Before approving the preliminary plan the Planning Commission must make the following findings:

- a. That the proposed development will provide a more pleasant and attractive living environment than a conventional residential development.
 - b. That the proposed development will create no detriment to adjacent properties nor to the general area in which it is located.
 - c. That the project will provide more efficient use of the land and more usable open space than a conventional development permitted in the surrounding area.
 - d. That increased densities allowed within the proposed development will be compensated by better site design and by increased amenities and recreational facilities.
 - e. That the development will not create hazards above those of a standard type development to the health, safety, and general welfare of the residents of the proposed development or adjacent areas.
5. That this project is in substantial compliance with the intent of this section as stated previously. The Planning Commission may impose such conditions on preliminary development plans as it may deem appropriate to meet the goals and objectives of this Chapter. The Planning Commission may disapprove a development, which is found to be deficient in meeting the intent of these provisions. Any such disapproval may be appealed to the City Council within ten (10) days after the decision of the Planning Commission.

D. RECOMMENDATION OF PRELIMINARY PLAN TO CITY COUNCIL

Upon the Planning Commission's approval of a preliminary plan of a development, the Planning Commission shall recommend the preliminary plan to the City Council for direction.

E. PUBLIC HEARING

After receiving notice of Planning Commission approval of the preliminary plan, or upon the City Council's reversing on appeal the Planning Commission's disapproval of a preliminary plan, the City Council shall set and hold a public hearing to consider preliminary approval of the project. The hearing shall be completed as set forth in section 02.18.003 of this Ordinance.

F. PRELIMINARY APPROVAL OF CITY COUNCIL

After holding the public hearing, the City Council shall approve, approve with conditions, or deny the preliminary plan based on the same standards as required above for preliminary approval by the Planning Commission.

G. TIME LIMIT FOR PRELIMINARY PLAN APPROVAL

Any failure to submit a proposed final plan and final approval submittal package within one (1) year of the approval of the preliminary plan by the City Council shall terminate all proceedings and render the preliminary plan null and void.

H. FINAL APPROVAL SUBMITTAL PACKAGE

If the preliminary plan is approved by the City Council, the developer shall submit three (3) full size copies and fifteen (15) 11" x 17 " copies of the proposed final plat and a final approval submittal package to the Planning Commission composed of the following:

1. All material, studies and requirements as requested by the Planning Commission or City Council as conditions of preliminary approval.
2. A final Record of Survey Map in compliance with the approved preliminary plan and the State Condominium Ownership Act. This plat is to illustrate, among other things, the approved site plan, buildings, proposed ownership areas, limited common areas, common areas and private areas.
3. Detailed landscaping plan and sprinkler plan.
4. Final engineering drawings (plans and profiles) for all public and private improvements, final grading plan, and final drainage and run-off plan with run-off calculations.
5. All documents and legal material ready for recording.
6. Deeds of dedication for all public lands as required by the City, when not shown on a final plat.
7. A title report for all land within the boundary of the final plat.
8. Provisions for bonding of all improvements in a form acceptable to the City. Amount of bond to be 110% of the engineer's estimated cost for improvements.
9. All required final plat fees.
10. Phasing plan for final plats.
11. In the event the project will not be divided into separate ownership, the developer shall submit the same information as requested above except for the Record of Survey Map. A final site plan shall be submitted totally dimensioned, conforming to the approved preliminary plan.
12. Will-serve letters from US West, Questar Gas, Midway Sanitation District, Heber Light
13. Approval letters from the Midway Water Advisory Board and the Midway Trails Advisory Committee.

14. Declaration of Covenants, Conditions and Restrictions for said development to be recorded with the Wasatch County Recorder's Office with the Final Plat.

The following standards shall apply to the Declaration of Covenants, Conditions, and Restrictions recorded in conjunction with any development:

- a. The Declaration may provide for the creation and perpetual provision of an architectural committee, the number of members and composition of which shall be clearly stipulated. The declaration shall also establish design guidelines governing the appearance of the site buildings, signs, lighting, landscaping, street furniture, fencing, and mechanical equipment.
- b. The Declaration shall stipulate the method and procedure by which the Declaration may be amended.
- c. The Declaration shall specify the final conditions of approval of the Planning Commission and City Council.
- d. The Declaration may also contain use restrictions which are more restrictive than the City's Zoning provisions, but in no case shall they be more permissive.
- e. The Declaration shall set up the provisions for maintenance of all common areas and private streets and utilities.
- f. The Declaration shall state the following:
Midway City shall have the right, but not the duty, to require, and if necessary, perform, at the Association's expense, landscaping, maintenance, and snow removal within the common areas if the Association fails adequately to perform such. In the event Midway City exercises this right, the City shall be entitled to recover any associated costs and attorney fees from the Association. This section shall not be amended or deleted without the approval of Midway City.

I. **DEVELOPMENT AGREEMENT**

An agreement between the developer and the City stating, among other things:

1. That in the event of failure or neglect on the part of the owners, successors, or assigns to maintain the water and sewage facilities, common areas, landscaping or other improvements in good condition, the City may perform the necessary work and for that purpose may enter upon the land and do the work and charge the cost thereof, including reasonable attorney fees, to the owners or their successors or assigns.
2. That the owners, successors, or assigns will reimburse the city for all costs which the City incurs in performing the necessary work.
3. That the terms of the contract shall be binding upon the heirs, assigns, receivers, and successors of the project for the life of the project or building.

4. If development is to be phased, a phasing plan showing construction schedule of streets, infrastructure, amenities and other improvements. Said plan shall be made to make each phase stand alone in all requirements of this Ordinance, including, but not limited to open space, traffic safety & circulation, infrastructure requirements and so forth.
5. A maintenance schedule for all undeveloped land within the approved master plan.
6. Any other agreements between the developer and the city and any conditions of approval that the Planning Commission and/or City Council deems to be reasonably necessary to carry out the intent of this Ordinance.

J. FINAL PLAT

In addition to all other requirements, the proposed final plat shall show an address block containing addresses for each dwelling unit and for each main building within the plat, subject to approval by the Wasatch County Recorder's office.

K. FINAL APPROVAL RECOMMENDATION BY PLANNING COMMISSION

After receiving a complete proposed final plat and final approval submittal package, the Planning Commission shall consider the development for final approval. If the Planning Commission finds that all of the requirements of this Ordinance and all the conditions of preliminary approval of the development imposed by the City have been met, the Planning Commission shall recommend final approval of the development to the City Council. If the Planning Commission finds that any requirements or conditions have not been met, the Planning Commission shall forward such information on to the City Council with a recommendation as to how the City Council should act with respect to final approval of the development.

L. FINAL APPROVAL BY CITY COUNCIL

After receiving the recommendation of the Planning Commission with respect to final approval, the City Council shall consider the development for final approval. The City Council shall determine whether the proposed final plat and final submittal package meet all requirements of this ordinance and the conditions of the development's preliminary approval by the City. The City Council shall consider the information and recommendation forwarded to it by the Planning Commission with respect to final approval. Based on all of this criteria, the City Council shall approve, approve the conditions, or deny final approval of the development.

If the City Council denies final approval, the City Council shall state in detail the basis for its denial, referring specifically to the requirements of this Ordinance and the conditions of preliminary approval.

For no more than a one-year period after such denial of final approval by the City Council, the applicant may re-apply to the Planning Commission and then to the City

Council for final approval pursuant to the above described process, but only if the City Council's reasons for denial have been resolved.

M. DURATION OF FINAL APPROVAL

The duration of final approval shall be for one (1) year from the date of final approval of the development by the City Council. Should a final plat not be recorded by the County Recorder within the one (1) year period of time, the development's approval shall be voided, and both preliminary and final approvals must be re-obtained.

N. NO BUILDING PERMITS ISSUED PRIOR TO A PLAT RECORDING

No building permit shall be issued prior to the recording of the plat by the County Recorder.

O. COMPLETION OF CONSTRUCTION AND ISSUANCE OF PERMITS

No building permits shall be issued until the construction of the development is substantially complete; provided, however, that the developer in whose name the bond for the project is issued may obtain a building permit once the fire flow mechanisms are installed and operating as approved by the City Engineer.

Once installed, operating and approved, fire flows must remain operating continuously thereafter.

No certificate of occupancy will be issued until construction on the development reaches final completion as determined by the City Engineer.

P. CONSTRUCTION BOND

Prior to beginning construction of a development, the developer shall submit a bond to the City in the amount of 110% of the cost of all improvements and inspections as determined by the City Engineer.

Q. DEFAULT

In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within one year from the date construction begins, the City Council may declare the bond forfeited and the City may install or cause the required improvements to be installed using the proceeds from the collection of the bond or other assurances to defray the expense thereof.

R. FINAL DISPOSITION AND RELEASE

The developer shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten (10) days prior to the release date of the bond or other assurance, the City representative shall make a preliminary inspection of the improvements and shall submit a report to the City Council setting forth the conditions of such facilities. If conditions thereof are found to be satisfactory, the City Council shall release the bond or other assurance. If the condition of materials or workmanship shows unusual depreciation or does not

comply with the acceptable standards of durability, the City Council may declare the developer in default.

S. RECORD DRAWING SUBMITTAL AND CONTENTS

Prior to final bond release, an electronic copy of the final drawings in the latest version of Autocad or DXF format needs to be submitted to the City Engineer. This drawing file needs to include adequate information regarding position and basis of bearing tied to established control as approved by the City Engineer.

As-built information shall be overlaid on this final drawing. The as-built drawing must be based upon actual field survey of the items on the following list.

- a. Established survey monuments, benchmark, and permanent horizontal and vertical control.
- b. Water: valves, fire hydrants, blow-offs, flush valves, and water meters.
- c. Sewer: laterals and manholes with rim and inverts elevations.
- d. Storm drain: Catch basins curb inlets and manholes with rim and inverts elevations, size and type of pipe, storm outlets and detention / retention systems.
- e. Misc: light pole locations, street sign locations, and utility box/transformer locations.
- f. Pressurized Irrigation: valves, blow-offs, flush valves, drains and water lateral locations.

T. TOTAL COMPLIANCE WITH ALL REGULATION

In case of failure or neglect to comply with any and all conditions as established during the approval process or regulations as identified in this Section, the City may refuse additional building permits and stop construction of all work at the site until such violations or non-compliance conditions have been eliminated.

U. WARRANTY BOND

The City Council shall authorize the release of 100% of the bond amount upon verification by the City Engineer that all work is complete and acceptable. The remaining ten percent (10%) of the bond amount shall be retained by the City for a period of two (2) years in order to insure quality of improvements. If improvements are found to be unacceptable to the City at any time during the two (2) year period, the City may use the bonding funds to replace any improvements not installed acceptably.

02.10.003 RECREATIONAL VEHICLE PARK

The intent of this section is to provide regulations that will further the objective of the Community Master Plan relating to residential development. It is the intent to achieve an

excellent balance between open space and recreational vehicle units or spaces, harmony between new developments and the surrounding area, superior maintenance and appearance of structures and premises and an overall project atmosphere that concurs with goals for a more attractive City. Because a recreational vehicle park is generally commercial in nature, with more traffic than other residential uses and temporary in nature rather than permanent, great emphasis will be given by the City to the relationship a proposed park has with its surrounding neighborhood. In residential zones, priority is given to traditional housing types such as standard subdivisions and planned developments. It is further intended to create regulations that encourage the use of landscaping and appearances similar to typical residential areas. Where possible, the use of Swiss architecture and native bedrock in design of fences and permanent structures in the park is encouraged. Upon approval of a recreational vehicle park, the approved site plan shall then constitute the zoning restrictions and regulations of the zoning district as applied to the territory shown on the plan.

A. PROCEDURE

Any person wishing to construct a recreational vehicle park shall obtain information from the City regarding the City's plan of land use, streets, public facilities and other requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received.

B. PRELIMINARY PLANS AND DOCUMENTS

1. Concept Plan.
2. Preliminary Plan & Environmental Impact Statement (section 02.05.017).
Upon approval of the Concept Plan by the Planning Commission, the developer shall then prepare a preliminary plan and shall submit ten (10) copies of the plan to the Planning Commission for its approval. The plan shall show the following information.
 - a. Type of development.
 - b. Name of development.
 - c. Name and address of the developer.
 - d. Name and address of the designer.
 - e. A site plan showing location of proposed streets and recreational vehicle sites.
 - f. All proposed open space areas; i.e. parks, play equipment, dimensioned side, rear, and front yards, and the general location and description of all recreational and open space areas and facilities.
 - g. Size and type of recreational buildings and other structures proposed for the common use of the residents. An indication of building materials to be used in the construction of such buildings.
 - h. Layout of typical recreational vehicle pad.

- i. North point and scale.
- j. Legal description with section tie.
- k. Zone boundaries and designation where possible.
- l. Tabulation showing:
 - (1) area of land within the recreational vehicle park.
 - (2) number of recreational vehicle pads proposed.
 - (3) percent of area to be devoted to parks and playgrounds.
 - (4) number of off-street parking spaces.
- m. Proposed location of off-street parking spaces.
- n. Typical street cross-sections.
- o. Adjacent property owners.
- p. Existing and proposed easements, waterways, utility lines, canals and ditches. A plan for accommodating waterways, ditches and canals.
- q. Preliminary landscape plan indicating areas of landscaping and the various types of landscape materials.
- r. Environmental Impact Statement (See Section 02.05.017).
- s. Any other information the Planning Commission may determine necessary relating to the particular site of the proposed project.

C. STANDARDS AND REQUIREMENTS

The following standards, requirements and conditions shall apply to all recreational vehicle parks:

- 1. The project must be prepared by a design team of at least a licensed civil engineer, land planner, and a licensed land surveyor.
- 2. All recreational vehicle pads shall be served by a public sewer and a city approved water supply. All utilities within the recreational vehicle park shall be placed underground, including telephone, power and television.
- 3. The area proposed for a recreational vehicle park shall be in one ownership during development to provide for full supervision and control of said development and to ensure conformance with the provisions and all other conditions imposed by the Planning Commission upon the preliminary and final plans.
- 4. The minimum initial site size for a recreational vehicle park shall be four (4) acres.
- 5. An individual recreational vehicle site or lot shall not be less than thirty (30) feet in width and forty-five (45) feet in depth.
- 6. Each lot shall have a minimum of thirty (30) feet of frontage on an access road. In the event of a cul-de-sac lot, minimum frontage on the access road shall be fifteen (15) feet, measured at the setback line.

7. In the event that the land contained within a recreational vehicle park is traversed by a proposed collector or arterial street, the development shall be designed in accordance therewith and the proposed right-of-way across the development for said collector or arterial streets shall be dedicated to the public with improvements installed.
8. The required yard space as a result of setbacks from public streets shall not be used for parking, but shall be landscaped.
9. Two (2) parking spaces shall be provided on-site for each recreation vehicle pad with an additional one-third (1/3) space provide for guest parking. Guest parking shall be located not more than three hundred (300) feet from the site it serves.
10. All streets, drives and parking areas shall be hard surfaced as indicated on the development plans.
11. No less than fifteen (15) percent of the gross area of the recreational vehicle park shall be landscaped and maintained as common area for the use of all individuals living in the park. The open space shall be, to the extent possible, located centrally, offering easy access for residents of the recreational vehicle park.
12. All recreational vehicles shall be set back from all property lines (front, sides and rear) at least five (5) feet.
13. A common building for residents use shall be provided which contains the following:
 - (a) Showers.
 - (b) General meeting room.
 - (c) Kitchen facilities.
 - (d) Restrooms.
 - (e) Laundry facilities.
 - (f) Office for management.
14. All area not covered by recreational vehicle pads, buildings, parking or drives shall be planted and landscaped within one (1) year from the recording date of the final plat.
15. A strip of land at least thirty (30) feet wide surrounding the recreational vehicle park, except for adjacent to public streets, shall be left unoccupied by recreational vehicles and shall be planted and maintained in lawn, shrubs, and trees designed to afford privacy to the development.
16. All recreational vehicles shall be set back at least thirty (30) feet from any public street and the resulting setback space must be landscaped except for permitted roadways. The area between the curb and gutter along the public street and the sidewalk or street right-of-way line must also be landscaped.

17. Roadways shall be of adequate width to accommodate anticipated traffic as follows.
 - (a) Minor streets – Thirty eight (38) feet in width (2-foot curb and gutter on both sides, 4-foot sidewalk on one side, and thirty (30) feet of asphalt).
 - (b) Entrance streets - forty-two (42) feet in width (same specifications
18. A recreational vehicle park shall provide at least one formal entrance and an additional entrance for emergency use only. All entrances shall be at least two-hundred (200) feet apart and located not closer than one-hundred and twenty (120) feet from an intersection.
19. Yard lighting shall be provided on each lot.
20. All recreational vehicle parks shall abut upon a collector or arterial street.
21. When it is necessary in order to implement the intent of this section, the Planning Commission may impose development standards in excess of the minimums identified herein.

D. PRELIMINARY PLANNING COMMISSION ACTION

Upon presentation of the preliminary plan and documents, the Planning Commission shall approve them as submitted, approve them with conditions or may refer them back to the developer for one or more of the following reasons:

1. Due to the type of buildings, layout of structures, design of plan, or other aspects of the preliminary submittal, the Planning Commission determines the project to be inconsistent with the intent of this Ordinance or the Community General Plan.
2. The Planning Commission requires that certain specific changes be made within the plans.
3. The plans or documents have not been completed.
4. The fees have not been paid by the developer.

Before approving the preliminary plan the Planning Commission must make the following findings:

- a. That the proposed development will provide a more pleasant and attractive living environment than a conventional residential development.
- b. That the proposed development will create no detriment to adjacent properties or to the general area in which it is located.
- c. That the project will provide more efficient use of the land and more usable open space than a conventional development permitted in the surrounding area.

- d. That increased densities allowed within the proposed development will be compensated by better site design and by increased amenities and recreational facilities.
 - e. That the development will not create hazards above those of a standard type development to the health, safety, and general welfare of the residents of the proposed development or adjacent areas.
5. That this project is in substantial compliance with the intent of this section as stated previously. The Planning Commission may impose such conditions on preliminary development plans as it may deem appropriate to meet the goals and objectives of this Chapter. The Planning Commission may disapprove a development which is found to be deficient in meeting the intent of these provisions. Any such disapproval may be appealed to the City Council within ten (10) days after the decision of the Planning Commission.

E. RECOMMENDATION OF PRELIMINARY PLAN TO CITY COUNCIL

Upon the Planning Commission's approval of a preliminary plan of a development, the Planning Commission shall recommend the preliminary plan to the City Council for direction.

F. PUBLIC HEARING

After receiving notice of Planning Commission approval of the preliminary plan, or upon the City Council's reversing on appeal the Planning Commission's disapproval of a preliminary plan, the City Council shall set and hold a public hearing to consider preliminary approval of the project. The hearing shall be completed as set forth in section 02.18.003 of this Ordinance.

G. PRELIMINARY APPROVAL OF CITY COUNCIL

After holding the public hearing, the City Council shall approve, approve with conditions, or deny the preliminary plan based on the same standards as required above for preliminary approval by the Planning Commission.

H. TIME LIMIT FOR PRELIMINARY PLAN APPROVAL

Any failure to submit a proposed final plan and final approval submittal package within one (1) year of the approval of the preliminary plan by the City Council shall terminate all proceedings and render the preliminary plan null and void.

I. FINAL APPROVAL SUBMITTAL PACKAGE

If the preliminary plan is approved by the City Council, the developer shall submit three (3) full size copies and fifteen (15) 11" x 17" copies of the proposed final plat and a final approval submittal package to the Planning Commission composed of the following:

- 1. All material, studies and requirements as requested by the Planning Commission or City Council as conditions of preliminary approval.

2. A final Record of Survey Map in compliance with the approved preliminary plan and the State Condominium Ownership Act. This plat is to illustrate, among other things, the approved site plan, buildings, proposed ownership areas, limited common areas, common areas and private areas.
3. Detailed landscaping plan and sprinkler plan.
4. Final engineering drawings (plans and profiles) for all public and private improvements, final grading plan, and final drainage and run-off plan with run-off calculations.
5. All documents and legal material ready for recording.
6. Deeds of dedication for all public lands as required by the City, when not shown on a final plat.
7. A title report for all land within the boundary of the final plat.
8. Provisions for bonding of all improvements in a form acceptable to the City. Amount of bond to be 110% of the engineer's estimated cost for improvements.
9. All required final plat fees.
10. Phasing plan for final plats.
11. In the event the project will not be divided into separate ownership, the developer shall submit the same information as requested above except for the Record of Survey Map. A final site plan shall be submitted totally dimensioned, conforming to the approved preliminary plan.
12. Will-serve letters from US West, Questar Gas, Midway Sanitation District, Heber Light
13. Approval letters from the Midway Water Advisory Board and the Midway Trails Advisory Committee.
14. Declaration of Covenants: Conditions and Restrictions for said development to be recorded with the Wasatch County Recorder's Office with the Final Plat.

The following standards shall apply to the Declaration of Covenants, Conditions, and Restrictions recorded in conjunction with any development:

- a. The Declaration may provide for the creation and perpetual provision of an architectural committee, the number of members and composition of which shall be clearly stipulated. The Declaration shall also establish design guidelines governing the appearance of the site buildings, signs, lighting, landscaping, street furniture, fencing, and mechanical equipment.
- b. The Declaration shall stipulate the method and procedure by which the declaration may be amended.

- c. The Declaration shall specify the final conditions of approval of the Planning Commission and City Council.
- d. The Declaration may also contain use restrictions which are more restrictive than the City's zoning provisions, but in no case shall they be more permissive.
- e. The Declaration shall set up the provisions for maintenance of all common areas and private streets and utilities.
- f. The Declaration shall state the following:
Midway City shall have the right, but not the duty, to require, and if necessary, perform, at the Association's expense, landscaping, maintenance, and snow removal within the common areas if the Association fails adequately to perform such. In the event Midway City exercises this right, the City shall be entitled to recover any associated costs and attorney fees from the Association. This section shall not be amended or deleted without the approval of Midway City.

J. DEVELOPMENT AGREEMENT

An agreement between the developer and the City stating, among other things:

- 1. That in the event of failure or neglect on the part of the owners, successors, or assigns to maintain the water and sewage facilities, common areas, landscaping or other improvements in good condition, the City may perform the necessary work and for that purpose may enter upon the land and do the work and charge the cost thereof, including reasonable attorney fees, to the owners or their successors or assigns.
- 2. That the owners, successors, or assigns will reimburse the City for all costs which the City incurs in performing the necessary work.
- 3. That the terms of the contract shall be binding upon the heirs, assigns, receivers, and successors of the project for the life of the project or building.
- 4. If development is to be phased, a phasing plan showing construction schedule of streets, infrastructure, amenities and other improvements. Said plan shall be made to make each phase stand alone in all requirements of this Ordinance, including, but not limited to open space, traffic safety & circulation, infrastructure requirements and so forth.
- 5. A maintenance schedule for all undeveloped land within the approved master plan.
- 6. Any other agreements between the developer and the City and any conditions of approval that the Planning Commission and/or City Council deems to be reasonably necessary to carry out the intent of this Ordinance.

K. FINAL PLAT

In addition to all other requirements, the proposed final plat shall show an address block containing addresses for each dwelling unit and for each main building within the plat, subject to approval by the Wasatch County Recorder's office.

L. FINAL APPROVAL RECOMMENDATION BY PLANNING COMMISSION

After receiving a complete proposed final plat and final approval submittal package, the Planning Commission shall consider the development for final approval. If the Planning Commission finds that all of the requirements of this Ordinance and all the conditions of preliminary approval of the development imposed by the City have been met, the Planning Commission shall recommend final approval of the development to the City Council. If the Planning Commission finds that any requirements or conditions have not been met, the Planning Commission shall forward such information on to the City Council with a recommendation as to how the City Council should act with respect to final approval of the development.

M. FINAL APPROVAL BY CITY COUNCIL

After receiving the recommendation of the Planning Commission with respect to final approval, the City Council shall consider the development for final approval. The City Council shall determine whether the proposed final plat and final submittal package meet all requirements of this Ordinance and the conditions of the development's preliminary approval by the City. The City Council shall consider the information and recommendation forwarded to it by the Planning Commission with respect to final approval. Based on all of this criteria, the City Council shall approve, approve the conditions, or deny final approval of the development.

If the City Council denies final approval, the City Council shall state in detail the basis for its denial, referring specifically to the requirements or this ordinance and the conditions of preliminary approval.

For no more than a one-year period after such denial of final approval by the City Council, the applicant may re-apply to the Planning Commission and then to the City Council for final approval pursuant to the above described process, but only if the City Council's reasons for denial have been resolved.

N. DURATION OF FINAL APPROVAL

The duration of final approval shall be for one (1) year from the date of final approval of the development by the City Council. Should a final plat not be recorded by the County Recorder within the one (1) year period of time, the development's approval shall be voided, and both preliminary and final approvals must be re-obtained.

O. NO BUILDING PERMITS ISSUED PRIOR TO PLAT RECORDING

No building permit shall be issued prior to the recording of the plat by the County Recorder.

P. COMPLETION OF CONSTRUCTION AND ISSUANCE OF PERMITS

No building permits shall be issued until the construction of the development is substantially complete; provided, however, that the developer in whose name the

bond for the project is issued may obtain a building permit once the fire flow mechanisms are installed, operating and approved by the City Engineer.

Once installed, operating and approved, fire flows must remain operating continuously thereafter.

No certificate of occupancy will be issued until construction on the development reaches final completion as determined by the City Engineer.

Q. CONSTRUCTION BOND

Prior to beginning construction of a development, the developer shall submit a bond to the City in the amount of 110% of the cost of all improvements and inspections, as determined by the City Engineer.

R. DEFAULT

In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within one year from the date construction begins, the City Council may declare the bond forfeited and the City may install or cause the required improvements to be installed using the proceeds from the collection of the bond or other assurances to defray the expense thereof.

S. FINAL DISPOSITION AND RELEASE

The developer shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten (10) days prior to the release date of the bond or other assurance, the City representative shall make a preliminary inspection of the improvements and shall submit a report to the City Council setting forth the conditions of such facilities. If conditions thereof are found to be satisfactory, the City Council shall release the bond or other assurance. If the condition of materials or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, the City Council may declare the developer in default.

T. RECORD DRAWING SUBMITTAL AND CONTENTS

Prior to final bond release, an electronic copy of the final drawings in the latest Version of AutoCAD or DXF format needs to be submitted to the City Engineer. This drawing file needs to include adequate information regarding position and basis of bearing tied to established control as approved by the City Engineer.

As-built information shall be overlaid on this final drawing. The as-built drawing must be based upon actual field survey of the items on the following list.

- a. Established survey monuments, benchmark, and permanent horizontal and vertical control.
- b. Water: valves, fire hydrants, blow-offs, flush valves, and water meters.
- c. Sewer: laterals and manholes with rim and inverts elevations.
- d. Storm drain: Catch basins curb inlets and manholes with rim and inverts elevations, size and type of pipe, storm outlets and detention / retention systems.

- e. Misc.: light pole locations, street sign locations, and utility box/transformer locations.
- f. Pressurized Irrigation: valves, blow-offs, flush valves, drains and water lateral locations.

U. TOTAL COMPLIANCE WITH ALL REGULATION

In case of failure or neglect to comply with any and all conditions as established during the approval process or regulations as identified in this Section, the City may refuse additional building permits and stop construction of all work at the site until such violations or non-compliance conditions have been eliminated.

V. WARRANTY BOND

The City Council shall authorize the release of 100% of the bond amount upon verification by the City Engineer that all work is complete and acceptable. The remaining ten percent (10%) of the bond amount shall be retained by the City for a period of two (2) years in order to insure quality of improvements. If improvements are found to be unacceptable to the City at any time during the two (2) year period, the City may use the bonding funds to replace any improvements not installed acceptably.

02.10.004 PLANNED UNIT DEVELOPMENTS (PUD's)

The intent of this section is to provide regulations that will further the objectives of the Community Master Plan relating to residential developments. It is the intent to achieve an excellent balance between open space and buildings, harmony between new development and the surrounding area, longer life expectancy for buildings, superior maintenance and appearance of structures and premises and an overall project atmosphere that concurs with goals for a more attractive City. These regulations are intended to create residential development which offers a better living environment than obtained through standard lot by lot development. It is further intended to create regulations that encourage the use of Swiss architecture in residential development. Upon approval of a Planned Unit Development (hereinafter referred to as a "PUD"), the approved site plan shall then constitute the zoning restrictions and regulations of the zoning district as applied to the territory shown on the plan.

It is also the intention of this Section to require the developer to demonstrate by the materials submitted for approval that the objectives and goals of the Community General Plan have been fostered. If this cannot be shown, approval of the inherent density increases allowed through the use of these regulations shall not be given.

A. PRE-APPLICATION CONFERENCE WITH STAFF MEMBER

Any person wishing to construct a PUD shall meet with a staff member, check and review the zone information, obtain application and review procedures, obtain

information from the City regarding the City's plan of land use, streets, water, sewer, traffic, trails and parks, and public facilities; and have discussion about public participation meetings and other requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received and the process outlined below.

B. CONCEPT PLAN

The purpose of the Concept Plan Review is to explore general feasibility early in the planning process. The Concept Plan helps avoid unnecessary and costly delays when pivotal information or necessary resources are not available because they were not addressed until later in the process. While the Concept Plan procedure is not an approval, it is still an important part of the overall approval process. While more flexible in nature than the subsequent steps of Preliminary and Final Approvals, it still needs to be carefully prepared and thoroughly reviewed to be useful. As part of the Concept Plan, the developer shall submit:

1. An application for development.
2. A written description of how the development will comply with and promote Midway City's Vision and Zoning Ordinance.
3. A description of the type of development and project name.
4. A plan prepared by a professional planning and engineering team which shows a simple concept of the major features of the development including roads in relation to existing conditions and developments within one-fourth (1/4) of a mile of the outside boundaries of the development. Handwritten plans will not be accepted. The Concept Plan shall be submitted on two (2) full-size, 24" x 36" copies, and ten (10) 11" x 17" copies of the Concept Plan shall be submitted to the Planning Commission.
5. Title ownership information and a current Preliminary Title Report. If the applicant is not the owner listed on the Preliminary Title report a written consent to the application signed by the title holder must be provided.
6. Applicant entity name, primary contact name, civil engineer, architect and attorney, with respective contact addresses, phone numbers, fax numbers, and email addresses for each.
7. Lot or unit pattern and size(s).
8. Number of lots or units and conformance with the zone.
9. The types of buildings in the project by use and by architectural style.
10. Any plans for common area.
11. Any plans for common amenities.
12. Any public dedication proposals.
13. Conceptual Landscape Plan.
14. Any open space provisions including the following information:
 - a. Location.
 - b. General size.
 - c. Description of how the open space plan conforms to the standards for open space.
 - d. Description of final disposition of open space property.
 - e. Any off-site open space trading provisions as allowed by this Ordinance shall

be taken to the City Council for approval before applying for preliminary plan approval.

15. Any trails proposed within the project, including an analysis that shows how this trail plan works in conjunction with the City Trail Master Plan.
16. A topographic map that is suitable for GIS and CAD analysis.
17. Sensitive Lands.
 - a. Topographic information.
 - b. Identify potential sensitive land issues and a plan for how to address these issues.
 - c. Potential wildlife issues with the project and on the site.
18. A description of how public participation will be conducted consistent with the Citizen Participation Requirements of the City.
19. A summary of the water rights status for the proposed project detailing how much is owned now versus how much is estimated to be needed to complete the project.
20. Letter of submittal for the concept plans to the Heber Valley Fire Special Service District that transmits the plans to them.
21. Plans for Swiss Architecture Bonus if it is contemplated at this stage.

C. PRELIMINARY PLAN

After review of the concept plan by the Planning Commission, the developer shall prepare a preliminary plan and shall submit two (2) copies of the plan on 24" X 36" sheets and ten (10) copies of the plan on 11" X 17" size paper to the Planning Commission for its approval. The purpose of the Preliminary Plan is to demonstrate how the proposed development plan will be able to meet the standards required under the Zoning Ordinance and other applicable law or regulation after considering the issues and recommendations found during the concept review phase. While the preliminary plan is not expected to contain construction drawings, it is expected that the preliminary plan will demonstrate compliance with this code. The preliminary plan shall contain the following information (if any of the following information is satisfied by the information submitted during the concept plan review, that same information must be included again with the preliminary plan.):

1. Description of how the development will implement Midway City's Vision.
2. Type of development.
3. Name of development.
4. Applicant entity name, primary contact name, civil engineer, architect, designer and attorney, with respective contact addresses, phone numbers, fax numbers, and email addresses for each.
5. Legal description with section tie.
6. Zone boundaries and designations.
7. North point and a scale consistent with a scale that is on a standard engineering scale ruler.
8. A statement that lists the issues discussed during the Concept Review and reconciles those issues with the Preliminary Application being submitted at this time.
9. A site plan showing location of all buildings, building pads, lots or structures, the

elevation view of all structures accompanied by estimates of cost to purchase or rent, including a description of building materials to be used in the construction of all units.

10. Dimensioned side, rear and front yards.
11. Location and description of all recreational and open space areas and facilities.
(Note: Any off-site open space trading provisions allowed by this Ordinance shall have been taken to the City Council for approval before applying for preliminary plan approval with the Planning Commission.)
12. Topography shown by contours at no greater interval than two (2) feet except that a greater interval may be permitted when the property is outside the survey boundary if specifically authorized by the Planning Commission.
13. The outside boundary of the project.
14. Tabulation of land use:
 - a. Total area, open space, building area, and dedicated streets;
 - b. Drives and parking (all the above shown in acreage and percentage);
 - c. Number of units and project density;
 - d. Types of units by number of bedrooms, where applicable; and
 - e. Parking spaces (covered and uncovered), where applicable.
15. Description of final disposition of title for any open space property and open space easements.
16. Adjacent property owners.
17. Proposed circulation pattern including, private and public streets and sidewalks.
18. Typical street or roadway cross sections.
19. A detailed statement and illustration of how the project will meet sensitive lands requirements.
20. Existing and proposed easements, waterways, utility lines, canals and ditches.
21. A plan for accommodating waterways, ditches and canals.
22. Proposed and existing sewage disposal facilities.
23. Existing and proposed storm drain system with the related run-off calculations for the development site including routing the runoff water that leaves the site to a City storm drain or natural drainage approved by the City to accept the water.
24. Existing and proposed water system indicating size of water lines and fire hydrant locations. Indications as to the capacity of the water system as it relates to the project when required.
25. More detailed (than concept) landscape plan indicating areas of landscaping and irrigation and the various types of landscape materials.
26. A noxious weed control plan.
27. Letter of intent signed by the applicant stating the following information when applicable:
 - a. Design theme of project
 - b. List of common area amenities
 - c. Time schedule for completing common area amenities
28. When the project contains fifteen (15) or more lots/units, traffic analysis survey results and proposed response must be discussed.
29. Environmental Assessment Review Statement (see section 02.05.017 for requirements).

30. Any other information City staff or the Planning Commission may determine necessary relating to the particular site of the proposed project.
31. Evidence of sending an 11" x 17" copy of preliminary plan to US West, Questar Gas, Heber Light & Power, ComCast (Cable Company), Midway Post Master, Heber Valley Fire Protection Special Service District, and Wasatch County Solid Waste Disposal District.
32. An updated preliminary title report as of the date of the Preliminary application.
33. A list of the documentation that will be required at Final Approval to implement the plans for the development and keep it maintained after approval.
34. A written Citizen Participation Plan as described in this Ordinance which documents the information supplied to the public, the issues addressed with the attendees at the first Citizen Participation Meeting and other written or verbally communicated comments received from the public as a result of the Citizen Participation Plan.
35. Preliminary Approval from the Midway City Water Advisory Board.
36. Preliminary Approval from the Midway Sanitation District.
37. A completed Fiscal Analysis Checklist.
38. Requests for Swiss Architecture Bonus if desired by the applicant.

D. PROJECT DENSITY

The permitted base densities allowed in a PUD for each zoning district are listed below:

R-1-7	5.0 units per acre
R-1-9	4.0 units per acre
R-1-11	3.0 units per acre
R-1-15 & RR-1-15	2.5 units per acre
R-1-22	2.0 units per acre
RA-1-43	1.5 units per acre

An additional one-quarter (1/4) unit per acre shall be permitted when the Alpine/Swiss architecture is used in the design of the development. The determination regarding the usage of the Alpine/Swiss architecture shall be determined by the Planning Commission and City Council as part of the conditional use process.

E. PERMITTED USES

The principal use permitted in the PUD is the residential living unit. Other uses may be permitted where it can be shown they are accessory to the residential project. All uses permitted in the PUD shall require Planning Commission approval and be identified on the site plan and mentioned and approved as part of the application process. Uses not approved specifically by the Planning Commission are prohibited. Home occupations and cottage industries are not permitted in a PUD.

Where the size, location and scope of a proposed PUD are such that a convenience center would add to the convenience of the people living in the development, the Planning Commission may authorize the construction of such a convenience center when the size of the project so justifies. The convenience center may only be constructed after the residential units have been completed. The acreage of the project used to determine density shall be decreased by the amount of property used for the convenience center and its associated parking.

F. STANDARDS AND REQUIREMENTS

The following standards, requirements and conditions shall apply to all PUD's:

1. The project must be prepared by a design team composed of at least a civil engineer, an architect and an attorney, all of whom must be licensed to practice in the State of Utah.
2. All dwelling units shall be served by a public sewer and a City-approved water supply. All utilities within the PUD shall be placed underground, including telephone, power and television. Except for sewer, all dwelling units shall have separate utility connections and metering.
3. The area proposed for a PUD shall be in one ownership during development to provide for full supervision and control of said development and to insure conformance with these provisions and all other conditions imposed by the Planning Commission upon the preliminary and final development plans.
4. In the event that the land contained within a development is traversed by a proposed collector or arterial street, the development shall be designed in accordance therewith and the right-of-way across the development for said collector or arterial streets shall be dedicated to the public with improvements.
5. All areas not covered by buildings, parking, streets or drives shall be planted with grass, trees, shrubs or other plant materials as approved by the Planning Commission in the submittal of the final landscape plan. Areas may be allowed to be left in a natural state or xeriscaped, if the Planning Commission and City Council finds this more desirable than traditional landscaping; also, a permanent sprinkler system shall be installed in all landscaped areas to provide irrigation of planted areas.
6. The required yard space as a result of setbacks from public streets shall not be used for parking, but shall be landscaped as required in item 5 above.
7. The minimum land area for a PUD shall be ten (10) acres.
8. With the following exceptions, dwelling and permitted structures may be located as approved by the Planning Commission in the final development plans. Buildings should be arranged as to best comply with the intent of this Ordinance. These exceptions shall be considered, as minimum requires as they apply:

- a. Set-backs along the peripheral property lines of the PUD shall be a minimum of thirty (30) feet. For safety reasons, buildings may be required to be set back further from recreational areas, such as golf courses, ball fields, etc.
- b. Setbacks adjacent to existing public streets or streets to be dedicated to the City shall be a minimum of one-hundred (100) feet for all structures and parking. This setback area shall be landscaped in such a way as to reduce the visual impact of the buildings of the development from the public roads and yet not hide the view of the mountains and hillsides from the same public roads. For aesthetic and open space purposes, the Planning Commission and City Council may require further setbacks from the following roads:
 - i. Burgi Lane;
 - ii. River Road;
 - iii. Pine Canyon Road;
 - iv. Homestead Drive;
 - v. Mitchie Lane;
 - vi. Center Street (SR 113);
 - vii. Tate Lane;
 - viii. Stringtown Road; or
 - ix. 200 North, west of 200 West.

No accesses directly to individual dwelling units within a PUD shall be allowed directly from the above streets. Access must be made from private or public streets within the development.

- c. Front set-backs for buildings from all private streets within the planned unit development shall be staggered at seven and one-half (7½) feet variances, with twenty-five (25) feet the minimum. One-third (1/3) of the buildings containing dwelling units shall be at each of at least three different setbacks approved by the Planning Commission. For example 1/3 @ 25 feet, 1/3 @ 32 ½ feet & 1/3 @ 40 feet. Setbacks for accessory buildings shall be as approved by the Planning Commission. Setbacks from private streets shall be measured from top-back of curb or back of sidewalk or trail, whichever is further from the street centerline. The Planning Commission and City Council may waive this requirement when a curvilinear street design is used and shown to create the same varying setback affect.
9. Not less than fifty (50) percent of the area of the PUD shall be retained in permanent open space, parks and playgrounds. Land proposed to be devoted to vehicular streets or roads, parking, and drives shall not be included in the

computation of open space. Common areas and other open space areas with a width smaller than 100 feet in any direction shall not be counted as open space. Areas designated as sensitive lands by this Ordinance may be counted as open space, provided they meet the other open space characteristics specified in this Ordinance. Uncovered recreational facilities such as football fields, baseball diamonds, and playgrounds will be allowed in the open space requirements. Entry features such as roundabouts, median planter strips, fountains, etc. may count as open space if the design of such features is approved by the Planning Commission and City Council. At least one-half of the required open space shall be retained in a single open space area in as much of a square shape as possible. To the greatest extent possible, open space areas shall be placed so as to be visible from both inside and outside the PUD. Open space shall be either appropriately and attractively landscaped or actively used for agricultural purposes. An acceptable landscaping plan, including a noxious weed plan, must be submitted before preliminary approval of the subdivision and complied with thereafter. PUD's shall be required to either (1) deed to each owner in the PUD an undivided ownership interest in the open space contained within the PUD and form a homeowners association which shall be responsible for maintaining such open space according to Covenants, Conditions and Restrictions recorded with the plat or (2) place the open space in a perpetual conservation easement granted to an established conservation organization. If the open space is placed in a conservation easement, a maintenance agreement shall be entered into with the conservation organization to guarantee proper maintenance of the open space.

10. The maximum height of buildings within a PUD shall be thirty five (35) feet (see section 02.06.010).
11. Two (2) parking spaces per unit shall be provided for all units within the project. One space per unit shall be covered. One space for every two (2) units shall be provided for guest parking; this requirement may be waived by the Planning Commission if the applicant can show the unique design of the project makes this requirement unnecessary.
12. All parking spaces, parking areas and driveways must be hard-surfaced and properly drained with no drainage running across public or private sidewalks.
13. The developer shall install all public improvements on-site and off-site as identified by the Planning Commission and City Council.
14. At least one-half (1/2) of the required open space shall be retained in a single open space area. This area shall be clear of buildings and parking. A single open space area shall be defined as an open area not broken into small portions with the large majority of its land mass in as much of a square as possible. Because of the increased density afforded to PUD's, open space areas shall be placed so as to benefit the health, safety and general welfare of

the whole community and not merely the development. Due to the various configurations of property in the City, the Planning Commission and City Council shall determine the extent of compliance with this standard.

15. The open space area requirements may be met by purchasing or providing property, development rights, or conservation easements on other properties deemed of value to the community and approved by the City Council on a value for value ratio. Such areas may be hillsides, stream corridors, agricultural lands, fields along Main Street and other open space areas, within the City limits or annexation area, as may be approved by the City Council. Approval of open space exchanges must be made by the City Council before the applying for preliminary approval. Offsite open space areas shall be granted permitted base density units per section 02.10.004-D to encourage this trade, a density bonus of up to one (1) unit per acre may be granted by the City Council. This density bonus shall be added to the gross base density for the entire project area, including the offsite open space.
16. All street construction improvements in PUD's shall be constructed according to public street construction widths and cross-section standards.
17. All parking areas shall be screened from public view when possible with berms and landscaped features.
18. Provisions of the Sensitive Lands section of this Ordinance shall be adhered to within a PUD.
19. Building sizes shall be limited to eight (8) units per structure unless a larger number of units per structure is specifically approved by the City Council following a recommendation by the Planning Commission. The Planning Commission and City Council shall make this determination based on specific site considerations regarding open space, building height and mass, and the geography of the site.
20. The project shall connect any trails shown on the City Trails Master Plan for the area. Approval of trails by the Midway City Trails Committee shall be required before final approval shall be granted.
21. When it is necessary in order to implement the intent of this Section, the Planning Commission may impose development standards in excess of the minimums identified herein. Gated communities shall not be permitted.

G. PRELIMINARY PLANNING COMMISSION ACTION

Upon presentation of the preliminary plan and documents, the Planning Commission shall approve them as submitted, approve them with conditions or may refer them back to the developer for one or more of the following reasons:

1. Due to the type of buildings, layout of structures, design of plan, or other aspects of the preliminary submittal, the Planning Commission determines

the project to be inconsistent with the intent of this Ordinance or the Community General Plan.

2. The Planning Commission requires that certain specific changes be made within the plans.
3. The plans or documents have not been completed.
4. The fees have not been paid by the developer.

Before approving the preliminary plan the Planning Commission must make the following findings:

- a. That the proposed development will provide a more pleasant and attractive living environment than a conventional residential development.
 - b. That the proposed development will create no detriment to adjacent properties or to the general area in which it is located.
 - c. That the project will provide more efficient use of the land and more usable open space than a conventional development permitted in the surrounding area.
 - d. That increased densities allowed within the proposed PUD will be compensated by better site design and by increased amenities and recreational facilities.
 - e. That the development will not create hazards above those of a standard type development to the health, safety, and general welfare of the residents of the proposed PUD or adjacent areas.
5. That this project is in substantial compliance with the intent of this section as stated previously. The Planning Commission may impose such conditions on preliminary development plans as it may deem appropriate to meet the goals and objectives of this Chapter. The Planning Commission may disapprove a PUD, which is found to be deficient in meeting the intent of these provisions. Any such disapproval may be appealed to the City Council within ten (10) days after the decision of the Planning Commission.

H. RECOMMENDATION OF PRELIMINARY PLAN TO CITY COUNCIL

Upon the Planning Commission's approval of a preliminary plan of a PUD, the Planning Commission shall recommend the preliminary plan to the City Council for direction.

I. PUBLIC HEARING

After receiving notice of Planning Commission approval of the preliminary plan, or upon the City Council's reversing on appeal the Planning Commission's disapproval of a preliminary plan, the City Council shall set and hold a public hearing to consider

preliminary approval of the project. The hearing shall be completed as set forth in section 02.18.003 of this Ordinance.

J. PRELIMINARY APPROVAL OF CITY COUNCIL

After holding the public hearing, the City Council shall approve, approve with conditions, or deny the preliminary plan based on the same standards as required above for preliminary approval by the Planning Commission.

K. TIME LIMIT FOR PRELIMINARY PLAN APPROVAL

Any failure to submit a proposed final plan and final approval submittal package within one (1) year of the approval of the preliminary plan by the City Council shall terminate all proceedings and render the preliminary plan null and void.

L. FINAL APPROVAL SUBMITTAL PACKAGE

If the preliminary plan is approved by the City Council, the developer shall submit three (3) full size copies and fifteen (15) 11" x 17" copies of the proposed final plat and a final approval submittal package to the Planning Commission composed of the following:

1. All material, studies and requirements as requested by the Planning Commission or City Council as conditions of preliminary approval.
2. A final Record of Survey Map in compliance with the approved preliminary plan and the State Condominium Ownership Act. This plat is to illustrate among other things, the approved site plan, buildings, proposed ownership areas, limited common areas, common areas and private areas.
3. Detailed landscaping plan and sprinkler plan.
4. Final engineering drawings (plans and profiles) for all public and private improvements, final grading plan, and final drainage and run-off plan with run-off calculations.
5. All condominium documents and legal material ready for recording.
6. Deeds of dedication for all public lands as required by the City, when not shown on a final plat.
7. A title report for all land within the boundary of the final plat.
8. Provisions for bonding of all improvements in a form acceptable to the City. Amount of bond to be 110% of the engineer's estimated cost for improvements.
9. All required final plat fees.
10. Phasing plan for final plats.
11. In the event the project will not be divided into separate ownership, the developer shall submit the same information as requested above except for the Record of Survey Map. A final site plan shall be submitted totally dimensioned conforming to the approved preliminary plan.
12. Will-serve letters from US West, Questar Gas, Midway Sanitation District, Heber Light

13. Approval letters from the Midway Water Advisory Board and the Midway Trails Advisory Committee.
14. Declaration of Covenants, Conditions and Restrictions for said development to be recorded with the Wasatch County Recorder's Office with the Final Plat.

The following standards shall apply to the Declaration of Covenants, Conditions, and Restrictions recorded in conjunction with any PUD or Condominium development:

- a. The Declaration may provide for the creation and perpetual provision of an architectural committee, the number of members and composition of which shall be clearly stipulated. The Declaration shall also establish design guidelines governing the appearance of the site buildings, signs, lighting, landscaping, street furniture, fencing, and mechanical equipment.
- b. The Declaration shall stipulate the method and procedure by which the Declaration may be amended.
- c. The Declaration shall specify the final conditions of approval of the Planning Commission and City Council.
- d. The Declaration may also contain use restrictions which are more restrictive than the City's zoning provisions, but in no case shall they be more permissive.
- e. The Declaration shall set up the provisions for maintenance of all common areas and private streets and utilities.
- f. The Declaration shall state the following:
Midway City shall have the right, but not the duty, to require, and if necessary, perform, at the Association's expense, landscaping, maintenance, and snow removal within the common areas and open space if the Association fails adequately to perform such. In the event Midway City exercises this right, the City shall be entitled to recover any associated costs and attorney fees from the Association. This section shall not be amended or deleted without the approval of Midway City.

M. **DEVELOPMENT AGREEMENT**

An agreement between the developer and the City stating, among other things:

1. That in the event of failure or neglect on the part of the owners, successors, or assigns to maintain the water and sewage facilities, common areas, landscaping or other improvements in good condition, the City may perform the necessary work and for that purpose may enter upon the land and do the work and charge the cost thereof, including reasonable attorney fees, to the owners or their successors or assigns.
2. That the owners, successors, or assigns will reimburse the City for all costs which the City incurs in performing the necessary work.

3. That the terms of the contract shall be binding upon the heirs, assigns, receivers, and successors of the project for the life of the project or building.
4. If development is to be phased, a phasing plan showing construction schedule of streets, infrastructure, amenities and other improvements. Said plan shall be made to make each phase stand alone in all requirements of this Ordinance, including, but not limited to open space, traffic safety & circulation, infrastructure requirements and so forth.
5. A maintenance schedule for all undeveloped land within the approved master plan.
6. Any other agreements between the developer and the City and any conditions of approval that the Planning Commission and/or City Council deems to be reasonably necessary to carry out the intent of this Ordinance.

N. FINAL PLAT

In addition to all other requirements, the proposed final plat shall show an address block containing addresses for each dwelling unit and for each main building within the plat, subject to approval by the Wasatch County Recorder's office.

O. FINAL APPROVAL RECOMMENDATION BY PLANNING COMMISSION

After receiving a complete proposed final plat and final approval submittal package, the Planning Commission shall consider the development for final approval. If the Planning Commission finds that all of the requirements of this Ordinance and all the conditions of preliminary approval of the development imposed by the City have been met, the Planning Commission shall recommend final approval of the development to the City Council. If the Planning Commission finds that any requirements or conditions have not been met, the Planning Commission shall forward such information on to the City Council with a recommendation as to how the City Council should act with respect to final approval of the development.

P. FINAL APPROVAL BY CITY COUNCIL

After receiving the recommendation of the Planning Commission with respect to final approval, the City Council shall consider the development for final approval. The City Council shall determine whether the proposed final plat and final submittal package meet all requirements of this ordinance and the conditions of the development's preliminary approval by the City. The City Council shall consider the information and recommendation forwarded to it by the Planning Commission with respect to final approval. Based on all of this criteria, the City Council shall approve, approve the conditions, or deny final approval of the development.

If the City Council denies final approval, the City Council shall state in detail the basis for its denial, referring specifically to the requirements or this Ordinance and the conditions of preliminary approval.

For no more than a one-year period after such denial of final approval by the City Council, the applicant may re-apply to the Planning Commission and then to the City

Council for final approval pursuant to the above described process, but only if the City Council's reasons for denial have been resolved.

Q. DURATION OF FINAL APPROVAL

The duration of final approval shall be for one (1) year from the date of final approval of the development by the City Council. Should a final plat not be recorded by the County Recorder within the one (1) year period of time, the development's approval shall be voided, and both preliminary and final approvals must be re-obtained.

R. NO BUILDING PERMITS ISSUED PRIOR TO PLAT RECORDING

No building permit shall be issued prior to the recording of the plat by the County Recorder.

S. COMPLETION OF CONSTRUCTION AND ISSUANCE OF PERMITS

No building permits shall be issued until the construction of the development is substantially complete; provided, however, that the developer in whose name the bond for the project is issued may obtain a building permit once the fire flow mechanisms are installed, operating and approved by the City Engineer. Once installed, operating and approved, fire flows must remain operating continuously thereafter.

No certificate of occupancy will be issued until construction on the development reaches final completion as determined by the City Engineer.

T. CONSTRUCTION BOND

Prior to beginning construction of a development, the developer shall submit a bond to the City in the amount of 110% of the cost of all improvements and inspections, as determined by the City Engineer.

U. DEFAULT

In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within one year from the date construction begins, the City Council may declare the bond forfeited and the City may install or cause the required improvements to be installed using the proceeds from the collection of the bond or other assurances to defray the expense thereof.

V. FINAL DISPOSITION AND RELEASE

The developer shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten (10) days prior to the release date of the bond or other assurance, the City representative shall make a preliminary inspection of the improvements and shall submit a report to the City Council setting forth the conditions of such facilities. If conditions thereof are found to be satisfactory, the City Council shall release the bond or other assurance. If the condition of materials or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, the City Council may declare the developer in default.

W. RECORD DRAWING SUBMITTAL AND CONTENTS

Prior to final bond release, an electronic copy of the final drawings in the latest version of AutoCAD or DXF format needs to be submitted to the City Engineer. This drawing file needs to include adequate information regarding position and basis of bearing tied to established control as approved by the City Engineer.

As-built information shall be overlaid on this final drawing. The as-built drawing

must

- a. Established survey monuments, benchmark, and permanent horizontal and vertical control.
- b. Water: valves, fire hydrants, blow-offs, flush valves, and water meters.
- c. Sewer: laterals and manholes with rim and inverts elevations .
- d. Storm drain: Catch basins, curb inlets and manholes with rim and inverts elevations, size and type of pipe, storm outlets and detention / retention systems.
- e. Misc.: light pole locations, street sign locations, and utility box/transformer locations.
- f. Pressurized irrigation: valves, blow-offs, flush valves, drains and water lateral locations.

X. TOTAL COMPLIANCE WITH ALL REGULATION

In case of failure or neglect to comply with any and all conditions as established during the approval process or regulations as identified in this Section, the City may refuse additional building permits and stop construction of all work at the site until such violations or non-compliance conditions have been eliminated.

Y. WARRANTY BOND

The City Council shall authorize the release of 100% of the bond amount upon verification by the City Engineer that all work is complete and acceptable. The remaining 10% of the bond amount shall be retained by the City for a period of two (2) years in order to insure quality of improvements. If improvements are found to be unacceptable to the City at any time during the two (2) year period, the City may use the bonding funds to replace any improvements not installed acceptably.

02.10.005 SUBDIVISIONS

The intent of this section is to provide regulations that will further the objectives of the Community Master Plan relating to residential developments. It is the intent to achieve a balance between open space and buildings, harmony between new development and the surrounding area, promoting a longer life expectancy for buildings, superior maintenance and appearance of structures and premises and an overall project atmosphere that concurs with goals for a more attractive City. Upon approval of a subdivision, the approved site plan shall then constitute the zoning restrictions and regulations of the zoning district as applied to the territory shown on the plan.

This Ordinance shall apply to the creation of any subdivision. A subdivision is defined as any proposal to create two or more residential dwelling units and/or building lots from one or more existing lots of record. Once a subdivision has been approved by the City Council and recorded, no further subdivision of that plat will be approved by the City of Midway, except as may be required by Utah law.

It is also the intention of this Section to require the developer to demonstrate by the materials submitted for approval that the objectives and goals of the Community General Plan have been fostered.

A. PRE-APPLICATION CONFERENCE WITH STAFF MEMBER

Any person wishing to construct a subdivision shall meet with a staff member, check and review the zone information, obtain application and review procedures, obtain information from the City regarding the City's plan of land use, streets, water, sewer, traffic, trails and parks, and public facilities; and have discussion about public participation meetings and other requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received and the process outlined below.

B. CONCEPT PLAN

The purpose of the Concept Plan Review is to explore general feasibility early in the planning process. The concept plan helps avoid unnecessary and costly delays when pivotal information or necessary resources are not available because they were not addressed until later in the process. While the concept plan procedure is not an approval, it is still an important part of the overall approval process. While more flexible in nature than the subsequent steps of preliminary and final approvals, it still needs to be carefully prepared and thoroughly reviewed to be useful. As part of the concept plan, the developer shall submit:

1. An application for development.
2. A written description of how the development will comply with and promote Midway City's Vision and Zoning Ordinance.
3. A description of the type of development and project name.
4. A plan prepared by a professional planning and engineering team which shows a simple concept of the major features of the development, including roads in relation to existing conditions and developments within one-fourth (1/4) of a mile of the outside boundaries of the development. Handwritten plans will not be accepted. The concept plan shall be submitted on two (2) full-size, 24" x 36" copies, and ten (10) 11" x 17" copies of the concept plan shall be submitted to the Planning Commission.
5. Title ownership information and a current Preliminary Title Report. If the applicant is not the owner listed on the Preliminary Title Report a written consent to the application signed by the title holder must be provided.
6. Applicant entity name, primary contact name, civil engineer, architect and attorney, with respective contact addresses, phone numbers, fax numbers, and email addresses for each.
7. Lot or unit pattern and size(s).
8. Number of lots or units and conformance with the zone.
9. The types of buildings in the project by use and by architectural style.

10. Any plans for common area.
11. Any plans for common amenities.
12. Any public dedication proposals.
13. Conceptual Landscape Plan.
14. Any open space provisions including the following information:
 - a. Location.
 - b. General size.
 - c. Description of how the open space plan conforms to the standards for open space.
 - d. Description of final disposition of open space property.
 - e. Any off-site open space trading provisions as allowed by this Ordinance shall be taken to the City Council for approval before applying for preliminary plan approval.
15. Any trails proposed within the project including an analysis that shows how this trail plan works in conjunction with the City Trail Master Plan.
16. A topographic map that is suitable for GIS and CAD analysis.
17. Sensitive Lands.
 - a. Topographic information.
 - b. Identify potential sensitive land issues and a plan for how to address these issues.
 - c. Potential wildlife issues with the project and on the site.
18. A description of how public participation will be conducted consistent with the Citizen Participation requirements of the City.
19. A summary of the water rights status for the proposed project detailing how much is owned now versus how much is estimated to be needed to complete the project.
20. Letter of submittal for the concept plans to the Heber Valley Fire Special Service District that transmits the plans to them.

C. PRELIMINARY PLAN

After review of the Concept Plan by the Planning Commission, the developer shall prepare a preliminary plan and shall submit two (2) copies of the plan on 24" X 36" sheets and ten (10) copies of the plan on 11" X 17" size paper to the Planning Commission for its approval. The purpose of the Preliminary Plan is to demonstrate how the proposed development plan will be able to meet the standards required under the zoning ordinance and other applicable law or regulation after considering the issues and recommendations found during the Concept Review phase. While the Preliminary Plan is not expected to contain construction drawings, it is expected that the Preliminary Plan will demonstrate compliance with this code. The Preliminary Plan shall contain the following information (if any of the following information is satisfied by the information submitted during the Concept Plan Review, that same information must be included again with the Preliminary Plan.):

1. Description of how the development will implement Midway City's Vision.
2. Type of development.
3. Name of development.
4. Applicant entity name, primary contact name, civil engineer, architect, designer and attorney, with respective contact addresses, phone numbers, fax numbers, and email addresses for each.

5. Legal description with section tie.
6. Zone boundaries and designations.
7. North point and a scale consistent with a scale that is on a standard engineering scale ruler.
8. A statement that lists the issues discussed during the Concept Review and reconciles those issues with the Preliminary Application being submitted at this time.
9. A site plan showing location of all buildings, building pads, lots or structures, the elevation view of all structures accompanied by estimates of cost to purchase or rent, including a description of building materials to be used in the construction of all units.
10. Dimensioned side, rear and front yards.
11. Location and description of all recreational and open space areas and facilities.
(Note: Any off-site open space trading provisions allowed by this Ordinance shall have been taken to the City Council for approval before applying for Preliminary Plan approval with the Planning Commission.)
12. Topography shown by contours at no greater interval than two (2) feet except that a greater interval may be permitted when the property is outside the survey boundary if specifically authorized by the Planning Commission.
13. The outside boundary of the project.
14. Tabulation of land use:
 - a. Total area, open space, building area, dedicated streets;
 - b. Drives and parking (all the above shown in acreage and percentage);
 - c. Number of units and project density;
 - d. Types of units by number of bedrooms, where applicable; and
 - e. Parking spaces (covered and uncovered), where applicable.
15. Description of final disposition of title for any open space property and open space easements.
16. Adjacent property owners.
17. Proposed circulation pattern including private and public streets and sidewalks.
18. Typical street or roadway cross sections.
19. A detailed statement and illustration of how the project will meet sensitive lands requirements.
20. Existing and proposed easements, waterways, utility lines, canals and ditches.
21. A plan for accommodating waterways, ditches and canals.
22. Proposed and existing sewage disposal facilities.
23. Existing and proposed storm drain system with the related run-off calculations for the development site including routing the runoff water that leaves the site to a City storm drain or natural drainage approved by the City to accept the water.
24. Existing and proposed water system indicating size of water lines and fire hydrant locations. Indications as to the capacity of the water system as it relates to the project when required.
25. More detailed (than concept) landscape plan indicating areas of landscaping and irrigation and the various types of landscape materials.
26. A noxious weed control plan.
27. Letter of intent signed by the applicant stating the following information when

applicable:

- a. Design theme of project.
 - b. List of common area amenities.
 - c. Time schedule for completing common area amenities.
28. When the project contains fifteen (15) or more lots/units, traffic analysis survey results and proposed response must be discussed.
 29. Environmental Assessment Review Statement (see section 02.05.017 for requirements).
 30. Any other information Staff or the Planning Commission may determine necessary relating to the particular site of the proposed project.
 31. Evidence of sending an 11" x 17" copy of the preliminary plan to US West, Questar Gas, Heber Light & Power, ComCast (Cable Company), Midway Post Master, Heber Valley Fire Protection Special Service District, Wasatch County Solid Waste Disposal District.
 32. An updated preliminary title report as of the date of the Preliminary Application.
 33. A list of the documentation that will be required at Final Approval to implement the plans for the development and keep it maintained after approval.
 34. A written Citizen Participation Plan as described in this Ordinance which documents the information supplied to the public, the issues addressed with the attendees at the first Citizen Participation Meeting and other written or verbally communicated comments received from the public as a result of the Citizen Participation Plan.
 35. Preliminary approval from the Midway City Water Advisory Board.
 36. Preliminary approval from the Midway Sanitation District.
 37. A completed Fiscal Analysis Checklist.

D. LOT SIZE

The minimum permitted lot size allowed in a subdivision for each zone shall be as specified in the zoning requirements set forth in section 02.09 of this ordinance, unless the open space requirements contained in section G below apply, in which case the lot size and densities shall be governed by section G below.

E. PERMITTED USES

The principal use permitted in the subdivision is the residential living unit. Other uses are permitted as allowed by the zoning regulations governing the zone in which the subdivision is located.

F. STANDARDS AND REQUIREMENTS

The following standards, requirements and conditions shall apply to all subdivisions:

1. The project must be prepared by a design team composed of at least a civil engineer, a landscape architect and an attorney, all of whom must be licensed to practice in the State of Utah.
2. All dwelling units shall be served by a public sewer and a city-approved water supply. All utilities within the subdivision shall be placed underground, including

telephone, power and television. Except for sewer, all dwelling units shall have separate utility connections and metering.

3. The area proposed for a subdivision shall be one ownership during development to provide for full supervision and control of said development and to insure conformance with these provisions.

4. In the event that the land contained within a development is traversed by a proposed local collector, minor collector, or collector street, the subdivision shall be designed in accordance therewith.

5. All areas not covered by buildings, parking, streets or drives shall be planted with grass, trees, shrubs or other plant materials as shown in the submittal of a final landscape plan. A permanent sprinkler system shall be installed in all landscaped areas to provide irrigation of planted areas. The landscaping plan must also provide for a noxious weed control plan applicable before, during, and after construction of the subdivision.

6. Dwellings and permitted structures shall be located so as to best comply with the intent of this Ordinance and shall meet the following standards:

a. For subdivisions of four (4) or more units, setbacks along the peripheral property lines of the subdivision shall be a minimum of thirty (30) feet. For safety reasons, the Planning Commission may require buildings in any subdivision to be set back further from certain areas, such as golf courses, ball fields, native oak brush hillsides, etc.

b. For subdivisions of four (4) or more units, setbacks adjacent to existing and proposed minor collector and collector streets or streets to be dedicated to the City shall be a minimum of fifty (50) feet for all structures and parking. This setback area shall be landscaped in such a way as to reduce the visual impact of the buildings of the development from the public roads and yet not hide the view of the mountains and hillsides from the same public roads. No accesses directly to individual dwelling units within a subdivision shall be allowed directly from the following streets; rather, access must be made from private or public streets within the development, unless this is a practical impossibility.

- i. Burgi Lane;
- ii. River Road;
- iii. Pine Canyon Road;
- iv. Homestead Drive;
- v. Mitchie Lane;
- vi. Center Street (SR 113);
- vii. Tate Lane;
- viii. Stringtown Road; or
- ix. 200 North, west of 200 West.

7. The maximum height of buildings within a subdivision shall be as per section 02.06.010.
8. All parking spaces, parking areas and driveways shall be hard-surfaced asphalt or concrete, and properly drained with no drainage running across public or private sidewalks.
9. The developer shall install all public improvements on-site and off-site as identified by the Planning Commission and City Council.
10. All street construction improvements in subdivisions shall be constructed according to public street construction widths and cross-section standards.
11. All parking areas shall be screened from public view when possible with berms and landscaped features.
12. Provisions of the Sensitive Lands section of this ordinance shall be adhered to within a Subdivision.
13. The subdivision shall connect any trails shown on the City Master Trails Plan for the area. Approval of trails by the Midway City Trails Committee shall be required before final approval shall be granted.
14. Gated communities shall not be permitted.

G. OPEN SPACE REQUIREMENTS

The provisions of this section shall apply to all subdivisions six (6) or more acres in size located in the R-1-11, R-1-15, R-1-22, and RA-1-43 zones. The Midway City Council finds that subdivisions of six (6) or more acres in these specified zones have the highest propensity to eliminate open space in the City and cause the greatest detriment to the public resource of open space located in the City. The City Council also finds that there is a reasonable and proportionate nexus between this impact caused by these specified subdivisions and the requirements of this section.

1. All subdivisions six (6) or more acres in size located in the R-1-11, R-1-15, R-1-22, and RA-1-43 zones shall reserve a minimum of 15% of the total acreage of the subdivision in open space. To prevent circumvention of this requirement, a subdivision less than six (6) acres shall not be approved without complying with the 15% open space requirements of this section if there is a reasonable basis to believe that (1) both the land comprising the subdivision and the land comprising a contiguous subdivision of less than six (6) acres that did not reserve open space and that was approved less than three years earlier was owned by the same or a related individual, person, entity or group as the current applicant or owner at the time the earlier subdivision was approved, or (2) a contiguous parcel of less than 6 acres owned by the same or a related individual, person, entity or group as the current applicant or owner is simultaneously under a pending subdivision application and is not proposing to meet the open space requirements of this section. This provision shall have prospective application only, and shall not take into account any approvals granted prior to the enactment of this section.

2. Open space is defined as a portion of a subdivision site that is permanently set aside for public or private use and that will not be developed. Open space contains no above-ground, human-built structures. Improvements such as club houses, shelters, covered swimming pools, and gazebos shall not be included as a part of the open space requirement; however, uncovered recreational facilities such as football fields, baseball diamonds, basketball standards, and playgrounds will be allowed in the open space requirements.
3. Land proposed to be devoted to vehicular streets or roads, parking, and drives shall not be included in the computation of open space and shall not be considered to be density-qualifying acreage, except as provided elsewhere in this section.
4. Entry features such as roundabouts, median planter strips, fountains, etc. may count as open space if the design of such features is approved by the Planning Commission and City Council.
5. Areas with a width less than 50 feet in any direction shall not be counted as open space.
6. Sensitive lands, as defined elsewhere in this Ordinance, may be counted as open space, provided the lands also satisfy the other characteristics of open space set forth herein.
7. The open space areas required by this section shall not be satisfied by any areas contained within a designated building lot. This provision is subject to the following exception: on a building lot of two (2) or more acres, areas contained within the lot boundaries may be counted as open space provided that those areas are designated on the plat as unbuildable areas permanently reserved as open space pursuant to the standards specified in this section.
8. At least one-half (1/2) of the required open space shall be retained in a single open space area in as much of a square shape as possible.
9. To the greatest extent possible, open space areas shall be placed so as to be visible from both inside and outside the subdivision.
10. The permitted maximum density allowed in a subdivision that is subject to the open space requirements of this section shall be calculated by dividing the total density-qualifying acreage of the project by the minimum lot size requirement of the zone in which the subdivision is located, and then adding any density additions or bonuses allowed by this Ordinance.
11. Density-qualifying acreage is defined as the total land acreage of a proposed subdivision, adjusted by any calculations required by sensitive lands and other acreage-density adjustments provided for in this Ordinance, and then reduced by the acreage proposed to be devoted to vehicular streets, roads, parking and drives and any other non-density-qualifying acreage.
12. Due to the open space requirements imposed herein, lot size in subdivisions subject to the open space requirements of this section may be reduced to 50% of the minimum lot size required in the zone in which the subdivision is located. This provision therefore explicitly allows for the creation of building

lots smaller than the minimum lot size required in the zone in which the subdivision subject to open space requirements is located. The permitted reduction in lot size shall be directly proportional to the total amount of non-developable open space reserved in the subdivision. For example, a subdivision that reserves the minimum 15% open space required by this section shall be allowed to reduce any of its lots to 85% of the size required in the zone. A subdivision that reserves 30% of its total acreage for open space shall be allowed to reduce any of its lots to 70% of the required size in the zone.

13. The open space area requirements may be met by purchasing or providing property, development rights, or conservation easements on other properties deemed of value to the community and approved by the City Council on a value for value ratio. Such areas may be hillsides, stream corridors, agricultural lands, fields along Main Street and other open space areas, within the City limits or annexation area, as may be approved by the City Council. Approval of open space exchanges must be made by the City Council before the applicant applies for preliminary approval. Upon approval by the City Council, such offsite open space areas shall be included in calculating the subdivision's density-qualifying acreage pursuant to paragraph 11 above, and in addition, a density bonus of one (1) unit per acre of offsite open space will be allowed pursuant to paragraph 10 above to encourage creation of such offsite open space areas.
14. Subdivisions subject to the open space requirements of this section shall be required to either (1) deed to each owner in the subdivision an undivided ownership interest in the open space contained within the subdivision AND form a homeowners' association which shall be responsible for maintaining such open space according to Covenants, Conditions and Restrictions recorded with the subdivision plat or (2) place the open space in a perpetual conservation easement granted to an established conservation organization. If the open space is placed in a conservation easement, a maintenance agreement shall be entered into with the conservation organization to guarantee proper maintenance of the open space. Open space included within the boundaries of two-acre or larger building lots shall not be subject to the restrictions of this paragraph.
15. Open space shall be either appropriately and attractively landscaped or actively used for agricultural purposes. An acceptable landscaping plan, including a noxious weed plan, must be submitted before preliminary approval of the subdivision and complied with thereafter.
16. If the homeowners association or conservation organization fails to adequately maintain the open space, the City, after fifteen (15) days prior written notice, may perform the necessary maintenance and bill the homeowners or conservation organization for the expense. This provision shall be included in the recorded covenants, conditions and restrictions for the subdivision.

H. PRELIMINARY PLANNING COMMISSION ACTION

Upon presentation of the preliminary plan and documents, the Planning Commission shall approve them as submitted, approve them with conditions or may refer them back to the developer for one or more of the following reasons:

1. Due to the type of buildings, layout of structures, design of plan, or other aspects of the preliminary submittal, the Planning Commission determines the project to be inconsistent with the intent of this Ordinance or the Community General Plan.
2. The Planning Commission requires that certain specific changes be made within the plans.
3. The plans or documents have not been completed.
4. The fees have not been paid by the developer.
5. That this project is in substantial compliance with the intent of this section as stated previously. The Planning Commission may impose such conditions on preliminary development plans as it may deem appropriate to meet the goals and objectives of this Chapter. The Planning Commission may disapprove a subdivision, which is found to be deficient in meeting the intent of these provisions. Any such disapproval may be appealed to the City Council within ten (10) days after the decision of the Planning Commission.

I. RECOMMENDATION OF PRELIMINARY TO CITY COUNCIL

Upon the Planning Commission's approval of a preliminary plan of a subdivision, the Planning Commission shall recommend the preliminary plan to the City Council for direction.

J. PUBLIC HEARING

After receiving notice of Planning Commission approval of the preliminary plan, or upon the City Council's reversing on appeal the Planning Commission's disapproval of a preliminary plan, the City Council shall set and hold a public hearing to consider preliminary approval of the project. The hearing shall be completed as set forth in section 02.18.003 of this Ordinance.

K. PRELIMINARY APPROVAL OF CITY COUNCIL

After holding the public hearing, the City Council shall approve, approve with conditions, or deny the preliminary plan based on the same standards as required above for preliminary approval by the Planning Commission.

L. TIME LIMIT FOR PRELIMINARY PLAN APPROVAL

Any failure to submit a proposed final plan and final approval submittal package within one (1) year of the approval of the preliminary plan by the City Council shall terminate all proceedings and render the preliminary plan null and void.

M. FINAL APPROVAL SUBMITTAL PACKAGE

If the preliminary plan is approved by the City Council, the developer shall submit three (3) full size copies and fifteen (15) 11" x 17" copies of the proposed final plat and a final approval submittal package to the Planning Commission composed of the following:

1. All material, studies and requirements as requested by the Planning Commission or City Council as conditions of preliminary approval.
2. A final plat map in compliance with the approved preliminary plan. This plat is to illustrate among other things, the approved site plan, buildings, proposed ownership areas, open space, limited common areas, common areas, roads and private areas.
3. Detailed landscaping plan and sprinkler plan.
4. Final engineering drawings (plans and profiles) for all public and private improvements, final grading plan, and final drainage and run-off plan with run-off calculations.
5. All documents and legal material shall be ready for recording.
6. Deeds of dedication for all public lands as required by the City, when not shown on a final plat.
7. A title report for all land within the boundary of the final plat.
8. Provisions for bonding of all improvements in a form acceptable to the City. The bond amount is to be 125% of the engineer's estimated cost for improvements.
9. All required final plat fees.
10. Phasing plan for final plats.
11. In the event the project will not be divided into separate ownership, the developer shall submit the same information as requested above except for the Record of Survey Map. A final site plan shall be submitted totally dimensioned conforming to the approved preliminary plan.
12. Will serve letters from QWest, Questar Gas, Midway Sanitation District, Heber Light & Power, ComCast (cable company), and Midway Post Master.
13. Approval letters from the Midway Water Advisory Board and the Midway Trails Advisory Committee.
14. Declaration of Covenants, Conditions and Restrictions for said development (if any) to be recorded with the Wasatch County Recorder's Office with the Final Plat.

The following standards shall apply to the Declaration of Covenants, Conditions, and Restrictions recorded in conjunction with any subdivision development:

- a. The Declaration may provide for the creation and perpetual provision of an architectural committee, the number of members and composition of which shall be clearly stipulated. The Declaration shall also establish design guidelines governing the appearance of the site buildings, signs, lighting, landscaping, street furniture, fencing, and mechanical equipment.
- b. The Declaration shall stipulate the method and procedure by which the declaration may be amended.
- c. The Declaration shall specify the final conditions of approval of the Planning Commission and City Council.
- d. The Declaration may also contain use restrictions which are more restrictive than the City's zoning provisions, but in no case shall they be more permissive.
- e. The Declaration shall set up the provisions for maintenance of all open space, common areas and private streets and utilities.
- f. The Declaration shall state the following:

Midway City shall have the right, but not the duty, to require, and if necessary, perform, at the Association's expense, landscaping, maintenance, and snow removal, as applicable, within the common areas and open space if the Association fails adequately to perform such. In the event Midway City exercises this right, the City shall be entitled to recover any associated costs and attorney fees from the Association. This section shall not be amended or deleted without the approval of Midway City.

N. DEVELOPMENT AGREEMENT

An agreement between the developer and the City stating among other things:

1. That in the event of failure of the owners, successors or assigns to maintain the water and sewage facilities, common areas, open space, landscaping or other improvements in good condition, the City may perform the necessary work and for that purpose may enter upon the land and do the work and charge the cost thereof, including reasonable attorney fees, to the owners or their successors or assigns.
2. That the owners, successors, or assigns will reimburse the City for all costs which the City incurs in performing the necessary work.
3. That the terms of the contract shall be binding upon the heirs, assigns, receivers, and successors of the project for the life of the project or building.

4. If the subdivision is to be phased, a phasing plan showing construction schedule of streets, infrastructure, amenities and other improvements. Said plan shall be made to make each phase stand alone in all requirements of this Ordinance, including, but not limited to open space, traffic safety & circulation, infrastructure requirements and so forth.
5. A maintenance schedule for all undeveloped land within the approved master plan.
6. Any other agreements between the developer and the City.

O. FINAL PLAT

In addition to all other requirements, the proposed final plat shall show an address block containing addresses for each dwelling unit and for each main building within the plat, subject to approval by the Wasatch County Recorder's office.

P. FINAL APPROVAL RECOMMENDATION BY PLANNING COMMISSION

After receiving a complete proposed final plat and final approval submittal package, the Planning Commission shall consider the development for final approval. If the Planning Commission finds that all of the requirements of this Ordinance and all the conditions of preliminary approval of the development imposed by the City have been met, the Planning Commission shall recommend final approval of the development to the City Council. If the Planning Commission finds that any requirements or conditions have not been met, the Planning Commission shall continue the matter until such requirements or conditions have been met or forward such information on to the City Council with a recommendation as to how the City Council should act with respect to final approval of the development.

Q. FINAL APPROVAL BY CITY COUNCIL

After receiving the recommendation of the Planning Commission with respect to final approval, the City Council shall consider the development for final approval. The City Council shall determine whether the proposed final plat and final submittal package meet all requirements of this Ordinance and the conditions of the development's preliminary approval by the City. The City Council shall consider the information and recommendation forwarded to it by the Planning Commission with respect to final approval. Based on all of this criteria, the City Council shall approve, approve the conditions, or deny final approval of the development.

If the City Council denies final approval, the City Council shall state in detail the basis for its denial, referring specifically to the requirements of this ordinance and the conditions of preliminary approval.

For no more than a one-year period after such denial of final approval by the City Council, the applicant may re-apply to the Planning Commission and then to the City Council for final approval pursuant to the above described process, but only if the City Council's reasons for denial have been resolved.

R. DURATION OF FINAL APPROVAL

The duration of final approval shall be for one (1) year from the date of final approval of the development by the City Council. Should a final plat not be recorded by the County Recorder within the one (1) year period of time, the development's approval shall be voided, and both preliminary and final approvals must be re-obtained.

S. NO BUILDING PERMITS ISSUED PRIOR TO PLAT RECORDING

No building permit shall be issued prior to the recording of the plat by the County Recorder.

T. COMPLETION OF CONSTRUCTION AND ISSUANCE OF PERMITS

No building permits shall be issued until the construction of the development is substantially complete; provided, however, that the developer in whose name the bond for the project is issued may obtain a building permit once the fire flow mechanisms are installed, operating and approved by the City Engineer. Once installed, operating and approved, fire flows must remain operating continuously thereafter.

No certificate of occupancy will be issued until construction on the development reaches final completion as determined by the City Engineer.

U. CONSTRUCTION BOND

Prior to beginning construction of a development, the developer shall submit a bond to the City in the amount of 125% of the cost of all improvements and inspections as determined by the City Engineer.

V. DEFAULT

In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within one year from the date construction begins, the City Council may declare the bond forfeited and the City may install or cause the required improvements to be installed using the proceeds from the collection of the bond or other assurances to defray the expense thereof.

W. FINAL DISPOSITION AND RELEASE

The developer shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten (10) days prior to the release date of the bond or other assurance, the City representatives shall make a preliminary inspection of the improvements and shall submit a letter to the City Council setting forth the conditions of such facilities. If conditions thereof are found to be

satisfactory, the City Council shall release the bond or other assurance. If the condition of materials or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, the City Council may declare the developer in default.

X. RECORD DRAWING SUBMITTAL AND CONTENTS

Prior to final bond release, an electronic copy of the final drawings in the latest version of AutoCAD or DXF format shall be submitted to the City Engineer. This drawing file needs to include adequate information regarding position and basis of bearing tied to established control as approved by the City Engineer.

As-built information shall be overlaid on this final drawing. The as-built drawing must be based upon actual field survey of the items on the following list.

- a. Established survey monuments, benchmark, and permanent horizontal and vertical control.
- b. Water: valves, fire hydrants, blow-offs, flush valves, and water meters.
- c. Sewer: laterals and manholes with rim and inverts elevations.
- d. Storm drain: Catch basins, curb inlets, and manholes with rim and inverts elevations, size and type of pipe, storm outlets and detention / retention systems.
- e. Misc.: light pole locations, street sign locations, and utility box/transformer locations.
- f. Pressurized irrigation: valves, blow-offs, flush valves, drains and water lateral locations.

Y. TOTAL COMPLIANCE WITH ALL REGULATION

In case of failure or neglect to comply with any and all conditions as established during the approval process or regulations as identified in this Section, the City may refuse additional building permits and stop construction of all work at the site until such violations or non-compliance conditions have been eliminated.

Z. WARRANTY BOND

The City Council shall authorize the release of 100% of the bond amount upon verification by the City Engineer that all work is complete and acceptable. The remaining 10% of the bond amount shall be retained by the City for a period of two (2) years in order to insure quality of improvements. If improvements are found to be unacceptable to the City at any time during the two (2) year period, the City may use the bonding funds to replace or repair any improvements not installed acceptably.

02.11 ADMINISTRATION AND ENFORCEMENT

02.11.001 BUILDING PERMITS REQUIRED - APPLICATION

No person, firm, or corporation shall commence to construct, alter or move a building or structure, or to make a change in use of any land within the territory shown on the zone map which has been adopted as a part of this Ordinance without first submitting an application and obtaining a permit therefore from the Zoning Administrator or other authorized officer; provided, however, that permits for the moving of structures shall be granted only after complying with the requirements as set forth in Section 02.06.033 of this Ordinance. A permit shall also be required for the moving or improvement of manufactured homes, manufactured homes, and similar movable structures, except that no permit shall be required for the moving of an approved manufactured home into a manufactured home park, nor shall a permit be required to move a recreation vehicle into a recreation vehicle court.

02.11.002 PLANS REQUIRED

All applications for building permits shall be accompanied by plans which have been drawn to scale showing the accurate dimensions of the lot to be built upon, the size and location of existing buildings, and, as required, the location and layout of off street parking and planting plans showing how the premises will be landscaped. A careful record of said application and plans shall be kept in the office of the Zoning Administrator for a period of five (5) years from the date of receipt thereof.

02.11.003 PERMITS TO COMPLY WITH ORDINANCE

From the time of the effective date of this Ordinance, permits shall not be granted for the construction or alteration of any building or structure or for the moving of a building or structure onto a lot or for the change in use of any land, building, or structure, if such construction, alteration, moving, or change in use would be a violation of any of the provisions of this Ordinance, nor shall any sewer or water service line or electric utilities be installed to serve the premises until a permit to construct the building has been obtained.

02.11.004 LICENSE TO COMPLY WITH ORDINANCE

No license shall be issued by an official or employee vested with the duty and authority to issue licenses which would not be in conformance with the provisions of this Ordinance. Any license so issued shall be null and void.

02.11.005 PERMITS REQUIRED

No building or structure shall be constructed, reconstructed, altered, or moved to the extent of one thousand dollars (\$1,000) or more in replaceable value nor shall the use of any land be changed except after the issuance of a permit for the same by the Zoning Administrator or other authorized officer.

02.11.006 CONSTRUCTION AND USE TO COMPLY WITH APPLICATION

Building Permit or Certificates of Zoning Compliance issued on the basis of plans and specifications approved by the Planning Commission authorizes only the use, arrangement, and construction set forth in such approved plans and application, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed to be a violation of this Ordinance.

02.11.007 CERTIFICATE OF ZONING COMPLIANCE REQUIRED

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premise, or to change the occupancy of any building or premise until a Certificate of Zoning Compliance shall have been issued therefore by the Zoning Administrator, stating that the proposed use of the building or land conforms to the requirements of this Ordinance. No nonconforming structure or use shall be changed or extended until a Certificate of Zoning Compliance shall have been issued stating specifically wherein the nonconforming use differs with the provisions of this Ordinance.

The Zoning Administrator may permit the occupancy of a building prior to the completion of all required work, provided a bond or other assurance has been posted with the City Recorder in an amount equal to the cost of completing said required work as determined by the governing body. The Zoning Administrator shall maintain a record of all Certificates of Zoning Compliance for a period of five (5) years and a copy shall be furnished upon request to any applicant. At such time as any party shall have complied with the provisions relating to large scale developments and to subdivisions as set forth in this Ordinance, the Planning Commission shall so certify and shall issue a Certificate of Compliance to the developer designating with particularity all lots or other tracts that are in compliance herewith and that are available for sale. It shall be unlawful for any developer or other person to sell or offer for sale or exchange either by deed, contract, or otherwise, any lot or tract of land within said large scale developments or subdivisions until such time as the developer shall have received a Certificate of Compliance with respect thereto.

02.11.008 ZONING ADMINISTRATOR APPOINTED

The City Council shall appoint a zoning 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.

02.11.009 POWERS AND DUTIES OF ZONING ADMINISTRATOR

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 act in violation of such provisions.

The Zoning Administrator shall also refer matters to the Planning Commission and governing body as set forth in this Ordinance.

02.11.010 BOARD OF ADJUSTMENT CREATED, MEMBERS, TERMS

- A. There is hereby created a Board of Adjustment, which shall consist of five (5) members, each to be appointed by the Mayor, with the advice and consent of the City Council.
- B. Board members shall be residents of Midway City.
- C. Board members shall be selected without respect to political affiliation.
- D. The term of office for members of the Board of Adjustment shall be five (5) years.
- E. Terms shall be established so that the term of one regular member shall expire each year.
- F. Each term shall continue until a successor is chosen and qualified, except in the case of the member's death, resignation, removal or disqualification from holding office.
- G. No person shall serve more than two (2) consecutive terms on the Board of Adjustment. Partial terms shall not be considered in determining whether a person has served two (2) consecutive terms.
- H. Any member may be removed for cause by the Mayor upon written charges and after public hearing, if a public hearing is requested by the member.
- I. A member's office automatically becomes vacant if the member establishes residence outside of the City, or lives outside of City boundaries for a continuous period of more than sixty (60) days.
- J. A member's office automatically becomes vacant if the member misses more than twenty-five percent (25) of the Board's scheduled meetings during any twelve (12) month period. The Mayor, with advice and consent of the City Council, may waive this action should it be determined there are circumstances that so justify.
- K. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant.
- L. Vacancies occurring other than through the expiration of a regular term shall be filled by appointment by the Mayor, with the advice and consent of the City Council Chairperson.

02.11.011 BOARD OF ADJUSTMENT, ORGANIZATION, MEETINGS, RECORDS

The Board of Adjustment shall organize and elect a chairman and adopt rules in accordance with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the board may determine. The chairman or, in the absence of the chairman, the acting chairman, shall conduct all meetings and may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such facts, and shall keep records of its examinations and other official acts, all of which shall be filed immediately in the office of the Board and shall be a public record.

02.11.012 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall have the following powers:

- A. To authorize upon appeal such variance from the terms of this Ordinance as will not be contrary to the public interest, where owing to such conditions a literal enforcement of the provision of this Ordinance will result in unnecessary hardship: provide that the spirit of the Ordinance will be observed and substantial justice done. Before any variance may be authorized, however, it shall be shown that:
 - 1. The variance will not substantially affect the comprehensive plan of zoning in the City, and that adherence to the strict letter of this Ordinance will cause difficulties and hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the purposes of this Ordinance.
 - 2. Special circumstances are attached to the property covered by the applications which do not generally apply to other property in the same zone, and that the granting on the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.
 - 3. Because of said special circumstances the property covered by the application is deprived of privileges possessed by other properties in the same zone.
 - 4. That the difficulties and hardships were not created by any act of the appellant subsequent to the effective date of the regulation appealed from.
- B. To impose reasonable conditions, stipulations, or requirements with which the petitioner must comply as a condition of the grant or approval and to attach a time limit on the exercise or lack of exercise of any grant.

02.11.013 AUTHORITY LIMITED FOR BOARD OF ADJUSTMENT

The powers and duties of the Board of Adjustment are limited to judicial and administrative matters as set forth in this Ordinance. The Board of Adjustment shall not have the authority to amend this Ordinance nor to correct what it may consider to be an unwise requirement. Nevertheless, the Board of Adjustment shall have powers and duties as set forth in this Ordinance and within the limitations and intent of the provisions of this Ordinance shall perform its duties and shall have the power to perform those acts as herein set forth.

02.11.014 VOTE OF THE BOARD OF ADJUSTMENT

The concurring vote of three members of the Board shall be necessary to decide upon any matter upon which it is required to pass.

02.11.015 APPLICATION TO APPEAR BEFORE THE BOARD OF ADJUSTMENT

Any person may appeal to the Board of Adjustment by filing for a variance request in writing with the Zoning Administrator, and by paying a fee set by the City Council, provided such appeal is made within forty-five (45) days from the grant or refusal of a building permit by the Zoning Administrator. The request to appear before the Board of Adjustment shall be

made on forms furnished by the Zoning Administrator at least fifteen (15) days prior to the date of the hearing on the appeal.

02.11.016 PROCEDURE OF THE BOARD OF ADJUSTMENT

Upon receipt of the application, the Zoning Administrator shall submit to the Board of Adjustment all information regarding the requested appeal. The Board of Adjustment shall review the application at a public hearing and shall return the same to the Zoning Administrator with its decision pertaining thereto within sixty (60) days. Failure to return said application within sixty (60) days shall constitute approval. An appeal for a variance stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Adjustment or by the district court on application and notice to the Zoning Administrator and on due cause shown.

02.11.017 HEARINGS OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall establish a reasonable time for the hearing of the appeal, give public notice thereof by publication as required by State Law and sections 02.18 and 02.19 of this Zoning Ordinance.

The intent in requiring a hearing is to enable the Board of Adjustment to obtain facts surrounding the case which may not be evident, or which may not be shown in the record as submitted to the Board. The decision of the Board shall be based upon the facts and not upon expressions of support or protest, or lack of support or protest, which may be made at the hearing. Any party may appear at the hearing in person or by agent.

02.11.018 ACTION OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall make determinations in harmony with the provisions of this Ordinance and shall notify the appellant and Zoning Administrator of the action taken within ten (10) days following their decision.

02.11.019 RECOURSE FROM DECISION OF BOARD OF ADJUSTMENT

Any person aggrieved by any decision of the Board of Adjustment may have and maintain a plenary action for relief therefrom in any court of competent jurisdiction, provided that petition for such relief is presented to the court within the time limits required by State Law.

02.11.020 PLANNING COMMISSION CREATED, MEMBERS, TERMS

- A. The Planning Commission of Midway City is hereby established.
- B. The Commission shall consist of seven (7) members.

- C. Commission members shall be appointed by the Mayor, with the advice and consent of the City Council.
- D. Commission members shall be residents of Midway City, and shall be selected in accordance with any policy adopted by the City Council. There shall be one (1) City Council representative on the Commission.
- E. Commission members shall be selected without respect to political affiliation.
- F. The term of office for Planning Commission members shall be three (3) years.
- G. No person shall serve more than two (2) consecutive terms on the Planning Commission. Partial terms shall not be considered in determining whether a person has served two (2) consecutive terms.
- H. Each term shall continue until a successor is chosen and qualified, except in the case of the member's death, resignation, removal or disqualification from holding office.
- I. Any member may be removed for cause by the Mayor upon written charges and after public hearing, if a public hearing is requested by the member.
- J. A member's office automatically becomes vacant if the member establishes residence outside of the City, or lives outside of City boundaries for a continuous period of more than sixty (60) days.
- K. A member's office automatically becomes vacant if the member misses more than twenty-five percent (25%) of the Commission's scheduled meetings during any twelve (12) month period. The Mayor, with advice and consent of the City Council, may waive this action should it be determined there are circumstances that so justify.
- L. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant.
- M. Vacancies occurring other than through the expiration of a regular term shall be filled by appointment by the Mayor, with the advice and consent of the City Council.
- N. Each member of the Planning Commission shall have one (1) vote.
- O. A quorum shall consist of any four (4) members of the Planning Commission. No meeting is official unless a quorum of members is present.
- P. The minimum number of votes required to approve or disapprove any action or proposal shall be a majority of those present at the meeting, provided there is a quorum, but shall never be less than four (4). In cases where the Planning Commission acts as a recommending body to the City Council, an item may be forwarded to the City Council without a majority vote, provided that a quorum voted on the item.
- Q. The Planning Commission shall select one of its members to be Chairperson. The Chairperson shall conduct all meetings and shall serve for one (1) year. A chairperson may serve consecutive terms.

- R. The Planning Commission shall keep a public record of its proceedings and may adopt rules for its organization and for the transaction of its business.
- S. The Planning Commission shall designate its meeting schedule as determined necessary to conduct its business as required by this Ordinance.

02.11.021 POWERS AND DUTIES OF THE PLANNING COMMISSION

The Planning Commission shall have the following powers and duties with respect to this Ordinance:

- A. The Planning Commission shall hear and decide requests for amendments to this Ordinance. The Planning Commission may also act on its own initiative in considering and recommending amendments to this Ordinance. Before a favorable recommendation is given, however, it must be shown that:
 1. The amendment will not be contrary to the land use plan.
 2. The amendment will not militate against the fulfillment of any other provisions of the comprehensive plan.
 3. The amendment will not decrease nor adversely affect the health, safety, convenience, morals or general welfare of the public.
 4. The amendment will more fully carry out the intent and purpose of this Ordinance.
 5. That, balancing the interest of the petitioner with the interest of the public in general, both interests will be served better by adopting such an amendment.

In considering a request for an amendment to the Zoning Ordinance or map, the Planning Commission may submit a recommendation for or against the request or it may recommend an alternate amendment.

- B. The Planning Commission shall review, approve, disapprove, or approve subject to modifications, requests for permits to construct PUD's, manufactured home parks, recreational camps and resorts, and recreational vehicle courts, in accordance with the City's subdivision regulations.
- C. The Planning Commission shall also perform any other duty imposed on the Commission under the terms of this Ordinance.
- D. All submittals to the Planning Commission shall be due to the City a minimum of fourteen (14) days prior to the meeting on which it will be scheduled.

02.11.022 POWERS AND DUTIES OF GOVERNING BODY

The Governing Body may amend, change or modify any provision of the Zoning Ordinance or map provided:

- A. The proposed amendment or amendments have been submitted to the Planning Commission for its recommendations. Unless the Planning Commission submits its recommendations within sixty (60) days from receipt of the proposed amendment, the governing body may assume an affirmative recommendation.
- B. The Governing Body has held a public hearing as required by State law and Sections 02.18 and 02.19 of this zoning ordinance.
- C. The amendment will not be contrary to the comprehensive plan.
- D. The amendment will more fully carry out the intent and purpose of the comprehensive plan and this Ordinance.

02.12 SEVERABILITY

This Ordinance and the various parts, sections, and clauses are hereby declared to be severable. If any part, section, paragraph, sentence, clause, or phrase is adjudged to be unconstitutional or invalid, it is hereby declared that the remainder of the Ordinance shall not be affected thereby. The governing body of Midway City, Utah, hereby declares that it would have passed this Ordinance on each part, section, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more portions thereof be declared invalid.

02.13 RESPONSIBILITY FOR VIOLATIONS

It shall be the duty of all design professionals, contractors, subcontractors, builders and other persons having to do with the establishment of any use of land or the erection, altering, changing, or remodeling of any building or structure to be sure that a proper permit has been granted before work is begun on any project for which a permit is required. Any builder, contractor or other person doing or performing any such work without a permit having been issued is in conflict with the requirements of this Ordinance in the same manner and to the same extent that the owner of the premises or the persons for whom the use is established, or for whom such buildings are erected or altered, and shall be subject to the penalties herein prescribed for violation.

02.14 PENALTIES

- A. Declaration of Penalty.
Violations of this ordinance shall be classified as a Class "B" misdemeanor.
- B. In addition to the penal remedy stated in subsection A of this section, the City Attorney may bring action before any competent court having jurisdiction to enjoin the continuation of any prohibited condition of nuisance and impose a civil penalty of up to one thousand dollars (\$1,000) per day, plus costs and reasonable attorney's fees.

02.15 EACH DAY OF VIOLATION A SEPARATE VIOLATION

Each person, persons, firm, or corporation found guilty of violation shall be deemed guilty of a separate offense for every day during which any violation of any provision of this Ordinance is committed, continued, or permitted by such person, persons, firm, or corporation, and shall be punished as provided in this Ordinance.

02.16 CONFLICTING PROVISIONS REPEALED

The Zoning Ordinance of Midway City heretofore adopted is hereby repealed; also, all ordinances, resolutions, or parts thereof in conflict with the provisions of this Ordinance are hereby repealed insofar as they conflict with the provisions of this Ordinance, and are hereby repealed insofar as they conflict with the provisions set forth in this Ordinance, provided, however, that any building or use of land or any construction thereon which was not authorized by or under the ordinances of the City or which was illegal under such ordinances, shall remain unauthorized and illegal unless expressly authorized or permitted by the provisions of this Ordinance.

02.17 EFFECTIVE DATE

In the opinion of the City Council of Midway City, it is necessary for the immediate preservation of peace, health, and safety of the inhabitants of Midway City that this Ordinance be approved and become effective and be in force upon passage and posting.

02.18 CITIZEN PARTICIPATION

02.18.001 PURPOSE

The citizen participation described in this Section is designed to:

- A. Ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the community.
- B. Ensure that the citizens and property owners of Midway City have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process.
- C. Facilitate ongoing communication between the applicant, interested citizens and property owners, City staff, and elected officials throughout the application review process.

02.18.002 APPLICABILITY

- A. Every application that requires a public hearing shall include a citizen participation plan that must be implemented prior to the first public hearing.
- B. EXEMPTIONS:
 - (1) An application for hearing that is filed with the Board of Adjustment.
 - (2) Renewal of a Conditional Use Permit with no record of complaints or violations.

02.18.003 CITIZEN PARTICIPATION PLAN

The Citizen Participation Plan shall be approved by the Planning Director, and shall be presented in a discussion meeting with him/her.

- A. The citizen participation plan shall include, at a minimum, the following information:
- (1) A list of all surrounding property owners, any political jurisdictions, public agencies and others that may be affected by the application as determined in subsection 02.18.003-B.
 - (2) Notification and informational letters shall be sent to all persons and entities determined in section "A" above. Notification and informational letters shall be given to Planning Department staff in unsealed, pre-addressed and stamped envelopes. It shall be the responsibility of the Planning Department staff to post these letters with the U.S. Postal Service.
 - (3) How those interested and potentially affected parties will be informed of the substance of the change, amendment, or development proposed by the application (e.g. explanation letter, meeting between applicant and affected parties, etc).
 - (4) How those affected or otherwise interested will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing.
 - (5) The applicant's schedule for completion of the citizen participation plan.
 - (6) How the applicant will keep the City Staff informed on the status of their citizen participation efforts.

The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the site. The applicant will determine the target area for early notification, after consultation with City Staff. At a minimum, the target area shall include the following:

1. Property owners within the public hearing notice area required by State law, but no less than six hundred (600) feet surrounding the property or area;
2. The head of any homeowners' association or registered neighborhood within the public notice area required by other sections of this Zoning Ordinance; and
3. Other interested parties who have requested that the Planning Director place them on the interested parties' notification list.

02.18.004 CITIZEN PARTICIPATION REPORT

- A. The applicant shall give a verbal report at the public hearing summarizing the results of their citizen participation effort.
- B. The citizen participation report shall include at least the following information:

1. Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal, including the number of citizens who attended;
2. Geographical area in which residents, property owners, and interested parties receiving notices, newsletters, or other written materials are located; and
3. Copies of any response letters received by the applicant or City staff.
4. A summary of concerns, issues and problems expressed during the process, including:
 - a. The substance of the concerns, issues, and problems;
 - b. How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
 - c. Concerns, issues and problems the applicant is unwilling or unable to address and why.

02.18.005 GENERAL REGULATIONS

- A. The citizen participation plan is not intended to produce complete consensus on all applications, but rather to encourage applicants to be good neighbors and to allow informed decision-making by the Midway City staff, elected and appointed officials.
- B. These requirements apply in addition to any notice provisions required elsewhere in this Ordinance.

02.19 NOTIFICATION OF PUBLIC HEARINGS CONCERNING THE GENERAL PLAN AND ZONING ORDINANCE PROVISIONS

02.19.001 NOTIFICATION

Notice of the time, date, and place of the Public Hearing, including a general explanation of the matter to be considered and including a general description of the area to be affected, shall be given at least fourteen (14) days prior to the hearing in the following manner: Each notice shall be published at least once in a newspaper of general circulation, published or circulated in the City, and posted at three locations prescribed by the City Recorder.

02.19.002 POSTING

Any public hearing involving real property, the affected property shall be posted by the applicant in the following manner at least fourteen (14) days prior to the public hearing:

- A. The printed notice shall be no less than 11" x 17" in size. The lettering shall be black in color and the background shall be white or bright in color. The posting forms shall be provided by the City and filled out and posted by the applicant. The poster shall contain at least the following:
 1. The present Zoning District Classification;
 2. The proposed change requested, i.e. Zone Change, Conditional Use Permit,

Variance, etc.; and

3. The date, time and place of the hearing.
- B. The affected property shall be posted on all property lines fronting public roadways and/or access ways and on other locations as specified by the Planning Director. It shall be the responsibility of the applicant or proponent to erect and maintain the posting until a final decision is reached. Failure to erect and/or maintain posting shall result in the applicant being charged additional fees for advertising.
- C. If a public hearing is continued for any reason, the property shall be required to remain posted; however the following shall be added to the sign "Public Hearing Continued to (*date of hearing*)," but no further publication or mailing is required.

02.19.003 NOTICE TO SURROUNDING GOVERNMENTAL ENTITIES

In proceedings involving rezoning of land that abuts other municipalities, unincorporated areas of the County, or a combination thereof, copies of the notice of public hearing shall be transmitted to the planning agency of such governmental unit abutting such land. In addition to notice by publication, the City may give notice of the hearing in such other manner, as it may deem necessary or desirable.

02.19.004 NOTICE REGARDING CHANGES TO CERTAIN ZONING ORDINANCE REQUIREMENTS

- A. For Public Hearings to hear proposed changes to General Plan provisions or Zoning Ordinance requirements for any one or more of the following subjects the City shall provide notice as required in Subsection "B" of this section:
1. A ten percent (10%) or more increase or decrease in the number of square feet or units that may be developed;
 2. A ten percent (10%) or more increase or reduction in the allowable height of a building;
 3. An increase or reduction in the allowable number of stories;
 4. A ten percent (10%) or more increase or decrease in the setback or open space requirements;
 5. An increase or reduction in permitted uses; or
 6. Rezoning proceedings that may change the zoning classification of an individual real property owner's property.
- B. The City shall provide notice to real property owners pursuant to at least one of the following notification procedures for proceedings governed by Subsection "A" of this Section:
1. Notice shall be sent by first class mail to each real property owner, as shown on the latest County assessment records, whose real property is directly governed by the changes; or

2. The City shall publish a summary of such changes in a newspaper of general circulation prior to the hearing. The summary shall be published in a “display ad” covering not less than one-eighth (1/8) of a full page.
- C. The City shall also send notice by first class mail to persons who register their names and addresses with the City as being interested in receiving such notice. The City may charge a fee not to exceed ten dollars (\$10) per year for providing this service, and may adopt, by resolution, procedures to implement this provision.

02.19.005 FINDINGS

Within thirty (30) days after the close of a Public Hearing:

- A. The Planning Commission shall render its decision or recommendation in writing to the Council including the reasons for the decision or action taken in regard to a Conditional Use Permit or General Plan amendment, Zoning Code or Zone changes, or
- B. The Board of Adjustment shall advise the applicant, in writing, of its decision in regard to an appeal or variance, or
- C. The Council shall advise the applicant of its decision, in writing, concerning a Conditional Use Permit, Special Use Permit, General Plan amendment, Zoning Code, or Zone changes.

02.20 APPEAL AUTHORITY

- A. As provided in section 02.11, the Board of Adjustment shall be the appeal authority to hear and decide requests for variances from the terms of this ordinance. An adverse decision by the Board of Adjustment in variance matters may be appealed to district court pursuant to Utah law.
- B. The City Council shall be the appeal authority for review of constitutional takings issues.
- C. Appeal of an administrative order issued by a City administrative law judge shall be made directly to district court within thirty (30) days of the issuance of the order.
- D. Except as provided in section “C” above, the City Council shall be the appeal authority of all non-variance land use decisions in which the City Council has not first acted as the land use authority. Appeal of such decisions shall be made to the City Council within thirty (30) days of the decision being appealed. The standard of review by the City Council shall be *de novo*. An adverse decision by the City Council acting as appeal authority may be appealed to district court pursuant to Utah law.
- E. Appeal shall be made directly to district court of all non-variance land use decisions in which the City Council has acted as the land use authority. In acting as the land use authority, the City Council shall keep a written record of its proceedings in the form of minutes or other records.
- F. Each appeal authority shall keep a written record of its appeal proceedings.

This Ordinance shall become effective at 11:59 p.m. on July 10, 2006. A copy of this Ordinance shall be posted at each of three (3) public places within the corporate limits of Midway City and a summary published in a paper of local circulation.

ADOPTION AND PASSAGE

PASSED AND ADOPTED by the City Council of the City of Midway, Wasatch County, Utah, this 7th day of July, 2006.

	AYE	NAY
Councilwoman Colleen Bonner	<u>X</u>	_____
Councilman Gerald Hayward	<u>X</u>	_____
Councilman Don A. Huggard	<u>X</u>	_____
Councilman Rick Tatton	<u>X</u>	_____
Councilman Douglas Thacker	<u>X</u>	_____

APPROVED:

Connie Tatton
Mayor Connie Tatton

ATTEST:

APPROVED AS TO FORM:

Brad Wilson

Brad Wilson, City Recorder

Harold Powell

City Attorney

City Seal





Certificate of Passage, Posting and Publication

I certify that on 7 July 2006 the Midway City Council adopted Ordinance 2006-20 (The ordinance established zones within Midway City, Utah. It regulated and restricted within said zones the use, location, height, and size of buildings and structures, the use of land, the size of lots and yards, and other open spaces. It provided methods of administration and enforcement. It established penalties for the violation thereof. It also repealed the current Zoning Ordinance of Midway City and all other ordinances or parts of ordinances in conflict herewith).

I certify that a full, true and correct copy of the ordinance was posted on 21 August 2006 at the following locations:

Midway City Office Building
The Main Street Station
7-11 (Midway)

I further certify that a summary of the ordinance was published in The Wasatch Wave on 16 August 2006.

A handwritten signature in blue ink that reads 'Brad Wilson'.

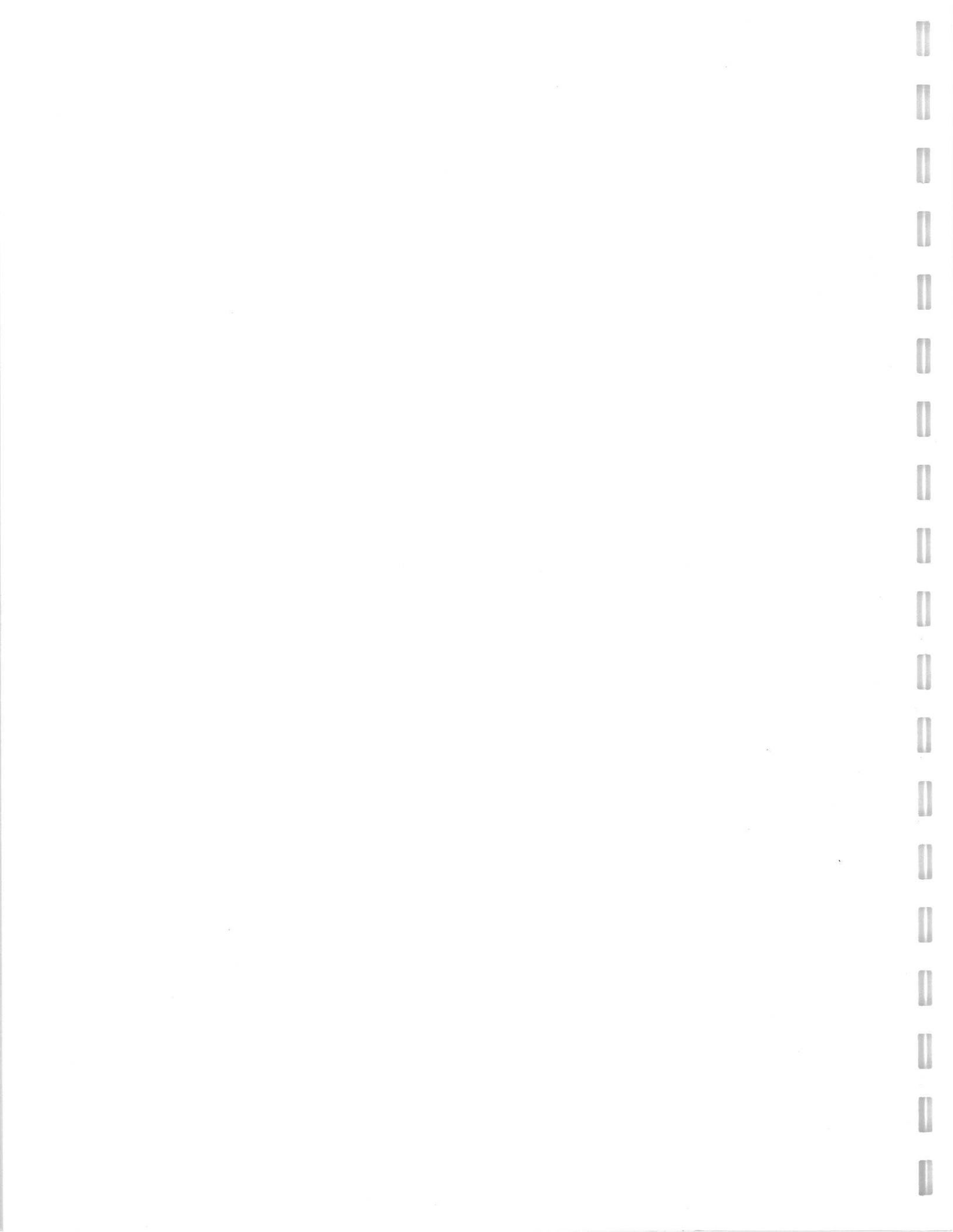
Brad Wilson, Midway City Recorder

Dated 21 August 2006



MIDWAY CITY CORPORATION

75 North 100 West, P.O. Box 277
Midway, Utah 84049
Phone: 435-654-3223 Fax: 435-654-4120





Midway City

Midway Zoning

June 29, 2006

Legend

- Midway Zoning  zone
- Existing Municipal Boundary 
- Proposed Annexation Boundary 

