

Midway City Council
3 November 2020
Regular Meeting

Ordinance 2020-23 /
Bed and Breakfast Establishments



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: November 3, 2020

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Addition of Section 16.13.35: Bed and Breakfast Establishments

ITEM: 15

Midway City is proposing to amend the Midway City Municipal Code of Section 16.13.35: Bed and Breakfast Establishments. The proposed code will amend the regulations for Bed and Breakfast establishments.

BACKGROUND:

The purpose of this item is to review the current ordinance for Bed and Breakfast Establishments (B&B), specifically the number of rooms allowed for rent and the ability to host receptions, banquets, and catering. The City recently had an application for The Hidden Creek Bed and Breakfast, which was approved by the City, but the neighbors in the area were very concerned with how the B&B would impact the neighborhood. It was decided by the City to open the discussion regarding the current ordinance to explore potential changes that might be more acceptable to the residents of the City.

Bed and breakfasts are important to the City as a good source of tax revenue. This revenue benefits all the residents of the City because they potentially lower everyone's taxes because of the extra taxes collected from commercial property tax, transient rental tax, resort tax, and sales tax generated from tourism. Another item to consider is the General Plan does promote economic development and tourism as one of our best sources of revenue.

The current Bed and Breakfast ordinance found in Section 16.13.35 has been in the City Code most likely for at least 15 years. Midway has a history of B&B establishments that include Invited Inn, The Johnson Mill, Inn on the Creek, The Hiking Inn, and the Blue Boar Inn. Those establishments were almost all built before many of the current residents of the City moved here and it is possible that what was acceptable when they were built is not acceptable now. The population was much less then and the residences were more widely dispersed so the impact of those establishments was probably relatively minor. Today Midway has many more residents and there is sentiment that a commercial business, such as a B&B with the ability to host receptions, may not be compatible in a purely residential neighborhood. Many residents in the Cari Lane area were completely surprised that a commercial business was allowed in their neighborhood, especially one that could ask for the ability to host receptions. The concerns they raised covered a large spectrum and included how their property values would be affected, liability on their property, safety of their children, noise, and increased traffic, to name several. The current ordinance allows B&Bs in any zone in the City as a Conditional Use if the use is not prohibited by CCRs and one of the following three criteria are met:

1. Located in the Transient Rental Overlay District (TROD)
2. Established in a structure that is at least 75 years old
3. Located on a lot that is at least two acres in size

If a B&B is approved then the applicant can petition the City for the ability to host receptions, banquets, and catering which raises concerns regarding the impact of an event in a residential neighborhood. Section 16.13.35 (H) states the following:

H. Receptions, banquets, or catering may be permitted as an additional use to an approved bed and breakfast conditional use when the applicant can show adequate facilities and parking exists on the lot or when arrangements are made with the permission of surrounding lot owners.

Because of the issues and nuisances that holding large events could create in a residential zone, the proposed amendment would not allow receptions in any of the residential zones. Receptions would still be a possibility in the RZ or commercial zones as part of an approved B&B.

Another issue that staff has identified as a potential problem is the amount of rooms that can be rented in a B&B. Currently, someone could apply for a conditional use of a B&B and build a large dwelling with 15+ rooms for rent. This would be out of scale for a residential neighborhood and would have the feel of a hotel especially when the required parking creates a parking area of 20+ stalls. Staff recommends that B&Bs in residential zones are limited to six rentable rooms (there would also be at least one nonrentable bedroom where the owner of the home would live). The City adopted a similar type restriction for elderly care facilities and residential treatment facilities to assure that the size of the buildings with those uses is in scale with the neighborhood.

Staff is proposing the following amendments to Section 16.13.35:

Section 16.13.35 Bed and Breakfast Establishments

Bed and breakfast establishments shall be allowed as a conditional use in any zone, but only if at least one of the following criteria is met and such a use is not prohibited by private Covenants, Conditions, and Restrictions (CC&R's) governing the lot:

1. Located in the Transient Rental Overlay District (TROD)
2. Established in a structure that is at least 75 years old
3. Located on a lot that is at least two acres in size

In addition, all bed and breakfast establishments shall be subject to the following provisions:

- A. The lot shall have at least 100 feet of frontage on a dedicated street;
- B. One off-street parking space shall be provided for each employee plus one space per sleeping room. Parking shall not be allowed in the front setback area. Parking must be paved.
- C. Breakfast shall be the only meal served. Breakfast meals shall only be served to residents, employees, and overnight lodgers.
- D. No cooking facilities shall be allowed in the sleeping rooms.
- E. Such use shall conform to all applicable health, safety and building codes.
- F. No structural alterations shall be allowed which change the residential character of the structure.
- G. Alcoholic beverages may not be served unless a license has been granted by the Utah Department of Alcoholic Beverage Control and the City Council has specifically approved the same as part of the conditional use permit.
- H. If located in the C-2, C-3 or RZ zones, Rreceptions, banquets, or catering may be permitted as an additional use to an approved bed and breakfast conditional use when the applicant can show adequate facilities and parking exists on the lot or when arrangements are made with the permission of surrounding lot owners.
- I. Any commercial or retail use shall be incidental to the bed and breakfast establishment use, i.e. gift shop, and shall be limited to 5 percent of the total square footage of the main floor of the residence.
- J. All signs shall comply with the current Title 16.
- K. A Midway City business license shall be required as a condition of approval.
- L. The bed and breakfast establishment shall, at the time of approval and thereafter, be the property owner's primary residence. Conditional use approval shall cease upon sale of the property. The new owner shall apply for conditional use approval before operating the bed and breakfast establishment.
- M. Supervision by an on-site manager or owner shall be required on an overnight basis when the establishment has guests.
- N. Care shall be taken to ensure that no exterior lighting shines directly onto adjoining property. Incident light at the property line shall not measure more than ten foot-candles.
- O. A fire hydrant shall be within 250 feet from the property.
- P. The Fire Marshal shall determine maximum occupancy.
- Q. A site plan shall be submitted with the conditional use application.
- R. If located in the R-1-7, R-1-9, R-1-11, R-1-15, R-1-22, RA-1-43 zones, a maximum of six (6) rooms may approved for short-term rent.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Ream: I make a motion that we recommend to approve to amend the Midway City Municipal Code of Section 16.13.35: Bed and Breakfast Establishments. The proposed code will amend the regulations for Bed and Breakfast establishments. We accept staff findings, and the amendment will be as written in the staff report except, that the amount of allowable rentable rooms is limited to 6 and not 4.

Seconded: Commissioner Simons

Chairman Nicholas: Any discussion on the motion?

There were some clarifications added to the motion

Chairman Nicholas: All in favor.

Ayes: Commissioners: Bouwhuis, McKean, Whitney, Simons, Ream and Crawford

Nays: None

Motion: Passed

POSSIBLE FINDINGS:

- Bed and Breakfast establishments located in residential zones should be similar in size and impact as other dwellings in the same zones.
- Bed and Breakfasts will be limited to a maximum of six rentable rooms in the R zones
- Bed and Breakfasts will not be limited on the maximum number of rentable rooms in the commercial zones or the resort zone.
- Bed and Breakfasts in R zones will not have the ability to host receptions, banquets, or catering.
- Bed and Breakfasts in the commercial or resort zones will have the ability to petition the City to host receptions, banquets, and catering.

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



ORDINANCE 2020-23

AN ORDINANCE AMENDING TITLE 16.13 OF THE MIDWAY CITY CODE REGARDING BED AND BREAKFAST ESTABLISHMENTS, AND RELATED MATTERS

WHEREAS, the City Council of Midway City desires to amend the City Code to amend the provisions of the Code which allow for Bed and Breakfast establishments and impose new rules and restrictions relating to Bed and Breakfast establishments; and

WHEREAS, the City Council now desires to amend Title 16.13 of the Midway City Municipal Code to accomplish these purposes.

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

Section 16.13 of the Midway City Code shall be amended to read as follows:

Section 16.13.35 Bed and Breakfast Establishments

Bed and breakfast establishments shall be allowed as a conditional use in any zone, but only if at least one of the following criteria is met and so long as such a use is not prohibited by private Covenants, Conditions, and Restrictions (CC&R's) governing the lot:

1. the proposed Bed and Breakfast establishment will be located in the Transient Rental Overlay District (TROD); or
2. the proposed Bed and Breakfast establishment is located in a structure that is at least 75 years old; or
3. the proposed Bed and Breakfast establishment is located on a lot that is at least two acres in size.

In addition, all bed and breakfast establishments shall be subject to the following provisions:

- A. The lot shall have at least 100 feet of frontage on a dedicated street.
- B. One off-street parking space shall be provided for each employee plus one space per sleeping room. Parking shall not be allowed in the front setback area. Parking must be paved.
- C. Breakfast shall be the only meal served. Breakfast meals shall only be served to residents, employees, and overnight lodgers.
- D. No cooking facilities shall be allowed in the sleeping rooms.
- E. Such use shall conform to all applicable health, safety and building codes.
- F. No structural alterations shall be allowed which change the residential character of the structure.
- G. Alcoholic beverages may not be served unless a license has been granted by the Utah Department of Alcoholic Beverage Control and the City Council has specifically approved the same as part of the conditional use permit.
- H. If located in the C-2, C-3 or RZ zones, receptions, banquets, or catering may be permitted as an additional use to an approved bed and breakfast conditional use when the applicant can show adequate facilities and parking exists on the lot or when arrangements are made with the permission of surrounding lot owners.
- I. Any commercial or retail use shall be incidental to the bed and breakfast establishment use, i.e. gift shop, and shall be limited to 5 percent of the total square footage of the main floor of the residence.
- J. All signs shall comply with the requirements of the current Title 16.
- K. A Midway City business license shall be required as a condition of approval.
- L. The bed and breakfast establishment shall, at the time of approval and thereafter, be the property owner's primary residence. Conditional use approval shall cease upon sale of the property. The new owner shall apply for conditional use approval before operating the bed and breakfast establishment.
- M. Supervision by an on-site manager or owner shall be required on an overnight basis when the establishment has guests.
- N. Care shall be taken to ensure that no exterior lighting shines directly onto adjoining property. Incident light at the property line shall not measure more than ten foot-candles.
- O. A fire hydrant shall be within 250 feet from the property.
- P. The Fire Marshal shall determine maximum occupancy.

Q. A site plan shall be submitted with the conditional use application.

R. If located in the R-1-7, R-1-9, R-1-11, R-1-15, R-1-22, RA-1-43 zones, a maximum of six (6) rooms may approved for short-term rental.

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 day of , 20 .

	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)