

**MIDWAY CITY
Municipal Code**

TITLE 9 ANNEXATION

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Section 9.01.010 Annexation Ordinance Plan

This Ordinance shall be the Midway City annexation policy plan and shall replace in full all prior versions of an annexation policy plan adopted by Midway City.

Section 9.01.020 City Purposes for Ordinance

The annexation requirements specified in this Chapter are intended to protect the general interests and character of the Midway City municipal community (“City” or “Midway City”) by assuring the orderly growth and development through: coordinating and planning utilities and public services; preserving open space, enhancing parks and trails; ensuring environmental quality; protecting entry corridors, view sheds and environmentally sensitive lands; preserving historic and cultural resources; creating buffer areas; protecting public health, safety, and welfare and ensuring that annexations are approved consistent with the Midway City General Plan, the Midway City Vision and applicable laws of the state of Utah.

Section 9.01.030 Duration of Plan

In meeting the goals of Midway City's annexation policy plan, contained herein, the Planning Department and City Council shall strive to avoid gaps between or overlaps with the expansion areas of other municipalities; consider the population growth projections for Midway City and adjoining areas for the next 20 years; consider current and projected costs of infrastructure, urban

services, and necessary public facilities; facilitate full development of areas within Midway City; expand infrastructure, services, and facilities into the area being considered for inclusion in the expansion area when practical and feasible; consider, in conjunction with Midway City's General Plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development; consider the reasons for including agricultural lands, forests, recreation areas, and wildlife management areas in Midway City; and be guided by the following principles:

Section 9.01.040 Policy Declaration Area Map

The areas into which Midway City may be expanded are depicted by the current version of the Midway City Annexation Declaration Map which is incorporated herein by reference. The lands within the expansion area are presently outside the City limits and are mostly within the Midway Sanitation District and Wasatch County Fire District boundaries. In addition, the Midway City culinary water system extends beyond the City limits and serves parts of the surrounding unincorporated area.

Section 9.01.050 Annexation Area Boundary Policy

If practical and feasible, the boundaries of an area proposed for annexation shall be drawn:

- A. To eliminate islands and peninsulas of territory that are not receiving municipal type services.
- B. To facilitate the consolidation of overlapping functions of local government.
- C. To promote the efficient delivery of services.
- D. To encourage the equitable distribution of community resources and obligations.

Section 9.01.060 Intent

It is the intent of this Chapter to ensure that property annexed to the City will contribute to the attractiveness of the community and will enhance the rural, resort image which is critical to the economic viability of the community, and that the potential fiscal effect of an annexation does not impose an unreasonable burden upon City resources and tax base.

Section 9.01.070 Utah State Law Incorporated by Reference

This Chapter hereby incorporates by reference all applicable provisions of the Utah Code.

CHAPTER 9.02 GENERAL REQUIREMENTS

Section 9.02.010 Logical Extension of City Required

Section 9.02.020 Consistent with General Plan and the Chapter

Section 9.02.030 Efficiency of Proposal Required

Section 9.02.040 Individual Small Parcel Proposals Discouraged

Section 9.02.050 Islands, Peninsulas and Irregular Boundaries of annexation Areas Discouraged

Section 9.02.060 City Must Be Able to Serve Area at Consistent Level of Service

Section 9.02.070 Annexations to be Scrutinized

Section 9.02.080 Annexation for Preservation Allowed

Section 9.02.090 Applications for Annexation Must be Within Annexation Policy Declaration Area

Section 9.02.100 Consideration of Other Municipal Boards

Section 9.02.110 Annexation Conditions

Section 9.02.010 Logical Extension of City Required

Property under consideration for annexation must be considered a logical extension of the City boundaries.

Section 9.02.020 Consistent with General Plan and the Chapter

Annexation of property to the City must be consistent with the intent and purpose of this Chapter and the Midway City General Plan, in addition to the Master Plan for water, sewer, and roads.

Section 9.02.030 Efficiency of Proposal Required

Every annexation shall include the greatest amount of contiguous property area, which is also contiguous to the City's municipal boundaries.

Section 9.02.040 Individual Small Parcel Proposals Discouraged

Piecemeal annexation of individual small properties shall be discouraged if larger contiguous parcels are available for annexation within a reasonable time frame in order to avoid repetitious annexations.

Section 9.02.050 Islands, Peninsulas, and Irregular Boundaries of Annexation Areas Discouraged.

Islands of county jurisdiction shall not be left or created as a result of the annexation and peninsulas and irregular boundaries shall be strongly discouraged.

Section 9.02.060 City Must be Able to Serve Area at Consistent Level of Service

In addition to services provided by existing districts, such as sewer, fire protection, and public schools, the following urban level services, consistent with those normally provided in the rest of the incorporated boundaries will be provided to annexed areas:

- A. Law enforcement protection.
- B. Snow removal on public streets, subject to standard City snow removal policies.
- C. Maintenance of existing public streets, provided that such streets have been constructed or reconstructed to City street standards or are acceptable to the City Engineer and City Council.
- D. Planning, zoning, and municipal code enforcement.
- E. Access to municipal sponsored parks and recreational activities and cultural events and facilities.
- F. Water and sewage waste disposal services as the area is developed. Existing facilities for water treatment, storage and delivery, and/or for sewage removal and treatment, may be inadequate to provide water and sewer services to a proposed annexation area. The City shall determine the timing of and necessary capacity for the extension of water and sewer service to a proposed annexation area. New development in an annexation area shall pay the cost of improvements necessary for the extension and connection of new developments to City water and sewer lines and systems, as well as contribute to the cost of additional capital improvements, including but not limited to, storage and distribution facilities as necessary for safe, reliable, and efficient water flows and waste removal.

Section 9.02.070 Annexations to be Scrutinized

Before considering requests for annexation, the City shall carefully analyze the impacts of annexation of an area, taking into consideration whether the area will create negative impacts on the City and considering whether the City can economically provide services to the annexed area. Community issues such as location and adequacy of schools and community facilities, traffic, fire protection, particularly in wildfire/wild land interface areas, usable open space and recreation areas, protection of sensitive lands, conservation of natural resource, protection of view corridors, protection and preservation of historic resources, affordable housing, balance of housing types and ownership, adequate water and sewer capacity to serve the future needs of the proposed annexation area shall be considered.

Section 9.02.080 Annexation for Preservation Allowed

Situations may exist where it is in the public interest to preserve certain lands from development in flood plains, where geologic hazards exist, where slopes are severe, or where the need for preservation of community open space and/or agricultural lands is consistent with the General Plan. In such circumstances, annexations may occur as a means of retaining those lands in a natural state.

Section 9.02.090 Applications for Annexation Must be Within Annexation Policy Declaration Area

Midway City shall consider annexation of unincorporated areas of Wasatch County that are within the Annexation Declaration Area on its own initiative in order to promote the policies set forth in this Title.

Section 9.02.100 Consideration of Other Municipal Borders

In general, the annexation of unincorporated territory which should be located within another municipality is not favored, nor the annexation of unincorporated territory solely for the purpose of acquiring municipal revenues, nor for retarding the capacity of another municipality to annex.

Section 9.02.110 Annexation Conditions

Annexation conditions and agreements that support the Midway City Vision that Midway is to be a place where citizens, businesses and civic leaders are partners in building a city that is family oriented, aesthetically pleasing, safe, walk able and visitor friendly. It is a community that proudly enhances its small town character, Swiss heritage and natural environment, as well as remaining fiscally responsible. Preserving environmentally sensitive lands and providing significant public open space and/or community facilities are preferred.

CHAPTER 9.03 PROPERTY OWNER INITIATION OF ANNEXATION

Section 9.03.010 Petition Criteria

Section 9.03.020 Petition Attachment Requirements

Section 9.03.030 Petition Zoning Requests

Section 9.03.040 Water Disclosure Required

Section 9.03.050 Conflicting Annexation Requests Not Allowed

Section 9.03.060 Land considered for Municipal Incorporation Not Eligible

Section 9.03.070 Petition Copy Recipients

Section 9.03.010 Petition Criteria

When initiated by a property owner, an annexation shall be initiated by filing a petition with the City Recorder, which shall contain and comply with the following:

- A. The petition shall meet the criteria and format established by the City, as well as comply with the statutory enactments set forth in the Utah Code.
- B. The signatures of property owners whose real property covers a majority of the private land area within the proposed annexation area, which is also equal in value to at least one-third of the value of all private real property within said area.
- C. If the area is within an Agriculture Protection Area created under the Utah Code, 100 percent of the private land area within the area proposed for annexation must be included.
- D. If the property is owned by a public entity other than the federal government, the signature of the owner of all of the publicly owned property within the area proposed for annexation.
- E. The designation of up to five of the petitioners as sponsors, one of whom shall be designated as the contact sponsor, along with the mailing address of each sponsor.
- F. Certification that a notice of intent to annex, with accurate map of the proposed annexation area attached, has been hand delivered or mailed to all owners of real property within the annexation area and all owners of real property located within 300 feet of that area.

Section 9.03.020 Petition Attachment Requirements

Attached to and as part of the petition shall be:

- A. An accurate certified survey plat of the property to be annexed, prepared by a surveyor licensed to practice in Utah, accurately describing the existing City boundaries and each individual ownership sought to be annexed, including an accurate legal description of the property to be annexed.
- B. A representation as to the anticipated timetable for development, if applicable, of the property being annexed.

C. If the proposed area is intended for development, a complete copy of the development concept plan, which shall also be filed at the same time (or earlier) with the City Planner. The petition shall also identify and depict any requested zoning designation on the plan or a suitable map. Impact mitigation considerations in the annexation agreement will be based on the density permitted under the requested or applied zone requirements.

D. Depending on the scope and intensity of proposed development of the annexation area and the anticipated impact on adjacent lands, a review and analysis of the surrounding property, as provided in this Chapter.

Section 9.03.030 Petition Zoning Requests

Zoning requests are subject to independent review and recommendation by the Planning Commission, with final approval by the City Council concurrent with public hearings on the proposed annexation.

Section 9.03.040 Water Disclosure Required

There shall also be attached to the annexation petition a full disclosure statement of any and all waters owned or historically utilized on the property to be annexed.

Section 9.03.050 Conflicting Annexation Requests Not Allowed

The annexation petition shall not propose annexation of any land area proposed for annexation to a municipality in a previously filed petition that has not been granted, denied, or rejected.

Section 9.03.060 Land Considered for Municipal Incorporation Not Eligible

The annexation petition shall not propose annexation of any land area being considered for incorporation under Utah State law.

Section 9.03.070 Petition Copy Recipients

On the date of filing the annexation petition with the City Recorder, the petition sponsor(s) shall also deliver or mail a copy of the petition to the Clerk of the county or counties in which the annexation area is located and to the chair of the City Planning Commission.

CHAPTER 9.04 PROCEDURE FOR CONSIDERATION OF PETITION AND PLAT

Section 9.04.010 Annexation Petition and Proper Plat

Section 9.04.020 Annexation Petition and Plat Review

Section 9.04.030 Annexation Petition to City Recorder

Section 9.04.040 Annexation Petition Certification

Section 9.04.050 Planning Commission Recommendation

Section 9.04.060 Public Hearing for Proposed Annexation

Section 9.04.070 Land Use Code

Section 9.04.080 Annexation Agreement

Section 9.04.090 Action After Adopting Annexation Ordinance

Section 9.04.010 Annexation Petition and Proper Plat

A petition and proper plat certified by a licensed surveyor shall be submitted to the City Recorder in accordance with Utah Code, together with such other information as may be required by the City Planner to enable the staff to prepare an annexation impact report.

Section 9.04.020 Annexation Petition and Plat Review

Prior to City Council action on the petition, the petition and plat shall be reviewed by the City Planner, who shall evaluate the feasibility of the subject expansion of the City's boundaries and who shall prepare a written recommendation for consideration by the City Council.

Section 9.04.030 Annexation Petition to City Recorder

If the City Council determines that the annexation petition provides the information and representations required by this Title, the petition may be accepted for further consideration under this Title and delivered to the City Recorder for consideration of certification pursuant to Utah Code.

(2011-07, Section Amended, eff. 12/14/2011)

Section 9.04.040 Annexation Petition Certification

The City Recorder shall determine, within the time frame and according to the provisions of the Utah Code, whether the petition should be certified. If the petition is certifiable, the City Recorder shall publish notification thereof in accordance Utah Code.

Section 9.04.050 Planning Commission Recommendation

If certified by the City Recorder, the Planning Commission, upon referral from the City Planner, may determine to hold a public hearing and thereafter make a recommendation on the annexation proposal, including any requested zoning designation, to the City Council.

Section 9.04.060 Public Hearing for Proposed Annexation

After receipt of the Planning Commission's recommendation, completion of the review and evaluation provided for by Section 15-8-5, and after giving notice pursuant to Section 10-2-407 of the Utah Code, the City Council shall hold a public hearing on the proposed annexation. Following public hearing, the City Council may either grant the petition, with or without conditions, or deny it. If granted, and upon compliance with all conditions, an ordinance affirming the annexation shall be enacted. Provided, however, that protests to an annexation petition shall be dealt with as set forth in the Utah Code. Denial of or granting the petition while a protest is pending is subject to the Utah Code.

Section 9.04.070 Land Use Code

All applicable zoning and Land Use Code provisions shall apply to the annexed property.

Section 9.04.080 Annexation Agreement

As a condition to recordation of the annexation ordinance, the City may require the execution of an annexation agreement pursuant to this Chapter.

Section 9.04.090 Action After Adopting Annexation Ordinance

Within 30 days after enacting an ordinance annexing an unincorporated area or adjusting a boundary, the City shall:

- A. Record with the Wasatch County Recorder a certified copy of the ordinance approving the annexation or boundary adjustment, together with the annexation plat or map prepared by a licensed surveyor and approved by the City, showing the new boundaries of the affected area.
- B. File with the Lieutenant Governor of the State of Utah the amended articles of incorporation reflecting the annexation or boundary adjustment, as provided in the Utah Code.
- C. Comply with the notice requirements of the Utah Code.

CHAPTER 9.05 ANNEXATION PETITION REVIEW

Section 9.05.010 Staff Review Team

Section 9.05.020 Annexation Evaluation and Staff Report

Section 9.05.030 Conditions of Annexation and Annexation Agreement

Section 9.05.040 Amendments to Annexation Agreement

Section 9.05.050 Review and Analysis of Surrounding Property

Section 9.05.010 Staff Review Team

After the acceptance of a petition by the City Council and certification thereof by the City Recorder, the procedure for annexation shall comply with the Utah Code; provided, however, the City Council shall not take final action on any petition until the same has been reviewed by the City Planning Commission and by the staff review team. For purposes of annexation petition review, the staff review team shall be composed of at least the following, or their designees:

A. City Engineer, Planning and Zoning Administrator, Director of Public Works, Fire Marshall, County Sheriff, Representatives from Applicable Utility Providers, Midway Sanitation District, Midway Irrigation Company, and Wasatch County School District Superintendent.

Section 9.05.020 Annexation Evaluation and Staff Report

The staff review team will review each annexation and zoning request. The Planning Department will prepare a staff report based thereon and with recommendation to the Planning Commission. The staff report shall include an evaluation of the proposed annexation and shall include at least such of the following information as deemed necessary and appropriate in consideration of the scope of the proposed annexation:

- A. The ability to meet the general annexation requirements set forth in this Title.
- B. An accurate map of the proposed annexation area showing the boundaries and property ownership within the area, the topography of the area and major natural features, e.g. drainage, channels, streams, wooded areas, areas of high water table, very steep slopes, sensitive ridge line areas, wildfire/wild land interface areas, and other environmentally sensitive lands.
- C. Identification of current and potential population of the area and the current residential densities.
- D. Land uses presently existing and those proposed.
- E. Character and development of adjacent properties and neighborhoods.
- F. Present zoning and proposed zoning.
- G. A statement as to how the proposed area, and/or its potential land use will contribute to the achievement of the goals and policies of the Midway City General Plan and Midway City Vision.

H. Assessed valuation of the properties within the annexation area.

I. Potential demand for various municipal services and the need for land use regulation in the area, e.g. consideration of the distance from existing utility lines, special requirements for sensitive lands review and fire protection in wildfire or wild land areas, location within hazardous soils areas, and feasibility of snow removal from public streets.

J. The effect the annexation will have upon City boundaries and whether the annexation will ultimately create potential for future islands, undesirable boundaries, and difficult service areas.

K. A proposed timetable for extending municipal services to the area and recommendation on how the cost thereof will be paid.

L. Comparison of potential revenue from the annexed properties with cost of providing services thereto.

M. An estimate of the tax consequences and other potential economic impacts to residents of the area to be annexed.

N. Recommendations or comments of other local government jurisdictions regarding the annexation proposal and potential impact of the annexation on general county economic needs, goals, or objectives.

O. Location and description of any historic or cultural resources.

Section 9.05.030 Conditions of annexation approval and annexation agreement

The following conditions must be met prior to approval of an annexation, unless the City Council determines that the particular circumstances of a proposed annexation do not require the imposition of some, or all, of such conditions. These conditions shall be applied consistently for each proposal; however, unusual or unique circumstances may exist which require the imposition of additional, special conditions. The conditions of approval may be required to be formalized by written annexation agreement. The annexation agreement shall be approved by the City Attorney, signed by the City Council, and recorded with the Wasatch County Recorder.

A. Identification of useable water rights to be transferred to Midway City to serve the proposed development.

B. Additional improvements as necessary which may be required in order to improve the water system.

C. Dedication of necessary streets, trails, utilities, and rights-of-way consistent with the subdivision or PUD standards of this Code.

- D. Phasing of the development and the annexed area to insure adequacy of public facilities may be required.
- E. Payment of park land acquisition fees, dedication of open space or conservation areas, and payment of development impact fees.
- F. Provision of affordable housing in accordance with any affordable housing resolution as may be in effect at the time of petition filing.
- G. Submittal of site plans and architectural plans for review.
- H. Flood plain management or preservation of environmentally sensitive lands including compliance with the any sensitive lands provisions of the City Code.
- I. Analysis and survey of any historic and cultural resources located on the property.
- J. Analysis of the fiscal impacts of the development as determined necessary by the City. The fiscal impact analysis format, including the revenue and cost assumptions, shall be approved by the City. If necessary, the City may retain a qualified consultant to perform the fiscal impact analysis, at the expense of the applicant.
- K. Fees paid in lieu of satisfying certain conditions, as may be approved by the City Council.
- L. Review of surrounding property as described below in this Chapter.
- M. Any other condition reasonably related to a health, safety, or welfare issue or negative impact of the annexation and any proposed development thereof.

Section 9.05.040 Amendments to the Annexation Agreement

Subsequent amendments to an annexation agreement which are substantive in nature shall be subject to review and approval by the Planning Commission and then City Council, following reasonable public notice. Substantive amendments shall also be recorded with the Wasatch County Recorder.

Section 9.05.050 Review and Analysis of Surrounding Property

A. Upon consideration of the impact of the proposed annexation, the City Planner may require that a land use review and analysis of surrounding property be submitted with the annexation petition. This analysis of surrounding property shall be in sufficient detail for the City to determine the long term community impacts of the proposed annexation on these properties. This analysis may include, but is not limited to, all property within one-half mile of the boundaries of the proposed annexation. The City Planner may modify the study area one-half mile more or less to achieve a suitable and logical study area.

B. The review and analysis of surrounding property shall be performed by a qualified land use planner with assistance from other professionals, such as traffic engineers, civil engineers, wildlife biologists, hydrologists, and soils scientists. The City reserves the option of selecting the qualified professionals to perform this analysis with the cost to be paid by the applicant. The review and analysis shall include, but is not limited to a study of the following:

1. Slope, wetlands, vegetation, wildlife habitat, view corridors, existing Historic and cultural resources, and significant geological features.
2. Existing and proposed road systems.
3. Existing and proposed utilities and major utility extension plans.
4. Location of existing and proposed open space, recreational areas and trail systems.
5. Existing and proposed land uses including type and density of residential areas.
6. Existing and proposed locations of community facilities such as fire stations, schools, parks, recreation centers, etc.

CHAPTER 9.06 MUNICIPAL INITIATION OF ANNEXATION

Section 9.06.010 Criteria for City Sponsored Annexation

Section 9.06.020 City Proposed Annexation Authorization

Section 9.06.030 County Approval of City Initiated Annexations

Section 9.06.040 Effect of Written Protest to City Initiated Annexation

Section 9.06.010 Criteria for City Sponsored Annexation

It shall be the policy of Midway City to annex on its own initiative such areas which meet all of the following criteria:

- A. The area is an island within or a peninsula contiguous to the City.
- B. The majority of each island or peninsula consists of residential or commercial development.
- C. The area requires the delivery of municipal-type services.
- D. The City has provided most or all of the municipal-type services to the area for more than one year.
- E. Annexation of the area is supported by the goals of the Midway City General Plan, including open space, land use, affordable housing, recreation, growth management and economic development.

Section 9.06.020 City Proposed Annexation Authorization

Such annexations shall be processed as provided under Utah Code, including all noticing and public hearing requirements. This review shall be in addition to the review required in this Title herein.

Section 9.06.030 County Approval of City Initiated Annexations

The City may not adopt an annexation ordinance based on its own initiative unless the Wasatch County Commission has previously approved the annexation.

Section 9.06.040 Effect of Written Protest to City Initiated Annexation

If written protest to such annexation is timely filed and complies with Utah Code, the City may not adopt an ordinance annexing the area proposed for annexation, and the annexation proceedings under this Title shall be considered terminated.

CHAPTER 9.07 ANNEXATION DECLARATION AREA MAP

Section 9.07.010 Preservation of Map

Section 9.07.020 Criteria for Excluded Land

Section 9.07.010 Preservation of Map

The current Annexation Declaration Area Map shall be kept by the City Recorder. The Map may be altered to change the proposed annexation boundaries of Midway City upon action by the City Council upon recommendation by the Planning Commission and following public hearing duly noticed.

(2011-07, Section Amended, eff. 12/14/2011)

Section 9.07.020 Criteria for Excluded Land

The following criteria were used as justification to exclude lands from the expansion area:

- A. Topography and other physical constraints to efficient delivery of basic services.
- B. Overlapping utility services already being supplied by other providers.
- C. Level of existing services, or quality of construction and condition of existing roads and habitable structures below City standards, requiring expensive upgrades.
- D. Other negative fiscal consequences to the City.