

Effective 5/12/2015

Part 4
Incorporation of Metro Townships and Unincorporated Islands
in a County of the First Class on and after May 12, 2015

10-2a-401 Title.

This part is known as "Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015."

Enacted by Chapter 352, 2015 General Session

10-2a-402 Application.

- (1) The provisions of this part:
 - (a) apply to the following located in a county of the first class:
 - (i) a planning township established before January 1, 2015; and
 - (ii) subject to Subsection (2), an unincorporated island located in a county of the first class on or after May 12, 2015, and before November 4, 2015; and
 - (b) do not apply to a planning advisory area, as defined in Section 17-27a-103, or any other unincorporated area located outside of a county of the first class.
- (2)
 - (a) The provisions of Part 2, Incorporation of a City, and Part 3, Incorporation of a Town, apply to an unincorporated area described in Subsection (1) for an incorporation as a city after November 3, 2015.
 - (b) The provisions of Chapter 2, Part 4, Annexation:
 - (i) do not apply to an unincorporated island for purposes of annexation before November 4, 2015, unless:
 - (A) otherwise indicated; or
 - (B) before July 1, 2015, an annexation petition is filed in accordance with Section 10-2-403 or an intent to annex resolution is adopted in accordance with Subsection 10-2-418(2)(a)(i); and
 - (ii) apply to an unincorporated island that is not annexed at an election under this part for purposes of annexation on or after November 4, 2015.

Enacted by Chapter 352, 2015 General Session

10-2a-403 Definitions.

As used in this section:

- (1) "Ballot proposition" means the same as that term is defined in Section 20A-1-102.
- (2) "Eligible city" means a city whose legislative body adopts a resolution agreeing to annex an unincorporated island.
- (3) "Local special election" means the same as that term is defined in Section 20A-1-102.
- (4) "Municipal services district" means a district created in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act.
- (5)
 - (a) "Metro township" means, except as provided in Subsection (5)(b), a planning township that is incorporated in accordance with this part.

- (b) "Metro township" does not include a township as that term is used in the context of identifying a geographic area in common surveyor practice.
- (6)
 - (a) "Planning township" means an area located in a county of the first class that is established before January 1, 2015, as a township as defined in and established in accordance with law before the enactment of Laws of Utah 2015, Chapter 352.
 - (b) "Planning township" does not include rural real property unless the owner of the rural real property provides written consent in accordance with Section 10-2a-405.
- (7)
 - (a) "Unincorporated island" means an unincorporated area that is completely surrounded by one or more municipalities.
 - (b) "Unincorporated island" does not include a planning township.

Enacted by Chapter 352, 2015 General Session
Revisor instructions Chapter 352, 2015 General Session

10-2a-404 Election.

- (1)
 - (a) Notwithstanding Section 20A-1-203, a county of the first class shall hold a local special election on November 3, 2015, on the following ballot propositions:
 - (i) for registered voters residing within a planning township:
 - (A) whether the planning township shall be incorporated as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and
 - (B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district; and
 - (ii) for registered voters residing within an unincorporated island, whether the island should maintain its unincorporated status or be annexed into an eligible city.
 - (b)
 - (i) A metro township incorporated under this part shall be governed by the five-member council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government.
 - (ii) A city or town incorporated under this part shall be governed by the five-member council form of government as defined in Section 10-3b-102.
- (2) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of a planning township or an unincorporated island, the person may not vote on the proposed incorporation or annexation.
- (3) The county clerk shall publish notice of the election:
 - (a) in a newspaper of general circulation within the planning township or unincorporated island at least once a week for three successive weeks; and
 - (b) in accordance with Section 45-1-101 for three weeks.
- (4) The notice required by Subsection (3) shall contain:
 - (a) for residents of a planning township:
 - (i) a statement that the voters will vote:
 - (A) to incorporate as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and
 - (B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district;

- (ii) if applicable under Subsection 10-2a-405(5), a map showing the alteration to the planning township boundaries that would be effective upon incorporation;
- (iii) a statement that if the residents of the planning township elect to incorporate:
 - (A) as a metro township, the metro township shall be governed by a five-member metro township council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government; or
 - (B) as a city or town, the city or town shall be governed by the five-member council form of government as defined in Section 10-3b-102; and
- (iv) a statement of the date and time of the election and the location of polling places;
- (b) for residents of an unincorporated island:
 - (i) a statement that the voters will vote either to be annexed into an eligible city or maintain unincorporated status; and
 - (ii) a statement of the eligible city, as determined by the county legislative body in accordance with Section 10-2a-405, the unincorporated island may elect to be annexed by; and
- (c) a statement of the date and time of the election and the location of polling places.
- (5) The last publication of notice required under Subsection (3) shall occur at least one day but no more than seven days before the election.
- (6)
 - (a) In accordance with Subsection (3)(a), if there is no newspaper of general circulation within the proposed metro township or unincorporated island, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the planning township or unincorporated island that are most likely to give notice of the election to the voters of the proposed incorporation or annexation.
 - (b) The clerk shall post the notices under Subsection (6)(a) at least seven days before the election under Subsection (1).
- (7)
 - (a) In a planning township, if a majority of those casting votes within the planning township vote to:
 - (i) incorporate as a city or town, the planning township shall incorporate as a city or town, respectively; or
 - (ii) incorporate as a metro township, the planning township shall incorporate as a metro township.
 - (b) If a majority of those casting votes within the planning township vote to incorporate as a metro township, and a majority of those casting votes vote to include the metro township in a municipal services district and limit the metro township's municipal powers, the metro township shall be included in a municipal services district and have limited municipal powers.
 - (c) In an unincorporated island, if a majority of those casting a vote within the selected unincorporated island vote to:
 - (i) be annexed by the eligible city, the area shall be annexed by the eligible city; or
 - (ii) remain an unincorporated area, the area shall remain unincorporated.
- (8) The county shall, in consultation with interested parties, prepare and provide information on an annexation or incorporation subject to this part and an election held in accordance with this section.

Enacted by Chapter 352, 2015 General Session

10-2a-405 Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

- (1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:
 - (a) in accordance with Subsection (3), publish notice of the public hearing described in Subsection (1)(b);
 - (b) hold a public hearing; and
 - (c) at the public hearing, adopt a resolution:
 - (i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;
 - (ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and
 - (iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).
- (2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection (7).
- (3)
 - (a) The county clerk shall publish notice of the public hearing described in Subsection (1)(b):
 - (i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;
 - (ii) at least once a week for three successive weeks in a newspaper of general circulation within each unincorporated island, each eligible city, and each planning township; and
 - (iii) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing.
 - (b) The last publication of notice required under Subsection (3)(a)(ii) shall be at least three days before the first public hearing required under Subsection (1)(b).
 - (c)
 - (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation within an unincorporated island, an eligible city, or a planning township, the county clerk shall post at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township.
 - (ii) The clerk shall post the notices under Subsection (3)(c)(i) at least seven days before the hearing under Subsection (1)(b).
 - (d) The notice under Subsection (3)(a) or (c) shall include:
 - (i)
 - (A) for a resident of an unincorporated island, a statement that the property in the unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or
 - (B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;
 - (ii) the location and time of the public hearing; and
 - (iii) the county website where a map may be accessed showing:

- (A) how the unincorporated island boundaries will change if annexed by an eligible city; or
 - (B) how the planning township area boundaries will change, if applicable under Subsection (5), when the planning township incorporates as a metro township or as a city or town.
- (e) The county clerk shall publish a map described in Subsection (3)(d)(iii) on the county website.
- (4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.
- (5)
- (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.
 - (b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.
 - (c) The county legislative body:
 - (i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:
 - (A) affects less than 5% of the residents residing within the planning advisory area; and
 - (B) does not increase the area located within the planning township's boundaries; and
 - (ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.
- (6) After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township.
- (7)
- (a) As used in this Subsection (7), "rural real property" means an area:
 - (i) zoned primarily for manufacturing, commercial, or agricultural purposes; and
 - (ii) that does not include residential units with a density greater than one unit per acre.
 - (b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection (7)(c) may not be:
 - (i) included in a planning township identified under Subsection (1)(c); or
 - (ii) incorporated as part of a metro township, city, or town, in accordance with this part.
 - (c) The following rural real property is subject to an owner's written consent under Subsection (7) (b):
 - (i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;
 - (ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;
 - (iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or
 - (iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:
 - (A) an agricultural protection area;
 - (B) an industrial protection area; or
 - (C) a mining protection area.

Amended by Chapter 176, 2016 General Session

10-2a-406 Ballot used at metro township incorporation election.

- (1) The ballot at the election to incorporate a planning township as a metro township or as a city or town, respectively, shall pose:
 - (a) the incorporation question substantially as follows:

"Shall [insert name of planning township] be incorporated as a metro township [insert the proposed name of the proposed metro township, which is the formal name of the planning township with the words "metro township" immediately after the formal name] or as the [insert the appropriate designation of city or town based on population classification] of [insert the proposed name of the proposed city or town, respectively, which is the formal name of the planning township with, if the area qualifies as a city under the population classifications, the word "city" immediately after the formal name or if the area qualifies as a town under the population classification, the words "town of" immediately preceding the formal name]?"
 - (b) the question, if a metro township is incorporated, of whether a metro township shall be a metro township with limited municipal powers that is included in a municipal services district substantially as follows:

"If the majority of voters voting in this election vote to incorporate as a metro township, shall the metro township be a metro township with limited municipal powers that is included in a municipal services district?"
- (2) The ballot shall provide a space for the voter to indicate:
 - (a) either the metro township or the city or town, respectively, as described in Subsection (1)(a); and
 - (b) whether the metro township shall be a metro township with limited municipal powers that is included in a municipal services district.

Enacted by Chapter 352, 2015 General Session

10-2a-407 Ballot used at unincorporated island annexation election.

- (1) The ballot at the election to either annex an unincorporated island into an eligible city or to remain an unincorporated island shall pose the question substantially as follows:

"Shall [insert description of the unincorporated island or part of an island identified in the resolution adopted under Section 10-2a-405] be annexed by [insert name of eligible city identified in the resolution adopted under Section 10-2a-405] or remain unincorporated?"
- (2) The ballot shall provide:
 - (a) a map of the selected unincorporated island and the eligible city; and
 - (b) a space for the voter to indicate either to annex into the eligible city or to remain an unincorporated area as described in Subsection (1).

Enacted by Chapter 352, 2015 General Session

10-2a-408 Notification to lieutenant governor of incorporation election results.

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

- (1) the results of the election;
- (2) for a planning township:
 - (a) if the incorporation of a planning township as a metro township passes:
 - (i) the name of the metro township; and

- (ii) the class of the metro township as provided under Section 10-2-301.5; and
- (b) if the incorporation of a planning township as a city or town passes:
 - (i) the name of the city or town; and
 - (ii) if the incorporated area is a city, the class of the city as defined in Section 10-2-301; and
- (3) for an unincorporated island, whether the unincorporated island or a portion of the island shall be annexed into an eligible city.

Enacted by Chapter 352, 2015 General Session

10-2a-409 Unincorporated island annexation -- Notice and recording-- Applicable provisions.

- (1) If the annexation of an unincorporated island into an eligible city passes, the legislative body of the eligible city shall comply with Section 10-2-425.
- (2) The following provisions apply to an annexation under this part:
 - (a) Section 10-2-420;
 - (b) Section 10-2-421;
 - (c) Section 10-2-422;
 - (d) Section 10-2-426; and
 - (e) Section 10-2-428.

Enacted by Chapter 352, 2015 General Session

10-2a-410 Determination of metro township districts -- Determination of metro township or city initial officer terms -- Adoption of proposed districts.

- (1)
 - (a) If a metro township with a population of 10,000 or more is incorporated in accordance with an election held under Section 10-2a-404:
 - (i) each of the five metro township council members shall be elected by district; and
 - (ii) the boundaries of the five council districts for election and the terms of office shall be designated and determined in accordance with this section.
 - (b) If a metro township with a population of less than 10,000 or a town is incorporated at an election held in accordance with Section 10-2a-404, the five council members shall be elected at-large for terms as designated and determined in accordance with this section.
 - (c) If a city is incorporated at an election held in accordance with Section 10-2a-404:
 - (i)
 - (A) the four members of the council district who are not the mayor shall be elected by district; and
 - (B) the boundaries of the four council districts for election and the term of office shall be designated and determined in accordance with this section; and
 - (ii) the mayor shall be elected at-large for a term designated and determined in accordance with this section.
- (2)
 - (a) No later than 90 days after the election day on which the metro township, city, or town is successfully incorporated under this part, the legislative body of the county in which the metro township, city, or town is located shall adopt by resolution:
 - (i) subject to Subsection (2)(b), for each incorporated metro township, city, or town, the council terms for a length of time in accordance with this section; and
 - (ii)

- (A) for a metro township with a population of 10,000 or more, the boundaries of the five council districts; and
 - (B) for a city, the boundaries of the four council districts.
- (b)
- (i) For each metro township, city, or town, the county legislative body shall set the initial terms of the members of the metro township council, city council, or town council so that:
 - (A) approximately half the members of the council, including the mayor in the case of a city, 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
 - (B) the remaining members of the 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).
 - (ii) For a metro township with a population of 10,000 or more, the county legislative body shall divide the metro township into five council districts that comply with Section 10-3-205.5.
 - (iii) For a city, the county legislative body shall divide the city into four council districts that comply with Section 10-3-205.5.
- (3)
- (a) Within 20 days of the county legislative body's adoption of a resolution under Subsection (2), the county clerk shall publish, in accordance with Subsection (3)(b), notice containing:
 - (i) if applicable, a description of the boundaries, as designated in the resolution, of:
 - (A) for a metro township with a population of 10,000 or more, the metro township council districts; or
 - (B) the city council districts;
 - (ii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for metro township council, city council, town council, or city mayor, respectively; and
 - (iii) information about the length of the initial term of city mayor or each of the metro township, city, or town council offices, as described in the resolution.
 - (b) The notice under Subsection (3)(a) shall be published:
 - (i) in a newspaper of general circulation within the metro township, city, or town 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 (3)(b)(i), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice to the residents of the future metro township, city, or town.
 - (ii) The notice under Subsection (3)(c)(i) shall contain the information required under Subsection (4)(a).
 - (iii) The county clerk shall post the notices under Subsection (3)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (3)(d).
 - (d) A person seeking to become a candidate for metro township, city, or town council or city mayor shall, in accordance with Section 20A-9-202, file a declaration of candidacy with the clerk of the county in which the metro township, city, or town is located for an election described in Section 10-2a-411.

Amended by Chapter 14, 2016 General Session

10-2a-411 Election of officers of new city, town, or metro township.

- (1) For the election of the initial office holders of a metro township, city, or town, respectively, incorporated under Section 10-2a-404, the county legislative body shall:
 - (a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election at the next regular primary election, as described in Section 20A-1-201.5, following the November 3, 2015, election to incorporate; and
 - (b) hold a final election at the next regular general election date following the election to incorporate.
- (2) The number of officers elected under Subsection (1):
 - (a) for a metro township, regardless of the metro township's population, shall be consistent with the number of council members described in Subsection 10-2a-404(1)(b)(i); or
 - (b) for a city or town, shall be consistent with the number of council members, including the city mayor as a member of a city council, described in Subsection 10-2a-404(1)(b)(ii).
- (3)
 - (a) Until the metro township, city, or town is incorporated, the county clerk is the election officer for all purposes in an election of officers of the metro township, city, or town.
 - (b) The county clerk is responsible to ensure that:
 - (i) if applicable, the primary election described in Subsection (1)(a) is held on the date described in Subsection (1)(a);
 - (ii) the final election described in Subsection (1)(b) is held on the date described in Subsection (1)(b); and
 - (iii) the ballot for each election includes each office that is required to be included for officials in the metro township, city, or town, and the length of term of each office.
- (4) The officers elected at an election described in Subsection (1)(b) shall take office at noon on the first Monday in January next following the election.

Amended by Chapter 14, 2016 General Session

10-2a-412 Notification to lieutenant governor of election of officers.

Within 10 days of the canvass of final election of metro township, city, or town officers under Section 10-2a-411, 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.

Enacted by Chapter 352, 2015 General Session

10-2a-413 Incorporation under this part subject to other provisions.

- (1) An incorporation of a metro township, city, or town under this part is subject to the following provisions to the same extent as the incorporation of a city under Part 2, Incorporation of a City:
 - (a) Section 10-2a-217;
 - (b) Section 10-2a-219; and
 - (c) Section 10-2a-220.
- (2) An incorporation of a city or town under this part is subject to Section 10-2a-218 to the same extent as the incorporation of a city or town under Part 2, Incorporation of a City.

Enacted by Chapter 352, 2015 General Session

10-2a-414 Transition -- Continuity of county process.

When a metro township is incorporated:

- (1) the operations, services, and functions provided by the county shall continue with as little interruption as possible as the operations, services, and functions are assumed by the metro township;
- (2) all proceedings pending before the county shall continue without change until altered by a valid metro township ordinance, action, or decision; and
- (3) each county ordinance in effect on the day on which the metro township is incorporated shall remain in effect as a metro township ordinance until the metro township council amends or repeals the ordinance.

Enacted by Chapter 176, 2016 General Session