

Midway City Council  
21 April 2020  
Regular Meeting

Ordinance 2020-04 /  
One-Family Dwellings



## CITY COUNCIL MEETING STAFF REPORT

**DATE OF MEETING:** April 19, 2020  
**NAME OF APPLICANT:** Midway City  
**AGENDA ITEM:** Code Text Amendment of Section 16.2: Definitions

### **ITEM: 7**

Midway City is proposing a code text amendment of Section 16.2: Definitions and Section 16.13: Supplementary Requirements in Zones. The proposed code will define One-Family Dwellings. Also, this proposal will define when a second kitchen is allowed in a one-family dwelling and will explain what constitutes a second kitchen.

### **BACKGROUND:**

Midway City is proposing a code text amendment that would add language to the definitions section of the code that would define one-family dwellings. The reason for this proposal is staff is constantly discussing this issue with people interested in constructing in Midway and, though less frequently, with residents that would like to finish their basements or add additions to their homes. The code allows for one-family dwellings in all residential zones but there is not a definition of a one-family dwelling anywhere in the code which has required staff to use its best judgement on this issue.

Sometimes building permits are submitted to the City that are essentially duplexes. The permits include two kitchens and include doors that separate two living areas. Staff has been consistent on dealing with this issue and has required one kitchen to be removed or reduced to a wet bar, or the lockout to be removed. If a second kitchen has been allowed (after the determination has been made the dwelling is not a duplex) then a second

kitchen affidavit has required to be recorded on the lot, so any future owners also know that the dwelling is a one-family structure. It will be much easier for staff and for the public if there is a clear definition that can be shared with those interested in building in Midway or making additions or improvements to their existing dwelling. State code requires cities and counties to have clear and precise language in their land use codes which leaves little area for interpretation. The lack of definition that we currently have leaves the City in a vulnerable position if there is ever a legal issue that arises over this issue.

There is also the bigger issue that should be considered regarding one-family dwellings that are illegally converted to duplexes. Structures that were approved as one-family dwellings but are built with everything required to house two families are easily converted to this situation. This essentially doubles the density and use on a single-family lot. Doubling the density has a compounding effect on the community regarding demand on services, traffic, parking, number of students in the schools, etc. Also, without clarity of code, staff believes that the size of homes are larger because property owners build larger structures with the idea of having more than one family in a dwelling. If it is clear that only one kitchen is allowed, then much of the discussion and debate can be avoided along with unintended consequences on a communal level.

Realtor.com defines a single-family home as the following: "a structure maintained and used as a single dwelling unit." The site goes on to explain that there should only be one kitchen as described in the following: "A single-family home has one kitchen. Adding a kitchen to an in-law suite or carriage house will alter a home's zoning classification."

#### Option 1:

One option is to only allow one kitchen in a one-family dwelling. The following definition would make that limitation and would be added to Section 16.2:

*60. One-family or single-family dwelling. A building designed for use as a residence and includes only one kitchen and does not include basement suites, mother-in-law suites, or lockout units. Wet bars are allowed in one-family dwellings and may include a sink, microwave, and refrigerator but may not include a stove or oven.*

#### Option 2:

If the City would like to continue to allow two kitchens in a dwelling, then the circumstances when a second kitchen will be allowed need to be clearly stated. It is important that if a dwelling can have a second kitchen, that the home functions as one-family dwelling and not as a duplex. This means that the second kitchen is integrated into the dwelling so that it does not function as a separate living space. The code could allow a second kitchen if the only access to the second kitchen is

through the main part of the dwelling and there is no access from the garage or an outside entrance. Also, another option is to allow a second kitchen if there is not a door between the two kitchens. Both options are manageable for staff regarding administering the City's code for one-family dwellings. If a second kitchen option is adopted by the City, then there should always be a second kitchen affidavit recorded on the property. Potential code language could be the following:

*60. One-family or single-family dwelling. A building designed for use as a one-family or single-family residence as outlined in Chapter 16.*

In Chapter 16.13.40: Requirements for One-Family or Single-Family Dwelling Units, the following language would be added to the existing requirements:

*Kitchens in a single-family or one-family dwellings:*

*A. A one-family or single-family dwelling may not include more than one kitchen unless one of the following options are met;*

- 1. There is not a separate access to the second kitchen from outside the dwelling or from the garage,*
- 2. There is not a door between the two kitchens.*

*B. If either of the aforementioned requirements are met that allow for a second kitchen then a second kitchen affidavit must be recorded with the County Recorder on the lot or parcel before a building permit is issued for the kitchens. The second kitchen affidavit prohibits that any area of the dwelling is rented separately from the rest of the dwelling,*

*C. Wet bars are allowed in one-family or single-family dwellings and are not subject to the same restrictions as second kitchens and may include a sink, microwave, and refrigerator but may not include a stove or oven.*

*D. Outside kitchens are allowed and are not subject to the same restrictions as second kitchens.*

Adopting one of the two options in this report will help and staff to administer the code and it will help the public to understand the options available when building in Midway.

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission recommended Option 2 with the language as listed in this staff report. Their motion was the following:

**Motion:** Commissioner Bouwhuis: I make a motion of recommendation of approval for a code text amendment of Section 16.2: Definitions, as well as Chapter 16.13.40 with the agreed changes recommended by committee members in this meeting.

**Seconded:** Commissioner Streeter

**Vice-Chairman Payne:** Any discussion the motion?

**There was none**

**Vice-Chairman Payne:** All in favor.

**Ayes:** Commissioners: Ream, Streeter, Nicholas, Bouwhuis, McKeon

**Nays:** None

**Motion: Passed**

**POSSIBLE FINDINGS:**

- The proposed amendment will define one-family and single-family dwellings
- The proposed code will define if, and under what circumstances, second kitchens are allowed
- The proposed amendment will help staff to better administer the City’s code
- The proposed amendment will help the public to understand the options available when building 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