

Midway City Council
16 February 2021
Regular Meeting

Ordinance 2021-04 /
Public Facilities Completion
Deposit

CHAPTER 12.10 PUBLIC FACILITIES COMPLETION AND REPAIR DEPOSIT

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Section 12.10.020 When Required Section 12.10.030 Method of Payment

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Section 12.10.050 Method for Correction of Deficiencies

Section 12.10.060 Forfeiture of Public Facilities Completion and Repair Deposit

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Section 12.10.080 Water Meter Installation

Section 12.10.010 Establishment of Public Facilities Completion and Repair Deposit

A. The establishment of the public facilities completion and repair deposit requirement is to assure the proper completion and protection, and repair of public improvements during construction, to mediate and secure a site that has been abandoned by the contractor, and to provide funds necessary to mediate a site left in a dangerous or unsafe condition.

B. For purposes of this Section, “public improvements” include the following:

1. Curb, gutter and sidewalk.
2. Storm sumps, and/or piping, catch basins, detention basins and any other storm water related facilities.
3. Asphalt paving.
4. Fire hydrants.
5. Fencing.
6. Landscaping and sprinkling systems.
7. Water and sewer lines.
8. Driveway approaches.
9. Removal of mud, dirt, and debris from the public rights-of-way (sidewalks, curbs, gutter, and streets).
10. Mediation costs associated with securing a site that has been abandoned by the contractor or left in an unsafe condition by the contractor.
11. Any other public improvements required by ordinance or required as part of a site plan, conditional use permit, subdivision plat, or building permit approval. If, for any reason, the funds set aside or provided for the guarantee of improvements or repair are insufficient to properly complete the improvements or repair, the developer shall still be liable to complete the improvements or repair. The deposit required by this Section is for the sole benefit of the City. The deposit is not for the individual benefit of any citizen or identifiable class of citizens, including the owners or purchasers of lots within a subdivision or PUD. The deposit is not for the purposes of ensuring payment of contractors, subcontractors or suppliers of labor or materials, and no contractors, subcontractors or suppliers of labor or materials shall have a cause of action against the City or the deposit for providing labor or materials.

Section 12.10.020 When Required

At the time any building permit involving any excavation or dirt removal is issued, the City is authorized and directed to require from the applicant a deposit in the amount set by the City Council from time to time. The deposit shall be in addition to all other fees which may be required prior to issuance of a building permit. The City shall not issue the permit until said deposit has been made with the City. The applicant shall also be required to execute an Acknowledgement of Responsibility Form outlining the obligations of the applicant.

Section 12.10.030 Method of Payment

The completion deposit shall be made with the City Treasurer and held in a trust account established by the Treasurer for that purpose.

Section 12.10.040 Procedure for Refund of Deposit

The deposit amount shall be returned to the payee upon request by the payee and upon receipt by the Treasurer from the Midway City Public Works Department of notice stating (1) that all construction and landscaping has been completed, and (2) that no un-repaired damage exists to the public facilities located on the property or in the public right-of-way near the property, including the streets, sidewalks, right-of-way, water connection meters and facilities, and other public improvements, and that all dirt, mud, stone, debris, or other material has been removed therefrom, the site has been taken to completion with no unsafe conditions, the City issues a final certificate of occupancy for the site, and the Building Official gives written consent to the release of the deposit; and (3) that no illegal cross-connections between the culinary and secondary water systems have been made and all City standards for separation between the two systems have been followed. Inspections for release of the deposit will be made only between April 15 and October 15. **The deposit shall only be refunded to the original payee, unless written permission is provided to the City from the original payee prior to any payment release stating that the deposit may be refunded to a different party.**

Section 12.10.050 Method for Correction of Deficiencies

If the Midway City Public Works Department determines that deficiencies exist pursuant to the above paragraph, the applicant, contractor, and/or property owner shall be directed to correct the deficiencies immediately. **All public facility repairs must comply with Midway City construction standards and other City ordinances, and be inspected by a licensed contractor. Notice of such repairs must be submitted to the Public Works Department for their records. The deposit will continue to be held for one year after the date of repair, and the repair work will be re-inspected prior to the deposit being released.** If said deficiencies are not adequately corrected within nine months of notice, the deposit amount shall be used by the City to the extent necessary to correct the deficiencies. Any expenses incurred by the City in correcting the deficiencies in excess of the deposit amount shall be billed to the applicant and/or property owner, and if necessary, a lien shall be filed by the City against the property to recover said costs.

Section 12.10.060 Forfeiture of Public Facilities Completion and Repair Deposit

If a building permit is allowed to expire, the Building Safety Department shall then notify the Public Works Department of the expiration. The Public Works Department shall then notify the City Treasurer of such noncompliance. Upon such notification, the Treasurer shall declare the deposit forfeited and pay the amount thereof to the General Fund. In addition, any deposit amounts still on deposit with the City and not claimed by the payee eight (8) years after issuance of the associated permit shall be forfeited to the General Fund. **Also, applicants who fail to complete any and all landscaping requirements and/or repair any and all damages to public facilities within one year of being issued occupancy shall automatically forfeit their deposit to the General Fund.**

Section 12.10.070 Water Meter Installation Fee

A non-refundable water meter installation fee set by the city council from time to time shall be collected at the time a building permit is issued. This fee shall be in addition to all other fees necessary to obtain a building permit.

Section 12.10.080 Water Meter Installation

A water meter shall be installed by the City at the property site when a building permit is issued. The building permit holder shall be billed a monthly fee of \$15.00 per month for water usage during the construction period. Upon issuance of an occupancy permit, standard City water rates and procedures shall commence.



**ORDINANCE
2021-04**

**AN ORDINANCE AMENDING CHAPTER 12.10 OF THE
MIDWAY CITY MUNICIPAL CODE REGARDING THE
PUBLIC FACILITIES COMPLETION AND REPAIR
DEPOSIT**

WHEREAS, the City Council of Midway City finds that certain amendments to Chapter 12.10 of the Midway City Municipal Code pertaining to the public facilities completion and repair deposit are necessary and will serve the public interest; and

WHEREAS, the City Council now desires to amend Chapter 12.10 of the Midway City Municipal Code as set forth herein.

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

Chapter 12.10 (Public Facilities Completion and Repair Deposit) of the Midway City Municipal Code is deleted in its entirety and is replaced as attached in Exhibit "A":

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 2021.

	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)

DRAFT

Exhibit A

DRAFT

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