

Midway City Council
16 November 2021
Regular Meeting

Ordinance 2021-37 /
Water Rights



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: November 16, 2021
NAME OF APPLICANT: Midway City
AGENDA ITEM: Section 10.07 of the Midway City Municipal Code

Midway City is proposing an amendment to Section 10.07: “Development within the City” of the Midway City Municipal Code. The proposed amendment would require water rights dedication for new developments containing wetlands.

BACKGROUND:

The purpose of this item is to amend Title 10 so that if a property is developed that has a delineated wetland that has been historically irrigated, the developer will be required to dedicate sufficient irrigation water rights to ensure that that the wetlands can continue to be irrigated.

There is a concern that some wetlands that have been historically irrigated may for one reason or another dry up and upon reinspection by the Army Corps, they may not be considered wetlands anymore. If this happens, these areas need to have adequate irrigation water dedicated so that they can be maintained like other open space areas within a development. Previously, developers have not been required to dedicate water for wetlands, but with the proposed amendment, they would now be required to dedicate the needed irrigation water.

Staff is proposing that the requirement is added to Table 1 – Midway City Water Required for Building and Development found in section 10.07.020 - Amount of Water. The added requirement is shown in the table below in the *red* text:

TABLE 1
MIDWAY CITY
WATER REQUIRED FOR BUILDING AND DEVELOPMENT

NOTE: The following general formula will be used in determining the required number of acre feet of water. The City will utilize its own experience and Division of Drinking Water Standards in allocating specific water requirements.

Indoor Culinary Usage: 0.8 acre-feet of water per equivalent residential unit

Outdoor Irrigation Usage:

For lots measuring less than 14,520 sq. ft.: 5,000 sq. ft. will be subtracted for impervious surface that will not be calculated for outdoor water requirements.

For lots measuring 14,520 sq. ft. or more: 8,000 sq. ft. will be subtracted for impervious surface that will not be calculated for outdoor water requirements.

All irrigated areas in the subdivision (including park strips and water features) are required 3 acre feet of water.

Areas proposed for development that have delineated wetlands and have been historically irrigated or have had water rights, will be required to dedicate water rights to ensure that the wetlands can continue to be irrigated.

The City reserves the right to require water rights anywhere that the City feels that a future property owner will want to irrigate in the future, even if the property has not been historically irrigated.

Commercial Usage: Water requirements will be determined by the City on a case-by-case basis using the above formulas and applying any factors unique to the application.

POSSIBLE FINDINGS:

- The proposed amendment will require water rights to be turned over for the continued irrigation of delineated wetlands that have been historically irrigated along with areas that have had water rights
- The proposed amendment will allow the City to require water rights for any area that it feels a future property owner may want to irrigate, regardless of whether it has been historically irrigated or not
- The proposed amendment would ensure that adequate irrigation is provided in the event a wetland boundary changes, allowing a former wetland to be landscaped

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Ream: I make a motion that we recommend approve of the amendment to Section 10.07: “Development within the City” of the Midway City

Municipal Code. The proposed amendment would require water rights dedication for new developments containing wetlands. We also accept the staff findings with no conditions.

Seconded: Commissioner Wardle

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Whitney, Wardle and Garland

Nays: None

Motion: Passed

WATER BOARD RECOMMENDATION:

At the 11/1/2021 water board meeting, the board moved to recommend approval of the amended language as proposed above.

ALTERNATIVE ACTIONS:

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

3. Recommendation of Denial. This action can be taken if the Planning Commission 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 SECTION 10.07.020 OF THE MIDWAY CITY MUNICIPAL CODE TO REQUIRE THAT DEVELOPERS DEDICATE SUFFICIENT IRRIGATION WATER RIGHTS TO CONTINUE TO IRRIGATE DELINEATED WETLANDS ON DEVELOPED PROPERTY.

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

WHEREAS, historically, developers have not been required to dedicate water for wetlands on properties they develop; and

WHEREAS, there is concern that some wetlands that have historically been irrigated will dry up once the areas surrounding the wetlands are developed; and

WHEREAS, to ensure that such wetlands do not dry up, these areas need to have adequate irrigation water dedicated so they can be maintained like other open space areas within developments; and

WHEREAS, the City Council of Midway City now desires to amend Section 10.07.020 of the Midway City Municipal Code to require developers to dedicate sufficient irrigation water rights to ensure that wetlands on developed property continue to be irrigated.

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

The following section of **Chapter 10.07** shall be amended to read as follows:

Section 10.07.020 Amount of Water Required

<p>TABLE 1 MIDWAY CITY WATER REQUIRED FOR BUILDING AND DEVELOPMENT NOTE: The following general formula will be used in determining the required number of acre feet of water. The City will utilize its own experience and Division of Drinking Water Standards in allocating specific water requirements.</p> <p><u>Indoor Culinary Usage:</u> 0.8 acre-feet of water per equivalent residential unit</p> <p><u>Outdoor Irrigation Usage:</u> For lots measuring less than 14,520 sq. ft.: 5,000 sq. ft. will be subtracted for impervious surface that will not be calculated for outdoor water requirements.</p> <p>For lots measuring 14,520 sq. ft. or more: 8,000 sq. ft. will be subtracted for impervious surface that will not be calculated for outdoor water requirements.</p> <p>All irrigated areas in the subdivision (including park strips and water features) are required 3 acre feet of water.</p> <p>Areas proposed for development that have delineated wetlands and have been historically irrigated will be required to dedicate water rights to ensure that the wetlands can continue to be irrigated.</p> <p><u>Commercial Usage:</u> Water requirements will be determined by the City on a case-by-case basis using the above formulas and applying any factors unique to the application.</p>

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)