



ORDINANCE 2024-17

AN ORDINANCE TO AMEND CERTAIN SECTIONS OF THE MIDWAY CITY LAND USE CODE TO COMPLY WITH UTAH S.B. 174

WHEREAS, during its 2023 General Session, the Utah State Legislature passed S.B. 174, a bill that amends provisions in State Code related to local land use and development; and

WHEREAS, Midway City and other Utah municipalities had one year from the date S.B. 174 was adopted to amend their local land use codes to comply with and incorporate the changes and requirements included in S.B. 174; and

WHEREAS, Midway City staff has reviewed and revised the Midway City Land Use Code to comply with and incorporate the changes and requirements included in S.B. 174; and

WHEREAS, the Midway City Council desires now to formally adopt the revisions made by City Staff to the City Land Use Code to comply with S.B. 174.

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

16.07.030 Conditional Uses

1. Public buildings, primary and secondary schools, churches, but not temporary revival tents or buildings.
(2011-01, Sub-section Amended, eff. 2/16/2011)

16.08.030 Conditional Uses

1. Public buildings, primary and secondary schools, churches, but not temporary revival tents or buildings.
(2011-01, Sub-section Amended, eff. 2/16/2011)

16.09.030 Conditional Uses

1. Public buildings, primary and secondary schools, churches, but not temporary revival tents or buildings.
(2011-01, Sub-section Amended, eff. 2/16/2011)

16.10.030 Conditional Uses

1. Public buildings, primary and secondary schools, churches, but not temporary revival tents or buildings.
(2011-01, Sub-section Amended, eff. 2/16/2011)

16.11.030 Conditional Uses

1. Public buildings, primary and secondary schools, churches, but not temporary revival tents or buildings.
(2011-01, Sub-section Amended, eff. 2/16/2011)

16.12.030 Conditional Uses

1. Public buildings, primary and secondary schools, and churches.
(2011-01, Sub-section Amended, eff. 2/16/2011)
2. Hobby breeders:
 1. When located on a lot of at least 1.5 acres.
 2. Has been inspected by the City and the Animal Control Officer and found to be in compliance with other applicable City ordinances.
3. Kennels or Catteries:
 1. When located on a lot or property that is greater than 1.5 acres.
 2. Has been inspected by the City and the Animal Control Officer and found to be in compliance with other applicable City ordinances.
4. Day-care nurseries.
5. Rest homes.
6. Public utility facilities and buildings.
7. Golf courses and golf clubhouses (private and public).
8. Cemeteries.
9. Plant nurseries.

16.13.240 Trails

All large-scale developments shall connect any trails shown on the City Trails Master Plan for the area.

16.14.040 Sensitive Lands Identification And Review Procedure

For all types of sensitive lands governed by this Chapter, the following general method and outline shall be employed: Initial baseline information and a sensitive lands checklist shall be provided by the City, along with information available from other public review agencies, to the extent that they have been previously identified. These resource guidelines, however, are only minimum guidelines, and are not considered all inclusive. It is not expected that these initial inventories, maps or regulations will comprehensively define all of the possible sensitive lands' considerations for the City. Individual applicant analysis and review are an integral part of the

process of confirming the applicability of sensitive lands herein identified to each project, and to further define sensitive areas not heretofore identified, but which conform to the definitions, purpose and intent of this Chapter. Therefore, for every development proposal or annexation brought before the City, the owner, developer or proponent shall, as part of the application for Preliminary Approval, evaluate and return the sensitive lands analysis checklist, along with supporting data for each section of the checklist concerning its applicability to the property. This completed checklist is to facilitate a review of the sensitive lands by City Staff. The checklist is by no means comprehensive but is an initial guideline for the benefit of both the City and the applicant. Upon review, the City may require further and more comprehensive analysis of any of the sections. Analysis of each of the types of sensitive lands governed by this Chapter, and the applicable requirements contained herein, may be required to be conducted by professionally licensed engineers or the appropriate public review agency, or firms sanctioned by such agencies, at the expense of the owner or developer.

16.14.060 Hillside, Slopes, And Natural Grade

H. Retaining Walls. Retaining walls are discouraged, and the use of blended natural contours is encouraged. However, if it can be demonstrated by the applicant to the satisfaction of City Staff that there is no other alternative, then a retaining wall may be constructed in order to reduce the impact of cut banks and fill slopes of more than 6 vertical feet. Such retaining walls must be made of natural stone and blend into the colors and contours of the hillside.

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2. Criteria for Streets and Driveways Traversing Steep Slopes. All roads and driveways in hillside areas must receive full review and approval from City Staff. Sensitivity to the landforms, erosion, plant life, wildlife and view shed are key considerations. Streets, roads, private access roads, driveways, and other vehicular routes shall not be allowed to traverse slopes between 25 percent and 50 percent unless specifically authorized and approved by City Staff. Any drive so authorized shall meet the following criteria:

J. Landslide Considerations. It is the intent of the City that no construction shall occur in areas susceptible to landslides, nor shall any construction or disturbance create an area more susceptible to erosion or landslides or that will destabilize a pre-existing landslide. Areas with potential for landslides may be identified on City maps. The applicant is responsible to search for, perform studies that will identify, and disclose any information that is available to identify areas of instability. For all areas identified on City materials as potential landslide areas, a slope stability analysis must be performed by a licensed geotechnical engineer before development is approved on those sites. The applicant and City Staff must then use this information to guide the development of the property.

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3. Architectural Review. The selections of materials, colors and lighting shall be reviewed and a written recommendation to the Planning Director shall be submitted by the City's Vision Architectural Committee.

16.14.070 Ridgelines And Benches

A. Purpose and Intent. Within the corporate limits of the City of Midway there are many significant landforms, including hills and mountains with distinct ridgelines and benches, at

higher elevations than the surrounding flat lands. These topographical features constitute a unique natural resource meriting protection and preservation. Construction of structures in locations on these landforms, which are visible from many areas of the City and County, degrades this natural heritage. The regulations adopted by this Section place restrictions on the siting of any development in visually significant areas. These regulations apply uniformly to all zoned development encompassing landforms with visually sensitive areas.

C. Ridgeline Building Restrictions. Development Prohibited. No development, as defined in this Chapter, shall be allowed to be located either on or across any ridgeline or skyline, as viewed from any single Community Viewing Station. Anyone desiring to build a structure or any other form of development within a Ridgeline/Skyline protection area, as delineated on the official map, shall submit the proposed building to Planning Staff for approval using the following GIS and field analysis: The highest point of any building or structure, whether the building or structure is on the near or far side of the subject hill, including roof lines, chimneys, steeples, parapets, and so forth, shall not be higher than an imaginary line drawn from six feet off the ground at any single Community Viewing Station viewing platform point to the ridgeline/skyline behind or in front of the proposed structure. An initial prescreening analysis shall be performed by the applicant by suggested methods such as "topography line of sight" graphing from each viewing platform to the top of the proposed structure (using 2-foot or better resolution), through visual analysis from each viewing platform using raised balloons, laser analysis, GIS analysis, or any other method of pre-screening analysis found acceptable to the City Planner and Engineer in order to indicate that the proposed structure will not obviously breach the ridgeline. This initial analysis is for pre-screening purposes only, prior to submittal of official GIS analysis, and is performed so as not to create undue burden on the official GIS system. For those structures that do not obviously breach the ridgeline from any one of the viewing platforms on this pre-screening analysis, the proposal shall be submitted for final analysis to the official City GIS administrator for computer-generated finite element analysis. The results of this GIS finite element analysis must show that none of the proposed structures will violate the ridgeline ordinance from any of the viewing platforms. This analysis and result must be submitted as a condition of approval. All costs of analysis by the City shall be borne by the applicant.

16.14.100 Spring And Well Protection Zones

1. Policy. Midway City will cooperate to protect areas within the Source Protection Area of a public drinking water source, as defined on the Midway City Spring and Well Protection Zone Map, or as such zones are defined by the Utah State Division of Drinking Water, from concentrated sources of pollution.
2. Procedure. All development affecting properties within these areas must be reviewed by the Wasatch County Health Department, City Engineer, and the Midway City Public Works Department, and also may be reviewed by others who have a property interest in the water source. The applicant shall prepare a request considering this information and other material relevant to the use of property within Source Protection Areas. The above entities will coordinate with the Planning Staff in all reviews and any approval of the request.

16.14.110 Trees And Vegetation

A. Existing Trees and Vegetation. Every effort to save all full-size existing trees on a property proposed for development shall be made by the developer. Existing trees shall not be cut unless

absolutely required for placement of structures or infrastructure or for public safety purposes. All existing trees, regardless of species, over five inches in diameter at breast height (DBH) in caliper, along with tree types and tree locations, shall be shown and submitted to Planning Staff along with the landscape planting plan. In areas determined by the Fire Marshal to be highly susceptible to fire hazards, vegetation up to 30 feet from the perimeter of a structure shall be selectively pruned and thinned, but not clear cut, for fire protection purposes.

16.14.130 Wildlife Habitat Areas

B. Standards. All development and developments subject to this Chapter, to the maximum extent possible, shall incorporate the following principles and procedures when locating site elements in relation to wildlife habitat:

1. **Applicable Areas.** This policy shall apply to all Critical Habitat Areas as defined by the City map based on information from the Utah Division of Wildlife Resources and the Utah Sensitive Species List and other creditable and documented sources. Critical Areas may also include other areas of important or critical habitat as determined by on-the-ground survey(s) conducted by the City wildlife biologist(s) and verified by a written report submitted to Planning Staff.

D. Procedures. The following procedures shall apply when applications are made in or adjacent to critical or important wildlife habitats:

1. **Biological Review.** Site development applications are subject to biological review and recommendations. Based on the standards contained in this section, the Planning Department shall make a determination as to whether a biological review is necessary for a given application. Review shall be performed by a qualified wildlife biologist retained by the City. The cost of the review and report shall be borne by the applicant. If applicants desire, they may also retain their own qualified biologist separately to prepare an additional report, which shall be provided to the Planning Department. Planning Staff shall consider and decide any disputes contained in different reviews submitted in applying the standards contained in this Chapter.
2. **Special Considerations for Wildlife.** Planning Staff shall follow the Purpose and Policy which introduces this Section to the extent possible and shall give special consideration to important wildlife habitats as identified on the City map and overlays and to habitats identified during a biological review to be of unique or critical value.
3. **Denial Based on Significant Adverse Impacts.** The City Staff may deny a development proposal if it finds that the proposed development will have significant adverse impacts on critical wildlife habitat for recognized endangered species that cannot be adequately mitigated.
4. **Definition of Significant Adverse Impact.** For the purposes of this Chapter, “significant adverse impact” shall mean the elimination, reduction, and/or fragmentation of wildlife habitat to the point that the viability of an individual species and the diversity of wildlife species occurring within the boundaries of Midway City are reduced.

16.14.140 Approval Procedures

Determinations as to compliance with the procedures and regulations of the sensitive lands provisions of this Chapter shall be determined by Planning Staff as part of the consideration of

preliminary approval of a development application. Planning Staff may impose conditions pursuant to which preliminary approval is granted in order to uphold and enforce the provisions of this Chapter.

CHAPTER 16.16 PLANNED UNIT DEVELOPMENTS AND STANDARD SUBDIVISIONS

16.16.020 Definitions

F. Planned Unit Development. A residential project which consists of individually owned units whose owners are part of a property owners association which holds title to certain common areas, provides services to their constituent property owners, enforces and administers certain covenants and restrictions common to the project. Once a PUD has been approved by the City and recorded, no further subdivision of that plat will be approved by the City of Midway.

G. Standard Subdivisions. Any proposal to create four or more residential dwelling units and/or building lots from one or more existing lots of record. Once a standard subdivision has been approved by the City and recorded, no further subdivision of that plat will be approved by the City of Midway.

16.16.050 Master Plan

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k. Master Plan applications must be reviewed by City Staff.

m. After approval of the Master Plan by the City, a Master Plan Agreement must be prepared and executed by the applicant and the City, sufficient to describe the entitlement granted to implement the Master Plan. The Agreement must be signed by the applicant within 90 days of Final Approval of the Master Plan by the City. If the Agreement is not fully executed within 90 days of Final Approval of the Master Plan, then all Master Plan approvals shall become null and void.

16.16.060 Preliminary Plan

V. Any other information City Staff may determine necessary relating to the particular site of the proposed project.

16.16.070 General Standards And Requirements

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2. The area proposed for a PUD or standard subdivision shall be in one ownership during development to provide for full supervision and control of said development and to ensure conformance with these provisions and all other conditions imposed by City Staff upon the preliminary and final development plans.

5. All areas not covered by buildings, parking, streets or drives shall be planted with grass, trees, shrubs or other plant materials to preserve and protect the final grading plan and the drainage plan proposed are part of the project as part of the submittal of the final landscape plan. Areas may be allowed to be left in a natural state, or xeriscape, upon determination by City Staff, who may consider recommendation from the Water Board, if such determination finds this more

desirable than traditional landscaping; also, a permanent sprinkler system shall be installed in all landscaped areas to provide irrigation of planted areas.

8. The developer shall install all public improvements on-site and off-site as identified by City Staff.

10. All parking areas shall be screened from public view, when possible, with berms and landscaped features as required by the City Staff based on specific circumstances of the parking area location.

16.16.080 Standards And Requirements Specific To Planned Unit Developments

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3. All streets in a PUD will be privately owned and maintained except for any street that the City specifically agrees will be owned and maintained publicly. Public streets will generally be Collector Roads and will most likely be listed in the Capitol Facilities Plan.

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e. Front setbacks for buildings from all private streets within the PUD shall be staggered at seven and one-half feet variances, with 30 feet the minimum setback. One-third of the buildings containing dwelling units shall be at each of at least three different setbacks as approved by City Staff. For example, one-third at 30 feet, one-third at 37 ½ feet and one-third at 45 feet. Setbacks for accessory buildings shall be as approved by City Staff. Setbacks from private streets shall be measured from top-back of curb or back of sidewalk or trail, whichever is further from the street centerline. City Staff may waive this requirement when a curvilinear street design is used and shown to create the same varying setback effect.

16.16.090 Standards And Requirements Specific To Standard Subdivisions

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a. Setbacks from the following streets shall be a minimum of 100' (with the exception of a shelter for a bus stop not to exceed 200' square feet or as approved by the City).

16.16.100 Open Space General Requirements

A. Open space is defined as a portion of a development site that is permanently set aside for public or private use and that will not be developed or sold to individual owners. Open space shall not contain residences. Improvements such as club houses, shelters, covered swimming pools, and gazebos may be included within the open space requirement along with uncovered recreational facilities such as football fields, baseball diamonds, basketball courts and playgrounds. Open space shall be planned and designed to encourage and promote its proper use, care and ongoing maintenance. Specifics of vegetation, landscaping, amenities, improvements, recreational facilities, etc. within the open space shall be proposed by the applicant, and subject to approval by City Staff.

C. Entry features such as roundabouts, median planter strips, fountains, etc. may count as open space if the design of such features is approved by City Staff.

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2. Place the open space in a perpetual conservation easement granted to an established conservation organization, as approved by the City. If the open space is placed in a conservation

easement, a maintenance agreement shall be entered into with the conservation organization to guarantee proper maintenance of the open space. Open space included within the boundaries of two (2) acre or larger building lots shall not be subject to the restrictions of this paragraph.

16.16.140 Preliminary Plan

The applicant shall submit to the City Planning Department a complete application for consideration of Preliminary Approval based on applicable law.

16.16.150 Public Meeting

After receipt and review of a complete application for Preliminary review, City Staff shall refer the application to the Planning Commission for a public meeting and for a Planning Commission recommendation as to approval or denial.

16.16.160 Preliminary Approval

City Staff shall approve, approve with conditions, or deny the Preliminary Plan based on the standards set forth in applicable law.

16.16.170 Time Limit For Preliminary Plan Approval

Any failure to submit a proposed final plan and final approval submittal package within one year of the approval of the Preliminary Plan shall terminate all proceedings and render the Preliminary Plan null and void.

16.16.180 Final Approval Submittal Package

If the Preliminary Plan is approved, the developer shall submit one full size copy and three 11" x 17" copies of the proposed final plat and a final approval submittal package to the City composed of the following:

1. All material, studies and requirements as requested by City Staff.

16.16.210 Final Plan

After receiving a complete proposed final plat and final approval submittal package, City Staff shall consider the development for final approval.

16.16.220 Final Approval

If City Staff finds that all the requirements of this Title and all the conditions of preliminary approval of the development imposed by the City have been met, City Staff shall grant final approval of the development. If City Staff finds that any requirements or conditions have not been met, City Staff may deny or continue the matter until such requirements or conditions have been met.

16.16.230 Duration Of Final Approval

The duration of final approval shall be for one year from the date of final approval of the development by the City. Should a final plat not be recorded by the County Recorder within the

one-year period, the development's approval shall be voided, and both preliminary and final approvals must be re-obtained, unless, 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: (a) construction must be conducted according to any new City standards in effect at the time the plat is ultimately recorded; (b) the property must be maintained in a clean, dust-free, and weed-free condition at all times; (c) each extension will be for a one-year period only, after which time an annual review must be presented before the City Council; and/or (d) 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.

16.16.340 Appeals in Disputes Involving Public Improvements/Engineering Standards

The appeal process and procedures for disputes involving public improvements/engineering standards will be in accordance with Utah State Law.

16.17.060 Standards And Requirements

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

The developer shall install all public improvements on-site and off-site as identified by City Staff.

16.17.080 Preliminary/Final Plan

City Staff shall approve, approve with conditions, or deny the Preliminary/Final Plan based on the standards set forth in applicable law.

16.17.090 Public Meeting

After receipt and review of a complete application for Preliminary/Final review, City Staff shall refer the application to the Planning Commission for a public meeting and for a Planning Commission recommendation as to approval or denial.

16.17.100 Preliminary/Final Approval

City Staff 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 City set forth in applicable law.

16.17.110 Time Limit For Preliminary/Final Approval

1. 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 shall terminate all proceedings and render the preliminary/final plan null and void.

The duration of Preliminary/Final Approval shall be for one year from the date of approval of the development by the City. 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.

16.17.220 Appeals in Disputes Involving Public Improvements/Engineering Standards

The appeal process and procedures for disputes involving public improvements/engineering standards will be in accordance with Utah State Law.

CHAPTER 16.18 RURAL PRESERVATION SUBDIVISION

16.18.140 Access

Each lot must have access from a private driveway that complies with the following standards:

1. A 20' wide gravel driveway is the minimum standard for non-shared driveways less than 80' in length.
2. Driveway standards for shared driveways or any driveway over 80' in length is a minimum of 20' wide gravel road base and must have 5' wide clear zones on both sides of the driveway.
 1. If conditions exist that promote erosion and storm water discharge such as the length of the driveway, grade of the driveway, and or soil conditions of the surrounding area then City Staff may require the driveway to be paved.

E. The developer shall install all public improvements on-site and off-site as identified by the City.

16.18.200 Preliminary/Final Plan

City Staff shall approve, approve with conditions, or deny the Preliminary/Final Plan based on the standards set forth in applicable law.

16.18.210 Public Meeting

After receipt and review of a complete application for Preliminary/Final review, City Staff shall refer the application to the Planning Commission for a public meeting and for a Planning Commission recommendation as to approval or denial.

16.18.220 Preliminary/Final Approval

City Staff 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 City set forth in applicable law.

16.18.330 Appeals in Disputes Involving Public Improvements/Engineering Standards

The appeal process and procedures for disputes involving public improvements/engineering standards will be in accordance with Utah State Law.

16.30.170 Access

Each lot must have access from a private driveway that complies with the following standards:

A 20' wide gravel driveway is the minimum standard for non-shared driveways less than 80' in length.

Driveway standards for shared driveways or any driveway over 80' in length is a minimum of 20' wide gravel road base and must have 5' wide clear zones on both sides of the driveway.

If conditions exist that promote erosion and storm water discharge such as the length of the driveway, grade of the driveway, and or soil conditions of the surrounding area then City Staff may require the driveway to be paved.

16.30.230 Standards and Requirements

The following standards, requirements and conditions shall apply to all Density Reduction Subdivisions:

The project must be prepared by a design team composed of at least a civil engineer or land surveyor who must be licensed to practice in the State of Utah.

All dwelling units shall be served by a city-approved water supply. All utilities within the Density Reduction Subdivision shall be placed underground, including telephone, power and television. All dwelling units shall have separate utility connections and metering.

The area proposed for a Density Reduction 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.

The developer shall install all public and private improvements on-site and off-site as identified by City Staff.

16.30.250 Preliminary/Final Plan

City Staff shall approve, approve with conditions, or deny the Preliminary/Final Plan based on the standards set forth in applicable law.

16.30.260 Public Meeting

After receipt and review of a complete application for Preliminary/Final review, City Staff shall refer the application to the Planning Commission for a public meeting and for a Planning Commission recommendation as to approval or denial.

16.30.270 Preliminary/Final Approval

City Staff shall approve, approve with conditions, or deny the Preliminary/Final Plan based on the same standards as required above for preliminary/final approval by City Staff set forth in applicable law.

16.30.380 Appeals in Disputes Involving Public Improvements/Engineering Standards

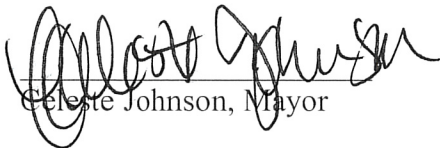
The appeal process and procedures for disputes involving public improvements/engineering standards will be in accordance with Utah State Law.

This Ordinance shall take effect on December 31, 2024.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah this 3rd day of December 2024.

Council Member Jeff Drury	<u>Excused</u>
Council Member Lisa Orme	<u>Aye</u>
Council Member Kevin Payne	<u>Nay</u>
Council Member Craig Simons	<u>Aye</u>
Council Member JC Simonsen	<u>Aye</u>

APPROVED:


Celeste Johnson, Mayor

ATTEST:


Brad Wilson, City Recorder

APPROVED AS TO FORM:

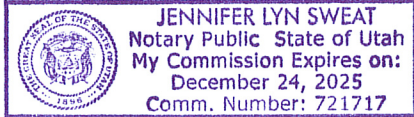

Corbin Gordon, City Attorney

(SEAL)

STATE OF UTAH)
 :SS
COUNTY OF WASATCH)

The foregoing instrument was acknowledged before me this 16 day of December, 2024, by Celeste Johnson, who executed the foregoing instrument in her capacity as the Mayor of Midway City, Utah, and by Brad Wilson, who executed the foregoing instrument in his capacity as Midway City Recorder.


NOTARY PUBLIC





Certificate of Passage, Posting and Publication

I certify that on 3 December 2024 the Midway City Council adopted Ordinance 2024-17 (Land Use Amendments).

I certify that a copy of the ordinance was deposited in the office of the municipal recorder.

I certify that a full, true, and correct copy of the ordinance was posted on 18 December 2024 at the following locations:

Midway City Office Building
Midway Community Center
United States Post Office (Midway)
The Market Express
7-Eleven (Midway)

I certify that a summary of the ordinance was published on the Utah Public Notice Website on 18 December 2024.

I further certify that a summary of the ordinance was published in The Wasatch Wave on 25 December 2024.

The ordinance became effective on 31 December 2024 as stated in the ordinance.


Brad Wilson, Midway City Recorder

Dated 6 January 2025

