

Midway City Council
18 July 2023
Regular Meeting

Ordinance 2022-10 /
Resort Building Height
and Envelope Restrictions



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: July 18, 2023

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of Chapter 16.13.100.D:
Maximum Height Provisions for all Buildings and
Chapter 16.15.4: Resort Master Plan - Building Height

ITEM: 8

Midway City is proposing an amendment to Chapter 16.15.4: Resort Master Plan - building height and envelope restrictions and Section 16.13.100.D. The proposed amendment will review and potentially revise the maximum building heights for buildings in the Resort Zone.

BACKGROUND:

Midway is proposing a code text amendment to the Midway Municipal Code. The proposed amendment will remove a provision in the code that allowed the maximum height of resort buildings to exceed 35' measured from natural grade. Currently, the code allows buildings in the Resort Zone (RZ) to exceed the standard 35' height limit and reach a height of 55' if certain conditions are met. Further, the height of architectural elements may exceed the approved height of a resort building by 15'. The maximum height that a structure could reach in the RZ, including architectural features, is 70'. There are two provisions in the code that deal with the height of resort buildings. The first is found in Section 16.13.100.D which states the following:

The height of buildings in Resort Zones may exceed 35 feet if all the requirements of the Recreational Resort Chapter of this Title are satisfied.

The second is found in Section 16.15.4.G.11.B and states the following:

Building height and envelope restrictions. The standard maximum building height for buildings in Midway is 35 feet. Architectural elements as defined in “maximum height provisions for all buildings” found in this title shall have a height limit of 15’ above the 35’ height limit or above any City Council approved height. The City Council may, at its discretion, allow greater height in resort developments of a maximum of 55 feet subject to the following considerations; setbacks, elevation, view corridor, topography, etc. The City Council shall have no affirmative obligation to approve a height greater than 35 feet. If any buildings in a resort are proposed to have heights greater than 35 feet the applicant shall appear before the City Council to obtain approval, and shall provide the following documentation to justify the increased height:

- 1. A statement of all reasons the structure cannot be built without heights exceeding 35 feet.*
- 2. A clear illustration of the impact of building heights over 35 feet on views from public roads and adjacent developed property. This documentation may take the form of a physical model or electronic graphic representations of the site, the buildings and the visual background of mountain and valley views. The model or electronic representation shall specifically compare the proposed site and building configuration with an alternative building configuration that provides the same usable space and meets the thirty-five-foot height and other configuration requirements of this Chapter.*
- 3. Topographical information regarding the property.*

The City recently reduced the maximum height of all public buildings and churches down to 35’. Part of the Planning Commission’s discussion for that amendment was about other structures in Midway that could exceed 35’. The only structures left in the code that could be taller than 35’ are structures in the RZ. The Planning Commission directed staff to present an ordinance amendment that would restrict all RZ structures to 35’. Staff has reviewed the two aforementioned ordinances and is recommending that both sections are removed from the code. Removing the two sections will limit structures in the RZ to 35’, measured from natural grade, and will limit architectural elements to a height of 52.6’ as is described in the code for all structures.

The current code could allow a structure to be a height of 55’ which may be alarming to many residents and could potentially be interpreted to be against some provisions in the Midway General Plan. The recently adopted General Plan promotes preserving view corridors and the current height ordinance would allow view corridors to be blocked. The 2023 Midway General Plan states the following:

- Effective planning through clustering, setbacks, Transfer of Development Rights and animal/agriculture ordinances will help Midway utilize its core areas to encourage small commercial uses and attainable housing, and also **preserve its view corridors**, maintain open areas and reinforce a historic rural and country feeling.
- Protect all of the environmental and natural resources of the City by requiring development to occur in a manner and location which respects sensitive environmental lands: wetlands, flood plains and natural drainage patterns, steep slopes, productive agricultural lands, geologically unstable areas, critical wildlife areas, vegetation and important scenic features such as ridge lines hillsides and **view corridors**.
- “Open space” may mean different things to different people. To some, open space is sufficient space between houses in a subdivision so that neighbors have “elbow room.” To others **open space is unobstructed views of the mountains and ridgelines surrounding our valley**. In the context of this General Plan, open space is both and much more. Midway embraces a comprehensive definition of open space, for more information please refer to City ordinances.

The General Plan supports preserving view corridors and the current code would allow structures to be built that would effectively block view corridors for many of our residents and visitors. Removing the two sections of code that allow RZ structures to be taller than 35’ will help the code to assure that new structures are built in compliance with the vision of Midway as described in the General Plan.

There are some existing structures in the RZ that are taller than 35’ in height. If the proposed code text amendment is approved, then those structures would become legal nonconforming. Any alteration to those structures or rebuilding of those structures would need to be in compliance with the nonconforming structures section of the code. Also, there are some agreements that have been approved, such as The Homestead master plan, that allows some structures to exceed the 35’ height limit. The construction of RZ buildings that have been previously approved to exceed 35’ will be allowed to be built.

PLANNING COMMISSION RECOMMENDATION:

Item 3- Building Heights- Resorts

Motion: Commissioner Garland: I make a motion that we recommend approval an amendment to Chapter 16.15.4.G.11.B: Resort Master Plan- Building height and envelope restrictions and Section 16.13.100.D. The proposed amendment will review and potentially revise the maximum building heights for buildings in the Resort Zone. We accept the findings in the staff report and no conditions.

Seconded: Commissioner Simons
Chairman Nicholas: Any discussion on the motion?
Chairman Nicholas: All in favor.
Ayes: Commissioners:
Nays: None
Motion: Passed

POSSIBLE FINDINGS:

- The proposed amendment will limit the height of all new structures, that have not been previously vested, to 35’.
- The proposed change will eliminate potential future lighting issues that may occur because of lighting that may be placed on structures taller than 35’.
- The proposed amendment will help preserve view corridors and viewsheds as described in the General Plan.
- The proposed change will ensure that resort buildings are the same height scale as other structures in 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

2023-____

**AN ORDINANCE TO AMEND SECTIONS OF THE
MIDWAY CITY LAND USE CODE TO REVISE THE
MAXIMUM HEIGHTS ALLOWED FOR BUILDINGS IN
THE RESORT ZONE.**

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 remove two sections from Chapter 16 of the Midway City Land Use Code in order to limit maximum building heights allowed in the Resort Zone to 35 feet (excluding architectural elements); and

WHEREAS, the removal of these sections supports the City's General Plan by promoting the preservation of view corridors that could be blocked if buildings in the resort zone are allowed to be constructed higher than 35 feet.

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

The following Sections of Chapter 16 shall be removed:

Section 16.13.100(D)

D. The height of buildings in Resort Zones may exceed 35 feet if all the requirements of the Recreational Resort Chapter of this Title are satisfied.

Section 16.15.040(G)(11)(b)

b. Building height and envelope restrictions. The standard maximum building height for buildings in Midway is 35 feet. Architectural elements as defined in "maximum height provisions for all buildings" found in this title shall have a height limit of 15' above the 35' height limit or above any City Council approved height. The City Council may, at its discretion, allow greater

height in resort developments of a maximum of 55 feet subject to the following considerations; setbacks, elevation, view corridor, topography, etc. The City Council shall have no affirmative obligation to approve a height greater than 35 feet. If any buildings in a resort are proposed to have heights greater than 35 feet the applicant shall appear before the City Council to obtain approval, and shall provide the following documentation to justify the increased height:

- (1) A statement of all reasons the structure cannot be built without heights exceeding 35 feet.
- (2) A clear illustration of the impact of building heights over 35 feet on views from public roads and adjacent developed property. This documentation may take the form of a physical model or electronic graphic representations of the site, the buildings and the visual background of mountain and valley views. The model or electronic representation shall specifically compare the proposed site and building configuration with an alternative building configuration that provides the same usable space and meets the thirty-five-foot height and other configuration requirements of this Chapter.
- (3) Topographical information regarding the property.

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

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PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this ____ day of _____, 2023.

	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)