

**MIDWAY CITY
Municipal Code**

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CHAPTER 2.01 CITY OFFICERS

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Section 2.01.010 Form of Municipal Government

Midway City shall operate under the six-member council form of government as provided in the current version of the Utah Code as amended.

Section 2.01.020 Mayor

The Mayor of Midway City shall at all times have those powers and duties set forth in the current version of the Utah Code as amended.

Section 2.01.030 City Council

The Midway City Council shall at all times have those powers and duties set forth in the current version of the Utah Code as amended.

Section 2.01.040 City Recorder

A. On or before the first Monday in February following a municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Recorder. The City Recorder shall at all times have those powers and duties set forth in the current version of the Utah Code, as amended, and also those powers and duties set forth in City ordinances, resolutions, and policies that are not inconsistent with State law.

B. The City Recorder:

1. Works under the supervision of the Mayor and City Council.
2. Provides supervision to administrative staff in the preparation and filing of records.
3. Manages, and when appropriate provides access to, government records including records of the governing body, ordinances, resolutions, bonds for municipal officers, oaths of office, contracts, general financial books, and outstanding municipal bonds.
4. Keeps records of all persons elected or appointed to any office within the City including terms of office.
5. Accepts and manages filings as required by law.
6. Serves notices as required by law.
7. Attests ordinances and the signature of the Mayor.
8. Countersigns contracts.
9. Maintains an indexed record of all contracts entered into by the City.
10. Receives appeals of discharge.
11. Coordinates the recordings of all documents with the County Recorder.
12. Coordinates annexations into the City.
13. Coordinates municipal elections.
14. Keeps and affixes the corporate seal.
15. Attends the meetings and keeps the record of the proceedings of the governing body.
16. Maintains and updates documents including the Municipal Code and Policies and Procedures.
17. As ex-officio auditor, pre-audits all claims and demands against the City.
18. Manages all City finances in accordance with the *Utah Uniform Accounting Manual*.
19. Prepares and presents to the governing body monthly detailed financial reports. Prepares and presents, or delegates for preparation and presentation, an annual financial report for the City within 180 days after the close of the fiscal year.
20. Assists in the annual audit. Publishes notice of audit completion and availability.
21. Prepares, coordinates, and oversees the municipal budget in conjunction with the Mayor and City Council.
22. Performs general accounting functions such as preparing and entering journal entries and reviewing the detailed ledger.
23. Oversees the finances of BackNET including accounts payable, accounts receivable and grants.
24. Acts as the records officer of the City.

(2012-05, Sub-section Amended, eff. 2/22/2012)

Section 2.01.050 Treasurer

A. On or before the 1st Monday in Feb following a municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Treasurer. The City Treasurer shall at all times have those powers and duties set forth in the current version of the Utah Code, as amended, and also those powers and duties set forth in City ordinances, resolutions, and policies that are not inconsistent with State law.

B. Treasurer Duties and Responsibilities

1. Performs a variety of general administrative and complex clerical duties related to controlling the receiving, receipting, and investing of City funds.
2. Structures, monitors and controls cash flow. Has custodial responsibility for all money, bonds and securities belonging to the City; must be bondable
3. In charge of utility billing and collection.
4. Works under the general supervision of the Mayor and City Council.
5. Determines the cash requirements of the City and provide for the investment of all monies by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.
6. Receives all public funds and monies payable to the City, deposits within three business days after collection, including all taxes, licenses, fines, and intergovernmental revenue.
7. Keeps an accurate detailed account of all monies received as directed by the legislative body of the City by ordinance or resolution.
8. Collects all special taxes and assessments as provided by law or ordinance.
9. Gives or cause to be given to every person paying money to the City treasury, a receipt or other evidence of payment therefore, specifying, as appropriate, the date of payment and upon which account paid and shall file the duplicate of the receipt, a summary report, or other evidence of payment in the office of the auditor or recorder.
10. The treasurer, or in the treasurer's absence, a deputy treasurer appointed by the governing body, shall sign all checks. Prior to affixing the signature, the treasurer or deputy treasurer shall determine that a sufficient amount is on deposit in the appropriate bank account of the City to honor the check.
11. Performs the day-to-day process of issuing utility billings and receiving and receipting payments; prepares meter reading routes, manual and electronic; enters utility readings; assures accuracy and quality of related record keeping functions; monitors meter data for unusual variations.
12. Acts as custodian of all monies, including fines, fees, forfeitures, bonds and securities and maintains accurate and detailed account of the same; posts receipts to the general ledger; collects special taxes and assessments as provided by law and ordinance; maintains record of collections.
13. Invests idle City funds in accordance with State laws and regulations; assures secure and safe keeping of investment certificates; assures investments comply with established law; reconciles investment fund with general ledger.
14. Monitors City cash flow; assures availability of sufficient funds to cover City financial needs and issued checks; makes fund transfers as needed; signs City checks; oversees and prepares daily reports showing cash receipts and monitors running daily balance.
15. Coordinates utility billing and revenue collection functions with public works, animal control, building and community development managers and supervisors as needed; cooperates as needed to create solutions to mutual problems or concerns; oversees and participates in the collection of revenues from the sale of business licenses, building permits, dog licenses,

water/sewer connections, building reservations, and various permits, etc.; assures proper receipting, posting and tracking of related accounts; oversees and balances daily collections with receipts and deposits into bank accounts.

16. Identifies delinquent accounts, issues late notices; apprises customers of pending actions, develops payment plans, adjusts accounts according to payment agreements; monitors account activity, initiates collections on delinquent accounts; initiates utility connection changes; issues shut off notices.

17. Oversees and tracks various impact fee collections and expenditures. Prepares year end reports to be reviewed by the governing body as per Utah Code.

18. Oversees and tracks City owned water shares, leased water agreements, line extension agreements and all other water agreements.

19. Answers questions regarding cemetery burial fees and lot purchases; and;

a. Coordinates burials with various funeral homes and mortuaries.

b. Prepares monthly report(s).

c. Oversees cemetery billing of annual fees.

d. Oversees and cause to be prepared affidavits changing ownership of lots, cemetery deeds, and perpetual care agreements.

20. Prepares various general ledger month and year end reports.

21. Prepares various reports for the audit and assists auditor as needed.

22. Represents the City at the City Treasurer's Association and other assignments as identified by the City.

2.01.060 City Attorney

A. The Mayor with the advice and consent of the City Council shall from time to time appoint a qualified person to the office of City Attorney. The City Attorney shall represent the interests of the City under the direction of the Mayor and shall have those powers and duties set forth in the current version of the Utah Code, as amended, and also those powers and duties set forth in City ordinances, resolutions, and policies that are not inconsistent with State Law.

B. The City Attorney shall:

1. Give counsel and advice in all legal matters pertaining to the rights, obligations, property, property rights, administration, and officers of Midway City.

2. Have charge and conduct on the City's behalf all litigation and prosecutions by the City for violation of any City ordinance.

3. Prepare and draft all ordinances and resolutions of the City Council when requested.

4. Draw any deeds, leases, contracts, or other papers and forms required by the business of the City when requested to do so by the Mayor or City Council or the head of any department.

5. Furnish written opinions and advice when requested by the head of any department pertaining to the business or interests of the City.

6. Attend the meetings of the City Council, but such attendance upon any given meeting may be waived by the City Council at its election.

7. Advise and counsel the City Council and the members thereof and all other officers of the City upon such questions of law pertaining to the business, property, and all affairs of the City as may from time to time arise.

8. Prosecute and defend in all courts all actions against any officer or agent of the City because of his or her official acts.

9. Take appeals or sue out writs of error on behalf of the City or any officer as set out in this Chapter with the consent and approval of the Mayor.
10. Make the necessary affidavits and certifications on behalf of the City in any and all proceedings.
11. Keeps a record showing all claims placed with the City Attorney for collection. The City Attorney shall also keep a docket in which he or she shall keep a record of suits pending and the proceedings had therein.

Section 2.01.070 City Engineer

A. The Mayor with the advice and consent of the City Council shall from time to time appoint a qualified person or firm who shall have a valid professional license in the state of Utah to the office of City Engineer. The City Engineer shall represent the interests of the City under the direction of the Mayor and shall have those powers and duties set forth in the current version of the Utah Code, as amended, and also those powers and duties set forth in City ordinances, resolutions, and policies that are not inconsistent with State Law.

B. The City Engineer shall:

1. Provide review, comment, and technical support as requested relative to the maintenance of City facilities, including roads, water and other public works, as well as for new construction of public infrastructure facilities with the City to protect the health and welfare of all City residents.
2. Attend all meetings of the City Council and Planning Commission.
3. Advise the governing body and all officers of the City on engineering matters as requested.
4. Review and provide comments on all development plans and projects brought before the Planning Commission and other City committees and boards as requested.
5. Supervise bonding and construction of improvements to privately owned projects, subdivisions, resorts and businesses which are regulated by the City to insure compliance with applicable City Codes and Federal and State laws, regulations and policies.
6. Shall cooperate with the City Planning Office and the Public Works Office and shall provide written reports and evaluations.
7. Exercise all authority granted by the City under contracts as approved by the City Council from time to time.

Section 2.01.080 City Planning Administrator

The City Planning Administrator shall:

- A. Advise the City Council and Planning Commission regarding regulation of and requests for development and re-development and other matters as assigned by the Mayor and City Council.
- B. Coordinate and supervise work preparation by staff.
- C. Prepare documents for presentation to the City Council and Planning Commission.
- D. Represent the Planning Commission in reporting recommendations from and action taken by said body.
- E. Assist the Mayor, the Mayor Pro-tem, and the City Council in the exercise of their duties.

Section 02.01.090 Zoning Administrator Appointed

A. The City Council shall appoint a Zoning Administrator, usually the Planning Administrator, who shall be charged with the administration and enforcement of this Ordinance. The governing body may also appoint other officers to assist in the administration and enforcement of this Ordinance.

B. Powers and Duties of Zoning Administrator:

1. It shall be the duty of the Zoning Administrator to administer, enforce and interpret, when required, the provisions of this Ordinance. He or she shall enforce all the provisions of this Ordinance, entering actions in the courts when necessary; the failure to do so shall not legalize any action in violation of such provisions.
2. The Zoning Administrator shall also refer matters to the City Attorney and City Council as set forth in this Ordinance.

(2010-02, Section Added, eff. 1/27/2010)

CHAPTER 2.02 CITY COUNCIL MEETINGS

Section 2.02.010 General Provisions

Section 2.02.020 Presentation of Agenda Items

Section 2.02.030 Form and Character of Motions

Section 2.02.040 Requirements for the Submission of Requests

Section 2.02.050 Documents Submitted to the City Council

Section 2.02.060 Public Notice

Section 2.02.070 Conduct of Members of the City Council

Section 2.02.010 General Provisions

A. The City Council shall meet as set forth in the annually adopted notice of meeting schedule, to conduct its duly appointed business.

B. A special meeting for any purpose may be held on the call of the Mayor or two members of the City Council. The City Recorder, in accordance with the provisions of City Code and State Law, shall notify City Council members and the public of such meetings.

C. A quorum of the City Council shall consist of three voting members. A quorum shall be necessary to conduct business.

D. A failure to vote by a member shall be counted as an abstention.

E. Unless approved by the Mayor or three voting members of the City Council, the City Council will follow the published agenda for that meeting.

F. The Mayor shall not vote or make motion except in those instances provided in the current version of the Utah Code as amended.

G. An item may be placed on the agenda by the Mayor or two City Council members.

H. Meetings will be governed by the current version of the Utah Code as amended and by the parliamentary rules as outlined in the current edition of *Roberts Rules of Order*.

Section 2.02.020 Presentation of Agenda Items

A. No person shall be permitted to speak unless recognized by the Mayor, who shall designate time limits to persons permitted to speak on any matter properly before the City Council. Each person speaking before the City Council shall first state his/her name, address, and then the substance of his/her remarks.

B. Matters before the City Council shall be presented in the following manner, unless otherwise directed by the Mayor.

1. Presentation by staff.
2. Presentation by applicant.
3. Comments from the public, where appropriate (decided by the Mayor).
4. Comments and questions from the City Council.

5. Further comments by applicant and public.
6. Concluding comments and recommendations from staff.

Section 2.02.030 Form and Character of Motions

- A. Upon review of the public record on a request and due deliberation among the members of the City Council, any member of the City Council, except the Mayor, may make a motion. The motion shall include not only the direction of the motion (table, continue for further investigation, return to referring body for further study, approval, approval with conditions, or denial), but also a recitation of the specific findings and conclusions supporting each motion.
- B. A second shall be required for each motion (a motion shall die in absence of a second).
- C. Discussion and amendments on the motion may then follow.
- D. Reconsidering a motion enables a majority to bring back for further consideration a motion which has already been voted on. The purpose of reconsidering a vote is to permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a changed situation that has developed since the taking of the vote. It can be made only by a member who voted with the prevailing side.

Section 2.02.040 Requirements for the Submission of Requests

- A. The City Council may adopt standard forms for the submission of requests.
- B. All request submissions shall be made and supporting documentation provided no later than 5 p.m., ten business days preceding a regular City Council meeting. Submissions that are incomplete as of said deadline shall be cause for the Mayor to withhold the submission from the City Council agenda. Any exceptions to this provision shall be approved at the sole discretion of the Mayor.
- C. The City Recorder and the Planning Director shall verify the completeness of requests and, whenever possible, make staff reports available to the City Council no later than 5 p.m., five days preceding a regular City Council meeting.
- D. The City Council may adopt a fee schedule for the submission of requests to cover staff review, processing, duplication, notices, and distribution of requests and related documents.

(2018-21, Section Added, eff. 8/8/2018)

Section 2.02.050 Documents Submitted to the City Council

- A. Any and all materials submitted to the City Council regarding a request shall be entered into the public record unless privileged pursuant to governing law.
- B. All notices, agendas, requests, letters or reports, staff reports, minutes of meetings, ordinances, and resolutions of record shall constitute the documents of the City Council.

Section 2.02.060 Public Notice

A. Notice for all public hearings, work sessions, special meetings, and regular meetings shall conform to requirements of State law and City Code.

B. The regular meeting schedule for the calendar year following shall be determined at the first City Council meeting in January.

Section 2.02.070 Conduct of Members of the City Council

A. The Mayor and members of the City Council shall prepare themselves for hearings and meetings.

B. The Mayor and members of the City Council shall attend at least 60 percent of the City Council meetings within a calendar year, unless excused by the Mayor or Mayor Pro-tem. Failure to do so may be deemed by the City Council as cause for reduction in pay.

C. City Council members shall comply with the current version of the Utah Officers and Employees Ethics Act as amended.

CHAPTER 2.03 MIDWAY CITY ADVISORY BOARDS, COMMISSIONS, AND COMMITTEES

Section 2.03.010 Application

Section 2.03.020 Committees Named

Section 2.03.030 Committee Officers and Duties

Section 2.03.040 Mode of Appointment and Filling Vacancies

Section 2.03.050 Meetings

Section 2.03.060 Quorum and Conduct of Meetings

Section 2.03.070 Order of a Regular Meeting

Section 2.03.080 Order of a Public Hearing

Section 2.03.090 Minutes

Section 2.03.100 Conduct of Commission Members

Section 2.03.110 Conduct of Persons before the Commission

Section 2.03.120 Form and Character of Motions

Section 2.03.010 Application

This Chapter shall apply to all City Commissions, Boards, and Committees unless specifically noted in their respective Title 2 Section.

Section 2.03.020 Committees Named

This Section shall pertain to the following advisory boards, commissions, and committees within Midway City (all Commissions, Boards, Agencies, Authorities, and Committees shall be hereinafter referred to in this Chapter as the “Commission”):

- A. Planning Commission.
- B. Board of Adjustment.
- C. Trails Advisory Committee.
- D. Vision Architectural Committee.
- E. Community Development and Renewal Agency.
- F. Historic Preservation Committee.
- G. Municipal Building Authority

Section 2.03.030 Committee Officers and Duties

- A. Chair.
 1. Presides at all meetings of the Commission.
 2. Calls special meetings of the Commission in accordance with these by-laws.
 3. Signs all documents of the Commission.
 4. Appoints all sub-committees, with the aid and concurrence of the Vice Chair.

5. The Chair should remain as non-partisan as possible and conduct the meetings in a fair manner. The Chair may vote to break a tie vote or to make a tie vote.

B. Vice-Chair. The Vice-Chair shall perform all duties of the Chair in the absence of the Chair and in the event the office of the Chair is vacated the Vice-Chair shall succeed to the office until the next meeting.

C. Secretary.

1. Shall keep pertinent public records, including the minutes, of all meetings of the Commission.
2. Deliver communications, petitions, reports, and related items of business to the Commission.
3. Prepare the agenda, with the advice of the Chair, and issue notices of public hearings and meetings.
4. Perform related administrative duties to assure efficient and informed Commission operations.
5. In the event the Secretary is absent, the Chair, or acting chair, shall appoint a temporary secretary for such meeting.
6. The Secretary need not be a member of the Commission and may be a member of the City's administrative staff.

D. Legal Counsel. The City Attorney or his/her designee shall be the legal counsel for the Commission.

Section 2.03.040 Mode of Appointment and Filling Vacancies

A. Any vacancy in the Commission membership shall be advertised in a newspaper of general circulation, posted in three public places and on the official Midway City web site. Applications shall be accepted for a minimum of 14 days following the advertisement and posting. The Mayor, with the advice and consent of the City Council, shall appoint a new Commission member after appropriate review of the applications and interviews. Reappointments of existing Commission members may be made without advertising the vacancy.

B. Commission members shall be selected in accordance with the following policy adopted by the City Council.

1. Commission members shall be full time residents and have lived in Midway City for a period of at least one year immediately prior to their appointment.
2. In making appointments to the Commission, the Mayor and the City Council will assure diversity in the membership to the extent practicable by considering all relevant factors such as geographic diversity, socioeconomic factors, cultural influences, and similar criteria.
3. Commission members shall be selected without respect to political affiliation.

C. The Mayor, with the advice and consent of the City Council, shall fill the unexpired term of any member whose office becomes vacant.

1. 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 60 days.
2. A member's office automatically becomes vacant if the member misses more than 25 per cent of the Commission's scheduled meetings during any twelve 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.

3. Any member may be removed for cause by the City Council upon written charges and after a public hearing, if such a hearing is requested by the Commission member.

Section 2.03.050 Meetings

A. Regular meetings of the Commission shall be held at either the City Community Center, located at 160 West Main Street, or at the City Office building, located at 75 North 100 West.

1. Regular meeting dates for the year will be posted in the City Office Building, on the official Midway City web site, and published as required by the Open and Public Meetings Act, Utah Code.

2. Any changes in date or time of the regular meeting shall be posted and noticed in the same manner at least 24 hours prior to the scheduled meeting. The final agenda for all meetings must be posted in the City Office Building and on the City web site at least 24 hours prior to the scheduled meeting.

B. Work meetings or field trips may be called by the Chair, or by a quorum of the Commission, if required to complete their work.

1. Public notice requirements for these meetings will be the same as for a change in schedule of a regular meeting.

2. The Commission may discuss and deliberate any agenda item in a work meeting but may act on an item only if the item is described on the agenda as an action item.

C. Submission of applications and requests to be placed on meeting agendas.

1. All submittals to the Commission shall be due to the City a minimum 15 days prior to the regular meeting for which it will be scheduled.

2. All supporting materials for applications and requests scheduled for Commission action at a given meeting shall be available to the Commission at least seven days prior to the meeting.

Section 2.03.060 Quorum and Conduct of Meetings

A. In order for the Commission to conduct business or take any official action, a quorum consisting of the majority of the voting members of the Commission shall be present. When a quorum is not present no official action, except for closing of the meeting, may take place. The members of the Commission may discuss matters of interest, but can take no action until the next regular meeting. All public hearings without a quorum shall be rescheduled for the next regular or special meeting.

B. The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Commission meeting in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Commission may adopt.

C. No matter shall be placed on a Commission agenda until staff findings and supporting documentation are sufficiently complete to support meaningful deliberation and probable action.

D. Each posted agenda item shall be discussed during the scheduled meeting or moved to a specified future meeting.

E. Motions shall be read by the Chair before a vote is taken. The names of the person who seconded the motions shall be recorded.

F. Each member of the Commission shall have one vote. An affirmative vote of the majority of the Commission, shall be required for the approval of any motion or required action placed before the commission. Voting shall be a voice vote; however a roll call vote may be requested by any member of the Commission.

G. Any member who recognizes that he or she may have a possible conflict of interest relative to a matter on the Commission or Advisory Board agenda shall disclose his or her interest publicly before that matter is heard and shall excuse him or herself and leave the room during the Commission's or Advisory Board's deliberation and vote on that matter.

H. A written notice containing the final decision of the Commission and signed by the Chair will be sent to the petitioners and the originators of any action and/or request.

I. All meetings of the Commission shall be open to the general public. All deliberations and decisions of the Commission shall be at a meeting open to the public. Any interested person shall be permitted to address a public hearing under the rules contained in this Title.

(2018-09, Section G. Amended, eff. 3/28/18)

Section 2.03.070 Order of a Regular Meeting

The order of the Regular Meeting shall be as follows:

A. Opening remarks or invocation / Pledge of Allegiance.

B. Call to order and determination of quorum.

C. Approval of the minutes of the previous meeting.

D. Address items carried over from a previous agenda and new items on the present agenda. Items on the agenda will be arranged to accommodate participant and public interest if possible.

E. For agenda items that, pursuant to its assigned duties, will result in a Commission recommendation to the Midway City Council, the Chair shall call for:

1. Presentation by staff summarizing its findings and recommendations relevant to the item.
2. Testimony of boards and committees (water, sanitation, trails ...) relating to the item.
3. Presentation by the applicant/petitioner.
4. Commission discussion.

The Chair:

a. Opens the commission discussion and outlines possible action; approval, approval with conditions, continuation, or denial.

i. The Commission discussion is closed to the applicant/petitioner and public unless the Commission requests additional information.

ii. If additional information is required, the Chair may, as he or she deems appropriate, allow public comment to seek the needed information. The Chair should insure responses are limited and focus on the information requested.

b. Closes the Commission discussion portion of hearing.

5. Decision.

The Chair:

a. Summarizes the possible Commission action discussed.

b. Invites a motion and a second.

c. Entertains discussion/amendment of the motion.

d. After completion of any discussion/amendment, restates the motion and calls for a vote of the Commission.

e. Votes, if necessary, to break a tie.

f. Announces the decision to the applicant/petitioner, Commission and the public in attendance.

g. Insures that the applicant/petitioner understands the decision and the options open to them if there is any question or disagreement with the decision.

F. Other business. At the discretion of the Chair, a topic raised by the public may be discussed during the meeting, except the Planning Commission may not take final action on a topic that was not listed as an agenda item in the required meeting notice.

G. Review of the Commission calendar.

H. The Chair requests a motion to adjourn.

Section 2.03.080 Order of a Public Hearing

A. A sign-in sheet shall be circulated to all attending a public hearing. The sign in sheet should be made available to all attending prior to the hearing.

B. The order of the Public Hearing shall be as follows:

1. Call to order and determination of quorum.

2. Presentation by staff summarizing issues relevant to item.

3. Testimony of agencies (water, sanitation ...) relating to the item.

4. Presentation by the applicant/petitioner

5. Public comment portion of hearing.

C. The Chair shall:

1. Request written comment from the public.

2. Invite the public to comment.

3. Invite the applicant/petitioner to respond.

4. Invite staff to respond.

D. Close the Public Hearing.

Section 2.03.090 Minutes

A. Written minutes and recordings of open meetings are public records.

B. Minutes shall be prepared and presented to the Commission for their review, clarification or correction and approval prior to release and distribution to other entities.

C. The written minutes as approved shall be the official record of action taken at the meeting.

D. The minutes shall contain:

1. The names of Commission members present and absent.
2. The date, time and place of the meeting.
3. A summary of all matters discussed and/or decided by the Commission. This summary shall include:
 - a. The name and the substance of any testimony or comments received from any person recognized by the Chair who is not a member of the Commission (staff, the applicant or other interested parties).
 - b. The substance of comments made by members of the Commission.
 - c. A brief summary of any alternative decisions/actions considered by the Commission.
 - d. A restatement of all motions, a complete itemization of all conditions or recommendations associated with each of the motions and a record, by individual member, of each vote taken by the Commission.

E. A copy of communications resulting from recommendations, resolutions or actions of the Commission at the meeting shall be attached to the minutes.

F. Final written and approved Commission minutes shall be kept in perpetuity. Any electronic recording from the meeting shall be kept by Midway City for one year.

Section 2.03.100 Conduct of Commission Members

A. State statutes, including, but not limited to, the Utah Officers and Employees Ethics Act, and this Title, shall govern the behavior of the Commission and its members.

B. Upon taking office, all members of the Commission shall familiarize themselves with the applicable statutes, Titles and rules and, while in office, shall maintain such knowledge, including knowledge of amendments and additions, and shall be strictly governed thereby in the conduct of Commission affairs.

C. Rules for ethical conduct are set forth below for the four principal areas of concern: conflict of interest, gifts and favors, treatment of information, and political activity. These rules are as follows:

1. Conflict of interest:

- a. Conflict of interest exists if a commissioner might derive some private benefit as the result of a Commission action. The private benefit may be direct or indirect, create a material personal gain or provide an advantage to relatives, friends or groups and associations which hold some share of a person's loyalty. Mere membership in a group or organization shall not be considered a conflict of interest in and of itself. However if membership, or participation, in such a group or association would lead a reasonable person to conclude that such membership would prevent an objective consideration of a particular matter the Commission should consider the possibility and make a determination prior to discussion or action.

b. State law requires that a public official experiencing a conflict of interest declare the conflict publicly. A commissioner with a conflict shall abstain from voting on the action in question and leave the room during consideration of the action and vote. The commissioner should not discuss the matter privately with any other commissioner.

c. If any member of the Commission has reasonable cause to believe another member has failed to disclose actual or possible conflicts of interest, they shall inform the Chair of the basis for such a belief. The Chair shall then inform all members of the commission and afford the member an opportunity to explain the alleged failure to disclose. If after hearing the member's response, and making further investigation when warranted by the circumstances, the Commission determines that the member has failed to disclose an actual conflict of interest it shall take appropriate disciplinary and corrective action.

2. Gifts and Favors. Gifts, favors or advantages must not be accepted if they are offered because the receiver holds a position of public responsibility. The best rule to follow regarding gifts and favors is, in cases of doubt, refuse.

3. Treatment of Information. Reports and official records of the Commission must be open on an equal basis. It is important to distinguish between information that belongs to the public and information that does not.

a. Information should not be furnished to some unless it is available to all.

b. Information or private affairs learned in the course of performing duties must be treated in confidence. Private affairs become public affairs when an official action, such as a change in zone classification or approval of a plat, is requested. Only then is a disclosure of relevant information proper.

c. Partisan information on any application received by a commissioner, whether by mail, telephone, or other communication should be made part of the public record.

4. Political Activity. Membership in a political party and contributions to its finances or activities are matters of individual choice and should neither be required of, nor prohibited to commissioners.

a. The extent of participation in political activities should be governed by prudent judgment as well as limited by an applicable civil service law or regulations.

b. The special position of a commissioner should not be used to obtain contributions or support for a political party and should not favor partisan interests.

D. Ex Parte Contact. Ex Parte is a Latin term meaning "From a one-sided or partisan point of view." Although a member of the legislative body may gather information from many sources to augment his/her decision-making role, this activity is limited for an administrative body, such as a planning commission.

1. Prearranged private meetings between a commissioner and applicants, their agents, or other interested parties are prohibited.

2. There will be occasions when a commissioner will be contacted by an applicant whose issue is on the agenda for a forthcoming meeting. The contact may be an innocent desire to provide information, or a less than innocent attempt to influence the commissioner's decision. In either case, the commissioner should inform the applicant that a commissioner is not at liberty to discuss the matter - or inform the applicant that any information received by the commissioner must be shared with all at the public meeting, before deliberation on the issue.

3. Disclosure is also expected from a commissioner who might uncover additional information or insight by personal observation. The commissioner should bring this information to the meeting and present it during the discussion.

E. Other Conduct. Expression of bias, prejudice or individual opinions on matters coming to the Commission for consideration prior to hearings and determination of action is prohibited.

F. Disciplinary Action. Members of the Commission may, after a hearing, be removed by the City Council for neglect of duty or malfeasance.

Section 2.03.110 Conduct of Persons before the Commission

A. Regular meetings of the Commission will be conducted according to Roberts Rules of Order. Members of the public attending these meetings are expected to remain silent, unless specifically invited by the Chair to speak. However, an equitable opportunity to be heard is an essential part of procedural due process. The Commission Chair shall be attentive to those circumstances when interested persons should be given an opportunity to supply evidence to support their position.

B. Members of the public have an obligation to remain in civil order.

1. The Chair should assure that participants are aware that a public meeting is called and conducted in an orderly manner to accept pertinent points of view, dispense information and assure that the public interest is balanced with individual rights.
2. Any conduct which interferes with the equitable rights of another to provide comments or which interferes with the proper education of Commission affairs may be ruled by the Chair to be “out of order” and the offending person requested to remain silent.
3. If a person persists in uncontrolled emotional or disorderly conduct the Chair should firmly request said person to leave the meeting. If said person refuses to leave he may be escorted out or law enforcement may be summoned.

C. Public Clamor. A strongly expressed protest or demand, typically from a large number of people.

1. The Commission should be prepared to manage any breach of decorum which might arise during its meetings.
2. Members of the Commission should resist the potential of becoming unduly influenced by persuasive, but irrational comments or actions.
3. A “straw vote” of attendees should not be taken as a true representation of the entire community.

Section 2.03.120 Form and Character of Motions

A. Upon review of the public record on a request and due deliberation among the members of the Commission, any member of the Commission, except the Chair, may make a motion. The motion shall include not only the direction of the motion (table, continue for further investigation, return to referring body for further study, approval, approval with conditions, or denial), but also a recitation of the specific findings and conclusions supporting each motion.

B. A second shall be required for each motion (a motion shall die in absence of a second).

C. Discussion and amendments on the motion may then follow.

D. Reconsider a motion. Reconsidering a motion enables a majority in an assembly, to bring back for further consideration a motion which has already been voted on. The purpose of reconsidering a vote is to permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a changed situation that has developed since the taking of the vote. It can be made only by a member who voted with the prevailing side.

CHAPTER 2.04 PLANNING COMMISSION

Section 2.04.010 Introduction, Purpose, and Name

Section 2.03.020 Number and Terms of Members

Section 2.03.030 Authority and Duties

Section 2.04.010 Introduction, Purpose, and Name

A. Introduction. The Land Use Title 16, was designed and adopted for the purpose of meeting specific requirements set forth by the Utah Code.

B. Purpose. Chapter 2.03 constitute the bylaws to govern the structure, meetings, and operation of the Planning Commission

C. Name. The name of the organization shall be the Midway City Planning Commission.

Section 2.04.020 Number and Terms of Members

The Planning Commission membership shall consist of seven members and up to two alternates.

A. Regular Members. The terms of regular members shall be three years. Two consecutive three-year terms shall be the limit for regular membership. Partial terms shall not be considered in determining whether a person has served two consecutive terms.

B. Alternate Members. Whenever a regular member is absent, the Chair shall designate an alternate member to vote in the absent member's place. There are no limitations to the number of terms an alternate member may serve.

C. If an alternate member is not available the term of a regular member may be extended until a successor is chosen and qualified; except in the case of the member's death, resignation, removal or disqualification from holding office.

Section 2.04.030 Authority and Duties of the Planning Commission

The Midway City Planning Commission is authorized to fulfill the following duties:

A. Make recommendations to the Midway City Council for:

1. The adoption of or amendment of the general plan.
2. The adoption of or amendment of the Land Use Title, zoning maps and other official maps.
3. Before the Commission can give a favorable recommendation for the adoption of or amendment of any of the above documents it must be shown the proposed recommendation will:
 - a. Not be contrary to the intent of the general plan or land use ordinance.
 - b. Not militate against the fulfillment of any other provisions of the general plan.
 - c. Not decrease nor adversely affect the health, safety, convenience, morals or general welfare of the public.
 - d. More fully carry out the intent and purpose of the land use ordinance.
 - e. Balance the interest of the petitioner with the interest of the public in general, both interests being served better by adopting such an amendment.

4. In considering a request for adoption of or amendment to an element of the Land Use Ordinance or Zoning Map the Planning Commission may submit to the City Council a recommendation for or against the requested change or it may submit an alternate proposal.

B. Hear and make recommendations to the City Council on land use applications. They shall review and recommend approving, disapproving, or approving subject to conditions, requests for permits to construct subdivisions, PUD's, manufactured home parks, recreational camps and resorts, and recreational vehicle courts, in accordance with the City's land use regulations. To accomplish these tasks the Commission shall implement an application process that:

1. Shall protect the right of:

a. Each applicant or affected third party to require formal consideration of any land use application.

b. Each participant in a public hearing to be heard in the case of a contested land use application.

2. May include a designation of routine land use matters that, upon application and proper notice, receive informal streamlined review and action if the application is uncontested.

CHAPTER 2.05 BOARD OF ADJUSTMENT

Section 2.05.010 Board of Adjustment Created, Members, Terms

Section 2.05.020 Powers and Duties

Section 2.05.030 Authority Limited

Section 2.05.040 Vote

Section 2.05.050 Application to Appear before the Board

Section 2.05.060 Procedure

Section 2.05.070 Hearings

Section 2.05.080 Action

Section 2.05.090 Recourse from Decision

Section 2.05.010 Board of Adjustment Created, Members, Terms

A. There is hereby created a Board of Adjustment, which shall consist of three members, each to be appointed by the Mayor, with the advice and consent of the City Council.

B. The term of office for members of the Board of Adjustment shall be five years.

C. 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.

D. No person shall serve more than two consecutive terms on the Board of Adjustment. Partial terms shall not be considered in determining whether a person has served two consecutive terms.

(2014-13 Section Amended, eff. 08/13/2014)

Section 2.05.020 Powers and Duties

The Board of Adjustment shall have the power to authorize such variance from the terms of Title 16 as provided and governed by the Municipal Land Use Development and Management Act.

Section 2.05.030 Authority Limited

The powers and duties of the Board of Adjustment are limited to granting or denying variances as set forth in the Utah Municipal Land Use Development and Management Act. The Board of Adjustment shall not have the authority to amend Title 16 nor to correct what it may consider to be an unwise requirement.

Section 2.05.040 Vote

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

Section 2.05.050 Application to Appear before the Board

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 45 days of the decision being appealed. The request to appear before the Board of Adjustment shall be made on forms furnished by the Zoning Administrator at least 15 days prior to the date of the hearing on the appeal.

Section 2.05.060 Procedure

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 60 days. Failure to return said application within 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.

Section 2.05.070 Hearings

The Board of Adjustment shall establish a reasonable time for the hearing of the appeal and give public notice thereof by publication as required by State Law and the Midway City Municipal Code. 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.

Section 2.05.080 Action

The Board of Adjustment shall make determinations in harmony with the intent of Title and shall notify the appellant and Zoning Administrator of the action taken within ten days following their decision.

Section 2.05.090 Recourse from Decision

Any person aggrieved by any decision of the Board of Adjustment may have and maintain a plenary action for relief there from 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.

CHAPTER 2.06 TRAILS AND PARKS ADVISORY COMMITTEE

Section 2.06.010 Jurisdiction

Section 2.06.020 Appointment and Terms of Members

Section 2.06.030 Staff of the Trails and Parks Advisory Committee and their Duties

Section 2.06.040 Requirements for the Submission of Requests

Section 2.06.050 Reports of Action

Section 2.06.060 Adoption of and Changes Affecting the Trails System Master Plan

Section 2.06.070 Trails Standards

Section 2.06.080 Parks Planning Scope and Work

Section 2.06.090 Adoption of and Changes Affecting the Community Parks Plan

Section 2.06.010 Jurisdiction

The physical jurisdiction of the Trails and Parks Advisory Committee is the Midway City limits.

Section 2.06.020 Appointment and Terms of Members

A. The Trails and Parks Advisory Committee shall consist of seven voting members.

B. Membership shall be as follows:

1. Chair
2. Vice chair
3. Five regular members
4. Two alternate members (votes only when needed if any voting members are not available)
5. Member of the City Council (nonvoting)

C. The terms of office for the seven appointed Trails and Parks Advisory Committee members shall be four years. Any vacancies in these positions shall be filled by a recommendation to and confirmation by the City Council. The appointment will be for the remaining time of the member whose vacancy is being filled. Two consecutive four-year terms shall be the limit for regular membership. Partial terms shall not be considered in determining whether a person has served two consecutive terms.

Section 2.06.030 Staff of the Trails and Parks Advisory Committee and their Duties

A. Planning Director or his/her designee.

1. Shall advise the Trails and Parks Advisory Committee regarding regulation of and requests for development and re-development, financial concerns, and other matters.
2. Coordination and supervision of work prepared by City staff.
3. Prepare all documents for presentation to the Trails and Parks Advisory Committee.

Section 2.06.040 Requirements for the Submission of Requests

A. The Trails and Parks Advisory Committee may adopt standard forms for the submission of requests.

All requests shall have reasonable advance time requirements.

B. The Planning Director or his/her designee shall certify completeness of requests.

Section 2.06.050 Report of Action

A. A “Report of Action of the Trails and Parks Advisory Committee” shall be forwarded on to the City Council. Said report shall contain:

1. The name of the person making the motion and the second.
2. The contents of the motion, including all findings of fact.
3. The vote of each member.

Section 2.06.060 Adoption of and Changes Affecting the Trails System Master Plan

For the adoption of, and anytime the Trails and Parks Advisory Committee would make a decision affecting or changing the Trails System Master Plan, the Committee shall send recommendations to the Planning Commission and City Council. These bodies will then hold public hearings to take public input before adopting or making any amendment to the Plan. The Committee may make a formal presentation at the public hearings regarding its recommendations.

Section 2.06.070 Trails Standards

The Committee may recommend construction standards for the construction of various types of trails within the City. These standards and any amendments to the standards shall be forwarded to the City Council for adoption. The City Council may adopt the standards or changes as presented, with modifications, deny approval, or send the recommendation back to the Committee for revision.

Section 2.06.080 Parks Planning Scope and Work

The Trails and Parks Advisory Committee will create a Parks Plan Assessment which will review the City’s Master Park Plan and each individual park’s master plan. The Committee will make site visits to review facilities for site conditions and to review additions that may be added to a park’s master plan. The Committee will also organize and hold charrettes and open houses to gather public comment from the public about park planning, operations and facilities.

Section 2.06.090 Adoption of and Changes Affecting the Community Parks Plan

For the adoption of, and anytime the Trails and Parks Advisory Committee would make a decision affecting or changing a community park’s master plan, the Committee shall send recommendations to the City Council. The City Council will then hold a public hearing to take public input before adopting or making any amendment to the plan. The Committee may make a formal presentation at the public hearing regarding its recommendations.

2017-10, Section Amended eff. 6/28/17); 2017-18, Section Amended, eff. 10/25/17)

CHAPTER 2.07 VISION ARCHITECTURAL COMMITTEE

Section 2.07.010 Establishment

Section 2.07.020 Authority

Section 2.07.030 Procedures

Section 2.07.010 Establishment

There is hereby established a Vision Architectural Committee (hereinafter known as the “VAC”) for Midway City. Members. The VAC shall consist of five members appointed by the Mayor, with the advice and consent of the City Council. Two consecutive four-year terms shall be the limit for membership. Partial terms shall not be considered in determining whether a person has served two consecutive terms.

Section 2.07.020 Authority

As set forth herein, the VAC is responsible for reviewing development proposals, commercial building permit applications, and sign permit applications, and making recommendations to foster compliance with the City’s Vision Statement and adherence to the City’s architectural guidelines and standards.

A. Development Proposals. The VAC shall be responsible to act pursuant to any City ordinance standard, or policy that requires review and approval of a development proposal of six lots or more for compliance with the City’s Vision Statement, qualification for Swiss-European density bonus, or other development architectural compliance criteria. The VAC shall make a recommendation on any such proposal and forward its recommendation to the Planning Staff who shall compile and send the information to the Planning Commission, and then ultimately to the City Council, which is the City’s land use authority for development proposal decisions.

B. Commercial Building Permits. The VAC shall be responsible to act pursuant to any City ordinance standard, or policy that requires review and approval of commercial building plans and/or designs for compliance with the City’s Vision Statement and/or other architectural guidelines. The VAC shall make a recommendation on any such building permit application and forward its recommendation to the Planning Director, who is the City’s land use authority for building permit decisions.

C. Sign Permits. The VAC shall be responsible to act pursuant to any City ordinance standard, or policy that requires review and approval of plans and/or designs for a sign to be placed anywhere within the City. The VAC shall make a recommendation on any such sign permit application and forward its recommendation to the Planning Director, who is the City’s land use authority for sign permit decisions.

D. Design Element Guidelines. The VAC shall have the authority to compile and publish design element guidelines for use by the VAC and by applicants in accomplishing the purpose of the provisions contained herein.

Section 2.07.030 Procedures

Review and recommendation by the VAC shall be governed by the following provisions:

A. **Optional Pre-Review.** If desired, an applicant may obtain feedback from the VAC before his/her formal plan submittal. To arrange for a preliminary feedback session, the applicant may submit initial concept drawings prior to furnishing a complete set of plans and blueprints to the VAC. The applicant may then schedule a time to meet with the VAC at the initial concept phase to receive initial feedback, comments, and suggestions to help the applicant understand how he/she can best comply with the required standards and ordinances. Any materials should be submitted at least eight days prior to the proposed meeting time. At the pre-review meeting, the applicant will be asked to utilize and incorporate any design elements set forth in the VAC Design Element Guidelines that are appropriate given the size and scope of the project.

B. **Application.** All applications shall be accompanied by a complete set of plans clearly defining the construction, changes, alterations, or remodeling, as applicable, and stating the proposed location, dimensions, and types of construction and design. The plans and blueprints shall be drawn to scale. If applicable, the plans shall clearly define the roofing and siding materials to be used and also the finish, paint color, or other materials to be used or applied on all exterior walls and trims. The plans shall also state a proposed date of commencement and completion of the project. The submitted plans shall become the property of Midway City upon submission. The Planning Department and/or the VAC may request that the applicant supply additional reference material to support and/or explain any submitted materials.

C. **Formal Review.** The formal review meeting is scheduled by the Planning Department in consultation with the applicant. The application and all required materials must be submitted to the Planning Department at least 14 days prior to the formal review meeting. The applicant or a representative is required to attend the formal review meeting and any subsequent meeting of the VAC regarding the applicant's project.

D. **Criteria.** The goal of the VAC is to gain the support of the local citizens, business owners, builders, and developers in achieving the City vision. Part of that vision is represented in the following statement: "...the intent of this ordinance is to paint a vision that will guide the growth and new development within the City...it is envisioned that Midway's Main Street, as well as her resort areas, will attain the look and feel of a Swiss village with a rustic charm, quaintness, and beauty that will be in harmony with the natural setting. It is vital that new growth and development conform to this vision." To foster this vision, the VAC will evaluate projects as follows:

1. After the application has been properly submitted to the Planning Department, the applicant will have the opportunity to present the project to the VAC at the formal review meeting.
2. The VAC will evaluate the project to ensure consistency with the City's Vision Statement, utilizing the Design Element Guidelines as a reference. The project will be given an overall rating and recommendation.
3. Each project will be evaluated based on the following criteria: one-third (1/3) of rating based on quantity of elements included; one-third (1/3) of rating based on quality of elements included; and one-third of rating based on consistency of the plan with the City's Vision statement and compatibility with existing structures.
4. The formal review meeting may be continued by the VAC to a later date if necessary and reasonable under the circumstances.

E. Notification. The applicant will be notified as soon as possible, but in any event no later than five business days after the formal review meeting (or continuance thereof), of the rating and recommendation of the VAC based on the formal review.

F. Second Formal Review. If the applicant is not satisfied with the rating and recommendation given after the formal review, the applicant may request a second formal review. Before the second formal review, the applicants' plans must be revised to respond to the rating and recommendation of the VAC at the first formal review. Revised materials must be submitted to the Planning Department at least 14 days before the second formal review meeting. The applicant will be notified as soon as possible, but in any event no later than five business days after the second formal review (or continuance thereof), of the rating and recommendation of the VAC based on the second formal review. No proceedings after the second formal review on an application before the VAC are allowed unless approved by the VAC in rare circumstances for good cause shown.

G. Changes. Once a project that was reviewed or was required to be reviewed by the VAC has been granted approval by the appropriate land use authority, no material change shall be made to the project or its plans or design unless the applicant first presents the change to the VAC for review and recommendation.

H. Administrative Approval. Notwithstanding any other provisions contained herein and in Title 16, the Planning Director or designee may administratively approve the design of retaining walls, landscaping structures, landscaping planter sign bases, and similar structures as well as fences or fence-type walls to be located in the commercial or resort zones of the City, when such are not proposed in conjunction with a larger project that would require VAC review and recommendation. Such administrative approval shall be subject to the standards contained in this Title. At the discretion of the Planning Director, the applicant for such administrative approval may nevertheless be required to undergo review and recommendation by the VAC and approval by the applicable land use authority.

CHAPTER 2.08 COMMUNITY DEVELOPMENT AND RENEWAL AGENCY

Section 2.08.010 The Agency

Section 2.08.020 Officers

Section 2.08.030 Employees

Section 2.08.040 Meetings

Section 2.08.050 Amendments of the Bylaws

Section 2.08.010 The Agency

A. Name of the Agency. The name of the Agency shall be the “Community Development and Renewal Agency of Midway City.”

B. Purpose of the Agency. The purpose of the Agency is to exercise any and all powers of a redevelopment agency and the powers granted to a redevelopment agency pursuant to State law and to provide the community and residents of Midway City a community development plan of action that would revitalize and upgrade certain areas of the City with quality developments or redevelopments which are conducive to the long range goals of the City.

C. Governing Board. The governing board of the Agency shall be known as the Board of Directors of the Community Development and Renewal Agency of Midway City. The Board of Directors shall be composed of six members, consisting of the members of the Midway City Council, including the Mayor. Each member shall have one vote except the Mayor, who shall vote only in the case of a tie. At the meetings of the Agency, any Board member may submit such recommendations and information as they may consider proper concerning the business, affairs, and policies of the Agency.

D. Seal of the Agency. The Agency shall have an official seal which the Board of Directors shall approve as to form and style.

E. Office of the Agency. The offices of the Agency shall be at such place in Midway City, Utah, as the Agency may designate.

Section 2.08.020 Officers

A. Officers. The officers shall be as follows: The Mayor shall serve as Chair; the Mayor Pro-tem shall serve as Vice-Chair; and the City Recorder shall serve as Secretary.

B. Executive Director. In the event that the Agency elects to have an Executive Director, the Executive Director shall be appointed by the Chair, with the advice and consent of the Board of Directors of the Agency, and shall serve at the pleasure of the Board of Directors. The Executive Director shall, under the direction of the Chairperson, direct the affairs of the Agency and shall ensure the proper care and custody of all funds of the Agency and shall ensure proper disbursement of and deposit of same in the name of the Agency in or from such bank or banks as the Agency may select. The Executive Director shall prepare and sign all contracts, deeds, resolutions, orders, checks, and other documents made by the Agency, and all such documents shall be signed by the Chair or Vice-Chair. The Executive Director shall ensure the proper keeping of regular books of accounts showing receipts and expenditures, and at times and

intervals as determined or instructed by the Chair or the Board of Directors, the Executive Director shall render to the Agency, at regular meetings or at other times when requested, an account of the transactions and financial condition of the Agency. The Chair, Vice-Chair, and Executive Director shall give such bond for the faithful performance of their duties as the Agency may determine. The compensation of the Executive Director, if any, shall be determined by the Chair, subject to approval of the Board of Directors. The Executive Director, or his/her designee, may keep the records of the Agency and may act as the secretary of the meetings of the Agency and record all votes, and shall keep a record of the proceedings of the Agency and may keep the seal of the Agency and may have the power to affix such seal to all documents authorized to be executed by the Agency. In the event the Executive Director is not appointed, these duties shall be the responsibility of the Chair and the Secretary of the Agency.

Section 2.08.030 Employees

The Chair or Executive Director, if appointed, may from time to time employ such additional personnel as may be necessary to exercise the powers, duties, and functions of the Community Development and Renewal Agency of Midway City, after approval of the Board of Directors of the Agency.

Section 2.08.040 Meetings

A. Annual Meeting. The annual meeting of the Agency shall be held in January, at a time and place set by the Chairperson, usually on the 2nd Wednesday of the month. In the event such date shall fall on a legal holiday, the annual meeting shall be held on the next regular meeting date of the Midway City Council.

B. Regular Meetings. The regular meetings of the Agency may be held monthly or more often or less often as business requires. Official notice will be given of the time and place of the meeting as designated by the Chairperson and as required by law.

C. The Official Book of Resolutions. All resolutions shall be in writing and designated by number, reference to which shall be inscribed in the minutes and a copy of the approved resolution should be filed in the Official Book of Resolutions of the Agency.

Section 2.08.050 Amendments of the Bylaws

The bylaws of the Community Development and Renewal Agency of Midway City shall be amended only with the approval of at least three members of the Board of Directors of the Agency at a regular, annual, or special meeting. No amendment shall be adopted unless at least seven days written notice has been previously given to all members of the Board of Directors. Such notice shall identify the Section or Sections of the bylaws proposed to be amended or Sections to be added.

CHAPTER 2.09 HISTORIC PRESERVATION COMMITTEE

Section 2.09.010 Establishment

Section 2.09.020 Authority and Responsibility

Section 2.09.030 Procedures

Section 2.09.010 Establishment

There is hereby established a Historic Preservation Committee (hereinafter known as the “HPC” for Midway City).

A. Members. The HPC shall consist of seven members appointed by the Mayor, with the advice and consent of the City Council. Members are limited to two consecutive four-year terms. Partial terms shall not be considered in determining whether a person has served two consecutive terms.

B. Meetings: The HPC shall establish a regular time and place of meetings and shall hold no fewer than four public meetings per year. Special meetings may be called by the Chair and adequate notice shall be provided to members and the public. A Report of Action shall be forwarded to the City Council as needed.

Section 2.09.020 Authority and Responsibilities

A. Certificates of Appropriateness. The HPC shall be responsible to review a Certificate of Appropriateness submitted to the Building Safety Department when a permit is required for proposed work on a historic building, structure, object, or site.

B. Standards for Rehabilitation and Design Guidelines. The HPC shall have the authority to compile, publish, and review standards for rehabilitation and design guidelines of historic buildings, structures, objects, and sites, for use by the HPC and by applicants in accomplishing the purpose of the provisions contained herein.

C. Maintenance of the Midway City Historic Register. The HPC shall have the responsibility to maintain the Midway City Historic Register. The City Recorder shall have the responsibility for the location and maintenance of the official register files.

D. Criteria for Designating Properties to the Midway City Historic Register. The HPC shall have the authority to compile, publish, and review the Criteria for Designating Properties to the Midway City Historic Register.

- E. Recommendations for listings to the national and local register.
 1. The HPC shall have the authority to identify, initiate, recommend, review, and approve nominations for eligible buildings, structures, objects or sites to the local register.
 2. The HPC shall recommend and facilitate nominations to the National Historic Register.

F. Certified Local Government Committee. The HPC shall act as the Certified Local Government Committee.

G. Public information. The HPC shall have the responsibility of providing information to the public on historic resources and historic events.

H. Review by HPC. Demolishing, dismantling, relocating, modifying or altering any historic structure requires review by the HPC.

(2010-22, Sub-section Added, eff. 7/28/2010)

Section 2.09.030 Procedures

Review and approval by the HPC shall be governed by the following provisions:

A. Certificates of Appropriateness:

1. Application material must be submitted to the Building Safety Department a minimum of 30 days prior to any scheduled exterior work or permit approval on buildings, structures, sites, or objects built in whole or in part more than 75 years ago, whether or not they are listed on the Midway City Historic Register. The Building Safety Department shall forward the application to the Planning Department. The Planning Department shall forward the application to the Historic Preservation Committee within five days. The Historic Preservation Committee shall review the application with the applicant and make a recommendation and return the application to the Planning Department with recommendations. The Planning Department shall then review the application for zoning compliance and notice and post signs. After all reviews are complete, the application shall be forwarded to the Building Safety Department for permit review and issuance or other processing as necessary.
2. If the owner has presented substantial evidence demonstrating that unreasonable economic hardship will result from denial, the HPC may require the owner to provide additional support information. A site visit by the Building Official and/or the HPC may be required.
3. An applicant who has been denied any permit by the Building Official, based on the HPC's recommendation, may appeal that decision to the City Council. The appeal must be made on or before 30 days after the HPC's decision.

(2010-22, Sub-section Amended, eff. 7/28/2010)

B. Standards for Rehabilitation and Design Guidelines. Rehabilitation means the act or process of returning a building, object, site, or structure to a state of utility through repair, remodeling or alteration that enables an efficient contemporary use while preserving those portions or features of the building, object, site or structure that are significant to its historical, architectural and cultural values. The following standards and guidelines shall be used by the HPC in determining the historic appropriateness of any application pertaining to historic properties whether or not it is listed on the Midway City Historic Register. In reviewing an application for a Certificate of Appropriateness, the HPC shall find that the project substantially complies with all of the following standards and guidelines that pertain to the application and that the decision is in the best interest of the City.

1. Standards of Rehabilitation:

- a. A property shall be used for its historic purpose or placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- b. The historic character of a property should be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

- c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as the addition of conjectural features or architectural elements from other buildings, shall not be undertaken.
- d. Most properties change over time; those changes that have acquired historic significance in their own right should be retained and preserved.
- e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- f. Deteriorated historic features should be repaired rather than replaced. Where the severity or deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials should not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- h. Significant archeological or geological resources that may be affected by a project should be protected and preserved where possible. If such resources must be disturbed, mitigation measures should be undertaken.
- i. New additions, exterior alterations, or related new construction shall not destroy historic materials which characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(2010-22, Sub-section Amended, eff. 7/28/2010)

C. Creation and Maintenance of the Midway City Historic Register. The Midway City Historic Register shall be created by resolution of the City Council. The Register shall list those properties that have met the Criteria for Designating Properties to the Midway City Historic Register, been approved by the HPC, and approved by resolution by the City Council. All information must be made available to the public and routinely maintained by the City Recorder.

D. Criteria for Designating Properties to the Midway City Historic Register. Any building, structure, object, or site may be designated to the Midway City Historic Register if it meets the following criteria:

1. It was built in whole or part over 75 years ago and is located within the municipal boundaries of the City.
2. It is currently listed in the National Register of Historic Places and a copy of the approved National Register application has been placed in the local historic preservation files.
3. If the property is not listed in the National Register, it must retain its historic integrity and meet at least one of the following National Register criteria:
 - a. It is associated with events that have made a significant contribution to the broad patterns of our history.
 - b. It is associated with the lives of persons significant to our past.
 - c. It embodies the distinctive characteristics of a type, period, or method of construction that represents the work of a master.

- d. It possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;
- e. It has yielded, or may be likely to yield, information important in pre-history or history (archeological sites, for example).
- 4. The owner of the property must sign the Criteria for Designating Properties to the Midway City Historic Register and the Standards for Rehabilitation and Design to initiate review of his/her property to the Midway City Historic Register.
- 5. The owner must agree to a minimum level of exterior maintenance.
- 6. If listed on the local register, the Planning Department, upon review, may offer special consideration for parking or conditional use requests.
- 7. At the discretion of the HPC, any building, structure, object, or site that is not 75 years old but is determined to have a historic value to the community, may be designated to the local register.

(2010-22, Sub-section Amended, eff. 7/28/2010)

E. Initiation or reviewing nominations for listings to the local register.

- 1. Nominations must be made by the property owner. The owner of the property must submit and sign the Criteria for Designating Properties to the Midway City Historic Register and the Standards for Rehabilitation and Design Guidelines which must be accompanied by a completed Intensive Level Survey or National Register of Historic Places documentation. Assistance may be available from the HPC.
- 2. The HPC shall place properly submitted nominations on the agenda for its next scheduled meeting and shall notify the nominating party and the property owner in writing, 14 days prior to the meeting that the nomination will be considered.
- 3. The HPC shall review the documentation for completeness, accuracy, and compliance with the Criteria for Designating Properties to the Midway City Historic Register. If recommended by the HPC, a resolution designating the property to the Midway City Historic Register will be given to the City Council for approval.
- 4. Following designation, a notice of such shall be mailed to the owners of record together with a copy of this ordinance. The City Recorder shall record the Midway City Historic Register status designation with Wasatch County Recorder's office. The designation will be in the form of a deed restriction and include an executed copy of the Criteria for Designating Properties to the Midway City Historic Register and an executed copy of the Standards for Rehabilitation and Design Guidelines.

F. Repealed

(2010-22, Sub-section Repealed, eff. 7/28/2010)

G. Repealed

(2010-22, Sub-section Repealed, eff. 7/28/2010)

CHAPTER 2.10 MUNICIPAL BUILDING AUTHORITY

Section 2.10.010 Name of Corporation

Section 2.10.020 Place of Business

Section 2.10.030 Period of Duration

Section 2.10.040 Objectives and Purpose

Section 2.10.050 Governing Board

Section 2.10.060 Officers

Section 2.10.070 Committees

Section 2.10.080 Contracts, Checks, Deposits, and Funds

Section 2.10.090 Books and Records

Section 2.10.100 Seal

Section 2.10.110 Waiver of Notice

Section 2.10.120 Manner of Operation

Section 2.10.130 Disposition of Property

Section 2.10.140 Dissolution

Section 2.10.150 Liabilities for Debts

Section 2.10.010 Name of Corporation

The name of the corporation created hereunder shall be the “Municipal Building Authority of Midway City, Utah” (the “Authority”).

Section 2.10.020 Place of Business

The principal place of business of the Authority shall be located in Midway City, Utah and the principal office of the Authority shall be located at the Midway City Offices, at 75 North 100 West, Midway, Utah, 84049.

Section 2.10.030 Period of Duration

The Authority is hereby declared to have a perpetual duration unless dissolved as provided herein.

Section 2.10.040 Objectives and Purpose

A. The objects and purposes for which the Authority is founded and incorporated are to acquire, improve, or extend one or more projects and to finance their costs on behalf of the City in accordance with the procedures and subject to the limitations of the Utah Municipal Building Authority Act, as amended, in order to accomplish the public purposes for which the City exists.

B. In furtherance thereof, the Authority shall have all of the powers set forth in the Acts and the Constitution and other laws of the State of Utah. The Authority shall not, however, undertake any of the activities set forth in the preceding paragraph without prior authorization therefore by the governing body of the City.

C. The purpose and essence of the Authority shall be purely civic, benevolent, charitable, and philanthropic. The Authority shall not possess or exercise any power or authority either

expressly, by interpretation, or by operation of law that would prevent it at any time from qualifying and continuing to qualify as a corporation described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, nor shall it engage directly or indirectly in any activity which would cause the loss of such qualification. It is hereby expressly declared that this Authority has been organized not for gain, and that no loans, dividends, or other distributions, except for the payment of reasonable compensation for services rendered or reimbursement for reasonable expenses, shall ever be declared or paid to any of its Board Members or officers.

D. The Authority shall have no members and shall not issue shares of stock and none of its property, real or personal, shall ever be used or expended except in carrying into effect the legitimate ends and aims of the Authority.

E. At no time shall the Authority engage in any activities which are unlawful under the laws of the United States of America, the State of Utah, or any other jurisdiction wherein it conducts its activities. No substantial part of the activities of the Authority shall include the carrying on of propaganda, or otherwise attempting to influence legislation and the Authority shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

Section 2.10.050 Governing Board

A. General Powers. The affairs of the Authority shall be managed by a governing board (the "Governing Board").

B. Number, Tenure, and Qualifications. The number of Board Members shall be six and shall consist of the members of the City Council and Mayor. Any change in the composition of the membership of the City Council shall automatically and without any action required hereunder operate to change the composition of the membership of the Governing Board. The Board Members shall serve as members of the Governing Board for a term of four years or until his/her death, incapacity, resignation or removal from such office or, if applicable, until such officer shall cease to be a member of the City Council. Whenever a member of the Governing Board shall cease to be a member of the City Council, his/her successor shall, upon his/her election and qualification for office, thereupon become a member of the Governing Board. To the extent permitted by law, members of the Governing Board may be removed and replaced by the City Council at any time in its discretion.

C. Regular Meetings. Regular meetings of the Governing Board shall be held in compliance with the laws of the State of Utah relating to open and public meetings Utah Code as amended (the "Open Meeting Law"), at such times and places as the Governing Board may by resolution designate.

D. Special Meetings. Special meetings of the Governing Board may be called by or at the request of the Chair of the Governing Board (the "Chair") or any two Board Members and shall be held in compliance with the Open Meeting Law, at the principal office of the Authority or at such other place as the Chair may determine.

E. Notice. Public notice of all meetings of the Governing Board shall be given in accordance with the Open Meeting Law. Notice to the Board Members of any special meeting of the Governing Board shall be given at least twenty-four hours previously thereto by written notice delivered personally.

F. Quorum. A majority of the then current membership of the Governing Board shall constitute a quorum of the transaction of business at any meeting of the Governing Board; but, if fewer than a majority of the Board Members of the Governing Board are present at any meeting, a majority of the Board Members present may adjourn the meeting from time to time without further notice.

G. Governing Board Decisions. The act of a majority of the Board Members present at a meeting at which a quorum is present shall be the act of the Governing Board, unless the act of a greater number is required by law or by these bylaws (the “Bylaws”).

H. Compensation. Board Members as such shall not receive any compensation for their services, but by resolution of the Governing Board, expenses of attendance, if any, may be allowed for attendance at any regular or special meeting of the Governing Board. Nothing herein contained shall be construed to preclude any Board Members from serving the Authority in any other capacity and receiving compensation therefore.

Section 2.10.060 Officers

A. Officers. The officers shall be as follows: The Mayor shall serve as Chair; the Mayor Pro-tem shall serve as Vice-Chair; and the City Recorder shall serve as Secretary.

B. Powers and Duties. The several officers shall have such powers and shall perform such duties as may from time to time be specified in resolutions or other directives of the Governing Board. In the absence of such specifications, each officer shall have the powers and authority and shall perform and discharge the duties of officers of the same title serving in nonprofit corporations having the same or similar general purposes and objectives as this Authority. The powers and duties of the Chair of the Governing Board shall be to make application and implementation of policies and procedures for the day to day operation of the Authority and for the operation and administration of any real or personal property owned or controlled by the Authority. The Chair of the Governing Board shall also implement the policies as adopted by the Governing Board and provide a liaison between the Authority and the City Council and citizens of the City. In the absence of the Chair, the Vice Chair is hereby authorized by this Chapter to act in his place.

Section 2.10.070 Committees

The Governing Board, in its discretion, may constitute and appoint committees to assist in the supervision, management, and control of the affairs of the Authority with responsibilities and powers appropriate to the nature of the several committees and as provided by the Governing Board in the resolution of appointment or in subsequent resolutions and directives. Each committee so constituted and appointed by the Governing Board shall serve at the pleasure of the Governing Board. In addition to such obligations and functions as may be expressly provided by the Governing Board, each committee constituted pursuant to these bylaws and appointed by the

Governing Board shall from time to time report to and advise the Governing Board on corporate affairs within its particular area of responsibility and interest. The Governing Board may provide by general resolution applicable to all such committees for the organization and conduct of the business of the committees. Such committees as provided in this Section of these bylaws shall not have nor exercise the authority of the Governing Board in the management of the Authority. Any member of such committee may be removed by the Governing Board whenever in its judgment the best interests of the Authority shall be served by such removal.

Section 2.10.080 Contracts, Checks, Deposits, and Funds

A. Contracts. The Governing Board may authorize any officer or officers, agent, or agents of the Authority to enter into any contract, to execute and deliver any instrument in the name of and on behalf of the Authority and such authority may be general or may be confined to specific instances.

B. Deposits. All funds of the Authority shall be deposited from time to time to the credit of the Authority in such banks, trust companies, or other depositories as the Governing Board may select.

C. Gifts. The Governing Board may accept on behalf of the Authority any contribution, gift, bequest, or devise for any purpose of the Authority.

Section 2.10.090 Books and Records

The Authority shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its Governing Board and committees.

Section 2.10.100 Seal

The corporate seal for the Authority shall be circular in shape with the word “SEAL” in bold face type in the center and with the words “Municipal Building Authority of Midway City, Utah” on the perimeter of the seal.

Section 2.10.110 Waiver of Notice

Whenever a notice is required to be given to a member of the Governing Board under the provisions of the statutes of the State of Utah or under the provisions of these bylaws of the Authority or under the Articles of Incorporation of this Authority, a waiver thereof in writing by each Board member entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Section 2.10.120 Manner of Operation

A. Operation to be for the public good. The Authority shall at all times conduct its operations in a manner consistent with the best interests of the City and the citizens thereof. It is hereby declared that the Authority, having been created pursuant to a resolution duly and regularly adopted by the City Council shall at all times act with the approval of the governing body of the City given by means of a resolution, ordinance, or other official approval of such body.

B. Compliance with Other Requirements of Law. The Authority has been created under and pursuant to the Act and the Utah Nonprofit Corporation and Cooperative Association Act, as amended, and shall operate in strict accordance therewith. The officers of the Authority shall at all times do such things as are required of corporations created under such acts and as may be necessary and proper to preserve and protect the existence of the Authority thereunder.

C. Compliance with Certain Federal Income Tax Revisions. The Authority has been created with the intent that it would qualify as a corporation described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, as well as under any similar provision of the Internal Revenue Code subsequently enacted. Accordingly, the Authority shall undertake no action which would result in the Authority failing to qualify as a corporation under said Section of the Internal Revenue Code subsequently enacted.

Section 2.10.130 Disposition of Property

A. The Governing Board of the Authority shall not sell, transfer, mortgage, convey, or otherwise dispose of all or any major part of the property and assets of the Authority, nor shall the Authority be dissolved, merged, or consolidated with any other corporation or other legal entity, except on an affirmative vote of a majority of the Governing Board and the approval of the governing body of the City.

B. The City, having authorized and directed the creation of the Authority, shall at all times during the existence of the Authority have a beneficial interest in the Authority and its assets, properties, and monies. Whenever notes, bonds, or other evidences of indebtedness issued by the Authority on behalf of the City are satisfied, discharged, and retired, title to all real and personal property financed with the proceeds of such notes, bonds, or other evidences of indebtedness shall be forthwith transferred to the City.

C. No part of the net earnings of the Authority shall inure to the benefit or be distributable to its Board Members, Officers, or other persons, except that the Authority shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein.

Section 2.10.140 Dissolution

Upon the dissolution of the Authority, and after paying or making provisions for the payment of all its liabilities, the Authority shall convey any of its remaining assets to the City; provided, however, that the Authority may not be dissolved unless all outstanding bonds and other obligations of the Authority are paid in full as to principal, interest, and redemption premiums, if any, or unless provision for the payment of the same when due has been made.

Section 2.10.150 Liabilities for Debts

The members of the Governing Board and officers of the Authority shall not be personally liable for the debts or any other obligations of the Authority.

CHAPTER 2.11 ELECTION AND CAMPAIGN FINANCE DISCLOSURE

Section 2.11.010 Election of Mayor and Council Members

Section 2.11.020 General

Section 2.11.010 Election of Mayor and Council Members

Election for Mayor and Council Members shall be as provided in the current version of the Utah Municipal Code, as amended. The terms shall be for four years.

Section 2.11.020 General

All candidates for elective municipal office shall comply with the campaign finance disclosure requirements as set forth in the current version of the Utah Municipal Code, as amended.

CHAPTER 2.12 TAKING OFFICE

Section 2.12.010 Eligibility for Mayor and Council Members

Section 2.12.020 Election of Mayor and Council Members

Section 2.12.030 Term of Office for Mayor and Council Members

Section 2.12.040 Vacancies in Office of Mayor or Council Member

Section 2.12.050 Oath of Office

Section 2.12.060 Bonds

Section 2.12.070 Salaries

Section 2.12.080 Failure to Qualify for Office

Section 2.12.090 Duties and Powers Defined

Section 2.12.100 Official Neglect of Misconduct

Section 2.12.110 Transfer of Records

Section 2.12.010 Eligibility for Mayor and Council Members

A. Chosen by Voters. The Mayor and members of the City Council shall be elected by the registered voters of Midway City.

B. Resident and Registered Voter. In accordance with Utah Code any person elected to the office of Mayor or member of the City Council must be a resident of and a registered voter in Midway City. Each elected officer of Midway City shall maintain residency within the boundaries of the City during his or her term of office. If an elected officer of the City establishes his or her principal place of residence outside the municipality during his or her term of office, that person's elected office is automatically vacant. If an elected officer is absent from the City anytime during his or her term of office for a continuous period of more than 60 days without the consent of the governing body, that person's elected office is automatically vacant.

C. City Employee. No member of the governing body shall, upon taking office, be an employee of Midway City. Any employee of Midway City shall be entitled to run for office while a municipal officer or employee but, if elected, shall comply with the provisions of this Section or the Utah Code as amended, prior to taking office.

Section 2.12.020 Election of Mayor and Council Members

A. Elected. The Mayor and members of the City Council shall be elected in an at-large municipal election held on the Tuesday after the first Monday in November, as provided in Utah Code.

B. Procedure. The municipal elections and primary elections for mayor and members of the City Council shall be conducted in the manner provided for in the Utah Municipal Election Code for fourth class cities.

C. Primary Elections. No primary elections shall be held for the offices of Mayor or City Council and all openings for such offices shall be filled at the November general municipal election of Midway City, unless:

1. The number of candidates exceeds twice the number of offices to be filled; or

2. Primary election is otherwise required by law, in which cases a primary election shall be held in the manner provided in the Utah Code.

Section 2.12.030 Term of Office for Mayor and Council Members

The elected Mayor and members of the City Council shall begin their term of office at noon on the first Monday in January following their election, and shall continue in office for four years thereafter and until their respective successors are chosen and qualified, except in case of death, resignation, removal, or disqualification from office pursuant to Utah Code.

Section 2.12.040 Vacancies in Office of Mayor or Council Member

A. In accordance with Utah Code as amended, if any vacancy occurs in the office of Mayor or the City Council, the governing body shall appoint a registered voter in the City to fill the unexpired term of office vacated until the January following the next municipal election. Before acting to fill the vacancy, the governing body shall give public notice of the vacancy at least two weeks before the City Council meets to fill the vacancy, and identify in the notice the date, time, and place of the meeting where the vacancy will be filled, and provide information regarding the person to whom a person interested in being appointed to fill the vacancy may submit their name for consideration and any deadline for submittal

B. If, for any reason, the governing body does not fill the vacancy within 30 days after the vacancy occurs, the City Council shall vote upon the names that have been submitted. The two persons having the highest number of votes shall come before the governing body and the City Council shall vote again. If neither candidate receives a majority vote of the governing body at that time, the vacancy shall be filled by lot in the presence of the City Council.

C. A vacancy in the office of Mayor or Council member shall be filled by an interim appointment, followed by an election to fill a two-year term, if:

1. The vacancy occurs or a letter of resignation is received by the governing body at least 14 days before the deadline for filing for election in an odd numbered year; and
2. Two years of the vacated term will remain after the first Monday in January following the next municipal election.
3. The public election shall be conducted according to the requirement and procedures of Utah Code.

Section 2.12.050 Oath of Office

A. Required. In accordance with Utah Code as amended, before entering on their respective duties, all officers of Midway City, whether elected or appointed, shall take the constitutional oath of office as set forth in the Constitution of Utah.

B. Time. Elected officials shall take their oath of office at noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath of office at any time before entering on their duties.

C. Administered. The oath of office shall be administered by the City Recorder, any Judge, or any Notary Public.

D. Filed. All oaths of office shall be filed with the City Recorder.

E. Failure to Comply. No official act of any officer shall be invalid for the reason that he or she failed to take the oath of office.

Section 2.12.060 Bonds

A. Required. In accordance with Utah Code as amended, before commencing duties, elected and appointed officers of the City shall execute a corporate surety bond or blanket bond with good and sufficient sureties payable to Midway City conditioned for the faithful performance of the duties of his or her office and the payment of all monies received by such officer according to the law and the ordinances of Midway City in an amount as set forth by resolution of the City Council.

B. Limitation on Treasurer's Bonds. In accordance with Utah Code as amended, the City Treasurer's bond may not be set at an amount less than that established by the State money management council pursuant to Utah Code

C. Filed. All bonds shall be filed with the City Recorder, except the City Recorder's bond, if different from the blanket bond, which shall be filed with the City Treasurer pursuant to Utah Code.

D. Approval of Bonds. In accordance with Utah Code as amended, the bonds for members of the City Council shall be approved by the Mayor, and the bond of the Mayor shall be approved by the City Council at the first meeting of the governing body in January following a municipal election.

E. Premium Charge. In accordance with Utah Code as amended, the premium charged by a corporate surety for any official bond shall be paid by Midway City.

F. Additional Bonds. The City Council may at any time require further and additional bonds of any or all elected or appointed officers of the City by resolution or ordinance pursuant to Utah Code as amended.

Section 2.12.070 Salaries

A. Generally. In accordance with Utah Code elected and appointed officers of the City shall receive such compensation for their services as the governing body may fix by ordinance.

B. Adopting, Changing, or Amending Compensation. Upon its own motion, the governing body may review or consider the compensation of any officer or officers of the City or a salary schedule applicable to any officer or officers of the City for the purpose of determining whether it should be adopted, changed, or amended. In the event the governing body decides that the compensation or compensation schedules should be adopted, changed, or amended, it shall set a time and place of a public hearing at which all interested persons shall be given an opportunity to be heard. Notice of the time, place, and purpose of the meeting shall be published at least seven days prior thereto by a publication in at least one issue of a newspaper published in Wasatch

County and generally circulated in Midway City. After the conclusion of the public hearing, the City Council may enact an ordinance fixing, changing, or amending the compensation of any elected or appointed officer of the City or adopting a compensation schedule applicable to any officer or officers.

C. Monthly Compensation. The compensation of all City officers shall be paid at least monthly.

Section 2.12.080 Failure to Qualify for Office

Whenever any person duly elected to any office of the City fails to qualify for such office within 60 days after the date beginning of the term of office for which he or she was elected, such office shall thereupon become vacant and shall be filled as provided by law. Whenever the bond of any officer of the City is canceled, revoked, annulled, or otherwise becomes void or of no effect, without proper bond being given so that continuance of bonded protection is afforded the office of such officer shall thereupon become vacant and shall be filled as provided by law.

Section 2.12.090 Duties and Powers Defined

The duties, powers, and privileges of all elected and appointed officers of the City shall be defined by the governing body pursuant to State Law.

Section 2.12.100 Official Neglect or Misconduct

In accordance with Utah Code in case any officer of the City willfully omits to perform any duty, or willfully and corruptly commits oppression, misconduct, misfeasance, or malfeasance in office, the person, if guilty of a class A misdemeanor, shall be removed from office, and is not eligible for any City office thereafter.

Section 2.12.110 Transfer of Records

Every officer and employee of the City, upon expiration of his or her term for any cause whatsoever shall, within five days after notification and request to do so, deliver to his or her successor all books and records which may be the property of the City.

CHAPTER 2.13 RECORDS ACCESS AND MANAGEMENT

Section 2.13.010 Short Title

Section 2.13.020 Purpose and Intent

Section 2.13.030 Applicability of State Law

Section 2.13.010 Short Title

This Chapter is known as the “Midway City Government Records Access and Management Act.”

Section 2.13.020 Purpose and Intent

A. In enacting this Chapter, the City recognizes two fundamental constitutional rights:

1. The right of privacy in relation to personal data gathered by the City.
2. The public’s right of access to information concerning the conduct of the public’s business.

B. It is the intent of the City to:

1. Establish fair information practices to prevent abuse of personal information by the City while protecting the public’s right of easy and reasonable access to unrestricted public records.
2. Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards.
3. Establish and maintain an active, continuing program for the economical and efficient management of the City’s records as provided in this Chapter.

Section 2.13.030 Applicability of State Law

Government records access and management in Midway City shall be governed by the current version of the Utah Government Records Access and Management Act, as amended.

CHAPTER 2.14 ENFORCEMENT PROCEDURES AND ADMINISTRATIVE HEARINGS

Section 2.14.010 Title and Purpose

Section 2.14.020 Remedies not Exclusive

Section 2.14.030 Notice of Violation

Section 2.14.040 Service of Notice

Section 2.14.050 Response to Notice of Violation and Request for Hearing

Section 2.14.060 Administrative Hearing

Section 2.14.070 Penalties and Fees

Section 2.14.080 Abatement

Section 2.14.090 Emergency Abatement

Section 2.14.100 Recordation

Section 2.14.110 Appeals

Section 2.14.010 Title and Purpose

This Chapter shall be known as the Midway City Administrative Enforcement Ordinance. The purpose of this Chapter is to provide an efficient, effective mechanism for civil enforcement of the laws and ordinances of Midway City while observing and protecting the rights of the citizens of the City to due process of law.

Section 2.14.020 Remedies not Exclusive

The existence or use of the procedures described in this Chapter shall not preclude the use by the City of other enforcement mechanisms unless prohibited by law.

Section 2.14.030 Notice of Violation

The City may issue to a person or entity believed to be in violation of a City law or ordinance a “Notice of Violation”. The Notice of Violation shall be dated and shall state the name of the alleged violator, the address of the violation, the date(s) of the violation, the City laws or ordinances believed to have been violated, the steps the violator must take to cure the violation, the steps the City may take to enforce the law or ordinance allegedly violated, the penalties and fees that may be imposed if the violation is not corrected, a date by which the violation must be corrected to avoid imposition of penalties and enforcement action, and procedures by which the alleged violator may request an administrative hearing as described below.

Section 2.14.040 Service of Notice

The Notice of Violation and other notices required or contemplated by this ordinance, shall be hand-delivered to the alleged violator or posted in a conspicuous place on the affected property or mailed by U.S. Mail with delivery tracking. If these methods are unsuccessful in reaching the person, notice may be published in a newspaper of general circulation in the City.

Section 2.14.050 Response to Notice of Violation and Request for Hearing

A person who receives a Notice of Violation has a right to an administrative hearing. To receive a hearing, the alleged violator must request a hearing in writing. The request for hearing must be received by the City before the end of the tenth business day after the person's receipt of, or posting or publication of, the Notice of Violation. If no written request for hearing is received by the City within this time, the allegation in the Notice of Violation will be deemed by the City to be true and to be the final administrative order of the City on the matter, the right to administrative appeal will be waived, and penalties and enforcement measures will be imposed.

Section 2.14.060 Administrative Hearing

A. Within 45 days of receiving a written request for hearing, the City shall hold an administrative hearing. The hearing shall be conducted by an administrative law judge appointed by the Mayor with the advice and consent of the City Council. The administrative law judge may, but need not, be an employee of the City.

B. Notice of the hearing shall be given at least 14 days prior to the hearing. An alleged violator who fails to appear at an administrative hearing after the proper notice shall waive the right to an administrative hearing as if no hearing had been requested.

C. The hearing shall be a public meeting. The hearing shall be recorded or otherwise documented so that a true and correct transcript may be made of its proceedings.

D. Both the City and the alleged violator shall have the opportunity to speak and to call witnesses at the hearing. The administrative law judge may allow competent evidence and documents to be introduced at the hearing without observance of formal rules of evidence or procedure. Each side shall be allowed to question and cross-examine witnesses. Each side may be represented by an attorney, but if the alleged violator is to be represented by an attorney, that attorney shall contact the City attorney at least two business days prior to the hearing.

E. The City shall bear the burden of proof to establish the existence of a violation. Such proof shall be established by a preponderance of the evidence.

F. At the conclusion of the hearing, or within five business days thereafter, the administrative law judge shall issue a written order. The order shall find that the violation has or has not occurred. If the order finds that the violation has not occurred, the proceeding shall be dismissed. If the order finds that the violation has occurred, the order may impose penalties as provided in this or other City ordinances. The order may also direct the violator to cease and desist from the violation, and may direct the City to abate the violation on its own as necessary. The order may give interim or temporary directives as necessary, and may also embody agreements the two sides may make before, during or after the hearing.

Section 2.14.070 Penalties and Fees

If the order issued after the administrative hearing finds that a violation has occurred, or if no hearing was requested, the City may impose penalties as specified in the law or ordinance found violated. In the absence of another applicable penalty provision, the City may impose a penalty not to exceed the maximum fine for a class C misdemeanor under Utah law per day of violation. In addition, the violator shall be assessed and required to pay all costs actually incurred by the

City in abating and enforcing the law or ordinance in the case, and in holding the administrative hearing, if one was held, including but not limited to inspection costs, filing fees, title searches, equipment costs, attorney fees and administrative law judge fees.

Section 2.14.080 Abatement

If the order issued after the administrative hearing finds that a violation has occurred, or if no hearing was requested, the City shall have authority to take reasonable measures to abate the violation as specified in the order or Notice of Violation, including entering onto the property at the site of the violation and physically abating the violation.

Section 2.14.090 Emergency Abatement

Nothing in this ordinance shall be construed to prohibit the City from taking emergency measures to immediately abate a violation when preservation of the life, safety or health of the public requires immediate action.

Section 2.14.100 Recordation

The City may record the order issued by the administrative law judge, or, if no hearing was requested, the Notice of Violation, with the County Recorder, indexed to the property (if any) at which the violation occurred. If an order or notice is so recorded, and the violation is thereafter abated and the property comes into compliance, the City shall file with the County Recorder a notice of compliance retracting the stated violation within 30 days of the violation coming into compliance.

Section 2.14.110 Appeals

Any person adversely affected by an administrative order issued following an administrative hearing under this ordinance may petition a Utah State District Court for review of the order pursuant to Utah Code within 30 days of the issuance of the order.

CHAPTER 2.15 DISPOSITION OF REAL PROPERTY

Section 2.15.010 Significant Parcel of Real Property

Section 2.15.020 Notice of a Hearing

Section 2.15.030 Fair Market Value

Section 2.15.010 Significant Parcel of Real Property

“Significant parcel of real property” owned by Midway City is hereby deemed to include any real property owned by the City.

Section 2.15.020 Notice of a Hearing

Reasonable notice of a hearing on disposition by the City of real property is hereby deemed to require publication of the notice once in a newspaper of general circulation at least 14 days before the hearing and posting of the notice in at least three public places within Midway City at least 14 days before the hearing.

Section 2.15.030 Fair Market Value

The City Council shall take whatever steps are necessary to insure, to the best of its ability, that the City obtains fair market value for any real property disposed of by the City.

CHAPTER 2.16 CEMETERY

Section 2.16.010 Conduct and Access

Section 2.16.020 Cemetery Sexton

Section 2.16.030 Burials

Section 2.16.040 Decorations and Flower Policy

Section 2.16.050 Headstone Policy

Section 2.16.060 Lot Ownership and Privileges

Section 2.16.070 Perpetual Care

Section 2.16.080 Miscellaneous

Section 2.16.010 Conduct and Access

A. Conduct. Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.

B. Location and Access. The Midway City Cemetery is located at 500 South 700 West, Midway, Utah. Access to the cemetery is restricted to daylight hours.

C. Speed Limit. The speed limit is 10 miles per hour.

D. Driving and Parking. It is unlawful for any unauthorized person to drive any motor vehicle upon any cemetery lot, back over any grave, cut corners, or drive any vehicle upon any part of the cemetery which is not an established roadway.

E. Animals. It is unlawful for the owner, caretaker, custodian, or other person or persons in charge of any horse, dog, or other types of pet to allow or negligently permit animals to run at large or trespass on the cemetery grounds.

F. Off-Road Vehicles. Motorcycles and all-terrain vehicles are not permitted in the cemetery except for those used for maintenance or professional suppliers or those that are part of a funeral procession.

Section 2.16.020 Cemetery Sexton

A. Appointment. The sexton shall be appointed by the City Council.

B. Duties of the Sexton. It shall be the duty of the sexton to take charge of the City cemetery under the supervision of the Council Member assigned to the cemetery. The sexton shall be responsible for care and improvement of the grounds. The sexton will dig or cause to be dug, all graves required for burial of the dead and keep a record of the same.

Section 2.16.030 Burials

A. Human Dead. Interments are limited to human dead.

B. Ordering a Grave Opening. At the office of Midway City, arrangements for a new grave opening can be made by the funeral director or other responsible party at least 24 hours in

advance of the burial. The required information is the name of the deceased, the place of the interment, the location, date and time of funeral services, and the name of the funeral director or mortuary.

C. Errors. Midway City will not be responsible for any mistake occurring from the lack of precise and complete instructions as to the proper space on the lot where interment is desired. When a grave on a lot cannot be opened where specified, the sexton may, at his/her discretion, open it in such location on the lot as he/she deems best and proper, so as not to delay the funeral and affect the interment.

D. Burial Permits. The necessary information and fees should be paid to the City Treasurer prior to interment. A burial permit must also be filed.

E. State Transit Permit: Remains sent from other states must also be accompanied by a transit permit to be filed in the Recorder's office.

F. Hours when Burials Permitted. Burials are accepted between 9 a.m. and 4 p.m. daily at the cemetery. No burials will be accepted on Sundays and holidays. Additional charges will be made for internments on Saturdays.

G. Burials per Grave. One interment only shall be allowed in a casket except for a father or mother with an infant child, or two children buried at the same time. Not more than one full-size or two infant caskets are allowed in one grave.

H. Vaults. Concrete vaults are required for all burials.

I. Indigents: Indigent burial spaces shall from time to time be designated by the Mayor and/or sexton with the consent of the City Council and will be for the burial of indigent persons.

J. Orientation of Graves. By convention, burial spaces are laid out in rows with the head of the grave to the west and the foot to the east. Individual graves measure four feet wide and eight feet long except on odd size lots. Traditional burial custom has the wife placed to the left of the husband; all exceptions must be made in writing. The sexton will assist in the decision as needed.

K. Disinterment or Exhumations. Cemetery grounds are sacredly devoted to the interment or repose of the dead. In those circumstances where it is necessary to disinter or remove remains from the cemetery, all applicable laws must be complied with. The sexton will schedule and direct the exhumation after applicable fees have been paid. Consultation with a funeral director is required for this procedure.

L. Cremations. All cremations will utilize a columbarium niche for permanent placement of remains. Fees for niche assignment and cremation placement will be as set forth from time to time by the City Council by resolution. No cremation placement will be allowed in grave sites.

(2014-15, Sub-section Replaced, eff. 03/18/15; 2014-16, Sub-section Replaced eff. 03/18/15)

Section 2.16.040 Decorations and Flower Policy

A. Flowers and New Graves. Decorations or flowers on new graves will be removed by the cemetery crew after seven days. Special flower mementos should be removed at the conclusion of services by family members. After the grave is closed the casket spray is placed at the center of the grave. Other flower containers and wreaths are laid down in an orderly fashion around the spray with the containers extending outward. Only the last row of containers is visible, the others being covered by each succeeding row of flowers. Flowers are laid down to prevent them from being blown around the cemetery.

B. Flower Regulations. All flowers, real or artificial, must be placed in a container or attached to the monument or placed in a container that does not interfere with cemetery maintenance.

C. Flower Containers. Permanent containers must be part of the marker or cast into the cement base.

D. Artificial Flowers/Fresh Cut Flowers and other Decorations. Artificial or fresh cut flowers and any other decorations will be permitted any time provided they do not interfere with the upkeep of the cemetery such as grass mowing and edging.

E. Holiday Decorations. All holiday decorations will be removed after seven days.

F. Removal of Decorations. Artificial and fresh-cut floral pieces and other decorations will be removed without notice when they become unsightly.

G. Planting of Flowers, Trees, and Shrubs. The planting of any trees, shrubs, or flowers or digging or disturbing the sod within the cemetery is prohibited. Tree donations or gifts will receive designated and appropriate planting sites.

H. General Clean-up. All flowers and decorations not in permanent containers and those that are damaged or wilted in permanent containers will be removed from the cemetery during the first week of April and the fourth week of October every year. All flowers and decorations picked up are put in the garbage for disposal. Those who regularly bring flowers are encouraged to wait until the spring and fall clean-ups are completed before freshening up their displays.

I. Memorial Day. Cemetery crews begin early in the spring to prepare for Memorial Day. Preparations include mowing, watering, edging, spraying, planting, and tree trimming, and require all spring to accomplish.

1. The cemetery is prepared and ready for decorations by Friday afternoon. The sprinklers are turned off Friday afternoon through the end of Memorial Day to allow for the placement of decorations.

2. The removal of decorations will begin the Monday morning following Memorial Day. Anyone desirous of picking up their wreaths or decorations should do so prior to that Monday.

J. City Responsibility. Flowers properly displayed add to the beauty and character of the cemetery. Midway City and the cemetery staff will not be responsible for flowers and other personal property left in the cemetery. Be aware that on occasion uncaring individuals have removed expensive flower arrangements without permission or staff's knowledge.

Section 2.16.050 Headstone Policy

A. **Ownership and Responsibilities.** Headstones are personal property. All headstones within the cemetery are the property of lot owners, their heirs, or the responsible party who ordered and placed them. All care and upkeep of the headstones are the responsibility of the owner. The cemetery is maintained by City crews who exercise great care in keeping the grounds groomed. The City will not be responsible for inadvertent scratches and chips that occur from routine maintenance. Such happenings are conditions that go with the privilege of placing markers in the cemetery. It shall be unlawful for any person to place or have placed any headstone upon any lot or lots in said cemetery except under the direction and supervision of the cemetery sexton. A soft stone such as sandstone is not recommended.

B. **Specifications for Headstones.** It shall be unlawful for any person to place or to have placed any monument on any lot in said cemetery not made of metal inlay, stone, or cement. Such monument shall be securely set in a cement foundation of at least 4 inches deep with a cement mow strip not less than seven inches around said marker. The following are headstone size recommendations. Maximum lengths are: singles, 40 inches; doubles, 80 inches; and triples 120 inches. Maximum height is 36 inches. Maximum width is 30 inches. Any marker size that exceeds these recommendations requires written approval from the cemetery sexton.

1. Only one headstone per grave is permitted. Said headstone shall be at the head of the grave. Headstones will be placed in an orderly manner in pre-designated rows and as directed by the cemetery sexton.

2. Placement of permanent markers is encouraged to take place within one year after interment.

C. **Vases.** All permanent vases must be attached to the stone base or cast into the cement base with at least two inches from the edge of the cement base.

D. **Obstructions.** No metal ornaments, brackets, foot markers, flag poles, or other obstructions or installations, except a headstone or monument, will be permitted in the cemetery.

E. **Modifications.** If a monument is determined by the sexton to be oversized and interfering with the sprinkler irrigation system, the owner will pay for the necessary modifications.

F. **Interference with Excavation.** The owner or responsible party is responsible for the removal and replacement of a marker that must be moved for the excavation of a grave, or for the expenses of such services if contracted.

G. **Recommendations.** Consult with a monument manufacturer on monument materials suitable to handle conditions at the cemetery. Markers are subject to temperature extremes, snow, ice, sprinkler irrigation water, and occasional nicks and chips from mowing equipment. It is recommended that raised markers have a rough-nosed base or edge rather than a polished, smooth surface. Persons ordering headstones from a monument dealer should check, or cause to be checked, the restrictions first, to insure that the stone will meet cemetery specifications.

H. **Cemetery Supervision.** All work in the cemetery, including but not limited to interments, disinterment, planting, landscaping, grading, record keeping, placement of grave markers,

grounds keeping, construction, and all maintenance, improvements, and beautifying of the grounds shall be approved by and done under the supervision of the cemetery sexton.

Section 2.16.060 Lot Ownership and Privileges

A. Nature and Extent of Burial Rights. Only permissive burial rights are sold. The City retains title to the cemetery property. A separate certificate of burial rights for each grave site in the cemetery will be issued to each purchaser after the applicable fees are paid in full. Only a person whose legal primary residence is located within postal zip code 84049 at the time of purchase or transfer may purchase or own a burial right certificate. A burial right certificate may be used to bury only the owner of the right named in the certificate or a person related to that owner by blood, marriage or adoption (regardless of whether the deceased was a resident of postal zip code 84049 at any point during his or her lifetime). The named owner of a certificate, or his or her legal heirs, must give written permission at the time of the burial for use by a specific deceased individual of the specific grave site identified in the certificate, subject to all applicable City ordinances and policies. For all purchases of burial rights made after the effective date of this section, as revised, a person may own in his or her name at any given time no more than four grave site certificates for future burial.

B. Record of Rights Conveyed. The cemetery master file is considered to be the correct record. Any discrepancy between the master file and the certificate of burial rights will be considered a clerical error. The City reserves the right to recall, correct, and re-issue the correct certificate.

C. Transfer of Ownership of Certificate. Burial right certificates for a specific grave site may be transferred and re-issued to a different owner, in accordance with the standards contained in this Code, by written application to the City by the certificate owner or his or her legal heirs. The sexton shall re-issue the certificate upon the applicant's payment of any required fees and compliance with all applicable standards and procedures.

D. Unused Lots. Ownership of burial rights for grave sites that have been unused for 60 years or longer may revert to the City in accordance with the procedures set forth in Utah Code.

(2014-15 Section Amended eff. 03/18/15; 2014-16 Section Amended eff. 03/18/15)

Section 2.16.070 Perpetual Care

A. Nature of Care. The care and upkeep of the cemetery provided by the City includes, but is not limited to, mowing the grass at reasonable intervals, laying sod, reseeding, filling in sunken graves, sprinkler irrigation, trimming trees and shrubs when necessary, removing wilted flowers and decorations, edging around headstones, and other clean-up as needed. Perpetual care does not include repairing or replacing markers, monuments, or other personal property.

B. Perpetual Care Fees. This fee is collected and used for the general care, maintenance, and improvement of the cemetery. Unless otherwise specified, perpetual care fees are included in the charges for burial rights. Voluntary contributions to perpetual care costs will be graciously accepted.

Section 2.16.080 Miscellaneous

A. Office-Records. The official cemetery records are kept at the City Treasurer's office. The office is open weekdays from 8 a.m. to 5 p.m., with the exception of holidays. All business pertaining to the cemetery is to be transacted at this office. All maps and records are on file at the City Treasurer's office. All owners of lots or spaces are requested to notify the City Treasurer's office of any change of address.

B. Powers of Sexton. The cemetery sexton, subject to the direction of the City Council, is responsible for enforcing policies and procedures of the cemetery. The sexton may take such action necessary to protect property, graves, space owners, and the cemetery from injury; to preserve the peace and good order; and to prevent injury to the appearance of the lots, graves, grounds, and buildings.

C. Cemetery Fees. Fees for services are set by resolution of the City Council and are changed from time to time as needed and without notice. A copy of current fees charged is available at the City Treasurer's office. Additional charges will be made for interment on Saturdays.

D. Contractors and Outside Workers. Contractors and others having worked in the cemetery must make their business known to the sexton before work is started.

E. Boundaries, Roads, and Waterlines. The right to enlarge, reduce, re-plat, or change the boundaries of the cemetery or of a section or sections from time to time, including the right to modify or change the locations of roads and drives, is hereby expressly reserved by Midway City. The right to maintain and operate pipelines or gutters for water supply or drainage is also expressly reserved.

F. Location of Documents. All maps, plats, records, and other documents pertaining to the Midway City cemetery are on file at the City Treasurer's office.

G. Liability of Cemetery. Midway City personnel will, at all times, exercise diligence and reasonable care in the protection of the right and property of the lot owners, but shall not be liable for any damage or loss.

H. Alteration and Repeal of Policies and Procedures. Midway City reserves the rights to make, amend, and repeal the policies and procedures of the cemetery and to make exceptions thereto.

I. Walkers and Joggers. Walkers and joggers are encouraged and welcome to enjoy the beauty and serenity of the cemetery.

CHAPTER 2.17 CONFLICTS OF INTEREST

Section 2.17.010 Purpose

Section 2.17.020 Municipal Officers and Employee Ethics Act

Section 2.17.030 Definitions

Section 2.17.040 Use of Office for Personal Benefit Prohibited

Section 2.17.050 Compensation for Assistance in Transaction Involving Municipality

Section 2.17.060 Disclosure of Interest Affecting Regulation

Section 2.17.070 Disclosure of Interest Affecting Business Relations

Section 2.17.080 Other Conflicts of Interest

Section 2.17.090 Nepotism Prohibited

Section 2.17.100 Exceptions

Section 2.17.110 Separate Offense

Section 2.17.120 Conflicting Private Employment

Section 2.17.130 Conflicting Investments

Section 2.17.140 Appearances

Section 2.17.150 Complaints Charging Violations

Section 2.17.160 Penalties for Violation

Section 2.17.170 Inducing Officer to Violate Ordinance Prohibited

Section 2.17.180 No-Action Determinations

Section 2.17.010 Purpose

The purpose of this ordinance is to establish standards of conduct for elected officials, appointed officers, employees, and volunteers serving on city boards, commissions, committees, agencies, councils, and foundations and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.

Section 2.17.020 Municipal Officers and Employee Ethics Act

Statutory provisions governing conflicts of interest are outlined in Utah Code.

Section 2.17.030 Definitions

A. Appointed Officer. Any person appointed to any statutory office or position or any other person appointed to any position of employment with the City. Appointed officers include, but are not limited to, persons serving on special, regular, part-time, or full-time committees, commissions, agencies, boards, councils, or foundations created by the governing body, whether or not such persons are compensated for their services. The use of the word “officer” in this part is not intended to make appointed persons or employees “officers” of the City according to any meaning that term may have elsewhere.

B. Assist. To knowingly act, or offer or agree to act, in such a way as to knowingly help, represent, aid, advise, furnish information to, or otherwise knowingly provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to so assist such person or business entity.

C. **Business Entity.** A sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

D. **Compensation.** Anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the City for or in consideration of personal services, materials, property, or any other thing or service which may have a value placed on it.

E. **Elected Officer.** Any person elected or appointed to the office of Mayor or Council Member.

F. **Improper Disclosure.** Disclosure of private, confidential, or protected information to any person who does not have both the right and the need to receive the information.

G. **Municipal Employee.** A person who is not an elected or appointed officer who is employed on a full, part-time, or voluntary basis by Midway City.

H. **Private, Confidential, or Protected Information.** Information classified as private, or protected under Chapter 2, Title 63 of the Government Records Access and Management Act or other applicable provisions of law.

I. **Substantial Interest.** The ownership, either legally or equitably, by an individual, his spouse, or his minor children, or an entity he controls, of at least 10 percent of the outstanding shares of a corporation or 10 percent interest in any other business entity.

J. **Volunteer.** A person serving on city boards, commissions, committees, agencies, councils, and foundations. Volunteers shall be considered “appointed officers” under this ordinance.

Section 2.17.040 Use of Office for Personal Benefit Prohibited

No elected or appointed official shall:

A. Improperly disclose private, confidential, or protected information acquired by reason of his official position or use such information to secure special privileges or exemptions for him or others.

B. Use or attempt to use his official position to secure special privileges for himself or others; or

C. Knowingly receive, accept, take, seek, or solicit, directly or indirectly, any gift or loan for himself or another if the gift or loan tends to influence him in the discharge of his official duties, but this subsection does not apply to:

1. An occasional non pecuniary gift having a value of less than \$50.
2. An award publicly presented.
3. Any bona fide loan made in the ordinary course of business.
4. Political campaign contributions if the contribution is actually used in a political campaign.

Section 2.17.050 Compensation for Assistance in Transaction Involving Municipality

A. Compensation.

1. No elected or appointed officer or municipal employee may knowingly receive or agree to receive compensation for assisting any person or business entity in any transaction involving the City in which he/she is an officer unless he/she files with the Mayor a sworn statement giving the information required by this Section, and if an elected or appointed officer disclosed the same in open meeting to the members of the body of which he/she is a member immediately prior to the discussion the information required by this Section.
2. No municipal employee may knowingly receive or agree to receive compensation for assisting any person or business entity in any transaction involving the City unless he/she discloses the information required by this Section to his immediate supervisor and any other municipal officer or employee who may rely upon the employee's representations in evaluating or approving the transaction.

B. Disclosure Statement. The statement required to be filed by this Section shall be filed ten days prior to the date of any agreement between the elected or appointed officer or municipal employee and the person or business entity being assisted or ten days prior to the receipt of compensation by the business entity, whichever is earlier. The statement is public information and shall be available for examination by the public.

C. Disclosure Information. The statement and disclosure shall contain the following information:

1. The name and address of the officer or employee.
2. The name and address of the person or business entity being or to be assisted or in which the appointed or elected official has a substantial interest.
3. A brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

Section 2.17.060 Disclosure of Interest Affecting Regulation

A. Required. Every appointed or elected officer or municipal employee who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity which is subject to the regulation of the City, shall disclose the position held and the nature and value of his interest upon first becoming appointed, elected, or employed by the City and again at any time thereafter if the elected or appointed officer's or employee's position in the business entity has changed significantly or if the value of his interest in the entity has increased significantly since the last disclosure.

B. Form. The disclosure shall be made in a sworn statement filed with the Mayor. The Mayor shall report the substance of all such disclosure statements to the members of the governing body or may provide to the members of the governing body, copies of the disclosure statement within 30 days after the statement is received by him.

C. Exceptions. This Section does not apply to instances where the value of the interest does not exceed \$2,000, and life insurance policies and annuities shall not be considered in determining the value of any such interest.

D. Form. The disclosure statement required by this Section may be in substantially the following form:

DISCLOSURE STATEMENT

State of Utah
County of Wasatch

The undersigned, being first duly sworn, deposes and states:

- 1. Office. I am (name and office) of Midway, and my address is _____, Midway, Utah.
- 2. Involvement with business entities. Below are listed all business entities which are subject to regulation by Midway City and of which the undersigned is an officer, director, agent, employee, or owner of an interest therein valued in excess of \$2,000.

a. Name of Business Entity:

Position Held:

Projected Annual Income (1):

Projected Value of Interest (2):

b. Name of Business Entity:

Position Held:

Projected Annual Income (1):

Projected Value of Interest (2):

c. Name of Business Entity:

Position Held:

Projected Annual Income (1):

Projected Value of Interest (2):

d. Name of Business Entity:

Position Held:

Projected Annual Income (1):

Projected Value of Interest (2):

(1)Represents salary, wages, commission, or fees reasonably anticipated in coming year, if an officer, director, employee, or agent of business entity, or return thus anticipated if investor in business entity.

(2)Represents estimated present fair market value of interest in business entity, in the case of an investment including pension plan, but not including insurance or annuities.

3. Nature of Involvement. The following more fully describes the nature of my interest in the above-listed entities, which are referred to by the same letters as in the previous item.

- a.
- b.
- c.
- d.

My commission expires: _____

The above statements are made as of the _____ day of _____, 20 _____.

Subscribed and sworn to before me on this _____ day of _____, 20 _____.

Notary Public _____

Residing in _____

Section 2.17.070 Disclosure of Interest Affecting Business Relations

Every appointed or elected officer or employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with Midway City, shall publicly disclose, to the members of the body of which he/she is a member, or by which he/she is employed, immediately prior to any discussion by such body,

concerning matters relating to such business entity, the nature of his/her interest in that business entity. The disclosure statement shall be entered in the minutes of the meeting. Disclosure by a municipal employee under this Section is satisfied if the employee makes the disclosure in a manner required in this Chapter.

Section 2.17.080 Other Conflicts of Interest

Any personal interest or investment by a municipal employee or by any selected or appointed official of the City which creates a conflict between the employee's or official's personal interests and his public duties shall be disclosed in open meeting to the members of the governing body in the manner required in this Chapter.

Section 2.17.090 Nepotism Prohibited

No elected or appointed officer shall employ, appoint, or vote for the appointment of his or her father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law in or to any position or employment, when the salary, wages, pay, or compensation of such appointee will be directly supervised by a relative. It is unlawful for such appointee to accept or to retain such employment when his initial appointment thereto was made in contravention of the foregoing sentence by a person within the degrees of consanguinity or affinity therein specified having the direct power of employment or appointment to such position, or by a board or group of which such person is a member.

Section 2.17.100 Exceptions

The provisions of this section shall not apply among others to the following employment situations:

- A. Where the employee or appointee was appointed or employed by the City prior to the time during which said related person, acting as supervisor, assumed said public position therein.
- B. Where the employee or appointee was or is eligible or qualified to be employed by a department or agency of the City as the result of his compliance with civil service laws or regulations and merit system laws or regulations or as the result of a certification as to his qualification and fitness by a department, agency, or subdivision of the state or City authorized so to do by law.
- C. Where the employee or appointee was or is employed by the employing unit because he was or is the only person available, qualified, or eligible for the position.

Section 2.17.110 Separate Offense

Each day any such person, father, mother, husband, wife, son, daughter, brother, sister, uncle, aunt, nephew, niece, first cousins, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law, is retained in office by any of said officials shall be regarded as a separate offense.

Section 2.17.120 Conflicting Private Employment

No employee shall knowingly engage in, solicit, negotiate for, promise, or accept outside employment, not render any services to anyone other than the City in return for a valuable consideration, when such employment or services create a conflict of interest with or is inconsistent or incompatible with or tends to impair the proper discharge of that employee's official duties or the exercise of his discretion in an official capacity. No employee knowingly shall serve or be involved with projects, businesses, or enterprises, which are subject to regulation by or which have transactions with the City.

Section 2.17.130 Conflicting Investments

Investments by employees shall be in accordance with this ordinance.

A. Prohibited. No employee shall knowingly invest or hold any legal or equitable interest in any business or enterprise where such investment or interest creates a conflict of interest with or is inconsistent or incompatible with or tends to impair the proper discharge of that employee's official duties or the exercise of his discretion in an official capacity. No employee shall knowingly invest in or be knowingly involved with projects, businesses, or enterprises which are subject to regulation by or which have transactions with Midway City.

B. Exemptions. The following investments are exempt from the requirements of this part:

1. Bank, savings and loan, or credit accounts.
2. Insurance policies.
3. Securities listed on a national stock exchange.
4. Investments in any business or enterprise which does not do business in Midway.

Section 2.17.140 Appearances

Each employee shall conduct his official affairs in such a manner that will give the clear impression that he cannot be improperly influenced in the performance of his official duties.

Section 2.17.150 Complaints Charging Violations

If a person is charged with a violation of this Chapter, the complaint shall be filed with the Mayor or City Recorder. The City Recorder shall investigate the complaint and shall give the person an opportunity to be heard. A written report of the findings and the recommendations of the City Recorder shall be filed with the governing body. If the governing body finds that the person has knowingly and intentionally violated this ordinance, it may dismiss, remove from office, suspend, or take such other appropriate actions with respect to the person in accordance with state law, city ordinances, and city personnel policies and procedures. The governing body may also rescind or void any contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the City.

Section 2.17.160 Penalties for Violation

In addition to any penalty contained in any other provision of law, including but not limited to the Utah Code, any person who knowingly and intentionally violates this Chapter shall be guilty of a class B misdemeanor.

Section 2.17.170 Inducing Officer to Violate Ordinance Prohibited

It is a class B misdemeanor for any person to induce or seek to induce any appointed or elected officer or municipal employee to violate any of the provisions of this ordinance.

Section 2.17.180 No-Action Determinations

Employees may follow the procedures below to determine if their activities will be in violation of this ordinance.

A. Authorized. Prior to undertaking any activity which may violate the provisions of this Section, an employee may notify the Mayor of the contemplated activity and request a determination pursuant to this Section. Upon receipt of adequate relevant information, and after any investigation deemed necessary or advisable, the Mayor may then determine whether or not the City will take action against the employee if the contemplated activity is undertaken, and advise the employee accordingly. In making this determination, the Mayor shall consider whether the contemplated activity violates any terms of this Section, with attention to the following particulars:

1. Any use for private gain or advantage of City time, facilities, equipment, supplies, badge, uniform prestige, or office.
2. Receipt by the employee of any money or other consideration for the performance of any act required of him as a City employee.
3. Performance of an act other than in his capacity as an employee, which act may later be subject, directly or indirectly, to control, inspection, review, audit, or enforcement by the agency or department in which he is employed.
4. The extent, if any, to which the employee will be acting under color of City authority or subject the City to any potential liability.

B. Effect. If the Mayor determines that no action will be taken against the employee if he or she undertakes the contemplated activity, then no such action will be taken unless the contemplated activity proves to be materially different than represented to the Mayor in making the ruling, or unless material facts were not disclosed to the Mayor before the ruling was made.

C. Records. Complete, written records of the facts and decision of each no-action request shall be maintained and shall be open to the public for review upon reasonable request.

D. No Precedential Effect. The determination of one no-action request shall not necessarily affect the determination of future no-action requests.

E. City Council Review.

1. Reference. The Mayor may refer any no-action request to the City Council for decision, after gathering and presenting to the Council the relevant facts.
2. Appeal. Any employee may appeal the denial of his no-action request to the City Council within ten days after notification of the Mayor's decision. The employee shall then have a

promptly scheduled opportunity to present his request to the City Council, and the Mayor may also speak on defense of the denial.

CHAPTER 2.18 OPEN AND PUBLIC MEETINGS

Section 2.18.010 Title

Section 2.18.020 Purpose

Section 2.18.030 Application of the Utah Open and Public Meetings Act

Section 2.18.040 Electronic Meetings

Section 2.18.050 Approval of Minutes

Section 2.18.060 Opening Remarks or Invocation

Section 2.18.010 Title

This Chapter is known as the “Midway City Open and Public Meetings Ordinance.”

Section 2.18.020 Purpose

The City believes that its government exists to aid in the conduct of the people’s business. It is the intent of the City to take all of its actions openly and conduct all of its deliberations openly.

Section 2.18.030 Application of the Utah Open and Public Meetings Act

All meetings, proceedings and other activities of all councils, boards, commissions, committees, agencies and authorities established under the authority of this Title shall be governed by the provisions of the Utah Open and Public Meetings Act, Title 52, Chapter 4, Utah Code, as said Act may be amended from time to time.

Section 2.18.040 Electronic Meetings

- A. All councils, boards, commissions, committees, agencies and authorities established under the authority of this Title may hold and conduct electronic meetings in accordance with this Section and the requirements of applicable Utah law.
- B. Electronic meetings shall comply in all respects with the requirements of the Utah Open and Public Meetings Act, Title 52, Chapter 4, Utah Code (as amended from time to time), including providing required public notice of all meetings.
- C. Notice of an electronic meeting to be held by any public body shall be given to each member of the body prior to the electronic meeting in the manner and time provided by the Open and Public Meetings Act in order to allow all members the opportunity to participate in the meeting electronically.
- D. All electronic meetings (except for permissible closed meetings under the Open and Public Meetings Act) shall be held in a location that allows attendance by the public at the electronic meeting.
- E. A recording and written minutes of all electronic meetings shall be made as required by the Open and Public Meetings Act.

(2009-13, Chapter Added, eff. 11/25/2009)

Section 2.18.050 Approval of Minutes

- A. Written minutes shall be taken for all public meetings of any public body of this municipality. The minutes of all public meetings of any public body of this municipality shall be recorded and taken down by the person assigned by the city.
- B. Within 14 working days from the end of the meeting, the assigned person shall prepare proposed minutes for the meeting and give a copy of the proposed minutes to each member of the public body for his or her review and comments.
- C. Once the proposed minutes have been given to the members of the public body, the assigned person shall immediately make available to the public the proposed written minutes, which shall be a clearly identified as "awaiting formal approval" or "unapproved" or with some other appropriate notice that the proposed minutes are subject to change until formally approved and they shall become a public document available to any member of the public who requests to read or copy the proposed minutes.
- D. The public body shall consider the proposed minutes for approval at the first meeting of the public body that immediately follows the assigned person giving the proposed minutes to the members of the public body. The members of the public body shall either approve the proposed written minutes as presented; or vote to correct and amend the proposed written minutes and then approve the corrected and amended written minutes at that meeting.
- E. If the public body fails to consider the proposed minutes, or does not take any action to approve the proposed minutes at the first public meeting held by the public body immediately following the public body's receipt of the proposed minutes from the assigned person, the proposed minutes shall be deemed to have been approved by the public body and will stand as proposed.
- F. Once the proposed minutes have either been approved by the public body, or have been deemed to have been approved by the inaction of the public body, they shall become the official record of the proceedings of the public body and shall be signed by the chair of the meeting and the person assigned to their preparation and shall be retained in the official records of this municipality and shall be a public document available for the inspection and copying by members of the public as appropriate under Utah law.

(2009-10, Section Added, eff. 12/23/2009)

Section 2.18.060 Opening Remarks or Invocation

Midway City invites any interested City resident 18 years of age and older to deliver the opening remarks or invocation at any public meeting held by a public body of the City. The presenter will have ninety seconds to deliver the opening remarks or invocation orally (or, if desired, by sign language with an oral interpreter) at the opening of the meeting, immediately prior to the conducting of the Pledge of Allegiance by the chair of the meeting. No guidelines for the

content of the opening remarks or invocation are established by the City, except that words subject to regulation as obscene under federal law may not be delivered, and the chair of the meeting shall retain the chair's inherent authority to prohibit breaches of the peace or disorderly conduct. Interested City residents should submit their name and address to the City Recorder no sooner than one month and no later than 48 hours prior to the time of the meeting, specifying the particular meeting for which they are applying. After the time for submission has expired, the City Recorder will verify the Midway City residence address of the submitters and then place all verified residents' names in a concealed container, from which the Recorder will blindly draw one name, who will be assigned to deliver the opening remarks or invocation at the specified meeting. The Recorder will contact the resident whose name is chosen to notify the resident of the selection. If no name is submitted by the deadline specified above for submitting names, the chair of the meeting will, prior to recitation of the Pledge of Allegiance at the meeting, ask if any Midway City resident in attendance would like to deliver the opening remarks or invocation. If no City resident indicates a desire, the chair may assign the opening remarks or invocation or forego the same. If only one City resident indicates a desire, the chair shall assign that resident to deliver the opening remarks or invocation. If more than one City resident indicates a desire, the chair shall see that all the volunteering residents' names are immediately placed in a concealed container and that one name is drawn blindly, who will be assigned to deliver the opening remarks or invocation. The purpose of the opening remarks or invocation portion of the meeting is to foster creative civic expression among Midway City residents.

(2013-11, Section Added, eff. 09/11/2013)

CHAPTER 2.19 OPEN SPACE ADVISORY COMMITTEE

Section 2.19.010 Jurisdiction

Section 2.19.020 Appointment and Terms of Members

Section 2.19.030 Staff of the Open Space Advisory Committee and their Duties

Section 2.19.040 Requirements for the Submission of Requests

Section 2.19.050 Report of Action

Section 2.19.060 Adoption of and Changes Affecting the Open Space Preservation Plan

Section 2.19.070 Open Space Advisory Committee Scope and Work

Section 2.19.080 Adoption of and Changes Affecting the Open Space Preservation Plan

Section 2.19.010 Jurisdiction

The physical jurisdiction of the Open Space Advisory Committee is the Midway City limits.

Section 2.19.020 Appointment and Terms of Members

A. The Open Space Advisory Committee shall consist of seven voting members.

B. Membership shall be as follows:

1. Chair
2. Vice chair
3. Five regular members
4. Two alternate members (votes only when needed if any voting members are not available)
5. Member of the City Council (nonvoting)

C. The terms of office for the seven appointed Open Space Advisory Committee members shall be four years, except for the initial appointment of the members when the Open Space Advisory Committee is established. For the initial establishment of the advisory committee, four members will have four-year terms and three members will have two-year terms. Any vacancies in these positions shall be filled by a recommendation to and confirmation by the City Council. The appointment will be for the remaining time of the member whose vacancy is being filled. Two consecutive four-year terms shall be the limit for regular membership. Partial terms shall not be considered in determining whether a person has served two consecutive terms.

Section 2.19.030 Staff of the Open Space Advisory Committee and their Duties

A. Planning Director or his/her designee.

1. Shall advise the Open Spaces Advisory Committee regarding regulation of and requests for development and re-development, financial concerns, and other matters.
2. Coordination and supervision of work prepared by City staff.
3. Prepare all documents for presentation to the Open Space Advisory Committee.

Section 2.19.040 Requirements for the Submission of Requests

A. The Open Space Advisory Committee may adopt standard forms for the submission of requests. All requests shall have reasonable advance time requirements.

B. The Planning Director or his/her designee shall certify completeness of requests.

Section 2.19.050 Report of Action

A. A “Report of Action of the Open Space Advisory Committee” shall be forwarded on to the City Council. Said report shall contain:

1. The name of the person making the motion and the second.
2. The contents of the motion, including all findings of fact.
3. The vote of each member.

Section 2.19.060 Adoption of and Changes Affecting the Open Space Preservation Plan

For the adoption of, and anytime the Open Space Advisory Committee would make a decision affecting or changing the Open Space Preservation Plan, the Committee shall send recommendations to the Planning Commission and City Council. These bodies will then hold public hearings to take public input before adopting or making any amendment to the Plan. The Committee may make a formal presentation at the public hearings regarding its recommendations.

Section 2.19.070 Open Space Advisory Committee Scope and Work

The Open Space Advisory Committee will create a plan for preserving open space that will include the following:

- A. Seek outside expertise and guidance regarding options for preserving open space.
- B. Recommend a workable definition of open space.
- C. Recommend open space goals and priorities.
- D. Recommend open space operation and maintenance plans.
- E. Review City code and recommend potential changes that will impact open space.
- F. Work with Wasatch County and other entities to make recommendations regarding open space.
- G. Organize charrettes and open houses, sponsored by the City, to gather public comment about open space preservation.
- H. Identify grants and other funding options to help preserve open space.

Section 2.19.080 Adoption of and Changes Affecting the Open Space Preservation Plan

For the adoption of, and anytime the Open Space Advisory Committee would make a decision affecting or changing the open space preservation plan, the Committee shall send recommendations to the City Council. The City Council will then hold a public hearing to take public input before adopting or making any amendment to the plan. The Committee may make a formal presentation at the public hearing regarding its recommendations.

(2017-14, Section 2.19 Added, eff. 10/11/2017)