

Midway City Council  
21 January 2020  
Regular Meeting

Ordinance 2020-03 / Outside  
Dining and Parking



## CITY COUNCIL MEETING STAFF REPORT

**DATE OF MEETING:** December 17, 2019

**NAME OF APPLICANT:** Midway City

**AGENDA ITEM:** Code Text Amendment for Outside Dining Parking Requirements

### **ITEM: 7**

Midway City is proposing a code text amendment of Section 16.13.39 (A) (11): Off-Street Parking and Loading. The proposed code will possibly require parking for outside dining at cafes and restaurants.

### **BACKGROUND:**

The City Council has directed the Planning Commission to review and possibly recommend adoption of parking requirements for outdoor dining areas. Currently, the city code requires that restaurants and cafes have one parking space per 150 square feet of dining room floor space. This requirement was recently increased from the previous requirement of one stall for every 250 square feet of dining room floor space which is a 40% increase.

Both the Planning Commission and the City Council discussed the topic of outside dining areas and if those areas should have a parking requirement. The Planning Commission felt that the increased parking for indoor dining areas would help cover the needed parking for outdoor dining areas. Also, since the Midway General Plan promotes outdoor dining, an additional parking requirement would discourage outdoor dining areas from being created. Also, they felt that increasing the outdoor parking requirement would make it more difficult for a business to locate in Midway and we could lose potential future businesses because of the increase. One last item that was discussed is that outdoor dining is seasonal and requiring parking for a seasonal use may not be fair to the businesses.

The City Council also discussed the issue and decided to adopt the proposed parking ordinance on June 18, 2019 without addressing outdoor dining, but the direction was given in that meeting for the Planning Commission and the City Council to review the issue in further detail.

Staff has researched codes from other cities regarding this issue and has found several examples. Some cities require no extra parking for outside dining areas, some require no extra parking up to a certain amount of area or seats and then require parking for restaurants that exceed the those numbers, and some require outside dining to have the same amount of parking as indoor dining areas. The following are several examples of how other cities handle this issue:

#### Westminster, CA Municipal Code

- No additional parking is required for outdoor dining area (open-air dining) no greater than 25% of the gross floor area of the enclosed restaurant or 1,000 square feet, whichever is smaller. In cases where the outdoor seating area is more than 25% of the gross floor (or 1,000 square feet, whichever is smaller) area of the enclosed restaurant area, the portion of outdoor seating area exceeding 25% (or 1,000 square feet, whichever is smaller) of the gross floor area of the enclosed restaurant shall be calculated at one parking space per 100 square feet of the gross outdoor dining floor area. The allowance for outdoor dining shall not be applicable to any establishment offering a total of 12 or fewer seats, inclusive of all seating located indoors and within an outdoor dining/seating area

#### San Jose, CA Municipal Code

- For outdoor dining areas incidental to a public eating establishment, the city requires that business owners provide one space per 2.5 dining seats if the outdoor area has more than 25 seats. If the outdoor dining area has less than 25 dining seats, no additional parking spaces are required beyond those required by the number of seats or square footage of the indoor dining area.

#### San Diego, CA Municipal Code

- Eating and Drinking Establishments. The minimum parking ratios apply to eating and drinking establishments that do not have a common parking area with any other uses. There is no minimum parking requirement or maximum permitted parking for outdoor dining. Within the Coastal Overlay Zone, outdoor dining areas such as decks, patios, terraces, etc., are considered part of the eating and drinking establishment's gross floor area and are included in calculating parking requirements.

Coastal Overlay Zone parking requirement ranged from 2.1-5 stalls per 1,000 sq. ft. gross floor area

#### Newport Beach, CA Municipal Code

- Food Service - 1 per 175 sq. ft. of gross area, including outdoor dining areas, but excluding the first 25% or 1,000 sq. ft of outdoor dining area, whichever is less.  
Fast Food Service - 1 per 50 sq. ft., and 1 per 100 sq. ft. for outdoor dining areas

#### Park City, UT Municipal Code

- Restaurant, Outdoor Dining - Based on Site specific review at the time of CUP

#### Santa Monica, CA Municipal Code

- Outdoor dining areas of less than 200 sq. ft. may be approved administratively and shall not require additional parking. Outdoor dining areas that exceed 200 sq. ft. shall comply with parking requirements established by Santa Monica Municipal Code Section 9.04.10.08.040.  
1 space per 300 sq. ft. of support area, 1 space per 75 sq. ft. of service and seating area open to customers, and 1 space per 50 sq. ft. of separate bar area.

As seen from the previous examples, cities handle this issue in different ways. Some require no parking, some require some parking but after allowing a certain number of seats or an amount of area with not parking, and others treat outside dining as they treat inside dining. The question for Midway is if requiring more stalls for outside dining will help us better comply with the vision and goals as described in the General Plan.

The Main Street chapter of the General Plan promotes outside dining to help create a vibrant and active Main Street. Simply stated, one of the Main Street Goals and Guidelines states: *Promote more outside dining and gathering areas.* Outside dining creates activity which, in turn, draws more people in by creating gathering spaces that people want to be a part of. Requiring more parking will be more expensive for new restaurants to come to Midway. The cost of land and infrastructure for the required stalls may make it cost prohibitive for new businesses to establish in Midway.

The Main Street chapter also focuses on the visual aspect of Midway. The introduction to the chapter states *“This commercial core should be developed as a distinctive shopping and business area emphasizing it as an attractive meeting place and staging area for festivals, special events, celebrations and a variety of community activities which will produce a vibrant and healthy community centerpiece.”* The more parking that is

required, the more difficult it is to create an attractive gathering area as described. The Main Street Vision emphasizes that Main Street “will cater to the pedestrian experience.” Creating more hard surface and using more space for parking will make it more difficult to create the pedestrian experience envisioned in the General Plan.

The City has recently increased parking requirements for inside dining and has also created a path for developing public parking areas. It may be that those steps will be enough to alleviate future parking issues. Another potential option is the City could follow other cities’ examples and allow a certain amount of outside dining without requiring more parking. Only if a restaurant wanted a large outside dining area then additional parking would be required. The third option is treating outside dining the same as we would if it were inside dining. All are options but focusing on the vision of the General Plan should be considered regarding any regulations the City may adopt.

The Planning Commission and City Council directed staff to analyze three restaurants in town for the required parking using the old code requirements and using the newly adopted code requirements. Staff has also analyzed Westminster’s code and those result are listed below for the Midway restaurants that include The Corner Restaurant, Midway Mercantile, and Café Galleria.

#### The Corner Restaurant

Number of stalls – 14 stalls

Indoor dining area – 2,636 sq. ft.

Outside dining area per building plans – 632 sq. ft.

Outside dining area per staff’s estimates – 1,360 sq. ft.

Previous code (1 stall every 250 sq. ft.) – 11 stalls

Current code (1 stall every 150 sq. ft.) – 18 stalls

Outside dining using inside dining code (1 stall every 150 sq. ft.) – 5 stalls

Outside dining using inside dining code per staff’s sq. ft. estimates (1 stall every 150 sq. ft.) – 10 stalls

Westminster Code Outside Dining – 8 stalls ( $2,636 \times 0.25 = 659$ ), ( $1,360 - 659 = 701$ ), ( $701/100 = 8$  stalls)

#### Midway Mercantile

Number of stalls – 11 stalls

Indoor dining area – 2,031 sq. ft.

Outside dining area – 800 sq. ft.

Previous code (1 stall every 250 sq. ft.) – 9 stalls

Current code (1 stall every 150 sq. ft.) – 14 stalls

Outside dining using inside dining code (1 stall every 150 sq. ft.) – 6 stalls

Westminster Code Outside Dining – 3 stalls ( $2,031 \times 0.25 = 508$ ), ( $800 - 508 = 292$ ), ( $292/100 = 3$  stalls)

### Café Galleria

Number of stalls – 5 stalls

Indoor dining area – 1,332 sq. ft.

Outside dining area – 1,400 sq. ft.

Previous code (1 stall every 250 sq. ft.) – 5 stalls

Current code (1 stall every 150 sq. ft.) – 8 stalls

Outside dining using inside dining code (1 stall every 150 sq. ft.) – 10 stalls

Westminster Code Outside Dining – 10 stalls (1,332 x 0.25 = 333), (1,400 – 333 = 1,037), (1,000/100 = 10 stalls)

Staff also discussed the issue of outside dining parking requirements with the planning staff of Westminster, California (please see Westminster’s requirements on page 2 of this report). Westminster planning staff indicated that they have no issues with their current code and that it is working well. They have no plans to amend their current code in the future.

Also, from the City Council meeting from 12-17-2019, City Council directed staff explore all parking options, in the code and others that the City has not yet considered or adopted into the code. The following is a list of those options:

### **Code Options**

#### **Cross Parking Agreement**

Section 16.13.390 (B)(1) allows for cross parking agreements (reciprocal parking) between neighboring properties if approved by the City Council.

#### **Off-Site City Approved Parking**

Section 16.13.390 (B)(2) allows for up to 75% of a business’s required parking to be located in a City approved parking area. Annual fee is required per stall to pay for infrastructure, maintenance and to cover the cost of purchasing the land.

#### **Combined Parking Areas and Mixed Uses**

Section 16.13.390 (D) allows for combined parking for two or more buildings or uses. This is only possible if the applicant can show, by using recognized studies, a lower parking requirement or parking need based on noncurrent use. The City Council may reduce the amount of parking if they find the petition is justified.

## **Non-Code Options**

### **Signage and Wayfinding**

Educate the public on available parking. The City can help the public to find available parking stalls through wayfinding signs. Better signage will help the public to find parking that they may have known was available.

### **Improve City Owned Right-of Ways**

The City owns 66' of right-of-way in the original block area of town. The rights-of-ways on the side streets intersecting Main Street could be improved so parking is more obvious for residents and visitors. One example would be to improve 100 West, south of Main Street.

### **Parking Ombudsman**

One suggestion is that the City assign/find/hire a parking ombudsman. Much like the State of Utah has a property ombudsman that works with property owners and governmental entities to resolve property issues, a Midway parking ombudsman would actively work to resolve parking issues that arise. A focus would be working with neighboring property owners to facilitate cross parking agreements and, possibly reciprocal, parking agreements. Reciprocal parking easements are used when a property is owned by more than one person or entity, and the persons or entities wish to develop the property as commercial property with more than one commercial business. Most reciprocal parking agreements would be a civil matter that the developer would create the agreement before any property is sold or leased but a parking ombudsman could help the property owner with the easement and possibly work on a cross parking agreement with neighboring property owners.

### **Working with Neighboring Property Owners**

Much like was discussed in the previous section, the City could actively attempt to facilitate parking agreements between property owners. An example would be working with Midway Mercantile and Probst Family Funeral Home to try to assist in a cross-parking agreement or reciprocal parking easement. Ultimately, the City cannot force neighboring property owners to work together but actively facilitating meetings and sharing ideas might help agreements to transpire.

## **PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Bouwhuis: I make a motion of no change to the code text amendment of Section 16.13.39 (A) (11): Off-Street Parking and Loading. The proposed code will possibly require parking for outside dining at cafes and restaurants. That we accept all staff findings.

**Seconded:** Commissioner Payne

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

**There was none**

**Chairman Kohler:** All in favor.

**Ayes:** Commissioners: Streeter, Payne, Ream, O'Toole, Nicholas, Bouwhuis

**Nays:** None

**Motion: Passed**

#### **PROPOSED FINDINGS:**

- Increasing parking for outside dining at restaurants and cafes may help alleviate potential parking problems for future restaurants
- Increasing parking for outside dining at restaurants and cafes will make it more expensive for eating establishments to locate in Midway
- Increased parking requirements will require more area in the commercial zones to be paved which may detract from the vision of Main Street as described in the General Plan
- The General Plan promotes a pedestrian experience along Main Street and increased parking requirements might detract from that experience

#### **ALTERNATIVE ACTIONS:**

If the City Council would like to adopt outside dining parking requirements, then the Council can direct staff on which requirements they would like, staff will then create a draft code and present it to the City Council in a future meeting. The item should be continued if this is the option desired by the City Council.

1. 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

2. 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