

Midway City Council  
8 August 2018  
Work Meeting

Ordinance 2018-18 /  
Rural Preservation Subdivisions



## **CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** August 8, 2018  
**NAME OF APPLICANT:** Midway City  
**AGENDA ITEM:** Code Text Amendment of Title 16:18

### **ITEM: 12**

Midway City is proposing a Code Text Amendment for the Midway Rural Preservation Subdivision located in Section 16.18 of Midway's Land Use Code. The purpose of the subdivision is to promote five-acre lots to help preserve the rural atmosphere in Midway by reducing density and preserving open space.

### **BACKGROUND:**

A year ago, the City adopted the Rural Preservation Subdivision code and since that time three rural preservation subdivisions have been approved. The code was adopted to secure open space, lower potential density, and preserve the rural atmosphere of Midway. Basically, the City allows lots, at a base density of one dwelling for every five acres, to be created without requiring the construction of much of the cost prohibitive infrastructure that is normally required, but in return, the lots are deed restricted so that they can never be further or resubdivided.

As mentioned above, the City has received three applications for Rural Preservation subdivisions since the code was adopted. With every code, especially a completely new code, there are items that through experience and time, arise and should be considered for review and possible amendment. Staff has identified three items for the Planning Commission to consider that will either match the Rural Preservation code with the rest of the land use ordinance or adjust some items that may make the code more effective.

First, staff is suggesting that the animal rights section of the Rural Preservation code is removed. When the code was adopted, the City had not yet amended the animal rights for all zones. The Rural Preservation code allowed animal rights in all zones whereas all other properties only had animal rights if they were in the RA-1-43 zone or had historic animal rights. In the fall of 2107, the City Council amended the code so that animal rights are based on acreage instead of zoning. Therefore, because of this amendment, the following section can now be removed from the code:

~~Section 16.18.8 — Animal Rights~~

~~Lots in a Rural Preservation subdivision will have animal rights independent of the zone in which they are located as long as they are at least two acres in size. Lots that are less than three acres in size will not have animal rights unless the lot is in the RA 1 43 zone.~~

~~A. The keeping of animals and fowl in numbers per the following point system:~~

~~1. Animals may total 50 points per ½ acre.~~

~~2. Animals shall be worth the following points each:~~

~~a. Chickens, pigeons, pheasants, and other similar birds; 2 points.~~

~~b. Geese, ducks, peafowl, turkey and other similar birds; 10 points.~~

~~c. Sheep, llamas, calves, foals, and other similar sized animals; 25 points.~~

~~d. Horses, cattle, and other similar sized animals; 40 points.~~

~~e. For this point system, an animal and one offspring shall be one animal until six months after the birth of the offspring.~~

Staff would also like to remove Section 16.18.7: Open Space from the Rural Preservation code. This section requires a building envelope for all lots that are five acres or more. The envelope is 300' x 300' and requires all structures, except for structures under 300' in size, to be in the building envelope. The idea was to not allow buildings to be placed anywhere on the property, but buildings would be clustered in one area. The main issue with this requirement is any agricultural structure larger than 300', such as a barn, is required to be located relatively close to the dwelling that is allowed on the lot. This requirement seems unnecessary and removing it would allow for more flexibility and would allow for a barn to be located farther away from the dwelling.

~~Section 16.18.7 — Open Space~~

~~Lots that are five acres in size or larger are required to designate a two-acre area of the lot that may be developed with structures (300' x 300' area). The buildable area envelope will be shown on each lot in the plat. The open space area outside of the building envelope will contain no structures except for the following:~~

- ~~A. A maximum of a 300' square foot structure to house animals.~~
- ~~B. A maximum of a 300' square foot structure such as a gazebo or similar yard decoration type structure.~~

If the above section is removed then the following section, regarding setbacks, should be modified. Basically, this section requires a greater setback for a lot that is five acres or larger and allows a lesser setback for any lots less than five acres. The reason to change this section is if a building envelope is not required then this language must change. Staff would also suggest that all setbacks are standardized so there is no difference regarding setbacks for larger lots and smaller lots. Staff suggests removing the following language and replacing it with the suggested text below:

~~Section 16.18.16 — Setbacks~~

~~Independent of the zone in which the Rural Preservation subdivision is located, all building envelopes must be located at least 50' from any lot lines where a building envelope is required. All structures must be located within the building pad designated for each lot except for the structures described previously in open space section of this code. If a lot does not have a building envelope requirement, then a 30' setback is required from all lot lines.~~

Proposed language:

*Section 16.18.16 Setbacks*

*Setbacks for all structures must comply with the requirements for the zone in which the lot is located.*

This proposed change will be easier to administer because setbacks will not be specific to the type of subdivision, but they will be specific to the zone in which the lot is located.

**PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Streeter: I move that we approve Midway's proposed code text amendment of the Midway Rural Preservation Subdivision Code located in Section 16.18 of Midway's Land Use Code That we accept the changes that staff has suggested and accept staff's findings. The issue of discussing remnant parcels to be continued and take the discussion to a working session to be determined at a later date.

**Seconded:** Commissioner Payne

**Chairman Kohler:** Any discussion on the motion?

**There was none**

**Chairman Kohler:** All in favor.

**Ayes:** Commissioners Bouwhuis, Waldrip, Ream, Nicholas, Bouwhuis, Payne, O’Toole  
**Nays:** None  
**Motion:** Passed

**POSSIBLE FINDINGS:**

- Removing the section on animal rights will allow the Rural Preservation code to match the rest of the Land Use Ordinance
- Removing the open space section will allow for more flexibility for building placement and would allow for a barn to be located away from the dwelling
- Amending the setbacks section will be easier to administer because setbacks will not be specific to the type of subdivision, but they will be specific to the zone in which the lot is located

**ALTERNATIVE ACTIONS:**

1. Approval. This action can be taken if the City Council feels that the proposed language is an acceptable addition 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 feels 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



## ORDINANCE 2018-18

### **AN ORDINANCE AMENDING CHAPTER 16.18 OF THE MIDWAY CITY MUNICIPAL CODE REGARDING RURAL PRESERVATION SUBDIVISIONS**

**WHEREAS**, the City Council of Midway City finds that certain amendments to Chapter 16.18 of the Midway City Municipal Code, Rural Preservation Subdivisions, are necessary to provide consistency and make the Code more effective; and

**WHEREAS**, the proposed amendments have previously been considered by the Midway City Planning Commission at a duly-noticed public meeting; and

**WHEREAS**, on 8 August 2018, the City Council held a duly-advertised public hearing to receive comment from citizens on the proposed amendments; and

**WHEREAS**, the City Council now desires to amend Chapter 16.18 of the Midway City Municipal Code as set forth herein.

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

Section 1: Section 16.18.7 of the Midway City Municipal Code, Animal Rights, is removed.

Section 2: Section 16.18.8 of the Midway City Municipal Code, Open Space, is removed.

Section 3: Section 16.18.16 of the Midway City Municipal Code, Setbacks, is replaced in its entirety with the following language:

*Section 16.18.16      Setbacks*

*Setbacks for all structures must comply with the requirements for the zone in which the lot is located.*

Section 4: This ordinance shall take effect upon publication as required by law.

