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1 **REQUIREMENTS TO INCORPORATE A TOWN**

2 2001 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Bill Wright**

5 **This act modifies the Utah Municipal Code to eliminate the minimum population**
6 **requirement for incorporating a town.**

7 This act affects sections of Utah Code Annotated 1953 as follows:

8 AMENDS:

9 **10-2-125**, as last amended by Chapter 318, Laws of Utah 2000

10 *Be it enacted by the Legislature of the state of Utah:*

11 Section 1. Section **10-2-125** is amended to read:

12 **10-2-125. Incorporation of a town.**

13 (1) (a) A contiguous area of a county not within a municipality, with a population of [at
14 ~~least 100 but~~] not more than 800, may incorporate as a town as provided in this section.

15 (b) (i) The population figure under Subsection (1)(a) shall be derived from the most recent
16 official census or census estimate of the United States Bureau of the Census.

17 (ii) If the population figure is not available from the United States Bureau of the Census,
18 the population figure shall be derived from the estimate from the Utah Population Estimates
19 Committee.

20 (2) (a) The process to incorporate an area as a town is initiated by filing a petition with the
21 clerk of the county in which the area is located.

22 (b) Each petition under Subsection (2)(a) shall:

23 (i) be signed by the owners of private real property that:

24 (A) is located within the area proposed to be incorporated;

25 (B) covers a majority of the total private land area within the area; and

26 (C) is equal in value to at least 1/3 of the value of all private real property within the area;

27 (ii) state the legal description of the boundaries of the area proposed to be incorporated as

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a town; and

(iii) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable County Legislative Body of (insert the name of the county in which the proposed town is located) County, Utah:

We, the undersigned owners of real property within the area described in this petition, respectfully petition the county legislative body to examine the question of whether the area should incorporate as a town. 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 town is described as follows: (insert an accurate description of the area proposed to be incorporated).

(c) A petition under this section may not describe 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 petition; and

(ii) is still pending on the date the petition is filed.

(3) Section 10-2-104 applies to a petition for incorporation as a town, except that the notice under Subsection 10-2-104(1) shall be sent within seven calendar days of the filing of a petition under Subsection (2).

(4) (a) A county legislative body may treat a petition filed under Subsection (2) as a request for a feasibility study under Section 10-2-103 and process it as a request under that section would be processed under this part to determine whether the feasibility study results meet the requirements of Subsection 10-2-109(3).

(b) If the results of a feasibility study under Subsection (4)(a) do not meet the requirements of Subsection 10-2-109(3), the county legislative body may not approve the incorporation petition.

(c) If the results of the feasibility study under Subsection (4)(a) meet the requirements of Subsection 10-2-109(3), the county legislative body may approve the incorporation petition, if the county legislative body determines that the incorporation is in the best interests of the citizens of the county and the proposed town.

(5) Upon approval of a petition filed under Subsection (2), the legislative body of the county in which the proposed town is located shall appoint a mayor and members of the town

council who shall hold office until the next regular municipal election and until their successors are elected and qualified.

(6) (a) (i) Each mayor appointed under Subsection (5) shall, within seven days of appointment, file articles of incorporation of the new town with the lieutenant governor.

(ii) The articles of incorporation shall meet the requirements of Subsection 10-2-119(2).

(b) Within ten days of receipt of the articles of incorporation, the lieutenant governor shall:

(i) certify the articles of incorporation;

(ii) return a copy of the articles of incorporation to the appointed mayor; and

(iii) send a copy of the articles of incorporation to the recorder of the county in which the town is located.

(7) A town is incorporated upon the lieutenant governor's certification of the articles of incorporation.

(8) (a) Within 30 days of incorporation, the legislative body of the new town shall record with the recorder of the county in which the new town is located a plat or map, prepared by a licensed surveyor and approved by the legislative body, showing the boundaries of the town.

(b) The legislative body of the new town shall comply with the notice requirements of Section 10-1-116.

Legislative Review Note

as of 12-28-00 1:14 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel