

Midway City Council
16 November 2021
Regular Meeting

Ordinance 2021-39 /
Small Subdivisions



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: November 16, 2021

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment to Section 16.17: Small Subdivisions

Midway City is proposing an amendment to Section 16.17: “Small Subdivisions” of the Midway City Municipal Code. The proposed amendment would correct minor issues staff has identified with the current code.

BACKGROUND:

The purpose of this item is to update the Small Subdivision ordinance to remove outdated or irrelevant requirements and to refresh the remaining portions, so they reflect current processes and requirements. Because there are numerous adjustments being proposed, redlining a copy of the current ordinance did not seem like a productive approach to illustrating the proposed changes. Below is a clean copy of the proposed ordinance for your consideration.

CHAPTER 16.17 SMALL SUBDIVISIONS

- Section 16.17.1 Purpose and Intent***
- Section 16.17.2 Pre-Application Conference with Staff Member***
- Section 16.17.3 Preliminary/Final Plan***
- Section 16.17.4 Lot Size***
- Section 16.17.5 Permitted and Conditional Uses***
- Section 16.17.6 Standards and Requirements***
- Section 16.17.7 Preliminary/Final Planning Commission Action***
- Section 16.17.8 Recommendation of Preliminary/Final Plan to City Council***
- Section 16.17.9 Public Hearing***

Section 16.17.10	Preliminary/Final Approval of City Council
Section 16.17.11	Time Limit for Preliminary/Final Approval
Section 16.17.12	Final Plat
Section 16.17.13	No Building Permits Issued Prior to Plat Recording
Section 16.17.14	Completion of Construction and Issuance of Permits
Section 16.17.15	Construction Bond
Section 16.17.16	Default
Section 16.17.17	Final Disposition and Release
Section 16.17.18	Record Drawing Submittal and Contents
Section 16.17.19	Total Compliance with all Regulations
Section 16.17.20	Warranty Bond

Section 16.17.1 Purpose and Intent

The intent of this Section is to provide regulations that will further the objectives of the Community Master Plan relating to residential developments. This Chapter shall apply to the creation of any small subdivision. A small subdivision is defined as any proposal to create three or fewer residential dwelling units and/or building lots from one or more existing lots of record; another requirement is that the subdivision cannot create any new roads or streets.

Section 16.17.2 Pre-Application Conference with Staff Member

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

Section 16.17.3 Preliminary/Final Plan

The developer shall prepare a preliminary/final plan and shall submit three copies of the proposed subdivision on 11" x 17" size paper along with a digital copy of each document that is submitted to the Planning Commission for its review. The purpose of this plan is to demonstrate how the proposed development plan will be able to meet the standards required under the zoning ordinance and other applicable laws or regulations. The Preliminary/Final Plan is expected to contain construction drawings, and it is also expected that it will demonstrate compliance with this code. The Preliminary/Final Plan shall contain the following information:

- A. A complete application, as defined by Utah State Law*
- B. Subdivision name.*

- C. Applicant entity name, primary contact name, civil engineer, with respective contact addresses, phone numbers, and email addresses for each.*
- D. Legal description with section tie.*
- E. North point and a scale consistent with a scale that is on a standard engineering scale ruler.*
- F. A site plan showing location and dimensions of all lot lines.*
- G. Lot Size(s)*
- H. Any trails proposed within the project including an analysis that shows how this trail plan works in conjunction with the City Trail Master Plan.*
- I. 10' public utility easements area required within each lot, around all lot boundaries.*
- J. Topography shown by contours at no greater interval than two feet.*
- K. The outside boundary of the project.*
- L. Public streets and sidewalks.*
- M. Typical street or roadway cross sections.*
- N. A map that shows the sensitive lands located within the project boundaries.*
- O. Existing and proposed easements, waterways, utility lines, canals and ditches.*
- P. A plan for accommodating waterways, ditches and canals.*
- Q. Proposed and existing sewage disposal facilities.*
- R. Existing and proposed water system indicating size of water lines and fire hydrant locations.*
- S. Environmental Assessment Review Statement, if required by staff.*
- T. Any other information Staff or the Planning Commission may determine necessary relating to the particular site of the proposed project.*
- U. Evidence of sending digital copies of the proposed subdivision to the following service providers: telecom; natural gas; irrigation; sanitary sewer; power; cable; postmaster; Wasatch County Fire District; Wasatch County Solid Waste Special Service District.*
- V. If the applicant is not the owner listed on the tax roll, a written consent to the application signed by the title holder must be provided.*

X. Recommendation from the Midway City Water Advisory Board.

Y. Final approval from the Midway Sanitation District.

Section 16.17.4 Lot Size

The minimum permitted lot size allowed in a small subdivision for each zone shall be as specified in the zoning requirements set forth in Title 16.

Section 16.17.5 Permitted and Conditional Uses

Permitted and conditional uses are permitted as allowed by the zoning regulations governing the zone in which the small subdivision is located.

Section 16.17.6 Standards and Requirements

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

- A. The project must be prepared by a licensed professional.*
- B. All dwelling units shall be served by sewage facilities as described in this title. All utilities within the small subdivision shall be placed underground, including telephone, power, gas, internet, and television. As a property is developed, or redeveloped (resubdivided), the existing utility poles (distribution, communication, and residential services) and their associated lines located along the property frontage must be buried by the developer/property owner. The overhead lines shall be buried to the property line if there is an existing pole. If no pole exists at a property line, the distribution line shall be buried to the nearest pole beyond the property line. This requirement does not apply to existing transmission lines. All dwelling units shall have separate utility connections and metering.*
- C. The area proposed for a small subdivision shall be in one ownership during development to provide for full supervision and control of said development and to insure conformance with these provisions.*
- D. In the event that the land contained within a development is traversed by a proposed local collector, minor collector, or collector street, the small subdivision shall be designed in accordance therewith.*
- E. Dwellings and permitted structures shall be located so as to best comply with the intent of this Ordinance and shall meet the following standards:*
 - 1. The following streets shall require a minimum 50-foot setback for all structures:*
 - i. Burgi Lane;*
 - ii. River Road;*

- iii. Pine Canyon Road;
- iv. Homestead Drive;
- v. Michie Lane, east of Center;
- vi. Center Street, south of Main Street (SR 113);
- vii. Tate Lane;
- viii. Stringtown Road;
- ix. 200 North, west of 200 West.
- x. Cari Lane
- xi. 500South
- xii. 600 North

F. The maximum height of buildings within a small subdivision shall be 35 feet above natural grade.

G. All required parking spaces, parking areas and driveways shall be hard-surfaced asphalt or concrete, and properly drained with no drainage running across public or private sidewalks.

H. The developer shall install all public improvements on-site and off-site as identified by the Planning Commission and City Council.

I. All street construction improvements shall be constructed according to public street construction widths and cross-section standards.

J. Provisions of the Sensitive Lands Section of this ordinance shall be adhered to within the small Subdivision.

K. The subdivision shall connect any trails shown on the City Master Trails Plan for the area.

L. Final engineering drawings (plans and profiles) for all public and private improvements, final grading plan, and final drainage and run-off plan with run-off calculations.

M. All documents and legal material shall be ready for recording.

N. Deeds of dedication for all public lands as required by the City, when not shown on a final plat.

O. Provisions for bonding of all improvements in a form acceptable to the City. The bond amount is to be 110 percent of the engineer's estimated cost for improvements.

P. All required final plat fees.

Q. Small subdivisions shall not be phased.

Section 16.17.7

Preliminary/Final Planning Commission Action

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

- A. Due to the design of the plan, or other aspects of the preliminary/final submittal, the Planning Commission determines the project to be inconsistent with the Ordinance.*
- B. The Planning Commission requires that certain specific changes be made within the plans.*
- C. The plans or documents have not been completed.*
- D. The fees have not been paid by the developer.*

Section 16.17.8 Recommendation of Preliminary/Final Plan to City Council

The Planning Commission shall recommend approval or denial this plan to the City Council, with or without conditions.

Section 16.17.9 Public Hearing

After receiving notice of the Planning Commission's recommendation of approval, or denial, the City Council shall set and hold a public hearing to consider preliminary/final approval or denial of the project.

Section 16.17.10 Preliminary/Final Approval of City Council

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

Section 16.17.11 Time Limit for Preliminary/Final Approval

A. Any failure to record the plat of a proposed preliminary/final plan application within one year of the approval of the proposed plan by the City Council shall terminate all proceedings and render the preliminary/final plan null and void.

B. The duration of Preliminary/Final Approval shall be for one year from the date of approval of the development by the City Council. If the Final Plat is not recorded with the County Recorder within the one-year period, the development's approval shall be voided, and both Preliminary/Final Approvals must be re-obtained to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions. Such

conditions may include, but are not limited to, provisions requiring that:

- 1. Construction must be conducted per any new City standards in effect at the time the plat is ultimately recorded;*
- 2. The property must be maintained in a clean, dust-free, and weed-free condition always;*
- 3. Each extension will be for a one-year period only, after which time an annual review must be requested by the applicant and presented before the City Council; and/or*
- 4. No more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an extension.*

Section 16.17.12 *Final Plat*

In addition to all other requirements, the proposed final plat shall show an address block containing addresses for each lot.

Section 16.17.13 *No Building Permits Issued Prior to Plat Recording*

No building permit applications shall be submitted prior to the recording of the plat by the Wasatch County Recorder.

Section 16.17.14 *Completion of Construction and Issuance of Permits*

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

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

Section 16.17.15 *Construction Bond*

Prior to beginning construction of a development, the developer shall submit a bond and pay all required out-of-pocket fees to the City that complies with the City code as determined by the City Engineer.

Section 16.17.16 *Default*

In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within one year from the date the plat is recorded, the City Council may declare

the bond forfeited and the City may install or cause the required improvements to be installed using the proceeds from the collection of the bond or other assurances to defray the expense.

Section 16.17.17 *Final Disposition and Release*

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

Section 16.17.18 *Record Drawing Submittal and Contents*

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

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

- 1. Established survey monuments, benchmark, and permanent horizontal and vertical control.*
- 2. Water: valves, laterals, fire hydrants, blow-offs, flush valves, and water meters (culinary and secondary).*
- 3. Sewer: laterals and manholes with rim and inverts elevations.*
- 4. Storm drain: Catch basins, curb inlets, and manholes with rim and inverts elevations, size and type of pipe, storm outlets and detention / retention systems.*
- 5. Miscellaneous light pole locations, street sign locations, and utility box/transformer locations.*
- 6. Pressurized irrigation: valves, blow-offs, flush valves, drains, meters and water lateral locations.*

Section 16.17.19 *Total Compliance with all Regulations*

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

Section 16.17.20 *Warranty Bond*

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

POSSIBLE FINDINGS:

- The proposed adjustment will update the small subdivision code to reflect current processes and requirements.

PLANNING COMMISISON RECOMMENDATION:

Motion: Commissioner Ream: I make a motion that we recommend approval of the amendment to Section 16.17: “Small Subdivisions” of the Midway City Municipal Code. The proposed amendment would correct minor issues staff has identified with the current code. We accept the staff findings and to generalize any providers.

Seconded: Commissioner Wardle

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Whitney, Wardle and Garland

Motion: Passed

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 CHAPTER 16.17 OF THE MIDWAY CITY LAND USE CODE TO REMOVE OUTDATED OR IRRELEVANT REQUIREMENTS AND TO REFLECT CURRENT PROCESSES.

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

WHEREAS, Midway City Staff has identified numerous minor issues in the Small Subdivisions Chapter of the Midway City Land Use Code – Chapter 16.17; and

WHEREAS, to correct these issues, the Midway City Council desires to remove outdated and/or irrelevant requirements contained in Chapter 16.17 and to add language reflecting current City processes; and

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

The following Chapter of **Title 16** shall be amended to read as follows:

Chapter 16.17 SMALL SUBDIVISIONS

- | | |
|-------------------------|---|
| Section 16.17.1 | Purpose and Intent |
| Section 16.17.2 | Pre-Application Conference with Staff Member |
| Section 16.17.3 | Preliminary/Final Plan |
| Section 16.17.4 | Lot Size |
| Section 16.17.5 | Permitted and Conditional Uses |
| Section 16.17.6 | Standards and Requirements |
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- G. Lot Size(s)
- H. Any trails proposed within the project including an analysis that shows how this trail plan works in conjunction with the City Trail Master Plan.
- I. 10' public utility easements area required within each lot, around all lot boundaries.
- J. Topography shown by contours at no greater interval than two feet.
- K. The outside boundary of the project.
- L. Public streets and sidewalks.
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- N. A map that shows the sensitive lands located within the project boundaries.
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- P. A plan for accommodating waterways, ditches and canals.
- Q. Proposed and existing sewage disposal facilities.
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- T. Any other information Staff or the Planning Commission may determine necessary relating to the particular site of the proposed project.
- U. Evidence of sending digital copies of the proposed subdivision to the following service providers: telecom; natural gas; power; cable; postmaster; Wasatch County Fire District; Wasatch County Solid Waste Special Service District.
- V. If the applicant is not the owner listed on the tax roll, a written consent to the application signed by the title holder must be provided.
- W. Recommendation from the Midway City Water Advisory Board.
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- F. The maximum height of buildings within a small subdivision shall be 35 feet above natural grade.
- G. All required parking spaces, parking areas and driveways shall be hard-surfaced asphalt or concrete, and properly drained with no drainage running across public or private sidewalks.
- H. The developer shall install all public improvements on-site and off-site as identified by the Planning Commission and City Council.
- I. All street construction improvements shall be constructed according to public street construction widths and cross-section standards.
- J. Provisions of the Sensitive Lands Section of this ordinance shall be adhered to within the small Subdivision.
- K. The subdivision shall connect any trails shown on the City Master Trails Plan for the area.
- L. Final engineering drawings (plans and profiles) for all public and private improvements, final grading plan, and final drainage and run-off plan with run-off calculations.
- M. All documents and legal material shall be ready for recording.
- N. Deeds of dedication for all public lands as required by the City, when not shown on a final plat.
- O. Provisions for bonding of all improvements in a form acceptable to the City. The bond amount is to be 110 percent of the engineer's estimated cost for improvements.
- P. All required final plat fees.
- Q. Small subdivisions shall not be phased.

Section 16.17.7 Preliminary/Final Planning Commission Action

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- B. The Planning Commission requires that certain specific changes be made within the plans.
- C. The plans or documents have not been completed.

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- B. The duration of Preliminary/Final Approval shall be for one year from the date of approval of the development by the City Council. If the Final Plat is not recorded with the County Recorder within the one-year period, the development's approval shall be voided, and both Preliminary/Final Approvals must be re-obtained to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions. Such conditions may include, but are not limited to, provisions requiring that:
 - 1. Construction must be conducted per any new City standards in effect at the time the plat is ultimately recorded;
 - 2. The property must be maintained in a clean, dust-free, and weed-free condition always;
 - 3. Each extension will be for a one-year period only, after which time an annual review must be requested by the applicant and presented before the City Council; and/or
 - 4. No more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an extension.

Section 16.17.12 Final Plat

In addition to all other requirements, the proposed final plat shall show an address block containing addresses for each lot.

Section 16.17.13 No Building Permits Issued Prior to Plat Recording

No building permit applications shall be submitted prior to the recording of the plat by the Wasatch County Recorder.

Section 16.17.14 Completion of Construction and Issuance of Permits

- A. No building permits applications shall be submitted until the construction of the development is substantially complete; provided, however, that the developer in whose name the bond for the project is issued may submit a building permit application once the fire flow mechanisms are installed, operating and approved by the City Engineer. Once installed, operating and approved, fire flows must remain operating continuously thereafter.
- B. No certificate of occupancy will be issued until construction on the development reaches final completion as determined by the City Engineer.

Section 16.17.15 Construction Bond

Prior to beginning construction of a development, the developer shall submit a bond and pay all required out-of-pocket fees to the City that complies with the City code as determined by the City Engineer.

Section 16.17.16 Default

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

Section 16.17.17 Final Disposition and Release

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

Section 16.17.18 Record Drawing Submittal and Contents

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- B. As-built information shall be overlaid on this final drawing. The as-built drawing must be based upon actual field survey of the items on the following list:
1. Established survey monuments, benchmark, and permanent horizontal and vertical control.
 2. Water: valves, laterals, fire hydrants, blow-offs, flush valves, and water meters (culinary and secondary).
 3. Sewer: laterals and manholes with rim and inverts elevations.
 4. Storm drain: Catch basins, curb inlets, and manholes with rim and inverts elevations, size and type of pipe, storm outlets and detention / retention systems.
 5. Miscellaneous light pole locations, street sign locations, and utility box/transformer locations.
 6. Pressurized irrigation: valves, blow-offs, flush valves, drains, meters and water lateral locations.

Section 16.17.19 Total Compliance with all Regulations

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

Section 16.17.20 Warranty Bond

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

This ordinance shall take effect upon publication as required by law.

[Signature Page Follows]

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this ____ day of November, 2021.

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

APPROVED:

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM:

Corbin Gordon, City Attorney

(SEAL)