

**Effective 5/12/2015**

**Chapter 2a  
Municipal Incorporation**

**Part 1  
General Provisions**

**10-2a-102 Definitions.**

(1) As used in this chapter:

- (a) "Community council area" means the cumulative areas within the geographic boundary of a community council that is formally recognized by a county of the first class pursuant to county ordinance.
- (b) "Community council municipality" means a municipality that results from the incorporation of unincorporated islands within a community council area.
- (c) "Contact sponsor" means the person designated in the feasibility request as the contact sponsor under Subsection 10-2a-202(3)(b).
- (d)
  - (i) "Contiguous" means, except as provided in Subsection (1)(d)(ii), the same as that term is defined in Section 10-1-104.
  - (ii) "Contiguous" does not include a circumstance where:
    - (A) two areas of land are only connected by a strip of land between geographically separate areas; and
    - (B) the distance between the geographically separate areas described in Subsection (1)(d)(ii)(A) is greater than the average width of the strip of land connecting the geographically separate areas.
- (e) "Feasibility consultant" means a person or firm with the qualifications and expertise described in Subsection 10-2a-205(2)(b).
- (f) "Feasibility request" means a request, described in Section 10-2a-202, for a feasibility study for the proposed incorporation of a municipality.
- (g)
  - (i) "Municipal service" means any of the following that are publicly provided:
    - (A) culinary water;
    - (B) secondary water;
    - (C) sewer service;
    - (D) storm drainage or flood control;
    - (E) recreational facilities or parks;
    - (F) electrical power generation or distribution;
    - (G) construction or maintenance of local streets and roads;
    - (H) street lighting;
    - (I) curb, gutter, and sidewalk maintenance;
    - (J) law or code enforcement service;
    - (K) fire protection service;
    - (L) animal services;
    - (M) planning and zoning;
    - (N) building permits and inspections;
    - (O) refuse collection; or
    - (P) weed control.

- (ii) "Municipal service" includes the physical facilities required to provide a service described in Subsection (1)(g)(i).
  - (h) "Municipal services district" means a special district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act.
  - (i) "Private," with respect to real property, means taxable property.
- (2) For purposes of this part:
- (a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the feasibility request or petition for incorporation; and
  - (b) the assessed fair market value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the feasibility request or petition for incorporation.
- (3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a feasibility request or a petition for incorporation:
- (a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the feasibility request or petition for incorporation is signed by:
    - (i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or
    - (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;
  - (b) the signature of a person signing a feasibility request or a petition for incorporation in a representative capacity on behalf of an owner is invalid unless:
    - (i) the person's representative capacity and the name of the owner the person represents are indicated on the feasibility request or petition for incorporation with the person's signature; and
    - (ii) the person provides documentation accompanying the feasibility request or petition for incorporation that substantiates the person's representative capacity; and
  - (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a feasibility request or a petition for incorporation on behalf of a deceased owner.

Amended by Chapter 342, 2024 General Session

Amended by Chapter 518, 2024 General Session

**10-2a-103 Incorporation of a contiguous area -- Incorporation of a community council area -- Incorporation involving more than one county.**

- (1)
- (a) An unincorporated contiguous area of a county not within a municipality may incorporate as a municipality as provided in this chapter.
  - (b) Two or more unincorporated islands, as defined in Section 10-2-429, that are not contiguous with each other may incorporate as a municipality, as provided in this chapter, if:
    - (i) those unincorporated islands are part of a community council area; and
    - (ii) a feasibility request for the proposed incorporation of the community council area is submitted under Section 10-2a-202 no later than May 1, 2025.
- (2) If a proposed incorporation relates to an area in more than one county:
- (a) the individual who files the feasibility request shall file the request with each county containing a portion of the area proposed for incorporation; and

- (b) the counties shall work together, in accordance with direction given by the lieutenant governor, to complete the actions required by this chapter.

Amended by Chapter 342, 2024 General Session

**10-2a-104 Elections governed by the Election Code.**

Except as otherwise provided in this chapter, each election under this chapter is governed by the provisions of Title 20A, Election Code.

Amended by Chapter 224, 2023 General Session

**10-2a-106 Feasibility request filed before changes to law take effect.**

- (1) If an individual files a feasibility request for incorporation of a city or town before May 14, 2019, the process for incorporating the city or town is not subject to Laws of Utah 2019, Chapter 165 or Laws of Utah 2023, Chapter 224, and is instead subject to the municipal incorporation law in effect on the day on which the individual files the feasibility request.
- (2) If an individual files a feasibility request for incorporation of a city or town before May 3, 2023, the process for incorporating the city or town is not subject to Laws of Utah 2023, Chapter 224, and is subject to the municipal incorporation law in effect on the day on which the individual files the feasibility request.

Revisor instructions Chapter 224, 2023 General Session

Amended by Chapter 224, 2023 General Session

**10-2a-107 Effect of incorporation of community council area.**

- (1) As used in this section:
  - (a) "Service area" means the area for which a service provider provided municipal services to an unincorporated island immediately before the incorporation of a community council municipality that includes the previously unincorporated island.
  - (b) "Service provider" means a special district or other provider of municipal services that, before the incorporation of a community council municipality, provided service to the service area.
  - (c) "Unincorporated island" means the same as that term is defined in Section 10-2-429.
- (2) An incorporation of a community council municipality does not affect the boundary of any service provider, subject to any future change in the boundary as provided by applicable law.
- (3) All roads and other utilities that before incorporation of a community council municipality were under the jurisdiction of the county in which the community council municipality is located become, upon incorporation, under the jurisdiction of the community council municipality.

Enacted by Chapter 342, 2024 General Session

**Part 2  
Incorporation of a Municipality**

**10-2a-201.5 Qualifications for incorporation.**

- (1)
  - (a) An area may incorporate as a town in accordance with this part if the area:

- (i)
    - (A) is contiguous; or
    - (B) is a community council area;
  - (ii) has a population of at least 100 people, but fewer than 1,000 people; and
  - (iii) is not already part of a municipality.
- (b) A preliminary municipality may transition to, and incorporate as, a town, in accordance with Section 10-2a-510.
- (c) An area may incorporate as a city in accordance with this part if the area:
- (i)
    - (A) is contiguous; or
    - (B) is a community council area;
  - (ii) has a population of 1,000 people or more; and
  - (iii) is not already part of a municipality.
- (2)
- (a) An area may not incorporate under this part if:
- (i) the area has a population of fewer than 100 people; or
  - (ii) except as provided in Subsection (2)(b), the area has an average population density of fewer than seven people per square mile.
- (b) Subsection (2)(a)(ii) does not prohibit incorporation of an area if:
- (i) noncompliance with Subsection (2)(a)(ii) is necessary to connect separate areas that share a demonstrable community interest; and
  - (ii) the area is contiguous.
- (3) An area incorporating under this part may not include land owned by the United States federal government unless:
- (a) the area, including the land owned by the United States federal government, is contiguous; and
  - (b)
    - (i) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or
    - (ii) excluding the land from the incorporating area would create an unincorporated island within the proposed municipality.
- (4)
- (a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include 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 for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and
  - (ii) is still pending on the date the request for the feasibility study described in Subsection (4)(a) (i) is filed.
- (b) A feasibility 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 feasibility request complies with Subsections 10-2a-202(1), (3), (4), and (5) with respect to excluding the proposed annexation area from the area proposed for incorporation; and
  - (iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to not be contiguous.

- (c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each feasibility request to which Subsection (4)(b) applies as not proposing the incorporation of an area proposed for annexation.
- (5)
- (a) An area incorporating under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of the parcel gives written consent to exclude part of the parcel.
  - (b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (5)(a) if owned by the same owner.

Amended by Chapter 342, 2024 General Session

Amended by Chapter 518, 2024 General Session

Amended by Chapter 534, 2024 General Session

**10-2a-202 Feasibility request -- Requirements -- Limitations.-- Request to Utah Population Committee.**

- (1) Subject to Subsection (2), the process to incorporate an unincorporated area as a municipality is initiated by an individual filing a feasibility request, with the county clerk of the county where the area proposed to be incorporated is located, that :
- (a) includes the signatures of 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, as of January 1 of the current year, equal in assessed fair market value to at least 7% of the assessed fair market value of all private real property within the area;
  - (b) includes the typed or printed name and current residence address of each owner signing the request; and
  - (c) is accompanied by the Utah Population Committee's written notice under Subsection (2)(d)(ii).
- (2)
- (a) Before submitting a feasibility request under Subsection (1), an individual intending to file a feasibility request shall submit to the lieutenant governor a written request to the Utah Population Committee.
  - (b) A written request under Subsection (2)(a) shall:
    - (i) request the Utah Population Committee to determine whether, on the date the individual filed the request, the proposed municipality complied with the population, population density, and contiguity requirements described in Section 10-2a-201.5;
    - (ii) provide a description of the contiguous area proposed to be incorporated as a municipality; and
    - (iii) be accompanied by an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed municipality.
  - (c) Within seven business days after receiving a request under Subsection (2)(a), the lieutenant governor shall transmit the request to the Utah Population Committee.
  - (d) Within 20 days after receiving a written request from the lieutenant governor under Subsection (2)(c), the Utah Population Committee shall:
    - (i) determine whether, on the date the individual filed the request under Subsection (2)(a), the proposed municipality complied with the population, population density, and contiguity requirements described in Section 10-2a-201.5; and
    - (ii) provide a written notice of the determination to:
      - (A) the lieutenant governor; and

- (B) the individual who submitted the request under Subsection (2)(a).
  - (e) An individual may not file a feasibility request under Subsection (1) unless the Utah Population Committee determines that the proposed municipality complies with the population, population density, and contiguity requirements described in Section 10-2a-201.5.
  - (f) A feasibility request may not be filed more than 30 days after the Utah Population Committee's written determination under Subsection (2)(d).
- (3) The feasibility request shall include:
- (a) the same description of the unincorporated area proposed to be incorporated as a municipality that was provided to the Utah Population Committee under Subsection (2)(b);
  - (b) a designation of up to five signers of the request as sponsors, one of whom is designated as the contact sponsor, with the mailing address and telephone number of each;
  - (c) an accurate map or plat, prepared by a licensed surveyor, showing the same legal description of the boundaries of the proposed municipality as was included with a request submitted to the Utah Population Committee under Subsection (2)(b);
  - (d) a copy of the Utah Population Committee's written determination under Subsection (2)(d); and
  - (e) a request that the lieutenant governor commission a study to determine the feasibility of incorporating the area as a municipality.
- (4) The individual described in Subsection (1) shall, on the day on which the individual files the feasibility request with the county clerk, provide to the lieutenant governor:
- (a) written notice that the individual filed the feasibility request that indicates the day on which the individual filed the feasibility request; and
  - (b) a complete copy of the feasibility request, including a copy of the written determination by the Utah Population Committee under Subsection (2)(d).
- (5) A feasibility request may not propose for incorporation an area that includes all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-205(5)(a) 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 described in Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing an incorporation petition under Section 10-2a-208.
- (6) A feasibility request may not propose for incorporation an area that includes all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-504(4), unless the time described in Subsection 10-2a-507(1) for filing a petition for incorporation based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing a petition for incorporation under Section 10-2a-507.
- (7) Sponsors may not file a feasibility request relating to the incorporation of a town if the cumulative private real property that the sponsors own exceeds 40% of the total private land area within the boundaries of the proposed town.

Amended by Chapter 342, 2024 General Session  
Amended by Chapter 518, 2024 General Session  
Amended by Chapter 534, 2024 General Session

**10-2a-204 Processing a feasibility request -- Certification or rejection -- Processing priority.**

- (1) Within 45 days after the day on which an individual files a feasibility request under Section 10-2a-202, the county clerk shall:
  - (a) determine whether the feasibility request complies with Section 10-2a-202; and
  - (b) notify the lieutenant governor, in writing, of the determination made under Subsection (1)(a) and the grounds for the determination.
- (2) The county clerk:
  - (a) shall keep the lieutenant governor apprised of the county clerk's progress in making the determination described in Subsection (1)(a); and
  - (b) may consult with the lieutenant governor in making the determination described in Subsection (1)(a).
- (3) Within five days after the day on which the county clerk provides the notification described in Subsection (1)(b), the lieutenant governor shall:
  - (a) review the determination and the grounds for the determination to evaluate whether the feasibility request complies with Section 10-2a-202; and
  - (b)
    - (i) uphold the determination;
    - (ii) reverse the determination; or
    - (iii) require the county clerk to provide additional information that the lieutenant governor identifies as necessary for the lieutenant governor to uphold or reverse the county clerk's determination.
- (4) If the office requires the county clerk to provide additional information under Subsection (3)(b)(iii):
  - (a) the county clerk shall provide the additional information to the office within five days after the day on which the office notifies the county clerk that the additional information is required; and
  - (b) the office shall, within five days after the day on which the county clerk provides the additional information, uphold or reverse the determination of the county clerk described in Subsection (1)(b).
- (5) If the lieutenant governor determines that the feasibility request complies with Section 10-2a-202, the lieutenant governor shall:
  - (a) certify the request; and
  - (b) transmit written notification of the certification to the contact sponsor.
- (6) If the lieutenant governor determines that the feasibility request fails to comply with Section 10-2a-202, the lieutenant governor shall reject the feasibility request and notify the contact sponsor in writing of the rejection and the grounds for the rejection.
- (7) The lieutenant governor shall certify or reject feasibility requests in the order in which the requests are filed.
- (8)
  - (a) If the lieutenant governor determines that the feasibility request fails to comply with Section 10-2a-202, the sponsors may, subject to Section 10-2a-206, amend the feasibility request to correct the deficiencies and refile the feasibility request with the county clerk.
  - (b) The sponsors shall submit any amended feasibility request within 90 days after the day on which the lieutenant governor makes the determination or rejection described in Subsection (8)(a).
  - (c) The sponsors may reuse a signature described in Subsection 10-2a-202(1)(a) that is on a rejected feasibility request or on an amended feasibility request described in Subsection (8)(a).

- (d) The county clerk and the lieutenant governor shall consider a feasibility request that is amended and refiled under Subsection (8)(a) as a newly filed feasibility request and process the feasibility request in accordance with this section.

Amended by Chapter 518, 2024 General Session

**10-2a-204.3 Notice to property owners -- First public hearing.**

- (1) The county clerk shall:
  - (a) hold the first public hearing in relation to the proposed incorporation, at a location approved by the lieutenant governor, no later than 30 days after the day on which the lieutenant governor certifies the feasibility request under Subsection 10-2a-204(5);
  - (b) publish notice of the hearing in accordance with Subsection 10-2a-207(7); and
  - (c) within seven calendar days after the day on which the lieutenant governor certifies the feasibility request under Subsection 10-2a-204(5), mail written notice of the proposed incorporation and of the first public hearing described in this section to:
    - (i) each residence within, and each owner of real property located within:
      - (A) the proposed incorporation boundaries; and
      - (B) 300 feet of the proposed incorporation boundaries;
    - (ii) the contact sponsor; and
    - (iii) the lieutenant governor.
- (2) The written notice provided by the county clerk under Subsections (1)(b) and (c) shall include:
  - (a) the following statement:

**"NOTICE OF PROPOSED INCORPORATION AND FIRST PUBLIC HEARING**

You have received this notice because you reside or own property within an area proposed for incorporation, or an area within 300 feet of an area proposed for incorporation. The first public hearing in relation to the proposed incorporation will be held on [insert date, time, and location]. The purpose of the first public hearing is to provide information regarding the proposed incorporation, the incorporation process, including the process for deciding whether to incorporate, and certain rights you may have in relation to the proposed incorporation. A specified landowner, as defined in Utah Code Section 10-2a-204.5, may, within 30 days after the day of the public hearing, request that the county clerk exclude all or part of the specified landowner's land from the area proposed for incorporation. A specified landowner may not request exclusion after the end of the 30-day period. Any owner of land within a county where the area proposed for incorporation is located may, within 30 days after the day of the public hearing, request that the county clerk include all or part of that land in the area proposed for incorporation. An owner of land may not request inclusion after the end of the 30-day period."; and
  - (b) a clear description of the area proposed for incorporation.
- (3) Notwithstanding that the county conducts the first public hearing, the lieutenant governor, or a designee of the lieutenant governor, shall:
  - (a) direct the proceedings at the first public hearing, with the assistance of the county clerk as needed;
  - (b) provide information regarding the proposed incorporation, the incorporation process, including the process for deciding whether to incorporate, and the rights citizens may have in relation to the proposed incorporation;
  - (c) describe the process by which a specified landowner may request that the county clerk exclude all or part of the specified landowner's land from the area proposed for incorporation;



- (d) describe the process by which an owner of land described in Subsection 10-2a-204.5(2) (b) may request that the county clerk include all or part of that land in the area proposed for incorporation;
  - (e) describe the criteria for granting a request for exclusion or inclusion of land; and
  - (f) answer questions from individuals who attend the first public hearing.
- (4) The contact sponsor, or an agent of the contact sponsor, and the county clerk, or an employee of the county clerk designated by the county clerk, shall attend the first public hearing.
- (5) The county clerk shall:
- (a) provide the location and equipment for the public hearing, subject to approval by the lieutenant governor; and
  - (b) ensure compliance with the requirements of Title 52, Chapter 4, Open and Public Meetings Act, in relation to the public hearing.

Amended by Chapter 518, 2024 General Session

**10-2a-204.5 Notice to owner of property -- Exclusion or inclusion of property from or in proposed municipality.**

- (1) As used in this section:
- (a) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.
  - (b) "Specified landowner" means a record owner of real property:
    - (i) who owns more than:
      - (A) 1% of the assessed fair market value, as of January 1 of the current year, of all property within the boundaries of a proposed incorporation; or
      - (B) 10% of the total private land area within the boundaries of a proposed incorporation; or
    - (ii) located in a mining protection area as defined in Section 17-41-101.
- (2) Within 30 calendar days after the day of the first public hearing described in Section 10-2a-204.3:
- (a) a specified landowner may request that the county clerk exclude all or part of the land owned by the specified landowner from the area proposed for incorporation by filing a request for exclusion with the county clerk that describes the land for which the specified landowner requests exclusion; or
  - (b) any owner of land located within the county where the area proposed for incorporation is located may file a request that all or part of that land be included in the area proposed for incorporation by filing a request for inclusion with the county clerk that describes the land that the landowner desires to include.
- (3) The county clerk shall exclude the land identified by a specified landowner under Subsection (2)(a) from the proposed incorporation boundaries unless the county clerk finds by clear and convincing evidence that:
- (a) except for a proposed incorporation of a community council area, the exclusion will leave an unincorporated island within the proposed municipality; and
  - (b) the land receives from the county a majority of currently provided municipal services.
- (4) The county clerk shall include land identified by a landowner under Subsection (2)(b) in the area proposed for incorporation unless the county clerk finds by clear and convincing evidence that:
- (a) except for a proposed incorporation of a community council area, the land will not be contiguous with the area of the proposed municipality, taking into account other requests for

- inclusion or requests for exclusion received before the deadline described in Subsection (2);  
or
  - (b) the inclusion will cause the area proposed for incorporation to violate a requirement for incorporation described in this part.
- (5) The county clerk shall:
- (a) no earlier than 30 days after, but no later than 44 days after, the day of the first public hearing described in Section 10-2a-204.3, make a determination on all timely requests for exclusion or inclusion;
  - (b) forward to the lieutenant governor for review:
    - (i) all timely requests for exclusion or inclusion;
    - (ii) the county clerk's determination on each of the requests described in Subsection (5)(b)(i);  
and
    - (iii) the reasons, including the supporting data, for each determination described in Subsection (5)(b)(ii); and
  - (c) within five days after the day on which the lieutenant governor makes a final determination on whether to include or exclude land under Subsection (7), the county clerk shall mail or transmit written notice of whether the land is included or excluded from the proposed incorporation boundaries to:
    - (i) for a request for exclusion, the specified landowner that requested the exclusion;
    - (ii) for a request for inclusion, the owner of land that requested the inclusion; and
    - (iii) the contact sponsor.
- (6) For a request for exclusion or inclusion that is denied, the county clerk shall include, in the written notice described in Subsection (5)(c), a detailed explanation of the reason for the denial and the facts supporting the denial.
- (7) Within 14 days after the day on which the lieutenant governor receives the information described in Subsection (5)(b) the lieutenant governor shall:
- (a) review each determination;
  - (b) uphold or reverse each determination; and
  - (c) forward to the county clerk:
    - (i) the lieutenant governor's final determinations; and
    - (ii) if the lieutenant governor reverses a determination of the county clerk, the reason for the reversal and the supporting facts.

Amended by Chapter 342, 2024 General Session

**10-2a-205 Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.**

- (1)
- (a) The lieutenant governor shall, within 10 days after the day on which the lieutenant governor certifies a feasibility request under Subsection 10-2a-204(5)(a):
    - (i) estimate the cost of a feasibility study under this section; and
    - (ii) provide the estimated cost to the feasibility request sponsors.
  - (b) The feasibility request sponsors shall pay to the lieutenant governor the amount of the estimated cost under Subsection (1)(a) of a feasibility study conducted on or after May 1, 2024.
  - (c) Within 90 days after the feasibility request sponsors pay the estimated feasibility study cost under Subsection (1)(a), the lieutenant governor shall, in accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study.

- (2) The lieutenant governor shall:
  - (a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code;
  - (b) ensure that the feasibility consultant:
    - (i) has expertise in the processes and economics of local government;
    - (ii) is independent of and not affiliated with a sponsor of the feasibility request or the county in which the proposed municipality is located; and
    - (iii) for a feasibility study for the proposed incorporation of a community council area, has expertise in the processes and economics of a municipal services district providing municipal services to an unincorporated island, as defined in Section 10-2-429; and
  - (c) require the feasibility consultant to:
    - (i) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;
    - (ii) allow each person to whom the consultant provides a draft under Subsection (2)(c)(i) to review and provide comment on the draft;
    - (iii) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the feasibility study:
      - (A) the lieutenant governor;
      - (B) the county legislative body of the county in which the incorporation is proposed;
      - (C) the contact sponsor; and
      - (D) each person to whom the consultant provided a draft under Subsection (2)(c)(i); and
    - (iv) attend the public hearings described in Section 10-2a-207 to present the feasibility study results and respond to questions from the public.
- (3)
  - (a) The feasibility study shall include:
    - (i) an analysis of the population and population density within the area proposed for incorporation and the surrounding area;
    - (ii) the current and projected five-year demographics and tax base within the boundaries of the proposed municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;
    - (iii) subject to Subsection (3)(b), the current and five-year projected cost of providing municipal services to the proposed municipality, including administrative costs;
    - (iv) 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 municipality;
    - (v) an analysis of the risks and opportunities that might affect the actual costs described in Subsection (3)(a)(iii) or revenues described in Subsection (3)(a)(iv) of the newly incorporated municipality;
    - (vi) an analysis of new revenue sources that may be available to the newly incorporated municipality that are not available before the area incorporates, including an analysis of the amount of revenues the municipality might obtain from those revenue sources;
    - (vii) the projected tax burden per household of any new taxes that may be levied within the proposed municipality within five years after incorporation;
    - (viii) the fiscal impact of the municipality's incorporation on unincorporated areas, other municipalities, special districts, special service districts, and other governmental entities in the county; and

- (ix) if the county clerk excludes property from, or includes property in, the proposed municipality under Section 10-2a-204.5, an update to the map and legal description described in Subsection 10-2a-202(3)(c).
- (b)
  - (i) In calculating the projected costs under Subsection (3)(a)(iii), the feasibility consultant shall assume the proposed municipality will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the area of the proposed municipality at the time the feasibility consultant conducts the feasibility study.
  - (ii) In calculating the current cost of a municipal service under Subsection (3)(a)(iii), the feasibility consultant shall consider:
    - (A) the amount it would cost the proposed municipality to provide the municipal service for the first five years after the municipality's incorporation; and
    - (B) the current municipal service provider's present and five-year projected cost of providing the municipal service.
  - (iii) In calculating costs under Subsection (3)(a)(iii), the feasibility consultant shall account for inflation and anticipated growth.
- (c) In conducting the feasibility study, the feasibility consultant shall consult with the following before submitting a draft of the feasibility study under Subsection (2)(c)(i):
  - (i) if the proposed municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;
  - (ii) if the proposed municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;
  - (iii) each entity that provides a municipal service to a portion of the proposed municipality; and
  - (iv) each other special service district that provides services to a portion of the proposed municipality.
- (4) If the five-year projected revenues calculated under Subsection (3)(a)(iv) exceed the five-year projected costs calculated under Subsection (3)(a)(iii) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.
- (5)
  - (a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-206, show that the average annual amount of revenue calculated under Subsection (3)(a)(iv) does not exceed the average annual cost calculated under Subsection (3)(a)(iii) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.
  - (b) The process to incorporate an area described in Subsection (5)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed incorporation demonstrates compliance with Subsection (5)(a).
- (6) If the results of the feasibility study or revised feasibility study do not comply with Subsection (5), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the boundaries of the proposed municipality may be altered to comply with Subsection (5).
- (7) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's website and make a copy available for public review at the lieutenant governor's office.

Amended by Chapter 342, 2024 General Session  
Amended by Chapter 518, 2024 General Session

**10-2a-205.5 Additional feasibility consultant considerations for proposed incorporation of community council area -- Additional feasibility study requirements.**

- (1) As used in this section:
  - (a) "Applicable community council" means the community council that represents the community council area that is proposed to be incorporated.
  - (b) "Request sponsors" means the sponsors of a feasibility request relating to the proposed incorporation of a community council area.
- (2) Subsections 10-2a-205(3)(a) and (b) do not apply to a feasibility study for a proposed incorporation of a community council area.
- (3) A feasibility consultant conducting a feasibility study for a proposed incorporation of a community council area shall consider:
  - (a) population and population density within the community council area;
  - (b) current and five-year projections of demographics and economic base in the community council area, including household size and income, commercial and industrial development, and public facilities;
  - (c) projected population growth in the community council area during the next five years;
  - (d) subject to Subsection (4)(a), the present and five-year projections of the cost, including overhead, of providing the same or a similar service in the community council area as is provided by the municipal services district, including a comparison of:
    - (i) the estimated cost if the municipal services district continues to provide service;
    - (ii) the estimated cost if the community council municipality provides service directly or through a contract with another service provider; and
    - (iii) the estimated cost if an unincorporated island within the community council area is annexed under Section 10-2-429 and the annexing municipality provides service;
  - (e) subject to Subsection (4)(a), evaluating the present and five-year projections of the cost, including overhead, of a municipal services district providing municipal services to the community council area, comparing those costs assuming that the community council area is included in the service area of the municipal services district with those costs assuming that the community council area is excluded from the service area of the municipal services district;
  - (f) a projection of any new taxes per household that may be levied within the community council municipality within five years after incorporation;
  - (g) the fiscal impact that the community council area's incorporation will have on other municipalities and unincorporated areas served by the municipal services district, including any rate increase that may become necessary to maintain required coverage ratios for the municipal services district's debt if, after incorporation:
    - (i) the municipal services district continues to provide service to the community council area; or
    - (ii) the community council area provides service directly or through contract with another service provider;
  - (h) the physical and other assets that will be required by the municipal services district to provide, without interruption or diminution of service, the same or a similar service to the community council municipality upon incorporation;
  - (i) the physical and other assets that will no longer be required by the municipal services district to continue to provide the current level of service to the remainder of the service area without

- the community council area if the community council area incorporates and provides services directly or through contract with another service provider;
- (j) the number and classification of municipal services district employees who will no longer be required to serve the remaining portions of the service area if a community council area provides service directly or through contract with another service provider upon incorporation, including the dollar amount of the wages, salaries, and benefits attributable to the employees and the estimated cost associated with termination of the employees if the community council municipality does not employ the employees;
  - (k) if the community council municipality will provide service directly or through another service provider, the effects of maintaining as a base, for a period of three years, the existing schedule of pay and benefits for municipal services district employees who may be transferred to the employment of the community council municipality or to another service provider with which the community council municipality contracts for service; and
  - (l) any other factor that the feasibility consultant considers relevant to the cost of providing municipal services as a result of a community council area's incorporation or the annexation of one or more unincorporated islands under Section 10-2-429.
- (4)
- (a) For purposes of Subsections (3)(d) and (e):
    - (i) the feasibility consultant shall assume a level and quality of service to be provided in the future to the community council municipality that fairly and reasonably approximates the level and quality of service that the municipal services district provides to the community council area at the time of the feasibility study;
    - (ii) in determining the present-value cost of a service that the municipal services district provides, the feasibility consultant shall consider:
      - (A) the cost to the community council municipality of providing the service for the first five years after incorporation;
      - (B) the municipal services district's present and five-year projected cost of providing the same service to the community council area;
      - (C) the present and five-year projected cost of providing the same or a similar service to the community council area if service is provided by a municipality to which one or more unincorporated islands are annexed under Section 10-2-429;
      - (D) evaluate and detail the expected cost savings and qualitative benefits that result from a service provider other than the proposed municipality providing some municipal services;
      - (E) incorporate into the overall cost projection for the proposed municipality the potential for municipal services to be provided by a service provider other than the proposed municipality; and
      - (F) evaluate and detail projected costs for municipal services based on the proposed municipality providing municipal services as compared to service providers other than the proposed municipality providing municipal services funded by those other service providers; and
    - (iii) the feasibility consultant shall consider inflation and anticipated population growth in calculating the cost of providing service.
  - (b) A feasibility consultant may not consider an allocation of municipal services district assets or a transfer of municipal services district employees to the extent that the allocation or transfer would impair the municipal services district's ability to continue to provide the current level of service to the remainder of the municipal services district's service area without the community council area, unless the municipal services district consents to the allocation or transfer.

- (5)
  - (a) A feasibility consultant shall prepare a written report of the results of the feasibility study.
  - (b) A report under Subsection (5)(a) shall:
    - (i) contain a recommendation as to whether the proposed incorporation of the community council area is functionally and financially feasible for the community council area;
    - (ii) include any conditions the feasibility consultant determines are required to be satisfied to make the incorporation functionally and financially feasible; and
    - (iii) compare the costs of incorporation to the costs of the unincorporated islands within the community council area being annexed under Section 10-2-429.
  - (c)
    - (i) Before finalizing a written report under this Subsection (5), the feasibility consultant shall provide a copy of a draft feasibility study report to the request sponsors and the county for their review and comments.
    - (ii) Based on comments provided under Subsection (5)(c)(i), a feasibility consultant may adjust the draft feasibility study report before finalizing the report.
- (6) Upon completion of the feasibility study and preparation of a written report, the feasibility consultant shall deliver a copy of the report to:
  - (a) the applicable community council;
  - (b) the request sponsors;
  - (c) the municipal services district that provides service to the community council area;
  - (d) the county in which the community council area is located; and
  - (e) each municipality that borders any part of the community council area.
- (7)
  - (a)
    - (i) If the request sponsors or the county in which the community council area is located disagrees with any aspect of a feasibility study report or, if applicable, a feasibility study report modified under Subsection (7)(c), the request sponsors or county may, within 20 business days after receiving a copy of the report under Subsection (6) or a copy of a modified feasibility study report under Subsection (7)(c)(ii), submit to the feasibility consultant a written objection detailing the disagreement.
    - (ii) Request sponsors who submit a written objection under Subsection (7)(a)(i) shall simultaneously deliver a copy of the objection to the county.
    - (iii) A county that submits a written objection under Subsection (7)(a)(i) shall simultaneously deliver a copy of the objection to the request sponsors.
  - (b)
    - (i) The request sponsors or a county may, within 10 business days after receiving an objection under Subsection (7)(a)(i), submit to the feasibility consultant a written response to the objection.
    - (ii) The request sponsors who submit a response under Subsection (7)(b)(i) shall simultaneously deliver a copy of the response to the county.
    - (iii) A county that submits a response under Subsection (7)(b)(i) shall simultaneously deliver a copy of the response to the request sponsors.
  - (c) If an objection is filed under Subsection (7)(a)(i), the feasibility consultant shall, within 20 business days after the expiration of the deadline under Subsection (7)(b)(i) for submitting a response to an objection:
    - (i)
      - (A) modify the feasibility study report; or

- (B) explain in writing why the feasibility consultant is not modifying the feasibility study report;  
and
- (ii) deliver the modified feasibility study report or written explanation to:
  - (A) the request sponsors;
  - (B) the municipal services district that provides service to the community council area;
  - (C) the county in which the community council area is located; and
  - (D) each municipality that borders any part of the community council area.
- (d) Within seven days after the expiration of the deadline under Subsection (7)(a)(i) for submitting an objection or, if an objection is submitted, within seven days after receiving a modified feasibility study report or written explanation under Subsection (7)(c), but at least 30 days before a public hearing under Subsection (9), the applicable community council shall:
  - (i) make a copy of the report available to the public at the primary office of the applicable community council; and
  - (ii) post a copy of the report on the website of the applicable community council, if the applicable community council has a website.
- (8)
  - (a) A feasibility study report or, if a feasibility study report is modified under Subsection (7), a modified feasibility study report may not be challenged unless the basis of the challenge is that the report results from collusion or fraud.
  - (b) Subsection (8)(a) does not apply to an objection to a feasibility study report or a modified feasibility study report under Subsection (7).
- (9)
  - (a) Following the expiration of the deadline under Subsection (7)(a)(i) for submitting an objection, or, if an objection is submitted under Subsection (7)(a)(i), following the applicable community council's receipt of the modified feasibility study report or written explanation under Subsection (7)(c), the applicable community council shall, at the applicable community council's next regular meeting, schedule at least one public hearing to be held:
    - (i) within the following 60 days; and
    - (ii) for the purpose of allowing:
      - (A) the feasibility consultant to present the results of the feasibility study; and
      - (B) the public to become informed about the feasibility study results, to ask the feasibility consultant questions about the feasibility study, and to express the public's views about the proposed incorporation of the community council area.
  - (b) At a public hearing under Subsection (9)(a), the applicable community council shall:
    - (i) provide a copy of the feasibility study for public review; and
    - (ii) allow the public to:
      - (A) ask the feasibility consultant questions about the feasibility study; and
      - (B) express the public's views about the advantages and disadvantages of the proposed incorporation as compared to a potential annexation under Section 10-2-429.
  - (c)
    - (i) The applicable community council shall publish notice of a hearing under Subsection (9)(a), as a class A notice under Section 63G-30-102, for three consecutive weeks immediately before the public hearing.
    - (ii) A notice under Subsection (9)(c)(i) shall state:
      - (A) the date, time, and location of the public hearing; and
      - (B) that a copy of the feasibility study report may be obtained, free of charge, at the office of the applicable community council or, if applicable, on the applicable community council's website.



- (10) A community council area may not incorporate if the feasibility study concludes that incorporation of the community council area is not functionally and financially feasible.
- (11) Notwithstanding any other provision of this part:
  - (a) the lieutenant governor shall pay the fees and costs of a feasibility consultant using funds from the Municipal Incorporation Expendable Special Revenue Fund under Section 10-2a-220; and
  - (b) if the community council area incorporates as a municipality, the newly incorporated municipality shall pay incorporation costs to the lieutenant governor and county as provided in Section 10-2a-220.
- (12) Unless the request sponsors and county agree otherwise, conditions that a feasibility study report indicates are necessary to be met for the incorporation of the community council area to be functionally and financially feasible for the proposed community council municipality are binding on the community council municipality and county if the incorporation occurs.

Enacted by Chapter 342, 2024 General Session

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

- (1)
  - (a) The sponsors of a feasibility request may modify the request to alter the boundaries of the proposed municipality and refile the modified feasibility request with the county clerk if:
    - (i) the results of the feasibility study do not comply with Subsection 10-2a-205(5)(a); or
    - (ii)
      - (A) the feasibility request complies with Subsection 10-2a-201.5(4)(b);
      - (B) the annexation petition described in Subsection 10-2a-201.5(4)(b) that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and
      - (C) an incorporation petition based on the feasibility request has not been filed.
  - (b)
    - (i) The sponsors of a feasibility request may not file a modified request under Subsection (1)(a)(i) more than 90 days after the day on which the feasibility consultant submits the final results of the feasibility study under Subsection 10-2a-205(2)(c)(iii).
    - (ii) The sponsors of a feasibility request may not file a modified request under Subsection (1)(a)(ii) more than 18 months after filing the original feasibility request under Section 10-2a-202.
  - (c)
    - (i) Subject to Subsection (1)(c)(ii), each modified feasibility request under Subsection (1)(a) shall comply with Subsections 10-2a-202(1), (3), (4), and (5) and Subsection 10-2a-201.5(4).
    - (ii) Notwithstanding Subsection (1)(c)(i), a signature on a feasibility request filed under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection 10-2a-202(1)(a) for the feasibility request as modified under Subsection (1)(a), unless the modified feasibility request proposes the incorporation of an area that is more than 20% larger or smaller than the area described by the original feasibility request in terms of:
      - (A) private land area; or
      - (B) assessed fair market value of private real property, as of January 1 of the current year.
  - (d) Within 20 days after the day on which the county clerk receives the modified request, the county clerk and the lieutenant governor shall follow the same procedure described in Subsections 10-2a-204(1) through (6) for the modified feasibility request as for an original feasibility request.

- (e) Within 10 days after a modified feasibility request is filed, the lieutenant governor shall:
  - (i) estimate the cost of a supplemental feasibility study under this section; and
  - (ii) provide the estimated cost to the feasibility request sponsors.
- (f) Within 20 days after the lieutenant governor provides the estimated supplemental feasibility study cost, the feasibility request sponsors shall pay the estimated cost to the lieutenant governor for a supplemental feasibility study conducted on or after May 1, 2024.
- (2) The timely filing of a modified feasibility request under Subsection (1) gives the modified feasibility request the same processing priority under Subsection 10-2a-204(7) as the original feasibility request if the feasibility request sponsors pay the estimated cost of the supplemental feasibility study as required in Subsection (1)(e).
- (3) Within 10 days after the day on which the lieutenant governor receives payment of the estimated supplemental feasibility study cost, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to conduct a supplemental feasibility study that accounts for the modified feasibility request.
- (4) The lieutenant governor shall require the feasibility consultant to:
  - (a) submit a draft of the supplemental feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection 10-2a-205(3)(c) within 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental study;
  - (b) allow each person to whom the consultant provided a draft under Subsection (4)(a) to review and provide comment on the draft; and
  - (c) submit a completed supplemental feasibility study, to the following within 45 days after the day on which the feasibility consultant is engaged to conduct the feasibility study:
    - (i) the lieutenant governor;
    - (ii) the county legislative body of the county in which the incorporation is proposed;
    - (iii) the contact sponsor; and
    - (iv) each person to whom the consultant provided a draft under Subsection (4)(a).
- (5) If the results of the supplemental feasibility study do not comply with Subsection 10-2a-205(5)
  - (a):
    - (a) the process to incorporate the area that is the subject of the supplemental feasibility study may not proceed; and
    - (b) a feasibility request under Section 10-2a-202 may not be filed within 18 months after the date of the supplemental feasibility study if the feasibility request proposes the incorporation of an area included within the area described in the supplemental feasibility study.

Amended by Chapter 518, 2024 General Session

**10-2a-207 Additional public hearings on feasibility study results -- Notice of hearings.**

- (1) As used in this section, "specified landowner" means the same as that term is defined in Section 10-2a-204.5.
- (2) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-205(5)(a), the county clerk shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct additional public hearings in accordance with this section.
- (3)
  - (a) If an area proposed for incorporation is approved for annexation after the feasibility study or supplemental feasibility study is conducted but before the county clerk conducts the second

- public hearing under Subsection (4), the county clerk may not conduct the second public hearing under Subsection (4) unless:
- (i) the sponsors of the feasibility study file a modified feasibility request in accordance with Section 10-2a-206; and
  - (ii) the results of the supplemental feasibility study comply with Subsection 10-2a-205(5)(a).
- (b) For purposes of Subsection (3)(a), an area is approved for annexation if a municipal legislative body:
- (i) approves an annexation petition proposing the annexation of an area that is part of the area proposed for incorporation under Section 10-2-407 or 10-2-408; or
  - (ii) adopts an ordinance approving the annexation of an area that is part of the area proposed for incorporation under Section 10-2-418.
- (4) The county clerk shall conduct the second public hearing:
- (a) within 60 days after the day on which the county clerk receives the results under Subsection (2) or (3)(a)(ii);
  - (b) at a location approved by the lieutenant governor within or near the proposed municipality; and
  - (c) to allow the feasibility consultant to present the results of the feasibility study and inform the public about the results.
- (5) The county clerk shall:
- (a) conduct an additional public hearing following each occasion when, after the day of the second public hearing, the county clerk receives the results of a supplemental feasibility study that comply with Subsection 10-2a-205(5); and
  - (b) hold the public hearing described in Subsection (5)(a):
    - (i) within 30 days after the day on which the county clerk receives the results of the supplemental feasibility study;
    - (ii) at a location approved by the lieutenant governor within or near the proposed municipality;
    - (iii) to inform the public that the feasibility presented to the public at the preceding public hearing does not apply; and
    - (iv) to allow the feasibility consultant to present the results of the supplemental feasibility study and inform the public about the results.
- (6) At each public hearing required under this section, the county clerk shall:
- (a) provide a map or plat of the boundary of the proposed municipality;
  - (b) provide a copy of the applicable feasibility study for public review;
  - (c) allow members of the public to express views about the proposed incorporation, including views about the proposed boundaries; and
  - (d) allow the public to ask the feasibility consultant questions about the applicable feasibility study.
- (7) The county clerk shall publish notice of each public hearing required under this section, and Section 10-2a-204.3, for the proposed municipality, as a class B notice under Section 63G-30-102, for at least three weeks before the day of the public hearing.
- (8)
- (a) Except as provided in Subsection (8)(b), for a hearing described in this section, the notice described in Subsection (7) shall:
    - (i) include the feasibility study summary described in Subsection 10-2a-205(2)(c)(iii); and
    - (ii) indicate that a full copy of the feasibility study is available on the county's website and for inspection at the county clerk's office.
  - (b) Instead of publishing the feasibility summary under Subsection (8)(a)(i), the county clerk may publish a statement that specifies the following sources where a resident within, or the owner

of real property located within, the proposed municipality, may view or obtain a copy of the feasibility study:

- (i) the lieutenant governor's website;
- (ii) the county's website;
- (iii) the physical address of the county clerk's office; and
- (iv) a mailing address and telephone number.

Revisor instructions Chapter 224, 2023 General Session

Amended by Chapter 224, 2023 General Session, (Coordination Clause)

Amended by Chapter 224, 2023 General Session

Amended by Chapter 435, 2023 General Session

**10-2a-208 Petition for incorporation -- Requirements and form.**

- (1) At any time within one year after the day on which the county clerk completes the public hearings required under Section 10-2a-207, individuals within the proposed municipality may proceed with the incorporation process by circulating, and submitting to the county clerk, a petition for incorporation that, to be certified under Subsection 10-2a-209(1)(b)(i), is required to be signed by:
  - (a) 10% of all registered voters within the area proposed to be incorporated as a municipality, as of the day on which the petition for incorporation is filed;
  - (b) if the petition for incorporation proposes the incorporation of a city, and subject to Subsection (5), 10% of all registered voters within 90% of the voting precincts within the area proposed to be incorporated as a city, as of the day on which the petition for incorporation is filed; and
  - (c) the owners of private real property that:
    - (i) is located within the proposed municipality;
    - (ii) covers at least 10% of the total private land area within the proposed municipality; and
    - (iii) on January 1 of the current year, was equal in assessed fair market value to at least 7% of the assessed fair market value of all private real property within the proposed municipality.
- (2) The petition for incorporation shall:
  - (a) include the typed or printed name and current residence address of each voter who signs the petition for incorporation;
  - (b) describe the area proposed to be incorporated as a municipality, as described in the feasibility request or the modified feasibility request that complies with Subsection 10-2a-205(5)(a);
  - (c) state the proposed name for the proposed municipality;
  - (d) designate five signers of the petition for incorporation as petition sponsors, one of whom is designated as the contact sponsor, with the mailing address and telephone number of each;
  - (e) if the sponsors propose the incorporation of a city, state that the signers of the petition for incorporation appoint the sponsors, if the incorporation measure passes, to represent the signers in:
    - (i) selecting the number of commission or council members the new city will have; and
    - (ii) drawing district boundaries for the election of council members, if the voters decide to elect council members by district;
  - (f) be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed municipality; and
  - (g) substantially comply with and be circulated in the following form:

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

To the Honorable Lieutenant Governor and the [name of county legislative body]:

We, the undersigned registered voters within the area described in this petition for incorporation, respectfully petition the lieutenant governor and the county legislative body to submit to the registered voters residing within the area described in this petition for incorporation, at the next regular general election, the question of whether the area should incorporate as a municipality. Each of the undersigned affirms that each has personally signed this petition for incorporation and is a registered voter who resides 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 municipality is described as follows:[insert an accurate description of the area proposed to be incorporated].

- (3)
- (a) Except as provided in Subsection (3)(b), a valid signature on a feasibility request described in Section 10-2a-202 or a modified feasibility request described in Section 10-2a-206 may be used toward fulfilling the signature requirement described in Subsection (1) if the feasibility request notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for a petition for incorporation under this section.
  - (b) A signature described in Subsection (3)(a) may not be used toward fulfilling the signature requirement described in Subsection (1) if the signer files with the county clerk a written withdrawal of the signature before the petition for incorporation is filed with the county clerk under this section.
- (4)
- (a) A voter who signs a petition for incorporation may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition for incorporation is submitted to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.
  - (b) A statement described in Subsection (4)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).
  - (c) The lieutenant governor shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.
  - (d) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition for incorporation after receiving a timely, valid statement requesting removal of the signature.
- (5)
- (a) A signature does not qualify under Subsection (1)(b) if the signature is gathered from a voting precinct that:
    - (i) except in a proposed municipality that will be a city of the fifth class, is not located entirely within the boundaries of a 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 under Subsection (1)(b).

Amended by Chapter 116, 2023 General Session, (Coordination Clause)

Amended by Chapter 116, 2023 General Session

Amended by Chapter 224, 2023 General Session

**10-2a-209 Processing of petition by county clerk -- Certification or rejection -- Petition modification.**

- (1) Within 45 days after the day on which a petition for incorporation is filed under Section 10-2a-208, the county clerk shall:
  - (a)
    - (i) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter; and
    - (ii) determine whether the petition for incorporation complies with Section 10-2a-208; and
  - (b)
    - (i) if the county clerk determines that the petition for incorporation complies with Section 10-2a-208, certify the petition for incorporation and notify in writing the contact sponsor of the certification; or
    - (ii) if the county clerk determines that the petition for incorporation fails to comply with Section 10-2a-208, reject the petition for incorporation and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- (2)
  - (a) If the county clerk rejects a petition for incorporation under Subsection (1)(b)(ii), the sponsors of the petition for incorporation may correct the deficiencies for which the petition for incorporation was rejected and refile the petition for incorporation with the county clerk.
  - (b) Notwithstanding the deadline described in Subsection 10-2a-208(1), the sponsors of the petition for incorporation may file a modified petition for incorporation under Subsection (2)(a) no later than 30 days after the day on which the county clerk notifies the contact sponsor of rejection under Subsection (1)(b)(ii).
  - (c) A valid signature on a petition for incorporation described in Section 10-2a-208 may be used toward fulfilling the signature requirement described in Subsection 10-2a-208(1) for a petition for incorporation that is modified under Subsection (2)(a).
- (3)
  - (a) Within 20 days after the day on which the county clerk receives a modified petition for incorporation under Subsection (2)(a), the county clerk shall review the modified petition for incorporation in accordance with Subsection (1).
  - (b) The sponsors of a petition for incorporation may not modify the petition for incorporation more than once.

Amended by Chapter 116, 2023 General Session  
Amended by Chapter 224, 2023 General Session

**10-2a-210 Incorporation election -- Notice of election -- Voter information pamphlet.**

- (1)
  - (a) If the county clerk certifies a petition for incorporation under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition for incorporation to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the county clerk certifies the petition for incorporation.
  - (b)
    - (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).
    - (ii) The county legislative body shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

- (2) The county clerk shall provide notice of the election for the area proposed to be incorporated, as a class B notice under Section 63G-30-102, for at least three weeks before the day of the election.
- (3)
  - (a) The notice described in Subsection (2) shall include:
    - (i) a statement of the contents of the petition for incorporation;
    - (ii) a description of the area proposed to be incorporated as a municipality;
    - (iii) a statement of the date and time of the election and the location of polling places; and
    - (iv) except as provided in Subsection (3)(b), the feasibility study summary described in Subsection 10-2a-205(2)(c)(iii) and a statement that a full copy of the study is available on the county's website and for inspection at the county offices.
  - (b) Instead of including the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in the area proposed to be incorporated may view or obtain a copy of the feasibility study:
    - (i) the county's website;
    - (ii) the physical address of the county clerk office; and
    - (iii) a mailing address and telephone number.
- (4)
  - (a) In addition to the notice described in Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:
    - (i) in accordance with the procedures and requirements of Section 20A-7-402;
    - (ii) in consultation with the lieutenant governor; and
    - (iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).
  - (b) The voter information pamphlet described in Subsection (4)(a):
    - (i) shall inform the public of the proposed incorporation; and
    - (ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.
- (5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who is a resident, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.
- (6)
  - (a) Subject to Subsection (6)(b), if a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.
  - (b)
    - (i) As used in this Subsection (6)(b):
      - (A) "Approving separate area" means a separate area in which a majority of those voting in an incorporation election for the incorporation of a community council area vote in favor of incorporation.
      - (B) "Separate area" means an unincorporated island, as defined in Section 10-2-429, that is within a community council area.
    - (ii) If a majority of those within a separate area voting in an incorporation election for the incorporation of a community council area vote against incorporation, that separate area is excluded from the incorporation.
    - (iii) Approving separate areas are incorporated as a municipality if the combined total population within all approving separate areas is at least 80% of the population within the community council area.

Amended by Chapter 342, 2024 General Session

**10-2a-211 Ballot used in incorporation election.**

- (1)
  - (a) The ballot used in an incorporation election described in Section 10-2a-210 shall pose the incorporation question substantially as follows:

"Shall the area described as (insert a description of the proposed municipality) be incorporated as (insert the proposed name of the proposed municipality)?"
  - (b) The ballot shall provide a space for the voter to answer "yes" or "no" to the question described in Subsection (1)(a).
- (2) The ballot for an incorporation election for a proposed city shall also:
  - (a)
    - (i) 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."
    - (ii) provide a space for the voter to vote for one form of government; and
  - (b)
    - (i) 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?"; and
    - (ii) provide a space for the voter to answer "yes" or "no" to the question described in Subsection (2)(b)(i).

Amended by Chapter 165, 2019 General Session

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

Within 10 days after the day on which the county conducts a 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, the name of the municipality.

Amended by Chapter 165, 2019 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 sponsors of the petition for incorporation shall, within 60 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:
  - (a) for the incorporation of a city:
    - (i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and



- (ii) 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; and
- (b) for the incorporation of any municipality:
  - (i) determine the initial terms of the mayor and members of the municipal council so that:
    - (A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' 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 municipal council are elected to serve an initial term, of no less than one year, that allows the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and
  - (ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).
- (2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.
- (3) Before making a determination under Subsection (1)(a) or (b)(i), the sponsors of the petition for incorporation shall, under the direction of the county clerk, hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).
- (4) Notice of the public hearing described in Subsection (3) shall be provided as follows:
  - (a) the county clerk shall provide notice for the future municipality, as a class B notice under Section 63G-30-102, for at least two weeks before the day of the public hearing; and
  - (b) if the future municipality has a website, the sponsors of the petition for incorporation shall post notice on the future municipality's website for at least two weeks before the day of the public hearing.
- (5) The county clerk may bill the petition sponsors for the cost of preparing, printing, and publishing the notice described in Subsection (4).

Amended by Chapter 224, 2023 General Session

Revisor instructions Chapter 224, 2023 General Session

Amended by Chapter 224, 2023 General Session, (Coordination Clause)

Amended by Chapter 435, 2023 General Session

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

- (1) Within 20 days after the day on which a county legislative body receives the determination described in Subsection 10-2a-213(1)(b)(ii), the county clerk shall provide a notice, in accordance with Subsection (2), containing:
  - (a) the number of municipal council members to be elected for the new municipality;
  - (b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;
  - (c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and
  - (d) information about the length of the initial term of each of the municipal officers.
- (2) The county clerk shall provide the notice described in Subsection (1) for the future municipality, as a class B notice under Section 63G-30-102, for two weeks.

- (3) Instead of including a description of the district boundaries under Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy of the district boundaries:
  - (a) the county website;
  - (b) the physical address of the county clerk's office; and
  - (c) a mailing address and telephone number.
- (4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:
  - (a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or
  - (b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Amended by Chapter 224, 2023 General Session

Amended by Chapter 435, 2023 General Session

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

- (1) For the election of municipal officers, the county legislative body shall:
  - (a) unless a primary election is prohibited under 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 described in Subsection (1) shall be held:
  - (a) consistent with the petition sponsors' determination of the length of each council member's initial term; and
  - (b) for the incorporation of a city:
    - (i) appropriate to the form of government chosen by the voters at the incorporation election;
    - (ii) consistent with the voters' decision about whether to elect city council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and
    - (iii) consistent with the sponsors' determination of the number of city council members to be elected.
- (3)
  - (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the primary election described in Subsection (1)(a) shall be held at the earliest of the next:
    - (i) regular primary election described in Subsection 20A-1-201.5(1); or
    - (ii) municipal primary election described in Section 20A-9-404.
  - (b) The county shall hold the primary election, if necessary, on the next election date described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210.
- (4)
  - (a) Subject to Subsection (4)(b), the county shall hold the final election described in Subsection (1)(b):
    - (i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);
    - (ii) a regular general election described in Section 20A-1-201; or

- (iii) a regular municipal general election under Section 20A-1-202.
- (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), or (iii):
  - (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) The county clerk shall provide notice of an election under this section for the future municipality, as a class A notice under Section 63G-30-102, for at least two weeks before the day of the election.
- (6) Until the municipality is incorporated, the county clerk:
  - (a) is the election officer for all purposes related to the election of municipal officers;
  - (b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law;
  - (c) shall require and determine deadlines for municipal office candidates to file campaign financial disclosures in accordance with Section 10-3-208; and
  - (d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated municipality, including the term of each office.
- (7) An individual who has filed as a candidate for an office described in this section shall comply with:
  - (a) the campaign finance disclosure requirements described in Section 10-3-208; and
  - (b) the requirements and deadlines established by the county clerk under this section.
- (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(4)(b).

Amended by Chapter 435, 2023 General Session

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

Within 10 days after the day on which the county conducts the canvass of the final election of municipal 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 in a new municipality and the term for which each has been elected.

Amended by Chapter 165, 2019 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 municipality shall:
  - (a) within 30 days after the day of the canvass of the final election of municipal 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 complies with 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 municipality 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 municipality is located within the boundaries of more than one county, submit the original of the documents described in Subsection (1)(b)(i) to one of those counties and a certified copy of those documents to each other county.
- (2)
- (a) The incorporation of a new municipality 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 municipality is conclusively presumed to be lawfully incorporated and existing if, for two years following the municipality's incorporation:
    - (i)
      - (A) the municipality has levied and collected a property tax; or
      - (B) for a municipality incorporated on or after July 1, 1998, the municipality has imposed a sales and use tax; and
    - (ii) no challenge to the existence or incorporation of the municipality has been filed in the district court for the county in which the municipality is located.
- (3)
- (a) The effective date of an incorporation for purposes of assessing property within the new municipality 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 municipality may not:
    - (i) levy or collect a property tax on property within the municipality;
    - (ii) levy or collect an assessment on property within the municipality; or
    - (iii) charge or collect a fee for service provided to property within the municipality.

Amended by Chapter 165, 2019 General Session

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

- (1) After the county conducts the canvass of the final election of municipal officers under Section 10-2a-215, and until the future municipality becomes legally incorporated, the officers of the future municipality 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 municipality is located under Subsection 10-2a-219(3);
  - (f) borrow funds for startup expenses of the future municipality;
  - (g) issue tax anticipation notes in the name of the future municipality; and
  - (h) make appointments to the municipality's planning commission.

- (2) The municipal council shall review and ratify each contract made by a municipal officer under Subsection (1) within 30 days after the day on which the municipality's incorporation is effective under Section 10-2a-217.

Amended by Chapter 165, 2019 General Session

**10-2a-219 Division of municipal service revenues -- County may provide startup funds.**

- (1) The county in which an area incorporating under this part is located shall, until the day on which the municipality's incorporation is effective under Section 10-2a-217, continue to:
  - (a) levy and collect ad valorem property tax and other revenues from or pertaining to the future municipality; and
  - (b) except as otherwise agreed by the county and the officers of the municipality, to provide the same services to the future municipality as the county provided before the commencement of the incorporation proceedings.
- (2)
  - (a) The legislative body of the county in which a newly incorporated municipality is located shall share pro rata with the new municipality, 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 municipality's incorporation if and to the extent that the new municipality 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 municipality incorporated after January 1, 2004, is located may share with the new municipality 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 municipality's incorporation;
      - (B) from the previously unincorporated area that, because of the municipality's incorporation, is located within the boundaries of the newly incorporated municipality; and
      - (C) to provide services to the area that before the new municipality'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 a municipal service provided by the county to the new municipality.
- (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 municipal officers under Section 10-2a-215, the officers of the future municipality to pay startup expenses of the future municipality; or
    - (ii) after incorporation, the new municipality.
  - (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 made under Subsection (2).

Amended by Chapter 165, 2019 General Session

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

- (1)

- (a) There is created an expendable special revenue fund known as the "Municipal Incorporation Expendable Special Revenue Fund."
  - (b) The fund shall consist of:
    - (i) appropriations from the Legislature;
    - (ii) payments that feasibility request sponsors make to the lieutenant governor under Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f); and
    - (iii) fees the lieutenant governor collects and remits to the fund under this section.
  - (c) The lieutenant governor shall deposit all money collected under this section into the fund.
- (2)
- (a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost incurred by the lieutenant governor or the county for an incorporation proceeding, including:
    - (i) a request certification;
    - (ii) a petition certification;
    - (iii) publication of notices;
    - (iv) public hearings;
    - (v) all other incorporation activities occurring after the elections; and
    - (vi) any other cost incurred by the lieutenant governor or county in relation to an incorporation proceeding.
  - (b) A cost under Subsection (2)(a) does not include a cost incurred by a county for holding an election under Section 10-2a-210.
- (3) Subject to Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f), the lieutenant governor shall pay for a cost described in Subsection (2)(a) using funds from the Municipal Incorporation Expendable Special Revenue Fund.
- (4)
- (a) A newly incorporated municipality shall:
    - (i) pay to the lieutenant governor each fee established under Subsection (2) for each cost described in Subsection (2)(a) incurred by the lieutenant governor or the county;
    - (ii) pay the county for a cost described in Subsection (2)(b); and
    - (iii) reimburse feasibility request sponsors the cost the feasibility request sponsors paid for:
      - (A) a feasibility study under Section 10-2a-205; and
      - (B) any supplemental feasibility study under Section 10-2a-206.
  - (b) The lieutenant governor shall execute a payback agreement with each new municipality for the new municipality to pay the fees described in Subsection (4)(a) over a period that, except as provided in Subsection (4)(c), may not exceed five years.
  - (c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the deadline described in Subsection (4)(b) by amending the payback agreement described in Subsection (4)(b).
  - (d) The lieutenant governor shall deposit each fee the lieutenant governor collects under Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue Fund.
- (5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable Special Revenue Fund that are not repaid to the lieutenant governor under Subsection (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall appropriate money to the fund in an amount equal to the funds that are not repaid.

Amended by Chapter 518, 2024 General Session

## Part 5

### Incorporation of a Preliminary Municipality

#### 10-2a-501 Definitions.

As used in this part:

- (1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.
- (2) "Board," in relation to a preliminary municipality, means the same as a council described in Section 10-3b-402.
- (3) "Board chair," in relation to a preliminary municipality, means the same as a mayor described in Section 10-3b-402.
- (4) "Contiguous" means the same as that term is defined in Section 10-2a-102.
- (5) "Feasibility consultant" means a person or firm:
  - (a) with expertise in the processes and economics of local government; and
  - (b) who is independent of, and not affiliated with, a county or a sponsor of a petition to incorporate a preliminary municipality under this part.
- (6) "Feasibility request" means a request, described in Section 10-2a-502, for a feasibility study for the proposed incorporation of a preliminary municipality.
- (7) "Initial landowners" means the persons who owned the land within the proposed preliminary municipality area when the person filed the feasibility request under Section 20A-1-501.
- (8) "Municipal service" means the same as that term is defined in Section 10-2a-102.
- (9) "Pending annexation area" means an area proposed for annexation in an annexation petition described in Section 10-2-403 that is filed before, and is still pending when, a person files the applicable request for a feasibility study under Section 10-2a-502.
- (10) "Primary sponsor contact" means:
  - (a) in relation to a feasibility request:
    - (i) the individual designated as the primary sponsor contact for a feasibility request under Subsection 10-2a-502(5)(c); or
    - (ii) an individual designated, in writing, by the initial landowners if a replacement primary sponsor contact is needed; or
  - (b) in relation to a petition for incorporation of a preliminary municipality:
    - (i) the individual designated as the primary sponsor contact for a petition for incorporation of a preliminary municipality under Subsection 10-2a-507(1)(d); or
    - (ii) an individual designated, in writing, by the initial landowners if a replacement primary sponsor contact is needed.
- (11) "Private," in relation to real property, means taxable real property.
- (12) "Proposed preliminary municipality area" means the area proposed for incorporation as a preliminary municipality in a feasibility request.
- (13) "System infrastructure" means, as shown on the map or plat described in Subsection 10-2a-502(5)(e) for the proposed preliminary municipal area:
  - (a) the main thoroughfares within the proposed preliminary municipal area, including the roads that connect the proposed preliminary municipality area to an existing road outside the proposed preliminary municipality area; and
  - (b) the main lines that will connect a utility to the proposed preliminary municipality area, including the stubs that will connect the main lines to the development in the proposed preliminary municipality area.

Enacted by Chapter 534, 2024 General Session

**10-2a-502 Incorporation of a preliminary municipality -- Feasibility request -- Requirements.**

- (1) A person may apply to incorporate an area as a preliminary municipality by filing a feasibility request in accordance with this section.
- (2) Subject to Subsection (6), a person may file a feasibility request in relation to an area that the person seeks to incorporate as a preliminary municipality if:
  - (a) the area is contiguous;
  - (b) no part of the area is within a county of the first class or second class;
  - (c) no part of the area is within, or within .25 miles of, a municipality;
  - (d) on the day on which the person files the feasibility request:
    - (i) the area is owned by no more than three persons, all of whom consent to incorporation as a preliminary municipality; and
    - (ii) at least 50% of the area is undeveloped;
  - (e) the persons who sign the feasibility request intend to develop the area to the point that:
    - (i) at least 100 individuals reside in the area;
    - (ii) the area will have an average population density of no less than seven individuals per square mile, unless:
      - (A) a population density of less than seven individuals per square mile is necessary in order to connect separate areas that share a demonstrable community interest; and
      - (B) the average population of the area has a population density of no less than seven individuals per square mile if the land necessary to connect the separate areas described in Subsection (2)(e)(ii)(A) is not included in the calculation; and
    - (iii) at least 10% of the housing in the preliminary municipality is affordable housing;
  - (f) the area does not include land owned by the United States government unless:
    - (i) the area, including the land owned by the United States government, is contiguous; and
    - (ii)
      - (A) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or
      - (B) excluding the land from the area would create an unincorporated island within the proposed preliminary municipality;
  - (g) the area is entirely within one county; and
  - (h) the feasibility request complies with Subsection (3).
- (3)
  - (a) A proposed preliminary municipality area may not include all or part of a pending annexation area, unless:
    - (i) the portion of the pending annexation area included in the proposed preliminary municipality area does not exceed 20% of the proposed preliminary municipality area; and
    - (ii) the feasibility request would comply with the requirements of this section regardless of whether the portion of the pending annexation area included in the proposed preliminary municipality area is excluded from, or remains included in, the proposed preliminary municipality area.
  - (b) A proposed preliminary municipality area may not include all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study that qualifies to proceed under Subsection 10-2a-205(5)(a), unless:



- (i) 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
  - (ii) the time described in Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing an incorporation petition under Section 10-2a-208.
- (c) A proposed preliminary municipality area may not include all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-504(4), unless the time described in Subsection 10-2a-507(1) for filing a petition for incorporation based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing a petition for incorporation under Section 10-2a-507.
- (4) Except as provided in Section 10-2a-505, the lieutenant governor shall consider each feasibility request that includes an area described in Subsection (3)(a) as if the request does not include the area described in Subsection (3)(a).
- (5) A person who files a feasibility request under this section shall file the feasibility request with the lieutenant governor, including in the feasibility request:
- (a) the signatures of all owners of real property included in the proposed preliminary municipality area, showing that the owners consent to including the real property in the proposed preliminary municipality area;
  - (b) the name, address, and phone number of each owner signing the feasibility request;
  - (c) a designation of one individual who signs the feasibility request as the primary sponsor contact for the feasibility request;
  - (d) a description of the proposed preliminary municipality area;
  - (e) an accurate map or plat, prepared by a licensed surveyor, showing:
    - (i) a legal description of the boundaries of the proposed preliminary municipality area and each phase of the proposed preliminary municipality area;
    - (ii) all development planned for the proposed preliminary municipality area; and
    - (iii) that the first phase of the proposed preliminary municipality area is projected to have at least 100 residents when completed; and
  - (f) a request that the lieutenant governor commission a study to determine the feasibility of incorporating the area as a preliminary municipality.
- (6)
- (a) The provisions of this part, providing for the incorporation of a preliminary municipality, is a pilot project that ends on January 1, 2031.
  - (b) Except as provided in Subsection (7), a person may not file a feasibility request under this part in a calendar year during which two or more requests have already been filed in the state.
- (7) A feasibility request does not count towards the limit described in Subsection (6)(b) if:
- (a) the sponsors who file the request withdraw the request;
  - (b) the lieutenant governor rejects the feasibility request under Subsection 10-2a-503(4) or (5)(b), and the sponsors:
    - (i) do not timely amend the feasibility request under Subsection 10-2a-503(7)(b); or
    - (ii) are prohibited from amending the feasibility request under Subsection 10-2a-503(7)(c); or
  - (c) the process to incorporate is prohibited from proceeding under Subsection 10-2a-504(5)(a) and the sponsors:
    - (i) do not timely file a modified feasibility request under Subsection 10-2a-505(1)(b)(i); or
    - (ii) are prohibited from filing a modified feasibility request under Subsection 10-2a-505(3).

Enacted by Chapter 534, 2024 General Session

**10-2a-503 Processing a feasibility request -- Certification or rejection -- Processing priority -- Determination by the Utah Population Committee.**

- (1) Within 45 days after the day on which an individual files a feasibility request under Section 10-2a-502, the lieutenant governor shall:
  - (a) determine whether the feasibility request complies with Section 10-2a-502; and
  - (b) notify the clerk of the county where the proposed preliminary municipality area is located, in writing, of the determination made under Subsection (1)(a) and the grounds for the determination.
- (2) A county clerk shall comply with a request by the lieutenant governor to provide information or a record to the lieutenant governor or to a sponsor of the feasibility request, to assist in complying with this part, within five calendar days after the day on which the lieutenant governor makes the request.
- (3) If the lieutenant governor determines that the feasibility request complies with Section 10-2a-502, the lieutenant governor shall:
  - (a) certify the feasibility request; and
  - (b) transmit written notification of the certification to the primary sponsor contact, the county clerk, and the Utah Population Committee.
- (4) If the lieutenant governor determines that the feasibility request fails to comply with Section 10-2a-502, the lieutenant governor shall reject the feasibility request and notify the primary sponsor contact and the county clerk, in writing, of the rejection and the grounds for the rejection.
- (5)
  - (a) Within 20 days after the day on which the lieutenant governor transmits written notification under Subsection (3)(b), the Utah Population Committee shall:
    - (i) determine whether, based on the map or plat described in Subsection 10-2a-502(5)(e), the proposed preliminary municipality will, when all phases of the map or plat are completed, likely comply with the population, population density, and contiguity requirements described in Section 10-2a-502; and
    - (ii) provide notice of the determination to the lieutenant governor and the county clerk.
  - (b) If the Utah Population Committee determines, under Subsection (5)(a)(i), that, when all phases of the plan or plat are completed, the proposed preliminary municipality will not likely comply with the population, population density, and contiguity requirements described in Section 10-2a-502, the lieutenant governor shall rescind the certification described in Subsection (3) and reject the feasibility request.
- (6) The lieutenant governor shall certify or reject feasibility requests in the order in which the requests are filed.
- (7)
  - (a) If the lieutenant governor determines, under Subsection (4), that the feasibility request fails to comply with Section 10-2a-502, or rejects the feasibility request under Subsection (5)(b), the sponsors may, subject to Section 10-2a-505, amend the feasibility request to correct the deficiencies and refile the feasibility request with the lieutenant governor.
  - (b) Except as provided in Subsection (7)(c), the sponsors may submit an amended feasibility request within 90 days after the day on which the lieutenant governor makes the determination or rejection described in Subsection (7)(a).
  - (c) The sponsors may not submit an amended feasibility request more than once.

- (d) The lieutenant governor shall consider a feasibility request that is amended and refiled under Subsection (7)(a) as a newly filed feasibility request and process the feasibility request in accordance with this section.

Enacted by Chapter 534, 2024 General Session

**10-2a-504 Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.**

- (1) Unless the lieutenant governor rescinds the certification under Subsection 10-2a-503(5)(b), the lieutenant governor shall, within 90 days after the day on which the lieutenant governor certifies a feasibility request under Subsection 10-2a-503(3)(a), in accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study.
- (2) The lieutenant governor shall:
  - (a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code;
  - (b) ensure that the feasibility consultant:
    - (i) has expertise in the processes and economics of local government; and
    - (ii) is not affiliated with a sponsor of the feasibility request or the county in which the proposed municipality is located; and
  - (c) require the feasibility consultant to:
    - (i) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;
    - (ii) allow each person to whom the consultant provides a draft under Subsection (2)(c)(i) to review and provide comment on the draft;
    - (iii) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the feasibility study:
      - (A) the lieutenant governor;
      - (B) the county legislative body of the county in which the proposed preliminary municipality area is located;
      - (C) the primary sponsor contact; and
      - (D) each person to whom the consultant provided a draft under Subsection (2)(c)(i); and
    - (iv) attend the public hearings described in Section 10-2a-506 to present the feasibility study results and respond to questions from the public.
- (3)
  - (a) The feasibility study shall include:
    - (i) an analysis of:
      - (A) the likely population and population density within the proposed preliminary municipality area when all phases of the map or plat for the proposed preliminary municipality area are completed; and
      - (B) the population and population density of the area surrounding the proposed preliminary municipality area on the day on which the feasibility request was submitted;
    - (ii) an analysis of the following, determined as if, at the time of the analysis, the proposed preliminary municipality area is incorporated as a town with a population of 100 people:
      - (A) the initial and projected five-year demographics and tax base within the boundaries of the proposed preliminary municipality area and the surrounding area, including household size and income, commercial and industrial development, and public facilities;

- (B) subject to Subsection (3)(b), the initial and five-year projected cost of providing municipal services to the proposed preliminary municipality area, including administrative costs;
  - (C) assuming the same tax categories and tax rates as imposed by the county and all other current service providers at the time during which the feasibility consultant prepares the feasibility study, the initial and five-year projected revenue for the proposed preliminary municipality area;
  - (D) the risks and opportunities that might affect the actual costs described in Subsection (3)(a)(ii)(B) or the revenues described in Subsection (3)(a)(ii)(C) of the proposed preliminary municipality area;
  - (E) new revenue sources that may be available to the proposed preliminary municipality area that are not available before the area incorporates, including an analysis of the amount of revenues the proposed preliminary municipality area might obtain from those revenue sources;
  - (F) the projected tax burden per household of any new taxes that may be levied within the proposed preliminary municipality area within five years after incorporation as a town; and
  - (G) the fiscal impact of the proposed preliminary municipality area's incorporation as a town on unincorporated areas, other municipalities, special districts, special service districts, and other governmental entities in the county; and
- (iii) an analysis regarding whether sufficient water will be available to support the proposed preliminary municipality area when the development of the area is complete.
- (b)
- (i) In calculating the projected costs under Subsection (3)(a)(ii)(B), the feasibility consultant shall assume the proposed preliminary municipality area will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the area surrounding the proposed preliminary municipality area at the time the feasibility consultant conducts the feasibility study.
  - (ii) In calculating the current cost of a municipal service under Subsection (3)(a)(ii)(B), the feasibility consultant shall consider:
    - (A) the amount it would cost the proposed preliminary municipality area to provide the municipal service for the first five years after the area incorporates as a town; and
    - (B) the proposed or current municipal service provider's initial and five-year projected cost of providing the municipal service after the proposed preliminary municipality area incorporates as a town.
  - (iii) In calculating costs under Subsection (3)(a)(ii)(B), the feasibility consultant shall account for inflation and anticipated growth.
- (c) In conducting the feasibility study, the feasibility consultant shall consult with the following before submitting a draft of the feasibility study under Subsection (2)(c)(iii):
- (i) if the proposed preliminary municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;
  - (ii) if the proposed preliminary municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;
  - (iii) each entity that provides, or is proposed to provide, a municipal service to a portion of the proposed preliminary municipality area; and
  - (iv) each other special service district that provides, or is proposed to provide, services to a portion of the proposed preliminary municipality area.
- (4) If the five-year projected revenues calculated under Subsection (3)(a)(ii)(C) exceed the five-year projected costs calculated under Subsection (3)(a)(ii)(B) by more than 5%, the feasibility

consultant shall project and report the expected annual revenue surplus to the primary sponsor contact and the lieutenant governor.

- (5)
- (a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-505, show that the average annual amount of revenue calculated under Subsection (3)(a)(ii)(C) does not exceed the average annual cost calculated under Subsection (3)(a)(ii)(B) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.
  - (b) Except as provided in Subsection 10-2a-505(3), the process to incorporate an area described in Subsection (5)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-505 for the proposed incorporation demonstrates compliance with Subsection (5)(a).
- (6) If the results of the feasibility study or revised feasibility study do not comply with Subsection (5), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the proposed preliminary municipality area may be altered to comply with Subsection (5), unless the sponsors are precluded from modifying the feasibility request under Subsection 10-2a-505(3).
- (7) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-505, on the lieutenant governor's website and make a copy available for public review at the lieutenant governor's office.

Enacted by Chapter 534, 2024 General Session

**10-2a-505 Modified feasibility request -- Supplemental feasibility study.**

- (1)
- (a) The sponsors of a feasibility request may modify the request to alter the boundaries of the proposed preliminary municipality area and refile the modified feasibility request with the lieutenant governor if:
    - (i) the results of the feasibility study do not comply with Subsection 10-2a-504(5)(a); or
    - (ii)
      - (A) the feasibility request complies with Subsection 10-2a-502(3)(a);
      - (B) the annexation petition described in Subsection 10-2a-502(3)(a) that proposed the annexation of an area that is part of the proposed preliminary municipality area has been denied; and
      - (C) a petition for incorporation described in Section 10-2a-507, based on the feasibility request, has not been filed.
  - (b)
    - (i) The sponsors of a feasibility request may not file a modified request under Subsection (1)(a)(i) more than 90 days after the day on which the feasibility consultant submits the final results of the feasibility study under Subsection 10-2a-504(2)(c)(iii).
    - (ii) The sponsors of a feasibility request may not file a modified request under Subsection (1)(a)(ii) more than 18 months after filing the original feasibility request under Section 10-2a-502.
  - (c) A modified feasibility request under Subsection (1)(a) shall comply with Subsections 10-2a-502(1) through (4).
  - (d) Within 20 days after the day on which the lieutenant governor receives the modified request, the lieutenant governor shall follow the same procedure described in Subsections

- 10-2a-503(1) through (4) for the modified feasibility request as for an original feasibility request.
- (2) The timely filing of a modified feasibility request under Subsection (1) gives the modified feasibility request the same processing priority under Subsection 10-2a-503(6) as the original feasibility request.
  - (3) The sponsors of a feasibility request may not file a modified feasibility request under Subsection (1)(a)(i) more than once.
  - (4) Within 10 days after the day on which the county clerk receives a modified feasibility request under Subsection (1)(a) that relates to a request for which a feasibility study has already been completed, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to conduct a supplemental feasibility study that accounts for the modified feasibility request.
  - (5) The lieutenant governor shall require the feasibility consultant to:
    - (a) submit a draft of the supplemental feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection 10-2a-504(3)(c) within 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental study;
    - (b) allow each person to whom the consultant provided a draft under Subsection (5)(a) to review and provide comment on the draft; and
    - (c) submit a completed supplemental feasibility study, to the following within 45 days after the day on which the feasibility consultant is engaged to conduct the feasibility study:
      - (i) the lieutenant governor;
      - (ii) the county legislative body of the county in which the incorporation is proposed;
      - (iii) the primary sponsor contact; and
      - (iv) each person to whom the consultant provided a draft under Subsection (5)(a).
  - (6)
    - (a) Subject to Subsections (3) and (6)(b), if the results of the supplemental feasibility study do not comply with Subsection 10-2a-504(4), the sponsors may further modify the request in accordance with Subsection (1).
    - (b) Subsections (1)(d), (4), and (5) apply to a modified feasibility request described in Subsection (6)(a).
    - (c) The lieutenant governor shall consider a modified feasibility request described in Subsection (6)(a) as an original feasibility request for purposes of determining the modified feasibility request's processing priority under Subsection 10-2a-503(6).

Enacted by Chapter 534, 2024 General Session

**10-2a-506 Public hearings on feasibility study results -- Notice of hearings.**

- (1) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-504(4), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct public hearings in accordance with this section.
- (2)
  - (a) If a portion of the proposed preliminary municipality area is approved for annexation after the feasibility study or supplemental feasibility study is conducted but before the lieutenant governor conducts a public hearing under Subsection (4), the lieutenant governor may not conduct the public hearing under Subsection (4) unless:
    - (i) the sponsors of the feasibility study file a modified feasibility request in accordance with Section 10-2a-505; and

- (ii) the results of the supplemental feasibility study comply with Subsection 10-2a-504(4).
- (b) For purposes of Subsection (2)(a), an area is approved for annexation if a municipal legislative body:
  - (i) approves an annexation petition proposing the annexation of an area that is part of the proposed preliminary municipality area under Section 10-2-407 or 10-2-408; or
  - (ii) adopts an ordinance approving the annexation of an area that is part of the proposed preliminary municipality area under Section 10-2-418.
- (3) The lieutenant governor shall conduct a public hearing:
  - (a) within 60 days after the day on which the lieutenant governor receives the results under Subsection (1) or (2)(a)(ii);
  - (b) at a location within or near the proposed preliminary municipality; and
  - (c) to allow the feasibility consultant to present the results of the feasibility study and inform the public about the results.
- (4) The lieutenant governor shall:
  - (a) conduct an additional public hearing following each occasion when, after the day of the initial public hearing, the lieutenant governor receives the results of a supplemental feasibility study that comply with Subsection 10-2a-504(4); and
  - (b) hold the public hearing described in Subsection (4)(a):
    - (i) within 30 days after the day on which the lieutenant governor receives the results of the supplemental feasibility study;
    - (ii) at a location within or near the proposed preliminary municipality;
    - (iii) to inform the public that the feasibility presented to the public at the preceding public hearing does not apply; and
    - (iv) to allow the feasibility consultant to present the results of the supplemental feasibility study and inform the public about the results.
- (5) At each public hearing required under this section, the lieutenant governor shall:
  - (a) provide a map or plat of the boundary of the proposed preliminary municipality;
  - (b) provide a copy of the applicable feasibility study for public review;
  - (c) allow members of the public to express views about the proposed preliminary municipality, including views about the proposed boundaries; and
  - (d) allow the public to ask the feasibility consultant questions about the applicable feasibility study.
- (6) The lieutenant governor shall publish notice of each public hearing required under this section for the proposed preliminary municipality area, as a class B notice under Section 63G-30-102, for at least three weeks before the day of the public hearing.
- (7)
  - (a) Except as provided in Subsection (7)(b), for a hearing described in this section, the notice described in Subsection (7) shall:
    - (i) include the feasibility study summary described in Subsection 10-2a-504(2)(c)(iii); and
    - (ii) indicate that a full copy of the feasibility study is available on the lieutenant governor's website and for inspection at the lieutenant governor's office.
  - (b) Instead of publishing the feasibility summary under Subsection (7)(a)(i), the lieutenant governor may publish a statement that specifies the following sources where a person may view or obtain a copy of the feasibility study:
    - (i) the lieutenant governor's website;
    - (ii) the lieutenant governor's office; and
    - (iii) a mailing address and telephone number.

Enacted by Chapter 534, 2024 General Session

**10-2a-507 Petition for incorporation -- Requirements and form.**

- (1) At any time within one year after the day on which the lieutenant governor completes the public hearings required under Section 10-2a-506, the owners of the property who filed the feasibility request under Section 10-2a-502 for the proposed preliminary municipality area may proceed with the incorporation process by filing a petition for incorporation of the proposed preliminary municipality that:
- (a) includes the typed or printed name, signature, address, and phone number of the initial landowners;
  - (b) describes the proposed preliminary municipality area, as described in the feasibility request or the modified feasibility request;
  - (c) demonstrates compliance with Subsection 10-2a-504(4);
  - (d) states the proposed name for the proposed preliminary municipality;
  - (e) designates the primary sponsor contact for the proposed preliminary municipality;
  - (f) designates the board chair and three of the four board members who will serve as a five member council form of government for the preliminary municipality, described in Section 10-3b-402, for the preliminary municipality;
  - (g) is accompanied by an accurate map or plat, prepared by a licensed surveyor, showing:
    - (i) the boundaries of the proposed preliminary municipality;
    - (ii) a single development plan for the proposed municipality, depicting each phase of the development;
  - (h) is accompanied by a bond, cash deposit, or letter of credit that:
    - (i) is posted by the initial landowners;
    - (ii) is in favor of the proposed preliminary municipality, to guarantee that the initial landowners will complete the system infrastructure no later than six years after the day on which the initial landowners file the petition for incorporation described in this section; and
    - (iii) will be refunded to the initial landowners in percentages that reflect the progress toward completing the system infrastructure; and
  - (i) is accompanied by payment in full, from the initial landowners, of the costs incurred by the lieutenant governor for the feasibility study, the public notices, the hearings, and the other expenses incurred by the lieutenant governor to comply with the requirements of this part in relation to the proposed preliminary municipality.
- (2) If, within six years after the day on which the initial landowners file a petition for incorporation under Subsection (1), the system infrastructure for the preliminary municipality is not completed, the portion of the bond, cash deposit, or letter of credit described in Subsection (1)(h) that has not been refunded to the initial landowners shall forfeit to the preliminary municipality.
- (3) If, within four years after the day on which the first residential certificate of occupancy is issued for the development described in Subsection 10-2a-503(5)(e), or six years after the day on which the initial landowners file a petition for incorporation under Subsection (1), the preliminary municipality has not transitioned to a town:
- (a) the lieutenant governor shall issue a certificate dissolving the preliminary municipality;
  - (b) all roads and infrastructure within the preliminary municipality revert to the county in which the preliminary municipality is located;
  - (c) the area within the proposed municipality falls under the jurisdiction of the county and is no longer incorporated; and



- (d) the initial landowners are liable to the county for damages caused to the county due to the dissolution of the preliminary municipality.

Enacted by Chapter 534, 2024 General Session

**10-2a-508 Processing of petition by lieutenant governor -- Certification or rejection -- Petition modification.**

- (1) Within 45 days after the day on which a petition for incorporation is filed under Section 10-2a-507, the lieutenant governor shall:
  - (a) determine whether the petition for incorporation complies with Section 10-2a-507; and
  - (b)
    - (i) if the lieutenant governor determines that the petition for incorporation complies with Section 10-2a-507, incorporate the preliminary municipality, issue a certificate of incorporation, and appoint the board chair and three board members designated under Subsection 10-2a-507(1)(e); or
    - (ii) if the lieutenant governor determines that the petition for incorporation fails to comply with Section 10-2a-507, reject the petition for incorporation and notify the primary sponsor contact in writing of the rejection and the reasons for the rejection.
- (2)
  - (a) If the lieutenant governor rejects a petition for incorporation under Subsection (1)(b)(ii), the sponsors of the petition for incorporation may correct the deficiencies for which the petition for incorporation was rejected and refile the petition for incorporation with the lieutenant governor.
  - (b) Notwithstanding the deadline described in Subsection 10-2a-507(1), the sponsors of the petition for incorporation may file a modified petition for incorporation under Subsection (2)
    - (a) no later than 30 days after the day on which the lieutenant governor notifies the primary sponsor contact of the rejection under Subsection (1)(b)(ii).
- (3)
  - (a) Within 20 days after the day on which the lieutenant governor receives a modified petition for incorporation under Subsection (2)(a), the lieutenant governor shall review the modified petition for incorporation in accordance with Subsection (1).
  - (b) The sponsors of a petition for incorporation may not modify the petition for incorporation more than once.

Enacted by Chapter 534, 2024 General Session

**10-2a-509 Governance of preliminary municipality -- Utilities -- Road maintenance.**

- (1)
  - (a) Within 30 days after the day on which the lieutenant governor issues a certificate of incorporation described in Subsection 10-2a-508(1)(b)(i), the county in which the preliminary municipality is located shall appoint one board member for the preliminary municipality.
  - (b) If the county fails to timely comply with Subsection (1)(a), the board chair and the three board members appointed under Subsection 10-2a-508(1)(b)(i) shall, by majority vote, appoint the final board member.
- (2) The board chair and board members, described in Subsection (1), of a preliminary municipality:
  - (a) are not required to be residents of the preliminary municipality; and
  - (b) shall serve as the board for the preliminary municipality until replaced by election under Section 10-2a-510.

- (3)
  - (a) Within 14 days after the day on which the first residential certificate of occupancy is issued for the development described in Subsection 10-2a-503(5)(e), the engineer described in Subsection 10-2a-509(6), shall notify the county and the lieutenant governor, in writing:
    - (i) that the first residential certificate of occupancy has been issued for the preliminary municipality;
    - (ii) of the date on which the first residential certificate of occupancy was issued; and
    - (iii) of the physical address for which the first residential certificate of occupancy was issued.
  - (b) No later than the next municipal general election, or regular general election, that is at least 30 days after the date described in Subsection (3)(a)(ii), the initial landowners shall:
    - (i) replace the board chair or a board member with an individual who is a resident of the preliminary municipality; and
    - (ii) notify the county and the lieutenant governor of the appointment, in writing.
- (4)
  - (a) Subject to Subsection (4)(b), a preliminary municipality has all the powers and duties of a municipality.
  - (b) A preliminary municipality:
    - (i) may not impose a tax;
    - (ii) may enter into an interlocal agreement with a special district to provide utility services to the preliminary municipality;
    - (iii) has the same authority as another municipality to make decisions regarding zoning and land use;
    - (iv) may not receive an allocation of sales tax or gas tax; and
    - (v) may not exercise eminent domain authority.
- (5) As needed, the county shall provide all services and utility connections to the preliminary municipality that the county provides other areas in the county if the preliminary municipality:
  - (a) pays the uniformly assessed rates for the services and utilities and reasonable connection fees; and
  - (b) complies with the county's established regulations and specifications for the construction and connection of the local improvements.
- (6) The preliminary municipality shall maintain and repair any roadway that, on the day on which the individual filed the feasibility request under Section 10-2a-502:
  - (a) existed within the preliminary municipality;
  - (b) was within a public right of way that abuts the preliminary municipality; or
  - (c) was within 1/2 mile of the preliminary municipality and connected to, or was proposed in the feasibility request to be connected to, the preliminary municipality.
- (7) Before the preliminary municipality submits a petition to transition to a town, the preliminary municipality shall select an independent third-party engineer to review and approve all building permit applications within the preliminary municipality to ensure compliance with the law.
- (8) Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities, does not apply to a preliminary municipality.

Enacted by Chapter 534, 2024 General Session

**10-2a-510 Transitioning from a preliminary municipality to a town -- Petition -- Election of officers.**

- (1) Within 30 days after the day on which the population of a preliminary municipality exceeds 99 people, a person who filed the application to incorporate as a preliminary municipality or

- a resident of the preliminary municipality shall file with the lieutenant governor a petition to transition the preliminary municipality into a town.
- (2) A petition to transition a preliminary municipality into a town shall include:
- (a) a request that the lieutenant governor certify the transition of the preliminary municipality to, and the incorporation of the preliminary municipality as, a town;
  - (b) the name, address, and phone number of the person filing the request;
  - (c) the map or plat of the preliminary municipality;
  - (d) a legal description of the boundaries of the preliminary municipality;
  - (e) information regarding the preliminary municipality, including:
    - (i) the number of residences in the preliminary municipality;
    - (ii) the population of the preliminary municipality;
    - (iii) the number of adults and the number of children who reside in the preliminary municipality; and
    - (iv) information regarding the providers of municipal services and emergency services to the preliminary municipality;
  - (f) the proposed name for the town; and
  - (g) a signature sheet containing the names, addresses, and signatures of a majority of the adult residents of the preliminary municipality, supporting the proposed name for the town.
- (3) Within 30 days after the day on which a person files a petition to transition a preliminary municipality into a town, the lieutenant governor shall:
- (a) determine whether the preliminary municipality has a population of more than 99 people;
  - (b) examine the petition to determine whether the petition complies with Subsection (2);
  - (c) if the lieutenant governor determines that the preliminary municipality has a population of more than 99 people and that the petition complies with Subsection (2), proceed to transition the preliminary municipality as a town in accordance with Subsection (4);
  - (d) if the lieutenant governor determines that the preliminary municipality has a population of less than 100 people, deny the petition, inform the person who filed the petition of the determination, and request that the person refile the petition when the population exceeds 99 people; and
  - (e) if the lieutenant governor determines that the petition fails to comply with Subsection (2), deny the petition, inform the person who filed the petition of the denial and the reason for the denial, and request that the person correct and refile the petition.
- (4) After making the determination described in Subsection (3)(c), the lieutenant governor shall:
- (a) inform the person who filed the petition of the determination;
  - (b) inform the county in which the preliminary municipality is located of the determination; and
  - (c) direct the county to conduct an election for mayor and city council of the future town, to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor directs the county to hold the election.
- (5) The county shall:
- (a) comply with the direction given by the lieutenant governor under Subsection (4)(c);
  - (b) determine the initial terms of the mayor and municipal council members to ensure that:
    - (i) the mayor and two of the municipal county members are elected in the next municipal general election;
    - (ii) the remaining municipal council members are elected at elections that result in the staggering of council member terms; and
    - (iii) the council members who receive the highest number of votes are assigned the longer initial terms; and

- (c) provide notice of the election for the preliminary municipality as a class B notice under Section 63G-30-102, for at least three weeks before the day of the election.
- (6) The notice described in Subsection (5)(c) shall include:
  - (a) a statement of the contents of the petition to transition the preliminary municipality to a town;
  - (b) a description of the area to be incorporated as a town;
  - (c) the name of the town;
  - (d) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council;
  - (e) information about the initial terms of office;
  - (f) a statement of the date and time of the election and the location of polling places; and
  - (g) a statement that the purpose of the election is to elect a mayor and a council to govern the town upon the town's incorporation.
- (7)
  - (a) In addition to the notice described in Subsection (6), the county clerk shall publish and distribute, before the election is held, a voter information pamphlet:
    - (i) in accordance with the procedures and requirements of Section 20A-7-402;
    - (ii) in consultation with the lieutenant governor; and
    - (iii) in a manner that the county clerk determines is adequate.
  - (b) The voter information pamphlet described in Subsection (7)(a):
    - (i) shall inform the public of the election and the purpose of the election; and
    - (ii) may include additional information regarding the election of the elected officials and the incorporation of the town.
- (8) An individual may not vote in the election described in this section unless the individual is a registered voter who is a resident, as defined in Section 20A-1-102, within the boundaries of the preliminary municipality.
- (9) The town, incorporated under Subsection (10)(b), shall pay to the county the cost of running the election described in this section.
- (10) On the day after the day on which the canvass for the election is completed:
  - (a) the elected mayor and council members shall take office and replace the board chair and board members of the preliminary municipality;
  - (b) the lieutenant governor shall issue a certification that the preliminary municipality has transitioned to, and is incorporated as, a town; and
  - (c) subject to Subsection (14), the town holds all authority and power of a town.
- (11) The former mayor and council members for the preliminary municipality shall assist the newly-elected mayor of the town and the newly-elected council members of the town with the transition to a town and the transfer of power to the elected government of the town.
- (12) The initial government of a town incorporated under this section is the five member council form of government described in Chapter 3b, Part 4, Five-Member Council Form of Municipal Government, with the mayor and council members elected at large.
- (13) Within 30 days after the day on which the mayor takes office under Subsection (10)(a), the mayor shall record the certification described in Subsection (10)(b), and a copy of the plat for the municipality, with the county recorder.
- (14) Until the mayor complies with Subsection (13), the municipality may not:
  - (a) levy or collect a property tax on property within the municipality;
  - (b) levy or collect an assessment on property within the municipality; or
  - (c) charge or collect a fee for a service provided to property within the municipality.
- (15) Section 10-2a-220 applies to a town incorporated under this section.

Enacted by Chapter 534, 2024 General Session