

Midway City Council
5 October 2021
Regular Meeting

Ordinance 2021-34 /
On-Site Sale of
Agricultural Products



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: October 5, 2021

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of Title 16.2, 16.4, 16.5, 16.7, 16.8, 16.9, 16.10, 16.11, 16.12, 16.13 and 16.5

ITEM: 9

Midway City is proposing an amendment to Section 16.2 Definitions of the Midway City Municipal Code and the adoption of new code text in Section 16.13 – Supplementary Requirements in Zones. This proposal would allow for the onsite sale of certain agricultural products that are grown on the property. The proposed amendment would also add agriculture as a permitted use in all Midway City zones.

BACKGROUND:

Staff is proposing a code text amendment to Section 16.2: Definitions, that would remove the prohibition on property owners from selling agricultural crops that are grown on their private property. It would add a new section to 16.13: Supplementary Requirements in Zones, that outlines the criteria for private property owners to sell agricultural crops that are grown on the property. It would also add “agriculture” as a permitted use in all residential, commercial and resort zones. The proposed adjustments help promote the vision, goals and objectives as described in the General Plan.

Community Vision Element:

- Goal 1: To be a beautiful, organized small-town community based on its distinct history of agriculture, open space and recreation.
 - Guideline 5: Encourage the preservation of prime agricultural land and open space within Midway and the surrounding valley.

- Guideline 8: Encourage agriculture, including animal rights, throughout the City to help promote a rural atmosphere.

Economic Development, Resort and Tourism Area Element:

- Goal 3: Encourage retail opportunities to obtain basic necessities and other commercial and retail services within the community.

Historic Preservation Element:

- Goal 2: To preserve Midway’s heritage.
 - Objective 1: Preserve the heritage of Midway.

Open Space Element:

- Design Objective 2 - Midway City has a multi-faceted character, including clearly rural older areas, and newer developments with typical suburban character. The historic rural areas provide the city with a unique character / atmosphere, supported by readily visible in-town agriculture (cow & pasture ambiance), country-feel roads (grassy shoulders, open ditches), in-town barns and other historic buildings, etc. Preserving this character may require not only acquisition of selected in-town open space currently in agricultural use but may also require city code and planning support.

The proposed modifications would be as follows:

Modify the definition of agriculture in section 16.2 of the land use code. (Staffs proposed adjustments are *italicized* and in red).

16.2 - Definitions

1. Agriculture. The growing of soil crops in the customary manner in the open. It shall not include livestock-raising activities. *The retailing of soil crops that are grown on-site will be allowed in all residential, commercial and resort zones, as outlined in 16.13.*

Currently, agriculture is a permitted use in only one of the residential zones, RA-1-43. Staff is proposing that it is added as a permitted use is all residential, commercial and resort zones.

In addition to the above modifications, planning staff is proposing that the following section is added to 16.13 Supplementary Requirements in Zones, outlining the criteria that will allow a private property owner to sell agricultural crops grown onsite.

16.13.49 Agricultural Sales in Residential Zones

Owners of private property in residential zones, may sell agricultural crops that are grown onsite with the approval of the zoning administrator or its designee and in compliance with the following guidelines:

1. *Property owners must submit a no-cost special use application to the Midway City planning department that addresses the following:*
 - a. *Provide a list of what agricultural crops will be sold onsite. All agricultural crops being sold must be grown on-site. The sale of non-agricultural items, agricultural crops grown off-site, animals, animal byproducts or processed foods is strictly prohibited.*
 - b. *Provide a site plan showing the following:*
 - i. *Any proposed improvements.*
 - ii. *The location of any proposed farm retail stand. Retail stands may not exceed 150 square feet (gross square footage) and must be located outside of the right-of-way, on the applicant's private property. Retail stands must be temporary structures and can only be erected between June 15th and October 15th. If the stand is not used for seven consecutive calendar days, it must be removed. Retail stands must be properly anchored and must be approved by the Midway Fire Chief.*
 - iii. *Proposed parking must be shown to ensure it is safe and adequate. Parking in the public right-of-way may be allowed if there is adequate room and it is in a location that is deemed safe. If parking in the right-of-way is not possible, then all parking must be located on private property. All parking is subject to the approval of the zoning administrator or its designee.*
 - c. *Allowed hours of operation: 8:00 AM to 7:00 PM, Monday through Saturday*
 - d. *Allowable signage: One sandwich board sign up to nine square feet that may be located in the right-of-way at ground level and cannot taller than four feet in height. Signs may only be displayed while agricultural products are being sold.*
2. *Must be in compliance with any local or state health and agricultural department requirements.*

Proposed code adjustments appear to be in harmony with the previously mentioned goals and objectives of the general plan and create opportunities for property owners to profit from engaging in less intense uses on their property, which contribute to the rural character of Midway.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Ream: I make a motion that we recommend approval of the Midway City Municipal Code and the adoption of new code text in Section 16.13 – Supplementary Requirements in Zones. This proposal would allow for the onsite sale of certain agricultural products that are grown on the property. The proposed amendment

would also add agriculture as a permitted use in all Midway City zones. We also include the modifications that were given to staff and was discussed in this meeting.

Seconded: Commissioner Cliften

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Cliften, Ream and Garland

Nays: Bouwhuis- Because he doesn't believe we should restrict days.

Motion: Passed

POSSIBLE FINDINGS:

- Promotes the goals and objectives of the General Plan which includes the preservation of Midway's agricultural character
- Creates additional incentive for property owners to engage in less intense uses by allowing them to grow and sell agricultural crops from their property
- Contributes to the rural atmosphere of 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 ALLOW FOR THE ONSITE SALE OF CERTAIN AGRICULTURAL CROPS GROWN ON THE PROPERTY AND TO ADD “AGRICULTURE” AS A PERMITTED USE IN ALL RESIDENTIAL, COMMERCIAL AND RESORT ZONES.

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

WHEREAS, the Midway City General Plan contains goals for the City to be a beautiful, organized small-town community based on its distinct history of agriculture, to encourage retail opportunities to obtain basic necessities and other commercial and retail services within the community, and to preserve Midway’s heritage; and

WHEREAS, to further these goals, the City Council of Midway City desires to remove its prohibition on property owners selling agricultural crops grown on their private property, outline criteria for private property owners selling agricultural crops grown on their private property, and add “agriculture” as a permitted use in all residential, commercial and resort zones within the City; 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 make these changes.

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

1. Agriculture. The growing of soil crops in the customary manner in the open. It shall not include livestock-raising activities. The retailing of soil crops that are

grown on-site will be allowed in all residential, commercial and resort zones, as outlined in 16.13.

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

Chapter 16.13 SUPPLEMENTARY REQUIREMENTS IN ZONES

16.13.49 Agricultural Sales in Residential Zones

- A. Owners of private property in residential zones may sell agricultural crops that are grown onsite with the approval of the zoning administrator or its designee and in compliance with the following guidelines:
1. Property Owners must submit a no-cost special use application to the Midway City planning department that addresses the following:
 - i. Provide a list of what agricultural crops will be sold onsite. All agricultural crops being sold must be grown on-site. The sale of non-agricultural items, agricultural crops grown off-site, animals, animal byproducts or processed foods are strictly prohibited.
 - ii. Provide a site plan showing the following:
 - a. Any proposed improvements.
 - b. The location of any proposed farm retail stand. Retail stands may not exceed 150 square feet (gross square footage) and must be located outside of the right-of-way on the applicant's private property. Retail stands must be temporary structures and can only be erected between June 15th and October 15th. If the stand is not used for seven (7) consecutive calendar days, it must be removed. Retail stands must be properly anchored and must be approved by the Midway City Fire Chief.
 - c. Proposed parking must be shown to ensure it is safe and adequate. Parking in the public right-of-way may be allowed if there is adequate room and it is in a location that is deemed safe. If parking in the right-of-way is not possible, then all parking must be located on private property. All parking is subject to the approval of the zoning administrator or its designee.
 - iii. Allowed hours of operation: 8:00 a.m. to 7:00 p.m., Monday through Saturday.
 - iv. Allowed signage: One (1) sandwich board sign up to nine (9) square feet may be located in the right-of-way at ground level. The sign may not be taller than four (4) feet in height. Signs may only be displayed while agricultural crops are being sold.
 2. Agricultural retail stands must comply with any local or state health and agricultural department requirements.

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 October, 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)