

Effective 5/12/2015

**Part 2
Incorporation of a City**

10-2a-201 Title.

This part is known as "Incorporation of a City."

Enacted by Chapter 352, 2015 General Session

10-2a-202 Request for feasibility study -- Requirements -- Limitations.

- (1) The process to incorporate a contiguous area of a county as a city is initiated by a request for a feasibility study filed with the Office of the Lieutenant Governor.
- (2) Each request under Subsection (1) shall:
 - (a) be signed by the owners of private real property that:
 - (i) is located within the area proposed to be incorporated;
 - (ii) covers at least 10% of the total private land area within the area; and
 - (iii) is equal in value to at least 7% of the value of all private real property within the area;
 - (b) indicate the typed or printed name and current residence address of each owner signing the request;
 - (c) describe the contiguous area proposed to be incorporated as a city;
 - (d) designate up to five signers of the request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;
 - (e) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed city; and
 - (f) request the lieutenant governor to commission a study to determine the feasibility of incorporating the area as a city.
- (3) A request for a feasibility study under this section may not propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-208(3) unless:
 - (a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2a-210; or
 - (b) the time provided under Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the filing of a petition.
- (4)
 - (a) Except as provided in Subsection (4)(b), a request under this section may not propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:
 - (i) was filed before the filing of the request; and
 - (ii) is still pending on the date the request is filed.
 - (b) Notwithstanding Subsection (4)(a), a request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:
 - (i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

- (ii) the request complies with Subsections (2) and (3) with respect to the area proposed for incorporation excluding the proposed annexation area; and
 - (iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to lose its contiguousness.
- (c) Except as provided in Section 10-2a-206, each request to which Subsection (4)(b) applies shall be considered as not proposing the incorporation of the area proposed for annexation.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-203 Notice to owner of property -- Exclusion of property from proposed boundaries.

- (1) As used in this section:
- (a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.
 - (b) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.
 - (c) "Urban" means an area with a residential density of greater than one unit per acre.
- (2) Within seven calendar days of the date on which a request under Section 10-2a-202 is filed, the lieutenant governor shall send written notice of the proposed incorporation to each record owner of real property owning more than:
- (a) 1% of the assessed value of all property in the proposed incorporation boundaries; or
 - (b) 10% of the total private land area within the proposed incorporation boundaries.
- (3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a Notice of Exclusion with the Office of the Lieutenant Governor within 15 calendar days of receiving the clerk's notice under Subsection (2).
- (4) The lieutenant governor shall exclude the property identified by an owner in the Notice of Exclusion from the proposed incorporation boundaries unless the lieutenant governor finds by clear and convincing evidence in the record that:
- (a) the exclusion will leave an unincorporated island within the proposed municipality; and
 - (b) the property to be excluded:
 - (i) is urban; and
 - (ii) currently receives from the county a majority of municipal-type services including:
 - (A) culinary or irrigation water;
 - (B) sewage collection or treatment;
 - (C) storm drainage or flood control;
 - (D) recreational facilities or parks;
 - (E) electric generation or transportation;
 - (F) construction or maintenance of local streets and roads;
 - (G) curb and gutter or sidewalk maintenance;
 - (H) garbage and refuse collection; and
 - (I) street lighting.
- (5) This section applies only to counties of the first or second class.
- (6) If the lieutenant governor excludes property from the proposed boundaries under Subsection (4), the lieutenant governor shall, within five days of the exclusion, send written notice of the exclusion to the contact sponsor.

Amended by Chapter 157, 2015 General Session
Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-204 Processing a request for incorporation -- Certification or rejection by lieutenant governor -- Processing priority -- Limitations -- Planning advisory area planning commission recommendation.

- (1) Within 45 days of the filing of a request under Section 10-2a-202, the lieutenant governor shall:
 - (a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance, determine whether the request complies with Section 10-2a-202; and
 - (b)
 - (i) if the lieutenant governor determines that the request complies with Section 10-2a-202:
 - (A) certify the request; and
 - (B) mail or deliver written notification of the certification to the contact sponsor; or
 - (ii) if the lieutenant governor determines that the request fails to comply with Section 10-2a-202 requirements, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- (2) The lieutenant governor shall certify or reject requests under Subsection (1) in the order in which they are filed.
- (3)
 - (a)
 - (i) If the lieutenant governor rejects a request under Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was rejected and then refiled with the lieutenant governor.
 - (ii) A signature on a request under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection 10-2a-202(2)(a) for the request as modified under Subsection (3)(a)(i).
 - (b) If a request is amended and refiled under Subsection (3)(a) after having been rejected by the lieutenant governor under Subsection (1)(b)(ii), it shall be considered as a newly filed request, and its processing priority is determined by the date on which it is refiled.

Amended by Chapter 157, 2015 General Session
Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-205 Feasibility study -- Feasibility study consultant.

- (1) Within 90 days of receipt of a certified request under Subsection 10-2a-204(1)(b)(i), the lieutenant governor shall engage the feasibility consultant chosen under Subsection (2) to conduct a feasibility study.
- (2) The feasibility consultant shall be chosen:
 - (a)
 - (i) by the contact sponsor of the incorporation petition with the consent of the lieutenant governor; or
 - (ii) by the lieutenant governor if the designated sponsors state, in writing, that the contact sponsor defers selection of the feasibility consultant to the lieutenant governor; and
 - (b) in accordance with applicable procurement procedures.
- (3) The lieutenant governor shall require the feasibility consultant to:

- (a) complete the feasibility study and submit the written results to the lieutenant governor, the county legislative body of the county in which the incorporation is proposed, and the contact sponsor no later than 90 days after the feasibility consultant is engaged to conduct the study;
 - (b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and
 - (c) attend the public hearings under Subsection 10-2a-207(1) and present the feasibility study results and respond to questions from the public at those hearings.
- (4)
- (a) The feasibility study shall consider:
 - (i) population and population density within the area proposed for incorporation and the surrounding area;
 - (ii) current and five-year projections of demographics and economic base in the proposed city and surrounding area, including household size and income, commercial and industrial development, and public facilities;
 - (iii) projected growth in the proposed city and in adjacent areas during the next five years;
 - (iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed city, including:
 - (A) culinary water;
 - (B) secondary water;
 - (C) sewer;
 - (D) law enforcement;
 - (E) fire protection;
 - (F) roads and public works;
 - (G) garbage;
 - (H) weeds; and
 - (I) government offices;
 - (v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed city;
 - (vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation; and
 - (vii) the fiscal impact on unincorporated areas, other municipalities, local districts, special service districts, and other governmental entities in the county.
 - (b)
 - (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed city in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed city at the time of the feasibility study.
 - (ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:
 - (A) the amount it would cost the proposed city to provide governmental service for the first five years after incorporation; and
 - (B) the county's present and five-year projected cost of providing governmental service.
 - (iii) The costs calculated under Subsection (4)(a)(iv), shall take into account inflation and anticipated growth.
- (5) If the five year projected revenues under Subsection (4)(a)(v) exceed the five year projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

- (6) If the results of the feasibility study or revised feasibility study do not meet the requirements of Subsection 10-2a-208(3), the feasibility consultant shall, as part of the feasibility study or revised feasibility study and if requested by the sponsors of the request, make recommendations as to how the boundaries of the proposed city may be altered so that the requirements of Subsection 10-2a-208(3) may be met.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-206 Modified request for feasibility study -- Supplemental feasibility study.

- (1)
 - (a)
 - (i) The sponsors of a request may modify the request to alter the boundaries of the proposed city and then refile the request, as modified, with the lieutenant governor if:
 - (A) the results of the feasibility study do not meet the requirements of Subsection 10-2a-208(3); or
 - (B)
 - (I) the request meets the conditions of Subsection 10-2a-202(4)(b);
 - (II) the annexation petition that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and
 - (III) an incorporation petition based on the request has not been filed.
 - (ii)
 - (A) A modified request under Subsection (1)(a)(i)(A) may not be filed more than 90 days after the feasibility consultant's submission of the results of the study.
 - (B) A modified request under Subsection (1)(a)(i)(B) may not be filed more than 18 months after the filing of the original request under Section 10-2a-202.
 - (b)
 - (i) Subject to Subsection (1)(b)(ii), each modified request under Subsection (1)(a) shall comply with the requirements of Subsections 10-2a-202(2), (3), and (4).
 - (ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection 10-2a-202(2)(a) for the request as modified under Subsection (1)(a), unless the modified request proposes the incorporation of an area that is more than 20% greater or smaller than the area described by the original request in terms of:
 - (A) private land area; or
 - (B) value of private real property.
- (2) Within 20 days after the lieutenant governor's receipt of the modified request, the lieutenant governor shall follow the same procedure for the modified request as provided under Subsection 10-2a-204(1) for an original request.
- (3) The timely filing of a modified request under Subsection (1) gives the modified request the same processing priority under Subsection 10-2a-204(2) as the original request.
- (4) Within 10 days after the lieutenant governor's receipt of a certified modified request under Subsection (1)(a)(i)(A) or a certified modified request under Subsection (1)(a)(i)(B) that was filed after the completion of a feasibility study on the original request, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to supplement the feasibility study to take into account the information in the modified request that was not included in the original request.

- (5) The lieutenant governor shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the lieutenant governor and to the contact sponsor no later than 30 days after the feasibility consultant is commissioned to conduct the supplemental feasibility study.
- (6)
 - (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study do not meet the requirements of Subsection 10-2a-208(3):
 - (i) the sponsors may file a further modified request as provided in Subsection (1); and
 - (ii) Subsections (2), (4), and (5) apply to a further modified request under Subsection (6)(a)(i).
 - (b) A further modified request under Subsection (6)(a) shall, for purposes of its processing priority, be considered as an original request for a feasibility study under Section 10-2a-202.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-207 Public hearings on feasibility study results -- Notice of hearings.

- (1) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2a-208(3), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, schedule at least two public hearings to be held:
 - (a) within the following 60 days after receipt of the results;
 - (b) at least seven days apart;
 - (c) in geographically diverse locations within the proposed city; and
 - (d) for the purpose of allowing:
 - (i) the feasibility consultant to present the results of the study; and
 - (ii) the public to become informed about the feasibility study results and to ask questions about those results of the feasibility consultant.
- (2) At a public hearing described in Subsection (1), the lieutenant governor shall:
 - (a) provide a map or plat of the boundary of the proposed city;
 - (b) provide a copy of the feasibility study for public review; and
 - (c) allow the public to express its views about the proposed incorporation, including its view about the proposed boundary.
- (3)
 - (a)
 - (i) The lieutenant governor shall publish notice of the public hearings required under Subsection (1):
 - (A) at least once a week for three successive weeks in a newspaper of general circulation within the proposed city; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks.
 - (ii) The last publication of notice required under Subsection (3)(a)(i)(A) shall be at least three days before the first public hearing required under Subsection (1).
 - (b)
 - (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed city, the lieutenant governor shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the hearings to the residents of the proposed city.
 - (ii) The lieutenant governor shall post the notices under Subsection (3)(b)(i) at least seven days before the first hearing under Subsection (1).

- (c) The notice under Subsections (3)(a) and (b) shall include the feasibility study summary under Subsection 10-2a-205(3)(b) and shall indicate that a full copy of the study is available for inspection and copying at the Office of the Lieutenant Governor.
- (d) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-208 Incorporation petition -- Requirements and form.

- (1) At any time within one year of the completion of the public hearings required under Subsection 10-2a-207(1), a petition for incorporation of the area proposed to be incorporated as a city may be filed in the Office of the Lieutenant Governor.
- (2) Each petition under Subsection (1) shall:
 - (a) be signed by:
 - (i) 10% of all registered voters within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed; and
 - (ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting precincts within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed;
 - (b) indicate the typed or printed name and current residence address of each owner signing the petition;
 - (c) describe the area proposed to be incorporated as a city, as described in the feasibility study request or modified request that meets the requirements of Subsection (3);
 - (d) state the proposed name for the proposed city;
 - (e) designate five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;
 - (f) state that the signers of the petition appoint the sponsors, if the incorporation measure passes, to represent the signers in the process of:
 - (i) selecting the number of commission or council members the new city will have; and
 - (ii) drawing district boundaries for the election of commission or council members, if the voters decide to elect commission or council members by district;
 - (g) be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed city; and
 - (h) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed city)
To the Honorable Lieutenant Governor:
We, the undersigned owners of real property within the area described in this petition, respectfully petition the lieutenant governor to direct the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a city. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a city is described as follows: (insert an accurate description of the area proposed to be incorporated).
- (3) A petition for incorporation of a city under Subsection (1) may not be filed unless the results of the feasibility study or supplemental feasibility study show that the average annual amount of

revenue under Subsection 10-2a-205(4)(a)(v) does not exceed the average annual amount of cost under Subsection 10-2a-205(4)(a)(iv) by more than 5%.

- (4) A signature on a request under Section 10-2a-202 or a modified request under Section 10-2a-206 may be used toward fulfilling the signature requirement of Subsection (2)(a):
 - (a) if the request under Section 10-2a-202 or modified request under Section 10-2a-206 notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition for incorporation under this section; and
 - (b) unless the signer files with the lieutenant governor a written withdrawal of the signature before the petition under this section is filed with the lieutenant governor.
- (5)
 - (a) A signature does not qualify as a signature to meet the requirement described in Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:
 - (i) is not located entirely within the boundaries of the proposed city; or
 - (ii) includes less than 50 registered voters.
 - (b) A voting precinct that is not located entirely within the boundaries of the proposed city does not qualify as a voting precinct to meet the precinct requirements of Subsection (2)(a)(ii).

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-209 Processing of petition by lieutenant governor -- Certification or rejection -- Processing priority.

- (1) Within 45 days of the filing of a petition under Section 10-2a-208, the lieutenant governor shall:
 - (a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance, determine whether the petition meets the requirements of Section 10-2a-208; and
 - (b)
 - (i) if the lieutenant governor determines that the petition meets those requirements, certify the petition and notify in writing the contact sponsor of the certification; or
 - (ii) if the lieutenant governor determines that the petition fails to meet any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- (2)
 - (a) If the lieutenant governor rejects a petition under Subsection (1)(b)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the lieutenant governor.
 - (b) A modified petition under Subsection (2)(a) may be filed at any time until 30 days after the lieutenant governor notifies the contact sponsor under Subsection (1)(b)(ii), even though the modified petition is filed after the expiration of the deadline provided in Subsection 10-2a-208(1).
 - (c) A signature on an incorporation petition under Section 10-2a-208 may be used toward fulfilling the signature requirement of Subsection 10-2a-208(2)(a) for the petition as modified under Subsection (2)(a).
- (3)
 - (a) Within 20 days of the lieutenant governor's receipt of a modified petition under Subsection (2)(a), the lieutenant governor shall follow the same procedure for the modified petition as provided under Subsection (1) for an original petition.

- (b) If the lieutenant governor rejects a modified petition under Subsection (1)(b)(ii), no further modification of that petition may be filed.

Amended by Chapter 157, 2015 General Session
Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-210 Incorporation election.

- (1)
 - (a) Upon receipt of a certified petition under Subsection 10-2a-209(1)(b)(i) or a certified modified petition under Subsection 10-2a-209(3), the lieutenant governor shall:
 - (i) determine and set an election date for the incorporation election that is:
 - (A) on a regular general election date under Section 20A-1-201 or on a local special election date under Section 20A-1-203; and
 - (B) at least 65 days after the day that the lieutenant governor receives the certified petition; and
 - (ii) direct the county legislative body of the county in which the incorporation is proposed to hold the election on the date determined by the lieutenant governor in accordance with Subsection (1)(a)(i).
 - (b) The county shall hold the election as directed by the lieutenant governor in accordance with Subsection (1)(a)(ii).
 - (c) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation.
- (2)
 - (a) The county clerk shall publish notice of the election:
 - (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks; and
 - (ii) in accordance with Section 45-1-101 for three weeks.
 - (b) The notice required by Subsection (2)(a) shall contain:
 - (i) a statement of the contents of the petition;
 - (ii) a description of the area proposed to be incorporated as a city;
 - (iii) a statement of the date and time of the election and the location of polling places; and
 - (iv) the feasibility study summary under Subsection 10-2a-205(3)(b) and a statement that a full copy of the study is available for inspection and copying at the Office of the Lieutenant Governor.
 - (c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.
 - (d)
 - (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city.
 - (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1).
- (3) If a majority of those casting votes within the area boundaries of the proposed city vote to incorporate as a city, the area shall incorporate.

Amended by Chapter 111, 2015 General Session
Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-211 Ballot used at the incorporation election.

- (1) The ballot at the incorporation election under Subsection 10-2a-210(1) shall pose the incorporation question substantially as follows:
"Shall the area described as (insert a description of the proposed city) be incorporated as the city of (insert the proposed name of the proposed city)?"
- (2) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (1).
- (3)
 - (a) The ballot at the incorporation election shall also pose the question relating to the form of government substantially as follows:
"If the above incorporation proposal passes, under what form of municipal government shall (insert the name of the proposed city) operate? Vote for one:
Five-member council form
Six-member council form
Five-member council-mayor form
Seven-member council-mayor form."
 - (b) The ballot shall provide a space for the voter to vote for one form of government.
- (4)
 - (a) The ballot at the incorporation election shall also pose the question of whether to elect city council members by district substantially as follows:
If the above incorporation proposal passes, shall members of the city council of (insert the name of the proposed city) be elected by district?
 - (b) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (4)(a).

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-212 Notification to lieutenant governor of incorporation election results.

Within 10 days of the canvass of the incorporation election, the county clerk shall send written notice to the lieutenant governor of:

- (1) the results of the election; and
- (2) if the incorporation measure passes:
 - (a) the name of the city; and
 - (b) the class of the city as provided under Section 10-2-301.

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-213 Determination of number of council members -- Determination of election districts -- Hearings and notice.

- (1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section 10-2a-210:
 - (a) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the council of the future city;
 - (b) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population;

- (c) determine the initial terms of the mayor and members of the city council so that:
 - (i) the mayor and approximately half the members of the city council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and
 - (ii) the remaining members of the city council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and
 - (d) submit in writing to the county legislative body the results of the sponsors' determinations under Subsections (1)(a), (b), and (c).
- (2)
- (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition sponsors shall hold a public hearing within the future city on the applicable issues under Subsections (1)(a), (b), and (c).
 - (b)
 - (i) The petition sponsors shall publish notice of the public hearing under Subsection (2)(a):
 - (A) in a newspaper of general circulation within the future city at least once a week for two successive weeks before the hearing; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the hearing.
 - (ii) The last publication of notice under Subsection (2)(b)(i)(A) shall be at least three days before the public hearing under Subsection (2)(a).
 - (c)
 - (i) In accordance with Subsection (2)(b)(i)(A), if there is no newspaper of general circulation within the future city, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future city that are most likely to give notice of the hearing to the residents of the future city.
 - (ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven days before the hearing under Subsection (2)(a).

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-214 Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for city office.

- (1)
- (a) Within 20 days of the county legislative body's receipt of the information under Subsection 10-2a-213(1)(d), the county clerk shall publish, in accordance with Subsection (1)(b), notice containing:
 - (i) the number of commission or council members to be elected for the new city;
 - (ii) if some or all of the commission or council members are to be elected by district, a description of the boundaries of those districts as designated by the petition sponsors under Subsection 10-2a-213(1)(b);
 - (iii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or city commission or council; and
 - (iv) information about the length of the initial term of each of the city officers, as determined by the petition sponsors under Subsection 10-2a-213(1)(c).
 - (b) The notice under Subsection (1)(a) shall be published:
 - (i) in a newspaper of general circulation within the future city at least once a week for two successive weeks; and

- (ii) in accordance with Section 45-1-101 for two weeks.
- (c)
 - (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future city that are most likely to give notice to the residents of the future city.
 - (ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).
 - (iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).
- (2) Notwithstanding Subsection 20A-9-203(2)(a), each person seeking to become a candidate for mayor or city commission or council of a city incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future city is located and in accordance with the deadlines set by the clerk as authorized by Section 10-2a-215.

Amended by Chapter 111, 2015 General Session
Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-215 Election of officers of new city -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

- (1) For the election of city officers, the county legislative body shall:
 - (a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election; and
 - (b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.
- (2) Each election under Subsection (1) shall be:
 - (a) appropriate to the form of government chosen by the voters at the incorporation election;
 - (b) consistent with the voters' decision about whether to elect commission or council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and
 - (c) consistent with the sponsors' determination of the number of commission or council members to be elected and the length of their initial term.
- (3)
 - (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall be held at the earliest of the next:
 - (i) notwithstanding Subsection 20A-1-201.5(2), regular general election under Section 20A-1-201;
 - (ii) notwithstanding Subsection 20A-1-201.5(2), regular primary election under Subsection 20A-1-201.5(1);
 - (iii) municipal primary election under Section 20A-9-404; or
 - (iv) notwithstanding Subsection 20A-1-201.5(2), municipal general election under Section 20A-1-202.
 - (b) The county shall hold the primary election, if necessary, on the next earliest election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:
 - (i) 75 days after the incorporation election under Section 10-2a-210; and
 - (ii) 65 days after the last day of the candidate filing period.
- (4)

- (a) Subject to Subsection (4)(b), the county shall hold the final election under Subsection (1)(b) on one of the following election dates:
 - (i) regular general election under Section 20A-1-201;
 - (ii) municipal primary election under Section 20A-9-404;
 - (iii) regular municipal general election under Section 20A-1-202; or
 - (iv) regular primary election under Section 20A-1-201.5.
 - (b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), (iii), or (iv):
 - (i) that is after a primary election; or
 - (ii) if there is no primary election, that is at least:
 - (A) 75 days after the incorporation election under Section 10-2a-210; and
 - (B) 65 days after the candidate filing period.
- (5)
- (a)
 - (i) The county clerk shall publish notice of an election under this section:
 - (A) at least once a week for two successive weeks in a newspaper of general circulation within the future city; and
 - (B) in accordance with Section 45-1-101 for two weeks.
 - (ii) The later notice under Subsection (5)(a)(i) shall be at least one day but no more than seven days before the election.
 - (b)
 - (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future city that are most likely to give notice of the election to the voters.
 - (ii) The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before each election under Subsection (1).
- (6)
- (a) Until the city is incorporated, the county clerk:
 - (i) is the election officer for all purposes in an election of officers of the city approved at an incorporation election; and
 - (ii) may, as necessary, determine appropriate deadlines, procedures, and instructions that are not otherwise contrary to law.
 - (b) The county clerk shall require and determine deadlines for the filing of campaign financial disclosures of city officer candidates in accordance with Section 10-3-208.
 - (c) The county clerk is responsible to ensure that:
 - (i) a primary or final election for the officials of a newly incorporated city is held on a date authorized by this section; and
 - (ii) the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated city and the term of each office.
- (7) A person who has filed as a candidate for an office described in this section shall comply with the campaign finance disclosure requirements of Section 10-3-208 and requirements and deadlines as lawfully set forth by the county clerk.
- (8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:
- (a) after taking the oath of office; and

- (b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(2)(c)(ii).

Amended by Chapter 111, 2015 General Session
Renumbered and Amended by Chapter 352, 2015 General Session
Amended by Chapter 352, 2015 General Session, (Coordination Clause)

10-2a-216 Notification to lieutenant governor of election of city officers.

Within 10 days of the canvass of the final election of city officers under Section 10-2a-215, the county clerk shall send written notice to the lieutenant governor of the name and position of each officer elected and the term for which each has been elected.

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-217 Filing of notice and approved final local entity plat with lieutenant governor -- Effective date of incorporation -- Necessity of recording documents and effect of not recording.

- (1) The mayor of the future city shall:
 - (a) within 30 days after the canvass of the final election of city officers under Section 10-2a-215, file with the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:
 - (i) if the city is located within the boundary of a single county, submit to the recorder of that county the original:
 - (A) notice of an impending boundary action;
 - (B) certificate of incorporation; and
 - (C) approved final local entity plat; or
 - (ii) if the city is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county.
- (2)
 - (a) The incorporation is effective upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5.
 - (b) Notwithstanding any other provision of law, a city is conclusively presumed to be lawfully incorporated and existing if, for two years following the city's incorporation:
 - (i)
 - (A) the city has levied and collected a property tax; or
 - (B) for a city incorporated on or after July 1, 1998, the city has imposed a sales and use tax;and
 - (ii) no challenge to the existence or incorporation of the city has been filed in the district court for the county in which the city is located.
- (3)
 - (a) The effective date of an incorporation for purposes of assessing property within the new city is governed by Section 59-2-305.5.

- (b) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated city may not:
 - (i) levy or collect a property tax on property within the city;
 - (ii) levy or collect an assessment on property within the city; or
 - (iii) charge or collect a fee for service provided to property within the city.

Amended by Chapter 111, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-218 Powers of officers-elect.

- (1) Upon the canvass of the final election of city officers under Section 10-2a-215 and until the future city becomes legally incorporated, the officers of the future city may:
 - (a) prepare and adopt, under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, a proposed budget and compilation of ordinances;
 - (b) negotiate and make personnel contracts and hirings;
 - (c) negotiate and make service contracts;
 - (d) negotiate and make contracts to purchase equipment, materials, and supplies;
 - (e) borrow funds from the county in which the future city is located under Subsection 10-2a-219(3);
 - (f) borrow funds for startup expenses of the future city;
 - (g) issue tax anticipation notes in the name of the future city; and
 - (h) make appointments to the city's planning commission.
- (2) The city's legislative body shall review and ratify each contract made by the officers under Subsection (1) within 30 days after the effective date of incorporation under Section 10-2a-217.

Amended by Chapter 111, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-219 Division of municipal-type services revenues -- County may provide startup funds.

- (1) The county in which an area incorporating under this part is located shall, until the date of the city's incorporation under Section 10-2a-217, continue:
 - (a) to levy and collect ad valorem property tax and other revenues from or pertaining to the future city; and
 - (b) except as otherwise agreed by the county and the officers of the city, to provide the same services to the future city as the county provided before the commencement of the incorporation proceedings.
- (2)
 - (a) The legislative body of the county in which a newly incorporated city is located shall share pro rata with the new city, based on the date of incorporation, the taxes and service charges or fees levied and collected by the county under Section 17-34-3 during the year of the new city's incorporation if and to the extent that the new city provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.
 - (b)
 - (i) The legislative body of a county in which a city incorporated after January 1, 2004, is located may share with the new city taxes and service charges or fees that were levied and collected by the county under Section 17-34-3:

- (A) before the year of the new city's incorporation;
 - (B) from the previously unincorporated area that, because of the city's incorporation, is located within the boundaries of the newly incorporated city; and
 - (C) for the purpose of providing services to the area that before the new city's incorporation was unincorporated.
- (ii) A county legislative body may share taxes and service charges or fees under Subsection (2)(b)(i) by a direct appropriation of funds or by a credit or offset against amounts due under a contract for municipal-type services provided by the county to the new city.
- (3)
- (a) The legislative body of a county in which an area incorporating under this part is located may appropriate county funds to:
 - (i) before incorporation but after the canvass of the final election of city officers under Section 10-2a-215, the officers of the future city to pay startup expenses of the future city; or
 - (ii) after incorporation, the new city.
 - (b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant, a loan, or as an advance against future distributions under Subsection (2).

Amended by Chapter 111, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-220 Costs of incorporation -- Fees established by lieutenant governor.

- (1)
- (a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost incurred by the lieutenant governor for an incorporation proceeding, including:
 - (i) a request certification;
 - (ii) a feasibility study;
 - (iii) a petition certification;
 - (iv) publication of notices;
 - (v) public hearings;
 - (vi) all other incorporation activities occurring after the elections; and
 - (vii) any other cost incurred by the lieutenant governor in relation to an incorporation proceeding.
 - (b) A cost under Subsection (1)(a) does not include a cost incurred by a county for holding an election under Section 10-2a-210.
- (2) Subject to Subsection (3)(a), the lieutenant governor shall, by supplemental appropriations, pay for a cost described in Subsections (1)(a)(i) through (vii).
- (3) If incorporation occurs, the new city shall pay:
- (a) to the lieutenant governor each fee established under Subsection (1) for each incurred cost described in Subsections (1)(a)(i) through (vii); and
 - (b) the county for a cost described in Subsection (1)(b).

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-221 Incorporation petition or feasibility study before May 8, 2012.

- (1) A party with a petition in process as of January 1, 2012, and not yet filed for final certification with the county clerk in accordance with Section 10-2a-209 as of May 8, 2012, shall comply

with the provisions of this chapter as enacted on May 8, 2012, except as provided in Subsection (3).

- (2) A party described in Subsection (1) may use a signature on a petition in process as of May 8, 2012, to fulfill the requirements of this chapter enacted on May 8, 2012.
- (3) If on or before May 8, 2012, a feasibility study has been completed for a party described in Subsection (1):
 - (a) the completed feasibility study shall fulfill the requirements of this section; and
 - (b) the party is not required to request a new feasibility study.

Renumbered and Amended by Chapter 352, 2015 General Session