

MUNICIPAL INCORPORATION AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO THE UTAH MUNICIPAL CODE; MODIFYING THE MUNICIPAL INCORPORATION PROCESS; ALLOWING THE FILING OF A REQUEST FOR A FEASIBILITY STUDY THAT INCLUDES AN AREA THAT IS THE SUBJECT OF AN ANNEXATION PETITION, UNDER CERTAIN CIRCUMSTANCES; PROVIDING A PROCEDURE IF THE ANNEXATION FAILS; MODIFYING THE REQUIREMENTS FOR THE MAP FILED BY A NEW CITY; REPEALING OBSOLETE PROVISIONS; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

10-2-103, as last amended by Chapter 13, Laws of Utah 1998

10-2-107, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

10-2-121, as last amended by Chapters 85 and 337, Laws of Utah 1998

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

Section 1. Section **10-2-103** is amended to read:

10-2-103. Request for feasibility study -- Requirements -- Limitations.

- (1) The process to incorporate a contiguous area of a county as a city is initiated by a request for a feasibility study filed with the clerk of the county in which the area is located.
- (2) Each request under Subsection (1) shall:
 - (a) be signed by the owners of private real property that:
 - (i) is located within the area proposed to be incorporated;
 - (ii) covers at least 10% of the total private land area within the area; and
 - (iii) is equal in value to at least 7% of the value of all private real property within the area;
 - (b) indicate the typed or printed name and current residence address of each owner signing the request;
 - (c) describe the contiguous area proposed to be incorporated as a city;

(d) designate up to five signers of the request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(e) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed city; and

(f) request the county legislative body to commission a study to determine the feasibility of incorporating the area as a city.

(3) A request for a feasibility study under this section may not ~~[describe]~~ propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2-109(3) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2-111; or

(b) the time provided under Subsection 10-2-109(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the filing of a petition.

(4) ~~[A]~~ (a) Except as provided in Subsection (4)(b), a request under this section may not ~~[describe]~~ propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

~~[(a)]~~ (i) was filed before the filing of the request; and

~~[(b)]~~ (ii) is still pending on the date the request is filed.

(b) Notwithstanding Subsection (4)(a), a request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the request complies with Subsections (2) and (3) with respect to the area proposed for incorporation excluding the proposed annexation area; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation

would not cause the area proposed for incorporation to lose its contiguousness.

(c) Except as provided in Section 10-2-107, each request to which Subsection (4)(b) applies shall be considered as not proposing the incorporation of the area proposed for annexation.

(5) ~~(a)~~ At the time of filing the request for a feasibility study with the county clerk, the sponsors of the request shall mail or deliver a copy of the request to the chair of the planning commission of each township in which any part of the area proposed for incorporation is located.

~~[(b) (i) Except as provided in Subsection (5)(b)(ii), the sponsors of each request for a feasibility study filed under Subsection (1) before July 17, 1997, shall, no later than July 27, 1997, deliver or mail a copy of the request to the planning commission of each township in which any part of the area proposed for incorporation is located.]~~

~~[(ii) Subsection (5)(b)(i) does not apply if the feasibility consultant has completed the feasibility study before July 17, 1997.]~~

Section 2. Section **10-2-107** is amended to read:

10-2-107. Modified request for feasibility study -- Supplemental feasibility study.

(1) (a) ~~(i) [If the results of the feasibility study do not meet the requirements of Subsection 10-2-109(3), the]~~ The sponsors of ~~[the]~~ a request may~~[-, within 90 days of the feasibility consultant's submission of the results of the study;]~~ modify the request to alter the boundaries of the proposed city and then refile the request, as modified, with the county clerk~~[-] if:~~

(A) the results of the feasibility study do not meet the requirements of Subsection 10-2-109(3); or

(B) (I) the request meets the conditions of Subsection 10-2-103(4)(b);

(II) the annexation petition that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and

(III) an incorporation petition based on the request has not been filed.

(ii) (A) A modified request under Subsection (1)(a)(i)(A) may not be filed more than 90 days after the feasibility consultant's submission of the results of the study.

(B) A modified request under Subsection (1)(a)(i)(B) may not be filed more than 18 months after the filing of the original request under Section 10-2-103.

(b) (i) Subject to Subsection (1)(b)(ii), each modified request under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-103(2), (3), (4), and (5)~~(a)~~.

(ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section 10-2-103 may be used toward fulfilling the signature requirement of Subsection 10-2-103(2)(a) for the request as modified under Subsection (1)(a), unless the modified request proposes the incorporation of an area that is more than 20% greater or smaller than the area described by the original request in terms of:

- (A) private land area; or
- (B) value of private real property.

(2) Within 20 days ~~of~~ after the county clerk's receipt of the modified request, the county clerk shall follow the same procedure for the modified request as provided under Subsection 10-2-105(1) for an original request.

(3) The timely filing of a modified request under Subsection (1) gives the modified request the same processing priority under Subsection 10-2-105(2) as the original request.

(4) Within ten days ~~of~~ after the county legislative body's receipt of a certified modified request under Subsection (1)(a)(i)(A) or a certified modified request under Subsection (1)(a)(i)(B) that was filed after the completion of a feasibility study on the original request, the county legislative body shall commission the feasibility consultant who conducted the feasibility study to supplement the feasibility study to take into account the information in the modified request that was not included in the original request.

(5) The county legislative body shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the county legislative body and to the contact sponsor no later than 30 days after the feasibility consultant is commissioned to conduct the supplemental feasibility study.

(6) (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study do not meet the requirements of Subsection 10-2-109(3):

- (i) the sponsors may file a further modified request as provided in Subsection (1); and
- (ii) Subsections (2), (4), and (5) apply to a further modified request under Subsection

(6)(a)(i).

(b) A further modified request under Subsection (6)(a) shall, for purposes of its processing priority, be considered as an original request for a feasibility study under Section 10-2-103.

Section 3. Section **10-2-121** is amended to read:

10-2-121. Division of municipal-type services revenues -- County may provide startup funds -- Filing of plat or map -- Notice requirements.

(1) The county in which an area incorporating under this part is located shall, until the date of the city's incorporation under Section 10-2-122, continue:

(a) to levy and collect ad valorem property tax and other revenues from or pertaining to the future city; and

(b) except as otherwise agreed by the county and the officers-elect of the city after the filing of the notice under Subsection 10-2-120(1), to provide the same services to the future city as the county provided before the commencement of the incorporation proceedings.

(2) The legislative body of the county in which a newly incorporated city is located shall share pro rata with the new city, based on the date of incorporation, the taxes and service charges or fees levied and collected by the county under Section 17-34-3 during the year of the new city's incorporation if and to the extent that the new city provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.

(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 a notice under Subsection 10-2-120(1) is filed, the officers-elect of the future city to pay startup expenses of the future city; or

(ii) after incorporation, the new city.

(b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant, a loan, or as an advance against future distributions under Subsection (2).

(4) (a) Within 30 days of incorporation, the legislative body of the new city shall record with the recorder of the county in which the new city is located a plat or map, prepared by a licensed surveyor and approved by the legislative body[;] of the new city, the county recorder, and county

surveyor, showing the boundaries of the new city.

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