

Midway City Council
3 August 2021
Regular Meeting

Ordinance 2021-19 /
Accessory Structures



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: August 3, 2021

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of Section 16.2: Definitions and Section 16.13.6: Accessory Buildings Prohibited as Living Quarters

ITEM: 11

Midway City is proposing a code text amendment of Section 16.13.6: Accessory Buildings Prohibited as Living Quarters and Section 16.2: Definitions. The proposed code will better describe what is allowed in an accessory structure and define what is considered living quarters.

BACKGROUND:

Midway City is proposing a code text amendment that would add language to the definitions section of the code that would define accessory buildings and what is allowed in the buildings. The proposal also amends language regarding accessory structures in the supplementary requirements section of the land use code. Staff has found that better defining these issues will make administering the code easier and the public will have better guidelines regarding accessory structures.

Staff has found that determining what is “living space” is problematic without a definition in the code. Generally, staff has described living space as bedrooms, kitchen, full bathroom, and laundry facilities. Rooms such as offices, hobby rooms, game rooms, music rooms, craft rooms, swimming pool areas, and such staff has defined as nonliving space.

Staff has had many discussions, over the years, on this issue and feels that adopting the following definition will greatly help both the public and staff:

Section 16.2.7a Building, accessory

A subordinate building, located on the same Lot as the main building, the use of which is incidental to that of the main building as outlined in Chapter 16. Accessory buildings are structures including, but not limited to: detached garages, sheds, playhouses, treehouses, storage buildings, pergolas, garden structures, greenhouses, barns, boathouses, pool houses, cabanas, and other similar buildings. Barns, when located on an agricultural parcel, are not a subordinate structure and may be constructed as the main building.

Staff is also proposing to amend Section 16.13.6: Accessory Buildings Prohibited as Living Quarters. The current code reads as follows:

Section 16.13.6 Accessory Buildings Prohibited as Living Quarters

Living and sleeping quarters in any building other than the main residential building is prohibited except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.

Those who have wished to have living quarters in accessory structures have suggested that attaching the accessory structure to the main dwelling by connecting a breezeway makes the accessory structure part of the main structure. Some have even suggested building a breezeway of up to 200' to have living space in what staff has considered an accessory structure even with the breezeway connection. Staff feels that the following proposed language will eliminate proposals for breezeways that circumvent the land use code.

The proposed code for Section 16.13.6: Accessory Buildings Prohibited as Living Quarters is as follows:

Section 16.13.6 Accessory Buildings Prohibited as Living Quarters

A. It shall be a violation of the Midway City Code to use, or to allow the use of, an accessory building as living quarters. Violations of this section of the Code shall be enforced as set forth in the Midway City Code for other violations.

B. Living quarters in any building other than the main residential building are prohibited except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.

C. It shall be a violation of this Code to rent, lease or otherwise allow for any person to use an accessory building for living quarters except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.

D. An accessory building shall be considered living quarters if it includes all the following; sleeping area (including bedrooms), kitchen, and bathroom facilities (three-quarter or full bathroom).

E. Accessory buildings may include rooms such as offices, hobby rooms, game rooms, music rooms, sleeping areas (including bedrooms), and craft rooms.

F. An accessory building may include either:

(i) a full kitchen and a half bath (sink and toilet only) or;

(ii) a bathroom (three-quarter or full bathroom) and a wetbar (sink, fridge, dishwasher, and microwave but does not include a stove or an oven).

G. Accessory buildings are to be used exclusively by the owners or occupants of the main residential building and their temporary guests or invitees.

PLANNING COMMISSION RECOMMENDATION (2020):

Motion: Commissioner Ream: I make a motion that we recommend approval of Item 5 proposing a code text amendment of Section 16.13.6: Accessory Buildings Prohibited as Living Quarters and Section 16.2: Definitions. We approve staff report and findings. With the following conditions: Add language that makes agricultural building an exception.

Seconded: Commissioner Streeter

Chairman Kohler: Any discussion the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Streeter, Ream, Nicholas, Whitney

Nays: None

Motion: Passed

POSSIBLE FINDINGS:

- The proposed code will define living space and what is allowed in accessory structures
- Allowed and prohibited uses are clearly stated for accessory buildings
- The proposed amendment will help staff to better administer the City's code
- The proposed amendment will help the public to understand the options available when building in Midway

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council finds that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings

2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again

3. Denial. This action can be taken if the City Council finds that the proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial



Midway

ORDINANCE

2021-____

**AN ORDINANCE TO AMEND CHAPTERS 16.2 AND 16.13
OF THE MIDWAY CITY LAND USE CODE TO PROHIBIT
THE USE OF ACCESSORY BUILDINGS AS LIVING
QUARTERS**

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

WHEREAS, the City Council of Midway City desires to better define “Accessory Buildings” and what is allowed within such buildings in order to simplify administering the code and to provide the public with clearer guidelines regarding accessory structures; and

WHEREAS, the City Council of Midway City now desires to amend Chapters 16.2 and 16.13 of the Midway City Land Use Code to better and more clearly define what constitutes an “Accessory Building” and what is permitted within Accessory Buildings;

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

The following section of **Chapter 16.2** shall be amended to read as follows:

Chapter 16.2 Definitions

- 7(a) Building, accessory. A subordinate building, located on the same Lot as the main building, the use of which is incidental to that of the main building as outlined in Chapter 16. Accessory buildings are structures including, but not limited to, the following: detached garages, sheds, playhouses, treehouses, storage buildings, pergolas, garden structures, greenhouses, barns, boathouses, pool houses, cabanas, and other similar buildings. Barns, when located on an agricultural parcel, are not a subordinate structure and may be constructed as the main building.

The following section of **Chapter 16.13** shall be amended to read as follows:

Section 16.13.6 Accessory Buildings Prohibited as Living Quarters

- A. It shall be a violation of the Midway City Code to use, or to allow the use of, an accessory building as living quarters. Violations of this section of the Code shall be enforced as set forth in the Midway City Code for other violations.
- B. Living quarters in any building other than the main residential building are prohibited except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.
- C. It shall be a violation of this Code to rent, lease or otherwise allow for any person to use an accessory building for living quarters except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.
- D. An accessory building shall be considered living quarters if it includes all of the following: sleeping area (including bedrooms), kitchen, and bathroom facilities (three-quarter or full bathroom).
- E. Accessory buildings may include rooms such as offices, hobby rooms, game rooms, music rooms, sleeping areas (including bedrooms), and craft rooms.
- F. An accessory building may include either:
 - i. A full kitchen and a half-bath (sink and toilet only); or
 - ii. A bathroom (three-quarter or full bathroom) and a wetbar (sink, refrigerator, dishwasher, and microwave but does not include a stove or oven).
- G. Accessory buildings are to be used exclusively by the owners or occupants of the main residential building and their temporary guests or invitees.

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

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PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this 3rd day of August, 2021.

	AYE	NAY
Council Member Steve Dougherty	_____	_____
Council Member Jeff Drury	_____	_____
Council Member Lisa Orme	_____	_____
Council Member Kevin Payne	_____	_____
Council Member JC Simonsen	_____	_____

DRAFT

APPROVED:

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM:

Corbin Gordon, City Attorney

(SEAL)