



ORDINANCE 2023-05

AN ORDINANCE TO AMEND CHAPTER 16.26 OF THE MIDWAY CITY LAND USE CODE TO CLARIFY THE CITY'S ROLE AS AN APPEAL AUTHORITY

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 Council desires to amend certain sections of Chapter 16.26 of the Midway City Land Use Code to further outline and clarify the City's role as an appeal authority.

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

The following Section of Chapter 16.26 shall be amended to read as follows:

16.26.060 Appeal Authority

- A. The Board of Adjustment shall be the appeal authority to hear and decide requests for variances from the terms of the Land Use Title. An adverse decision by the Board of Adjustment in variance matters may be appealed to district court pursuant to Utah law.
- B. The City Council shall be the appeal authority for review of constitutional takings issues.
- C. Appeal of an administrative order issued by a City administrative law judge shall be made directly to district court within 30 days of the issuance of the order.
- D. Except as provided in this Section, the City Council shall be the appeal authority of all non-variance land use decisions in which the City Council has not first acted as the land use authority. **Only a decision in which a land use authority has applied a land use regulation to a particular land use application, person, or parcel may be appealed to an appeal authority.** Appeal of such **administrative** decisions shall be made **in writing** to the City Council within 30 days of the **administrative** decision being **issued in writing**. **The adversely affected party shall be required to present in its written appeal every theory of relief that the adversely affected party can raise in district court. The appellant has the burden of proving that the land use authority erred.** The standard of review by the City

Council shall be de novo. An adverse decision by the City Council acting as appeal authority may be appealed to district court pursuant to Utah law.

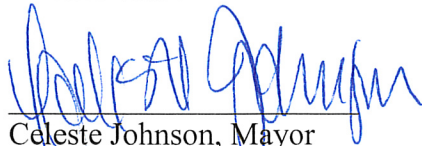
- E. Appeal shall be made directly to district court of all non-variance land use decisions in which the City Council has acted as the land use authority. In acting as the land use authority, the City Council shall keep a written record of its proceedings in the form of minutes or other records.
- F. Each appeal authority shall issue a written decision within 30 days after the close of the appeal hearing.
- G. Each appeal authority shall keep a written record of its appeal proceedings.

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

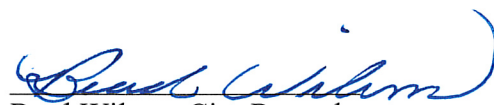
PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah this 2nd day of May 2023.

Council Member Steve Dougherty	<u>Aye</u>
Council Member Jeff Drury	<u>Aye</u>
Council Member Lisa Orme	<u>Aye</u>
Council Member Kevin Payne	<u>Aye</u>
Council Member JC Simonsen	<u>Aye</u>

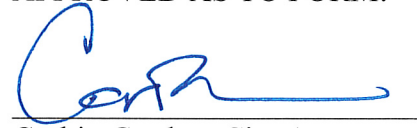
APPROVED:


Celeste Johnson, Mayor

ATTEST:


Brad Wilson, City Recorder

APPROVED AS TO FORM:


Corbin Gordon, City Attorney





Certificate of Passage, Posting and Publication

I certify that on 2 May 2023 the Midway City Council adopted Ordinance 2023-05 (Appeal Authority).

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

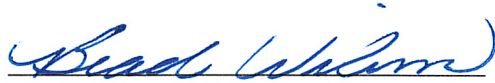
I certify that a full, true, and correct copy of the ordinance was posted on 17 May 2023 at the following locations:

Midway City Office Building
Midway Community Center
United States Post Office (Midway)
Ridley's Express
7-Eleven (Midway)

I certify that a summary of the ordinance was published on the Utah Public Notice Website on 17 May 2023.

I further certify that a summary of the ordinance was published in The Wasatch Wave on 24 May 2023.

The ordinance became effective on 24 May 2023 upon publication.


Brad Wilson, Midway City Recorder

Dated 24 May 2023

