

1 **MUNICIPAL GOVERNMENT AMENDMENTS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Wayne A. Harper**

5 **This act modifies city classification provisions and adds new classifications. The act**
6 **modifies the population size of cities to which certain meeting requirements apply. The**
7 **act modifies the population size of cities subject to certain animal shelter provisions. The**
8 **act modifies the population size of cities to which a maximum charge for newspaper**
9 **official notices applies. The act also makes conforming and technical changes.**

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

11 AMENDS:

12 **9-2-404**, as last amended by Chapters 275 and 334, Laws of Utah 1998

13 **10-1-104**, as last amended by Chapter 209, Laws of Utah 2000

14 **10-2-112**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

15 **10-2-114**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

16 **10-2-125**, as last amended by Chapter 318, Laws of Utah 2000

17 **10-2-301**, as last amended by Chapter 178, Laws of Utah 2001

18 **10-2-405**, as last amended by Chapter 29, Laws of Utah 2002

19 **10-3-105**, as last amended by Chapter 17, Laws of Utah 1999

20 **10-3-205**, as last amended by Chapter 278, Laws of Utah 1997

21 **10-3-205.5**, as enacted by Chapter 278, Laws of Utah 1997

22 **10-3-208**, as last amended by Chapter 272, Laws of Utah 2002

23 **10-3-402**, as last amended by Chapter 147, Laws of Utah 1997

24 **10-3-502**, as enacted by Chapter 48, Laws of Utah 1977

25 **10-3-504**, as enacted by Chapter 48, Laws of Utah 1977

26 **10-3-507**, as enacted by Chapter 48, Laws of Utah 1977

27 **10-3-609**, as enacted by Chapter 48, Laws of Utah 1977



28 **10-3-808**, as enacted by Chapter 48, Laws of Utah 1977
29 **10-3-809**, as last amended by Chapter 147, Laws of Utah 1997
30 **10-3-810**, as last amended by Chapter 59, Laws of Utah 1990
31 **10-3-811**, as enacted by Chapter 48, Laws of Utah 1977
32 **10-3-812**, as enacted by Chapter 48, Laws of Utah 1977
33 **10-3-916**, as last amended by Chapter 207, Laws of Utah 1987
34 **10-3-917**, as enacted by Chapter 48, Laws of Utah 1977
35 **10-3-918**, as last amended by Chapter 219, Laws of Utah 2002
36 **10-3-919**, as enacted by Chapter 48, Laws of Utah 1977
37 **10-3-920**, as last amended by Chapter 186, Laws of Utah 1991
38 **10-3-1208**, as enacted by Chapter 48, Laws of Utah 1977
39 **10-3-1212**, as last amended by Chapter 47, Laws of Utah 1981
40 **10-6-106**, as last amended by Chapter 300, Laws of Utah 1999
41 **10-6-111**, as last amended by Chapter 300, Laws of Utah 1999
42 **10-6-135**, as last amended by Chapter 12, Laws of Utah 2002
43 **10-6-139**, as enacted by Chapter 26, Laws of Utah 1979
44 **10-6-148**, as enacted by Chapter 26, Laws of Utah 1979
45 **10-6-153**, as last amended by Chapter 243, Laws of Utah 1996
46 **10-6-154**, as last amended by Chapter 4, Laws of Utah 1993
47 **10-6-157**, as last amended by Chapter 119, Laws of Utah 1985
48 **10-7-7**, as last amended by Chapter 2, Laws of Utah 1970
49 **10-8-90**, Utah Code Annotated 1953
50 **10-8-91**, as last amended by Chapter 3, Laws of Utah 1988
51 **10-9-307**, as last amended by Chapter 159, Laws of Utah 2002
52 **10-11-1**, Utah Code Annotated 1953
53 **10-17-102**, as last amended by Chapter 318, Laws of Utah 2000
54 **11-14-3**, as last amended by Chapter 270, Laws of Utah 2000
55 **17-42-102**, as last amended by Chapter 318, Laws of Utah 2000
56 **17A-2-1302**, as last amended by Chapter 1, Laws of Utah 2000
57 **17A-2-1308**, as renumbered and amended by Chapter 186, Laws of Utah 1990
58 **17A-3-306**, as last amended by Chapter 84, Laws of Utah 1997

59 **17A-3-317**, as last amended by Chapter 5, Laws of Utah 1991
60 **17A-3-407**, as last amended by Chapter 84, Laws of Utah 1997
61 **20A-5-301**, as last amended by Chapter 228, Laws of Utah 1993
62 **20A-7-601**, as last amended by Chapter 45, Laws of Utah 1999
63 **20A-9-404**, as last amended by Chapter 328, Laws of Utah 2000
64 **32A-2-101**, as last amended by Chapter 132, Laws of Utah 1991
65 **32A-3-101**, as last amended by Chapter 354, Laws of Utah 2001
66 **32A-4-101**, as last amended by Chapter 87, Laws of Utah 2002
67 **32A-5-101**, as last amended by Chapter 132, Laws of Utah 1991
68 **32A-10-201**, as last amended by Chapter 87, Laws of Utah 2002
69 **45-1-2**, as last amended by Chapter 43, Laws of Utah 1983
70 **53-6-106**, as last amended by Chapter 243, Laws of Utah 1996
71 **57-11-4**, as last amended by Chapter 165, Laws of Utah 1991
72 **67-3-8**, as last amended by Chapter 300, Laws of Utah 1999
73 **72-3-104**, as last amended by Chapter 324, Laws of Utah 2000
74 **72-8-102**, as renumbered and amended by Chapter 270, Laws of Utah 1998

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

76 Section 1. Section **9-2-404** is amended to read:

77 **9-2-404. Criteria for designation of enterprise zones -- Application.**

78 (1) A county applicant seeking designation as an enterprise zone shall file an
79 application with the department that, in addition to complying with other requirements of this
80 part:

81 (a) verifies that the entire county is not located in a metropolitan statistical area that is
82 entirely located within Utah;

83 (b) verifies that the county has a population of 50,000 or less; and

84 (c) provides clear evidence of the need for development in the county.

85 (2) A municipal applicant seeking designation as an enterprise zone shall file an
86 application with the department that, in addition to complying with other requirements of this
87 part:

88 (a) verifies that the municipality [~~has a population of 10,000 persons or less~~] is a city of
89 the fifth class or a town;

90 (b) verifies that the municipality is within a county that has a population of 50,000 or
91 less; and

92 (c) provides clear evidence of the need for development in the municipality.

93 (3) An application filed under Subsection (1) or (2) shall be in a form and in accordance
94 with procedures approved by the department, and shall include the following information:

95 (a) a plan developed by the county applicant or municipal applicant that identifies local
96 contributions meeting the requirements of Section 9-2-405;

97 (b) the county applicant or municipal applicant has a development plan that outlines:

98 (i) the types of investment and development within the zone that the county applicant

99 or municipal applicant expects to take place if the incentives specified in this part are provided;

100 (ii) the specific investment or development reasonably expected to take place;

101 (iii) any commitments obtained from businesses;

102 (iv) the projected number of jobs that will be created and the anticipated wage level of
103 those jobs;

104 (v) any proposed emphasis on the type of jobs created, including any affirmative action
105 plans; and

106 (vi) a copy of the county applicant's or municipal applicant's economic development
107 plan to demonstrate coordination between the zone and overall county or municipal goals;

108 (c) the county applicant's or municipal applicant's proposed means of assessing the
109 effectiveness of the development plan or other programs to be implemented within the zone
110 once they have been implemented;

111 (d) any additional information required by the department; and

112 (e) any additional information the county applicant or municipal applicant considers
113 relevant to its designation as an enterprise zone.

114 Section 2. Section **10-1-104** is amended to read:

115 **10-1-104. Definitions.**

116 As used in this title:

117 (1) "City" [~~includes~~] means a municipality that is classified by population as a city of
118 the first class, a city of the second class, [and] a city of the third class, [as classified in] a city of
119 the fourth class, or a city of the fifth class, under Section 10-2-301.

120 (2) "Contiguous" means:

121 (a) if used to described an area, continuous, uninterrupted, and without an island of
122 territory not included as part of the area; and

123 (b) if used to describe an area's relationship to another area, sharing a common
124 boundary.

125 (3) "Governing body" means collectively the legislative body and the executive of any
126 municipality. Unless otherwise provided:

127 (a) in a city of the first or second class, the governing body is the city commission;

128 (b) in a city of the third, fourth, or fifth class, the governing body is the city council;

129 and

130 (c) in a town, the governing body is the town council.

131 (4) "Municipal" means of or relating to a municipality.

132 (5) "Municipality" means a city of the first class, city of the second class, city of the
133 third class, city of the fourth class, city of the fifth class, or a town, as classified in Section
134 10-2-301.

135 (6) "Peninsula," when used to describe an unincorporated area, means an area
136 surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated
137 territory and situated so that the length of a line drawn across the unincorporated area from an
138 incorporated area to an incorporated area on the opposite side shall be less than 25% of the
139 total aggregate boundaries of the unincorporated area.

140 (7) "Person" means an individual, corporation, partnership, organization, association,
141 trust, governmental agency, or any other legal entity.

142 (8) "Provisions of law" shall include other statutes of the state of Utah and ordinances,
143 rules, and regulations properly adopted by any municipality unless the construction is clearly
144 contrary to the intent of state law.

145 (9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.

146 (10) "Town" means a municipality classified by population as a town [~~as classified in~~]
147 under Section 10-2-301.

148 (11) "Unincorporated" means not within a municipality.

149 Section 3. Section **10-2-112** is amended to read:

150 **10-2-112. Ballot used at the incorporation election.**

151 (1) The ballot at the incorporation election under Subsection 10-2-111(1) shall pose the

152 incorporation question substantially as follows:

153 Shall the area described as (insert a description of the proposed city) be incorporated as
154 the city of (insert the proposed name of the proposed city)?

155 (2) The ballot shall provide a space for the voter to answer yes or no to the question in
156 Subsection (1).

157 (3) (a) The ballot at the incorporation election shall also pose the question relating to
158 the form of government substantially as follows:

159 If the above incorporation proposal passes, under what form of municipal government
160 shall (insert the name of the proposed city) operate? Vote for one:

161 City (insert "Commission" for a city of the first or second class or "Council" for a city
162 of the third, fourth, or fifth class) form

163 Council-Mayor form

164 Council-Manager form.

165 (b) The ballot shall provide a space for the voter to vote for one form of government.

166 (4) (a) The ballot at the incorporation election shall also pose the question of whether
167 to elect city commission or council members by district substantially as follows:

168 If the above incorporation proposal passes, shall members of the city (insert
169 "commission" or "council," as the case may be) of (insert the name of the proposed city) be
170 elected by district?

171 (b) The ballot shall provide a space for the voter to answer yes or no to the question in
172 Subsection (4)(a).

173 Section 4. Section **10-2-114** is amended to read:

174 **10-2-114. Determination of number of commission or council members --**

175 **Determination of election districts -- Hearings and notice.**

176 (1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of
177 the canvass of the election under Section 10-2-111:

178 (a) if the voters at the incorporation election choose either the council-mayor or the
179 council-manager form of government, determine the number of commission or council
180 members that will constitute the commission or council of the future city;

181 (b) if the voters at the incorporation election vote to elect commission or council
182 members by district, determine the number of commission or council members to be elected by

183 district and draw the boundaries of those districts, which shall be substantially equal in
184 population;

185 (c) determine the initial terms of the mayor and members of the city commission or
186 council so that:

187 (i) the mayor and approximately half the members of the city commission or council
188 are elected to serve an initial term, of no less than one year, that allows their successors to serve
189 a full four-year term that coincides with the schedule established in Subsection 10-3-203(1) for
190 a first class city, Subsection 10-3-204(1) for a second class city, and Subsection 10-3-205(1)
191 for a third, fourth, or fifth class city; and

192 (ii) the remaining members of the city commission or council are elected to serve an
193 initial term, of no less than one year, that allows their successors to serve a full four-year term
194 that coincides with the schedule established in Subsection 10-3-203(2) for a first class city,
195 Subsection 10-3-204(2) for a second class city, and Subsection 10-3-205(2) for a third, fourth,
196 or fifth class city; and

197 (d) submit in writing to the county legislative body the results of the sponsors'
198 determinations under Subsections (1)(a), (b), and (c).

199 (2) (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition
200 sponsors shall hold a public hearing within the future city on the applicable issues under
201 Subsections (1)(a), (b), and (c).

202 (b) (i) The petition sponsors shall publish notice of the public hearing under Subsection
203 (2)(a) in a newspaper of general circulation within the future city at least once a week for two
204 successive weeks before the hearing.

205 (ii) The last publication of notice under Subsection (2)(b)(i) shall be at least three days
206 before the public hearing under Subsection (2)(a).

207 (c) (i) If there is no newspaper of general circulation within the future city, the petition
208 sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous
209 places within the future city that are most likely to give notice of the hearing to the residents of
210 the future city.

211 (ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven
212 days before the hearing under Subsection (2)(a).

213 Section 5. Section **10-2-125** is amended to read:

214 **10-2-125. Incorporation of a town.**

215 (1) (a) A contiguous area of a county not within a municipality, with a population of at
216 least 100 but [~~not more~~] less than [~~800~~] 1,000, may incorporate as a town as provided in this
217 section.

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

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

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

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

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

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

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

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

231 (ii) state the legal description of the boundaries of the area proposed to be incorporated
232 as a town; and

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

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

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

238 We, the undersigned owners of real property within the area described in this petition,
239 respectfully petition the county legislative body to examine the question of whether the area
240 should incorporate as a town. Each of the undersigned affirms that each has personally signed
241 this petition and is an owner of real property within the described area, and that the current
242 residence address of each is correctly written after the signer's name. The area proposed to be
243 incorporated as a town is described as follows: (insert an accurate description of the area
244 proposed to be incorporated).

245 (c) A petition under this section may not describe an area that includes some or all of
246 an area proposed for annexation in an annexation petition under Section 10-2-403 that:

- 247 (i) was filed before the filing of the petition; and
248 (ii) is still pending on the date the petition is filed.

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

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

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

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

263 (5) Upon approval of a petition filed under Subsection (2), the legislative body of the
264 county in which the proposed town is located shall appoint a mayor and members of the town
265 council who shall hold office until the next regular municipal election and until their
266 successors are elected and qualified.

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

269 (ii) The articles of incorporation shall meet the requirements of Subsection
270 10-2-119(2).

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

- 273 (i) certify the articles of incorporation;
274 (ii) return a copy of the articles of incorporation to the appointed mayor; and
275 (iii) send a copy of the articles of incorporation to the recorder of the county in which

276 the town is located.

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

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

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

285 Section 6. Section **10-2-301** is amended to read:

286 **10-2-301. Classification of municipalities according to population.**

287 (1) Each municipality shall be classified according to its population, as provided in this
288 section.

289 (2) (a) A municipality with a population of 100,000 or more is a city of the first class.

290 (b) A municipality with a population of [~~60,000~~] 65,000 or more but less than 100,000
291 is a city of the second class.

292 (c) A municipality with a population of [~~1,000~~] 30,000 or more but less than [~~60,000~~]
293 65,000 is a city of the third class.

294 (d) A municipality with a population of 10,000 or more but less than 30,000 is a city of
295 the fourth class.

296 (e) A municipality with a population of 1,000 or more but less than 10,000 is a city of
297 the fifth class.

298 [~~(f)~~] (f) A municipality with a population under 1,000 is a town.

299 Section 7. Section **10-2-405** is amended to read:

300 **10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.**

301 (1) (a) (i) (A) A municipal legislative body may:

302 (I) except as provided in Subsection (1)(b) and subject to Subsection (1)(a)(i)(B), deny
303 a petition filed under Section 10-2-403; or

304 (II) accept the petition for further consideration under this part.

305 (B) A petition shall be considered to have been accepted for further consideration
306 under this part if a municipal legislative body fails to act to deny or accept the petition under

307 Subsection (1)(a)(i)(A):

308 (I) in the case of a city of the first or second class, within 14 days after the filing of the
309 petition; or

310 (II) in the case of a city of the third, fourth, or fifth class or a town, at the next regularly
311 scheduled meeting of the municipal legislative body that is at least 14 days after the date the
312 petition was filed.

313 (ii) If a municipal legislative body denies a petition under Subsection (1)(a)(i)(A), it
314 shall, within five days of the denial, mail written notice of the denial to the contact sponsor, the
315 clerk of the county in which the area proposed for annexation is located, and the chair of the
316 planning commission of each township in which any part of the area proposed for annexation is
317 located.

318 (b) A municipal legislative body may not deny a petition filed under Section 10-2-403
319 proposing to annex an area located in a county of the first class if:

320 (i) the petition contains the signatures of the owners of private real property that:

321 (A) is located within the area proposed for annexation;

322 (B) covers a majority of the private land area within the area proposed for annexation;

323 and

324 (C) is equal in value to at least 1/2 of the value of all private real property within the
325 area proposed for annexation;

326 (ii) the population in the area proposed for annexation does not exceed 10% of the
327 population of the proposed annexing municipality;

328 (iii) the property tax rate for municipal services in the area proposed to be annexed is
329 higher than the property tax rate of the proposed annexing municipality; and

330 (iv) all annexations by the proposed annexing municipality during the year that the
331 petition was filed have not increased the municipality's population by more than 20%.

332 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i)(A) or
333 is considered to have accepted the petition under Subsection (1)(a)(i)(B), the city recorder or
334 town clerk, as the case may be, shall, within 30 days of that acceptance:

335 (a) with the assistance of the municipal attorney and of the clerk, surveyor, and
336 recorder of the county in which the area proposed for annexation is located, determine whether
337 the petition meets the requirements of Subsections 10-2-403(2), (3), and (4); and

338 (b) (i) if the city recorder or town clerk determines that the petition meets those
339 requirements, certify the petition and mail or deliver written notification of the certification to
340 the municipal legislative body, the contact sponsor, the county legislative body, and the chair of
341 the planning commission of each township in which any part of the area proposed for
342 annexation is located; or

343 (ii) if the city recorder or town clerk determines that the petition fails to meet any of
344 those requirements, reject the petition and mail or deliver written notification of the rejection
345 and the reasons for the rejection to the municipal legislative body, the contact sponsor, the
346 county legislative body, and the chair of the planning commission of each township in which
347 any part of the area proposed for annexation is located.

348 (3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(b)(ii),
349 the petition may be modified to correct the deficiencies for which it was rejected and then
350 refiled with the city recorder or town clerk, as the case may be.

351 (ii) A signature on an annexation petition filed under Section 10-2-403 may be used
352 toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as
353 modified under Subsection (3)(a)(i).

354 (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city
355 recorder or town clerk under Subsection (2)(b)(ii), the refiled petition shall be treated as a
356 newly filed petition under Subsection 10-2-403(1).

357 (4) Each county clerk, surveyor, and recorder shall cooperate with and assist a city
358 recorder or town clerk in the determination under Subsection (2)(a).

359 Section 8. Section **10-3-105** is amended to read:

360 **10-3-105. Governing body in cities of the third, fourth, and fifth class.**

361 Except as provided under Subsection 10-2-303(1)(f), the governing body of each city of
362 the third, fourth, or fifth class that has not adopted an optional form of government under Part
363 12, Alternative Forms of Municipal Government Act, shall be a council composed of six
364 members, one of whom shall be the mayor and the remaining five shall be council members.

365 Section 9. Section **10-3-205** is amended to read:

366 **10-3-205. Election of officers in cities of the third, fourth, and fifth class.**

367 In [cities] each city of the third, fourth, or fifth class, the election and terms of office
368 shall be as follows:

369 (1) The offices of mayor and two council members shall be filled in municipal
370 elections held in 1977. The terms shall be for four years. These offices shall be filled every
371 four years in municipal elections.

372 (2) The offices of the other three council members shall be filled in a municipal
373 election held in 1979. The terms shall be for four years. These offices shall be filled every
374 four years in municipal elections.

375 Section 10. Section **10-3-205.5** is amended to read:

376 **10-3-205.5. At-large election of officers of first, second, and third class -- Election**
377 **of commissioners or council members.**

378 (1) Except as provided in Subsection (2), the officers of each [~~first, second, and third~~
379 ~~class~~] city shall be elected in an at-large election held at the time and in the manner provided
380 for electing municipal officers.

381 (2) (a) Notwithstanding Subsection (1), the governing body of a [~~first, second, or third~~
382 ~~class~~] city may by ordinance provide for the election of some or all commissioners or council
383 members, as the case may be, by district equal in number to the number of commissioners or
384 council members elected by district.

385 (b) (i) Each district shall be of substantially equal population as the other districts.

386 (ii) Within six months after the Legislature completes its redistricting process, the
387 governing body of each [~~municipality~~] city that has adopted an ordinance under Subsection
388 (2)(a) shall make any adjustments in the boundaries of the districts as may be required to
389 maintain districts of substantially equal population.

390 Section 11. Section **10-3-208** is amended to read:

391 **10-3-208. Campaign financial disclosure in municipal elections.**

392 (1) (a) (i) [~~By August 1, 1995, each~~] Each first [~~and~~], second [~~class city and each~~],
393 ~~third, and fourth~~ class city [~~having a population of 10,000 or more~~] shall adopt an ordinance
394 establishing campaign finance disclosure requirements for candidates for city office.

395 (ii) [~~By August 1, 2001, each third~~] Each fifth class city [~~with a population under~~
396 ~~10,000~~] and [~~each~~] town shall adopt an ordinance establishing campaign finance disclosure
397 requirements for candidates for city or town office who:

398 (A) receive more than \$750 in campaign contributions; or

399 (B) spend more than \$750 on their campaign for city or town office.

400 (b) The ordinance required under Subsection (1)(a) shall include:

401 (i) a requirement that each candidate for municipal office to whom the ordinance
402 applies report the candidate's itemized and total campaign contributions and expenditures at
403 least once seven days before the municipal general election and at least once 30 days after the
404 municipal general election;

405 (ii) a definition of "contribution" and "expenditure" that requires reporting of
406 nonmonetary contributions such as in-kind contributions and contributions of tangible things;
407 and

408 (iii) a requirement that the financial reports identify:

409 (A) for each contribution of more than \$50, the name of the donor of the contribution
410 and the amount of the contribution; and

411 (B) for each expenditure, the name of the recipient and the amount of the expenditure.

412 (2) (a) Except as provided in Subsection (2)(b), if a city or town fails to adopt a
413 campaign finance disclosure ordinance as required under Subsection (1), candidates for office
414 in that city or town shall comply with the financial reporting requirements contained in
415 Subsections (3) through (6).

416 (b) (i) If a city or town adopts a campaign finance disclosure ordinance that meets the
417 requirements of Subsection (1), that city or town need not comply with the requirements of
418 Subsections (3) through (6).

419 (ii) Subsection (2)(a) and the financial reporting requirements of Subsections (3)
420 through (6) do not apply to a candidate for municipal office who:

421 (A) is a candidate for municipal office in a fifth class city [~~with a population under~~
422 ~~10,000~~] or a town; and

423 (B) (I) receives \$750 or less in campaign contributions; and

424 (II) spends \$750 or less on the candidate's campaign for municipal office.

425 (3) If there is no municipal ordinance meeting the requirements of this section upon the
426 dates specified in Subsection (1), each candidate for elective municipal office shall file a signed
427 campaign financial statement with the city recorder:

428 (a) seven days before the date of the municipal general election, reporting each
429 contribution of more than \$50 and each expenditure as of ten days before the date of the
430 municipal general election; and

431 (b) no later than 30 days after the date of the municipal general election.

432 (4) (a) The statement filed seven days before the municipal general election shall
433 include:

434 (i) a list of each contribution of more than \$50 received by the candidate, and the name
435 of the donor;

436 (ii) an aggregate total of all contributions of \$50 or less received by the candidate; and

437 (iii) a list of each expenditure for political purposes made during the campaign period,
438 and the recipient of each expenditure.

439 (b) The statement filed 30 days after the municipal general election shall include:

440 (i) a list of each contribution of more than \$50 received after the cutoff date for the
441 statement filed seven days before the election, and the name of the donor;

442 (ii) an aggregate total of all contributions of \$50 or less received by the candidate after
443 the cutoff date for the statement filed seven days before the election; and

444 (iii) a list of all expenditures for political purposes made by the candidate after the
445 cutoff date for the statement filed seven days before the election, and the recipient of each
446 expenditure.

447 (5) Candidates for elective municipal office who are eliminated at a primary election
448 shall file a signed campaign financial statement containing the information required by this
449 section not later than 30 days after the primary election.

450 (6) Any person who fails to comply with this section is guilty of an infraction.

451 (7) A city or town may, by ordinance, enact requirements that:

452 (a) require greater disclosure of campaign contributions and expenditures; and

453 (b) impose additional penalties.

454 (8) (a) If a candidate fails to file an interim report due before the municipal general
455 election, the city recorder shall, after making a reasonable attempt to discover if the report was
456 timely mailed, inform the appropriate election officials who:

457 (i) shall, if practicable, remove the name of the candidate by blacking out the
458 candidate's name before the ballots are delivered to voters; or

459 (ii) shall, if removing the candidate's name from the ballot is not practicable, inform
460 the voters by any practicable method that the candidate has been disqualified and that votes
461 cast for the candidate will not be counted; and

462 (iii) may not count any votes for that candidate.

463 (b) Notwithstanding Subsection (8)(a), a candidate is not disqualified if:

464 (i) the candidate files the reports required by this section;

465 (ii) those reports are completed, detailing accurately and completely the information
466 required by this section except for inadvertent omissions or insignificant errors or inaccuracies;
467 and

468 (iii) those omissions, errors, or inaccuracies are corrected in an amended report or in
469 the next scheduled report.

470 (9) (a) Any private party in interest may bring a civil action in district court to enforce
471 the provisions of this section or any ordinance adopted under this section.

472 (b) In a civil action filed under Subsection (9)(a), the court may award costs and
473 attorney's fees to the prevailing party.

474 Section 12. Section **10-3-402** is amended to read:

475 **10-3-402. Mayor in third, fourth, or fifth class city -- Mayor may not vote --**

476 **Exceptions.**

477 The mayor in a city of the third, fourth, or fifth class may not vote, except in case of a
478 tie vote of the council or in the appointment or dismissal of a city manager under Section
479 10-3-830.

480 Section 13. Section **10-3-502** is amended to read:

481 **10-3-502. Meetings in cities of the third, fourth, or fifth class and towns.**

482 In [~~cities~~] each city of the third, fourth, or fifth class and [~~towns~~] each town, the
483 governing body shall by ordinance prescribe the time and place for holding its regular meeting
484 which shall be held at least once each month. If at any time the business of such city or town
485 requires a special meeting of the governing body, such meeting may be ordered by the mayor or
486 any two members of the governing body. The order shall be entered in the minutes of the
487 governing body. The order shall provide at least three hours' notice of the special meeting and
488 notice thereof shall be served by the recorder or clerk on each member who did not sign the
489 order by delivering the notice personally or by leaving it at the member's usual place of abode.
490 The personal appearance by a member at any specially called meeting constitutes a waiver of
491 the notice required in this section.

492 Section 14. Section **10-3-504** is amended to read:

493 **10-3-504. Quorum defined.**

494 The number of members of the governing body necessary to constitute a quorum is, in:

495 [~~(a) cities~~] (1) a city of the first class, three or more;496 [~~(b) cities~~] (2) a city of the second class, two or more;497 [~~(c) cities~~] (3) a city of the third, fourth, or fifth class, three or more;498 [~~(d) towns~~] (4) a town, three or more.499 Section 15. Section **10-3-507** is amended to read:500 **10-3-507. Minimum vote required.**501 (1) The minimum number of yes votes required to pass any ordinance, resolution, or to
502 take any action by the governing body unless otherwise prescribed by law, shall be a majority
503 of the members of the quorum, but shall never be less than:504 (a) three in [~~cities~~] a city of the first class;505 (b) two in [~~cities~~] a city of the second class;506 (c) three in [~~cities~~] a city of the third, fourth, or fifth class; and507 (d) three in [~~towns~~] a town.508 (2) Any ordinance, resolution, or motion of the governing body having fewer favorable
509 votes than required [~~herein~~] in this section shall be [~~deemed~~] considered defeated and invalid,
510 except a meeting may be adjourned to a specific time by a majority vote of the governing body
511 even though such majority vote is less than that required [~~herein~~] in this section.512 (3) A majority of the members of the governing body, regardless of number, may fill
513 any vacancy in the governing body.514 Section 16. Section **10-3-609** is amended to read:515 **10-3-609. Action on committee reports.**516 Final action on any report of any committee appointed by the governing body shall be
517 deferred to the next regular meeting of the governing body on the request of any two members,
518 except that the council in [~~cities~~] a city of the third, fourth, or fifth class [~~and towns~~] or a town
519 may call a special meeting to consider final action.520 Section 17. Section **10-3-808** is amended to read:521 **10-3-808. Administration vested in mayor.**522 The administrative powers, authority, and duties in [~~cities~~] a city of the third, fourth, or
523 fifth class and [~~towns~~] a town are vested in the mayor.

524 Section 18. Section **10-3-809** is amended to read:

525 **10-3-809. Powers of mayors in a city of third, fourth, or fifth class or a town.**

526 (1) The mayor in a city of the third, fourth, or fifth class or a town is the chief
527 executive officer to whom all employees of the municipality shall report.

528 (2) The mayor shall:

529 (a) keep the peace and enforce the laws of the city or town;

530 (b) remit fines and forfeitures;

531 (c) report remittances under Subsection (2)(b) to the council at its next regular session;

532 (d) perform all duties prescribed by law, resolution, or ordinance;

533 (e) ensure that all the laws, ordinances, and resolutions are faithfully executed and
534 observed;

535 (f) report to the council the condition of the city or town and recommend for council
536 consideration any measures that the mayor considers to be in the best interests of the city or
537 town;

538 (g) when necessary, call on the residents of the city or town over the age of 21 years to
539 assist in enforcing the laws of the state and ordinances of the municipality;

540 (h) appoint, with the advice and consent of the council, persons to fill municipal offices
541 or vacancies on commissions or committees of the municipality; and

542 (i) report to the council any release granted under Subsection (4)(b).

543 (3) Subsection (2)(h) does not apply to the appointment of a manager under Section
544 10-3-830.

545 (4) The mayor may:

546 (a) at any reasonable time, examine and inspect the official books, papers, records, or
547 documents of the city or town or any officer, employee, or agent of the city or town; and

548 (b) release any person imprisoned for violation of any municipal ordinance.

549 Section 19. Section **10-3-810** is amended to read:

550 **10-3-810. Additional powers and duties of elected officials in a city of the third,**
551 **fourth, or fifth class or a town.**

552 [~~All cities~~] A city of the third, fourth, or fifth class [and towns] or a town may by
553 resolution prescribe additional duties, powers, and responsibilities for any elected or appointed
554 official which are not prohibited by any specific statute, except that the mayor may not serve as

555 recorder and neither the mayor nor the recorder may serve as treasurer. A justice court judge
556 may not hold any other municipal office or position of employment with the municipality.

557 Section 20. Section **10-3-811** is amended to read:

558 **10-3-811. Members of the governing body may be appointed to administration in**
559 **a city of the third, fourth, or fifth class or a town.**

560 The mayor of any city of the third, fourth, or fifth class or the mayor of any town may,
561 with the advice and consent of the majority of the governing body, assign or appoint any
562 member or members of the governing body to administer one or more departments of the
563 municipality and shall by ordinance provide the salary for the administrator or administrators.

564 Section 21. Section **10-3-812** is amended to read:

565 **10-3-812. Change of duties in a city of the third, fourth, or fifth class or a town.**

566 The mayor of a city of the third, fourth, or fifth class or a town may, with the
567 concurrence of a majority of the governing body, change the administrative assignment of any
568 member of the governing body who is serving in any administrative position in the municipal
569 government.

570 Section 22. Section **10-3-916** is amended to read:

571 **10-3-916. Appointment of recorder and treasurer in a city of third, fourth, or**
572 **fifth class or a town -- Vacancies in office.**

573 (1) In each city of the third, fourth, or fifth class and in each town, on or before the first
574 Monday in February following a municipal election, the mayor, with the advice and consent of
575 the city council, shall appoint a qualified person to each of the offices of city recorder and
576 treasurer.

577 (2) The city recorder is ex officio the city auditor and shall perform the duties of that
578 office.

579 (3) The mayor, with the advice and consent of the council, may also appoint and fill
580 vacancies in all offices provided for by law or ordinance.

581 (4) All appointed officers shall continue in office until their successors are appointed
582 and qualified.

583 Section 23. Section **10-3-917** is amended to read:

584 **10-3-917. Engineer in a city of the third, fourth, or fifth class or town.**

585 The governing body of [~~cities~~] a city of the third, fourth, or fifth class [~~and towns~~] or a

586 town may by ordinance establish the office of municipal engineer and prescribe the duties and
587 obligations for that office which are consistent with the duties and obligations of the city
588 engineer in cities of the first and second class. [~~Where~~] If a city of the third, fourth, or fifth
589 class or town uses the engineer employed by the county in which the municipality is located,
590 the municipality may, by ordinance prescribe for its municipal engineer either the duties of a
591 municipal engineer or, if different, the duties of the county engineer, or a combination of
592 duties.

593 Section 24. Section **10-3-918** is amended to read:

594 **10-3-918. Chief of police or marshal in a city of the third, fourth, or fifth class or**
595 **town.**

596 The chief of police or marshal in [a] each city of the third, fourth, or fifth class or town:

597 (1) shall:

598 (a) exercise and perform the duties that are prescribed by the legislative body;

599 (b) be under the direction, control, and supervision of the person or body that appointed
600 the chief or marshal; and

601 (c) on or before January 1, 2003, adopt a written policy that prohibits the stopping,
602 detention, or search of any person when the action is solely motivated by considerations of
603 race, color, ethnicity, age, or gender; and

604 (2) may, with the consent of the person or body that appointed the chief or marshal,
605 appoint assistants to the chief of police or marshal.

606 Section 25. Section **10-3-919** is amended to read:

607 **10-3-919. Powers, duties, and obligations of police chief, marshal, and their**
608 **assistants in a city of the third, fourth, or fifth class or town.**

609 The chief of police, marshals, and their assistants in [~~cities~~] a city of the third, fourth, or
610 fifth class [~~and towns~~] or town shall have all of the powers, rights, and duties respectively
611 conferred on such officers in Sections 10-3-913 through 10-3-915.

612 Section 26. Section **10-3-920** is amended to read:

613 **10-3-920. Bail commissioner -- Powers and duties.**

614 (1) With the advice and consent of the city council and the board of commissioners in
615 other cities, the mayor of a city of the third, fourth, or fifth class may appoint from among the
616 officers and members of the police department of the city one or more discreet persons as a bail

617 commissioner.

618 (2) A bail commissioner shall have authority to fix and receive bail for a person
619 arrested within the corporate limits of the city in accordance with the uniform bail schedule
620 adopted by the Judicial Council or a reasonable bail for city ordinances not contained in the
621 schedule for:

622 (a) misdemeanors under the laws of the state; or

623 (b) violation of the city ordinances.

624 (3) A person who has been ordered by a bail commissioner to give bail may deposit
625 with the bail commissioner the amount:

626 (a) in money, by cash, certified or cashier's check, personal check with check guarantee
627 card, money order, or credit card, if the bail commissioner has chosen to establish any of those
628 options; or

629 (b) by a bond issued by a bail bond surety qualified under the rules of the Judicial
630 Council.

631 (4) Any money or bond collected by a bail commissioner shall be delivered to the
632 appropriate court within three days of receipt of the money or bond.

633 (5) The court may review the amount of bail ordered by a bail commissioner and
634 modify the amount of bail required for good cause.

635 Section 27. Section **10-3-1208** is amended to read:

636 **10-3-1208. Election of officers -- When new government operative --**

637 **Compensation of officials without position in new government.**

638 Upon approval of an optional form of government by a municipality pursuant to this
639 part, election of officers shall be held in the municipality on the Tuesday next following the
640 first Monday in November following approval of the optional form, or on the same day in the
641 year next following, whichever day falls in an odd-numbered year. The new government shall
642 become effective at 12 [~~o'clock~~] noon on the first Monday of January following the election of
643 officers. Elected officials of the municipality whose positions would no longer exist as a result
644 of the adoption of a form of government provided for in this [act] part shall be paid at the same
645 rate until the date on which their terms would have expired, if they hold no municipal office in
646 the new government for which they are regularly compensated. At their option, former
647 commissioners of a first and second class [~~cities~~] city, council members of third, fourth, or fifth

648 class [~~cities~~] city, or board members of [~~towns~~] a town may serve as one of the council
649 members for the remainder of their term.

650 Section 28. Section **10-3-1212** is amended to read:

651 **10-3-1212. Meetings of council -- Access to records.**

652 (1) In municipalities organized under an optional form of government provided for in
653 this [~~act~~] part, the council shall prescribe by ordinance the time and place of its regular
654 meetings provided that the council shall hold at least two public meetings each month in [~~cities~~
655 ~~with 3,000 or more population~~] a city of the first, second, third, or fourth class and at least one
656 meeting each month in [~~municipalities with less than 3,000 population~~] a city of the fifth class
657 or town. All meetings of the council shall be held in compliance with the provisions of Title
658 52, Chapter 4, [~~relating to~~] Open and Public Meetings.

659 (2) The books, records, and accounts of the council shall be kept at the office of the
660 city recorder or town clerk. Individual citizens or citizen groups may have access to all public
661 records with the exception of personnel records, which have not been classified as confidential
662 for public policy purposes.

663 Section 29. Section **10-6-106** is amended to read:

664 **10-6-106. Definitions.**

665 As used in this chapter:

666 (1) "Account group" is defined by generally accepted accounting principles as reflected
667 in the Uniform Accounting Manual for Utah Cities.

668 (2) "Appropriation" means an allocation of money by the governing body for a specific
669 purpose.

670 (3) (a) "Budget" means a plan of financial operations for a fiscal period which
671 embodies estimates of proposed expenditures for given purposes and the proposed means of
672 financing them.

673 (b) "Budget" may refer to the budget of a particular fund for which a budget is required
674 by law or it may refer collectively to the budgets for all such funds.

675 (4) "Budgetary fund" means a fund for which a budget is required.

676 (5) "Budget officer" means the city auditor in [~~cities~~] a city of the first and second
677 class, the mayor or some person appointed by the mayor with the approval of the city council in
678 [~~cities~~] a city of the third, fourth, or fifth class, the mayor in the council-mayor optional form of

679 government, or the person designated by the charter in a charter [cities] city.

680 (6) "Budget period" means the fiscal period for which a budget is prepared.

681 (7) "Check" means an order in a specific amount drawn upon a depository by an
682 authorized officer of a city.

683 (8) "Current period" means the fiscal period in which a budget is prepared and adopted,
684 i.e., the fiscal period next preceding the budget period.

685 (9) "Department" means any functional unit within a fund that carries on a specific
686 activity, such as a fire or police department within a General Fund.

687 (10) "Encumbrance system" means a method of budgetary control in which part of an
688 appropriation is reserved to cover a specific expenditure by charging obligations, such as
689 purchase orders, contracts, or salary commitments to an appropriation account at their time of
690 origin. Such obligations cease to be encumbrances when paid or when the actual liability is
691 entered on the city's books of account.

692 (11) "Estimated revenue" means the amount of revenue estimated to be received from
693 all sources during the budget period in each fund for which a budget is being prepared.

694 (12) "Financial officer" means the mayor in the council-mayor optional form of
695 government or the city official as authorized by Section 10-6-158.

696 (13) "Fiscal period" means the annual or biennial period for accounting for fiscal
697 operations in each city.

698 (14) "Fund" is as defined by generally accepted accounting principles as reflected in
699 the Uniform Accounting Manual for Utah Cities.

700 (15) "Fund balance," "retained earnings," and "deficit" have the meanings commonly
701 accorded such terms under generally accepted accounting principles as reflected in the Uniform
702 Accounting Manual for Utah Cities.

703 (16) "Governing body" means a city council, or city commission, as the case may be,
704 but the authority to make any appointment to any position created by this chapter is vested in
705 the mayor in the council-mayor optional form of government.

706 (17) "Interfund loan" means a loan of cash from one fund to another, subject to future
707 repayment and does not constitute an expenditure or a use of retained earnings or fund balance
708 of the lending fund or revenue to the borrowing fund.

709 (18) "Last completed fiscal period" means the fiscal period next preceding the current

710 period.

711 (19) "Public funds" means any money or payment collected or received by an officer or
712 employee of the city acting in an official capacity and includes money or payment to the officer
713 or employee for services or goods provided by the city, or the officer or employee while acting
714 within the scope of employment or duty. Public funds do not include money or payments
715 collected or received by an officer or employee of a city for charitable purposes if the mayor or
716 city council has consented to the officer's or employee's participation in soliciting contributions
717 for a charity.

718 (20) "Special fund" means any fund other than the General Fund.

719 (21) "Warrant" means an order drawn upon the city treasurer, in the absence of
720 sufficient money in the city's depository, by an authorized officer of a city for the purpose of
721 paying a specified amount out of the city treasury to the person named or to the bearer as
722 money becomes available.

723 Section 30. Section **10-6-111** is amended to read:

724 **10-6-111. Tentative budget to be prepared -- Contents -- Estimate of expenditures**
725 **-- Budget message -- Review by governing body.**

726 (1) On or before the first regularly scheduled meeting of the governing body in the last
727 May of the current period, the budget officer shall prepare for the ensuing fiscal period, on
728 forms provided by the state auditor, and file with the governing body, a tentative budget for
729 each fund for which a budget is required. The tentative budget of each fund shall set forth in
730 tabular form the following:

731 (a) Actual revenues and expenditures in the last completed fiscal period.

732 (b) Budget estimates for the current fiscal period.

733 (c) Actual revenues and expenditures for a period of [~~six~~] 6 to 21 months, as
734 appropriate, of the current fiscal period.

735 (d) Estimated total revenues and expenditures for the current fiscal period.

736 (e) The budget officer's estimates of revenues and expenditures for the budget period,
737 computed in the following manner:

738 (i) The budget officer shall estimate, on the basis of demonstrated need, the
739 expenditures for the budget period after a review of the budget requests and estimates of the
740 department heads. Each department head shall be heard by the budget officer prior to making

741 of the final estimates, but the officer may revise any department's estimate as the officer
742 considers advisable for the purpose of presenting the budget to the governing body.

743 (ii) The budget officer shall estimate the amount of revenue available to serve the
744 needs of each fund, estimate the portion to be derived from all sources other than general
745 property taxes, and estimate the portion that must be derived from general property taxes.
746 From the latter estimate the officer shall compute and disclose in the budget the lowest rate of
747 property tax levy that will raise the required amount of revenue, calculating the levy upon the
748 latest taxable value.

749 (f) If the governing body elects, actual performance experience to the extent
750 established by Section 10-6-154 and available in work units, unit costs, man hours, or man
751 years for each budgeted fund on an actual basis for the last completed fiscal period, and
752 estimated for the current fiscal period and for the ensuing budget period.

753 (2) (a) Each tentative budget, when filed by the budget officer with the governing body,
754 shall contain the estimates of expenditures submitted by department heads, together with
755 specific work programs and such other supporting data as this chapter requires or the governing
756 body may request. [~~First and second class cities~~] Each city of the first or second class shall,
757 and [~~third class cities~~] a city of the third, fourth, or fifth class may, submit a supplementary
758 estimate of all capital projects which each department head believes should be undertaken
759 within the next three succeeding years.

760 (b) Each tentative budget submitted by the budget officer to the governing body shall
761 be accompanied by a budget message, which shall explain the budget, contain an outline of the
762 proposed financial policies of the city for the budget period, and shall describe the important
763 features of the budgetary plan. It shall set forth the reasons for salient changes from the
764 previous fiscal period in appropriation and revenue items and shall explain any major changes
765 in financial policy.

766 (3) Each tentative budget shall be reviewed, considered, and tentatively adopted by the
767 governing body in any regular meeting or special meeting called for the purpose and may be
768 amended or revised in such manner as is considered advisable prior to public hearings, except
769 that no appropriation required for debt retirement and interest or reduction of any existing
770 deficits pursuant to Section 10-6-117, or otherwise required by law or ordinance, may be
771 reduced below the minimums so required.

772 (4) [~~In the event~~] If the municipality is acting pursuant to Section 10-2-120, the
773 tentative budget shall be submitted to the governing body 60 days prior to the intended filing of
774 the articles of incorporation and shall cover each fund for which a budget is required from the
775 date of incorporation to the end of the fiscal year. The governing body shall substantially
776 comply with all other provisions of this act, and the budget shall be passed upon incorporation.

777 Section 31. Section **10-6-135** is amended to read:

778 **10-6-135. Operating and capital budgets.**

779 (1) On or before the time the governing body adopts budgets for the funds set forth in
780 Section 10-6-109, it shall adopt for the ensuing fiscal period an "operating and capital budget"
781 for each enterprise fund and shall adopt the type of budget for other special funds as required
782 by the Uniform Accounting Manual for Utah Cities.

783 (2) An "operating and capital budget," for purposes of this section, means a plan of
784 financial operation for an enterprise or other required special fund, embodying estimates of
785 operating resources and expenses and other outlays for a fiscal period. Except as otherwise
786 expressly provided, the reference to "budget" or "budgets" and the procedures and controls
787 relating to them in other sections of this chapter do not apply or refer to the "operating and
788 capital budgets" provided for in this section.

789 (3) "Operating and capital budgets" shall be adopted and administered in the following
790 manner:

791 (a) On or before the first regularly scheduled meeting of the governing body in the last
792 May of the current period, the budget officer shall prepare for the ensuing fiscal period and file
793 with the governing body a tentative operating and capital budget for each enterprise fund and
794 for other required special funds, together with specific work programs as submitted by the
795 department head and any other supporting data required by the governing body.

796 (b) [~~First and second class cities~~] Each city of the first or second class shall, and
797 [~~third class cities~~] a city of the third, fourth, or fifth class may, submit a supplementary
798 estimate of all capital projects which the department head believes should be undertaken within
799 the three next succeeding fiscal periods.

800 (c) The budget officer shall prepare estimates in cooperation with the appropriate
801 department heads. Each department head shall be heard by the budget officer prior to making
802 final estimates, but thereafter the officer may revise any department's estimate for the purpose

803 of presenting the budget to the governing body.

804 (d) If within any enterprise fund, allocations or transfers which cannot be defined as a
805 reasonable allocation of costs between funds are included in a tentative budget, a written notice
806 as to date, time, place, and purpose of the hearing is to be mailed to utility fund customers at
807 least seven days prior to the hearing.

808 (4) The tentative budget or budgets shall be reviewed and considered by the governing
809 body at any regular meeting or special meeting called for that purpose. The governing body
810 may make changes in the tentative budgets.

811 (5) Budgets for enterprise or other required special funds shall comply with the public
812 hearing requirements established in Sections 10-6-113 and 10-6-114.

813 (6) Before the last June 30 of each fiscal period, or, in the case of a property tax
814 increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a
815 property tax increase is proposed, the governing body shall adopt an operating and capital
816 budget for each applicable fund for the ensuing fiscal period. A copy of the budget as finally
817 adopted for each fund shall be:

818 (a) certified by the budget officer;

819 (b) filed by the officer in the office of the city auditor or city recorder;

820 (c) available to the public during regular business hours; and

821 (d) filed with the state auditor within 30 days after adoption.

822 (7) Upon final adoption, the operating and capital budget shall be in effect for the
823 budget period, subject to later amendment. During the budget period the governing body may,
824 in any regular meeting or special meeting called for that purpose, review any one or more of the
825 operating and capital budgets for the purpose of determining if the total of any of them should
826 be increased. ~~[In the event]~~ If the governing body decides that the budget total of one or more
827 of these funds should be increased, the procedures set forth in Section 10-6-136 shall be
828 followed.

829 (8) Expenditures from operating and capital budgets shall conform to the requirements
830 relating to budgets specified in Sections 10-6-121 through 10-6-126.

831 Section 32. Section **10-6-139** is amended to read:

832 **10-6-139. City auditor or recorder -- Bookkeeping duties -- Duties with respect to**
833 **payment of claims.**

834 (1) The city auditor in [~~cities~~] each city of the first and second class, and the city
835 recorder in [~~cities~~] each city of the third, fourth, or fifth class shall maintain the general books
836 for each fund of the city and all subsidiary records relating thereto, including a list of the
837 outstanding bonds, their purpose, amount, terms, date, and place payable.

838 (2) (a) The city auditor or city recorder, as appropriate, shall keep accounts with all
839 receiving and disbursing officers of the city, shall preaudit all claims and demands against the
840 city before they are allowed, and shall prepare the necessary checks in payment. [~~Such~~]

841 (b) Those checks shall include an appropriate certification pursuant to Section 11-1-1,
842 examples of which shall be presented in the Uniform Accounting Manual for Utah Cities.

843 (c) The city auditor or city recorder shall also certify on the voucher or check copy, as
844 appropriate, that:

845 [~~(1)~~] (i) the claim has been preaudited and documented[;];

846 [~~(2)~~] (ii) the claim has been approved in one of the following ways:

847 [~~(a)~~] (A) purchase order directly approved by the mayor in the council-mayor optional
848 form of government, or the governing body or its delegate in other cities;

849 [~~(b)~~] (B) claim directly approved by the governing body; or

850 [~~(c)~~] (C) claim approved by the financial officer[;];

851 [~~(3)~~] (iii) the claim is within the lawful debt limit of the city[;]; and

852 [~~(4)~~] (iv) the claim does not overexpend the appropriate departmental budget
853 established by the governing body.

854 Section 33. Section **10-6-148** is amended to read:

855 **10-6-148. Monthly and quarterly financial reports -- Cities of the third, fourth,**
856 **and fifth class.**

857 The city recorder or other delegated person in [~~cities~~] each city of the third, fourth, or
858 fifth class shall prepare and present to the governing body monthly summary financial reports
859 and quarterly detail financial reports, prepared in the manner prescribed in the Uniform
860 Accounting Manual for Utah Cities.

861 Section 34. Section **10-6-153** is amended to read:

862 **10-6-153. Municipal government fiscal committee created -- Members -- Terms --**
863 **Vacancies -- Recommendations.**

864 (1) There is hereby created a municipal government fiscal committee, the members of

865 which shall be:

866 (a) all auditors of cities of the first class and two auditors from cities of the second
867 class appointed by the state auditor;

868 (b) four elected or appointed municipal officials, two of whom shall be from larger
869 cities of the third class [~~and two~~], one of whom shall be from [~~smaller~~] cities of the [~~third~~]
870 fourth class, and one of whom shall be from cities of the fifth class, appointed by the state
871 auditor from a list recommended by the Utah League of Cities and Towns; and

872 (c) two additional members who are knowledgeable in the area of municipal fiscal
873 affairs appointed by the state auditor.

874 (2) (a) Members shall be appointed to four-year terms on the committee, provided that
875 the term of an elected or appointed official shall terminate upon ceasing to be an elected
876 official or an employee of the city for which such person worked when appointed.

877 (b) Notwithstanding the requirements of Subsection (2)(a), the auditor shall, at the time
878 of appointment or reappointment, adjust the length of terms to ensure that the terms of
879 committee members are staggered so that approximately half of the committee is appointed
880 every two years.

881 (3) Any vacancy shall be filled by the state auditor from the same class as the original
882 appointment as described in Subsection (1). Members may be reappointed.

883 (4) The advisory committee shall assist, advise, and make recommendations to the
884 state auditor in the preparation of uniform accounting and reporting procedures and program
885 and performance accounting, budgeting, and reporting for cities.

886 (5) (a) Members shall receive no compensation or benefits for their services, but may
887 receive per diem and expenses incurred in the performance of the member's official duties at
888 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

889 (b) Members may decline to receive per diem and expenses for their service.

890 (c) Local government members who do not receive salary, per diem, or expenses from
891 the entity that they represent for their service may receive per diem and expenses incurred in
892 the performance of their official duties at the rates established by the Division of Finance under
893 Sections 63A-3-106 and 63A-3-107.

894 (d) Local government members may decline to receive per diem and expenses for their
895 service.

896 Section 35. Section **10-6-154** is amended to read:

897 **10-6-154. Duties of state auditor and committee -- Adoption and expansion of**
898 **uniform system.**

899 (1) The state auditor with the assistance, advice, and recommendations of the
900 municipal government fiscal committee shall:

901 (a) prescribe uniform accounting and reporting procedures for cities, in conformity
902 with generally accepted accounting principles;

903 (b) conduct a continuing review and modification of such procedures to improve them;

904 (c) prepare and supply each city with suitable budget and reporting forms; and

905 (d) prepare instructional materials, conduct training programs and render other services
906 deemed necessary to assist cities in implementing the uniform accounting, budgeting and
907 reporting procedures.

908 (2) The Uniform Accounting Manual for Utah Cities shall prescribe reasonable
909 exceptions and modifications for [~~smaller third~~] fourth and fifth class cities to the uniform
910 system of accounting, budgeting, and reporting.

911 (3) The advisory committee shall establish and conduct a continuing review of
912 suggested measurements and procedures for program and performance budgeting and reporting
913 which may be evaluated on a statewide basis.

914 (4) Cities may expand the uniform accounting and reporting procedures to better serve
915 their needs; however, no deviations from or alterations to the basic prescribed classification
916 systems for the identity of funds and accounts shall be made.

917 Section 36. Section **10-6-157** is amended to read:

918 **10-6-157. Director of finance in certain cities.**

919 The governing body of [~~third~~] a city of the third, fourth, or fifth class [~~cities~~] may, and
920 the cities under an optional form of city government shall, by resolution or ordinance, create a
921 director of finance position to perform the financial duties and responsibilities of the city
922 recorder in third, fourth, and fifth class cities or the city auditor in first and second class cities,
923 as established by this chapter. The director of finance shall be a qualified person appointed and
924 removed with the advice and consent of the governing body, and may not assume the duties of
925 the city treasurer. The governing body may also adopt the financial administrative duties of the
926 director of finance prescribed in the Uniform Accounting Manual for Utah Cities.

927 Section 37. Section **10-7-7** is amended to read:

928 **10-7-7. Bond issues for water, light, and sewers.**

929 [~~Any~~] (1) A city of the first or second class may incur an indebtedness, not exceeding
930 in the aggregate with all other indebtedness [~~eight per cent~~] 8% of the value of the taxable
931 property [~~therein~~] in the city, for the purpose of supplying [~~such~~] the city with water, artificial
932 light, or sewers, when the works for supplying [~~such~~] the water, light, and sewers [~~shall be~~] are
933 owned and controlled by the [~~municipality~~] city. [~~Any~~]

934 (2) A city of the third, fourth, or fifth class [~~and any~~] or a town may become indebted
935 to an amount not exceeding in the aggregate with all other indebtedness [~~twelve per cent~~] 12%
936 of the value of the taxable property [~~therein~~] in the city or town for the purpose of supplying
937 [~~such~~] the city or town with water, artificial light, or sewers, when the works for supplying
938 [~~such~~] the water, light, and sewers [~~shall be~~] are owned and controlled by the [~~municipality~~]
939 city or town.

940 Section 38. Section **10-8-90** is amended to read:

941 **10-8-90. Ownership and operation of hospitals.**

942 [~~Cities~~] Each city of the third, fourth, or fifth class and [~~towns~~] each town of the state
943 [~~of Utah are hereby~~] is authorized to construct, own, and operate hospitals and to join with
944 other cities, towns, and counties in the construction, ownership, and operation of hospitals.

945 Section 39. Section **10-8-91** is amended to read:

946 **10-8-91. Levy of tax by cities of the third, fourth, and fifth class and towns.**

947 [~~Cities~~] A city of the third, fourth, or fifth class [~~and towns of the state are authorized~~
948 to] or a town may levy a tax not exceeding .001 per dollar of taxable value of taxable property
949 for the purposes [~~above-mentioned~~] stated in Section 10-8-90.

950 Section 40. Section **10-9-307** is amended to read:

951 **10-9-307. Plans for moderate income housing.**

952 (1) The availability of moderate income housing is an issue of statewide concern. To
953 this end:

954 (a) municipalities should afford a reasonable opportunity for a variety of housing,
955 including moderate income housing, to meet the needs of people desiring to live there; and

956 (b) moderate income housing should be encouraged to allow persons with moderate
957 incomes to benefit from and to fully participate in all aspects of neighborhood and community

958 life.

959 (2) As used in this section:

960 (a) "Moderate income housing" means housing occupied or reserved for occupancy by
961 households with a gross household income equal to or less than 80% of the median gross
962 income of the metropolitan statistical area for households of the same size.

963 (b) "Plan for moderate income housing" or "plan" means a written document adopted
964 by a municipal legislative body that includes:

965 (i) an estimate of the existing supply of moderate income housing located within the
966 municipality;

967 (ii) an estimate of the need for moderate income housing in the municipality for the
968 next five years as revised annually;

969 (iii) a survey of total residential zoning;

970 (iv) an evaluation of how existing zoning densities affect opportunities for moderate
971 income housing; and

972 (v) a description of the municipality's program to encourage an adequate supply of
973 moderate income housing.

974 (3) Before December 31, 1998, each municipal legislative body shall, as part of its
975 general plan, adopt a plan for moderate income housing within that municipality.

976 (4) A plan may provide moderate income housing by any means or combination of
977 techniques which provide a realistic opportunity to meet estimated needs. The plan may include
978 an analysis of why the means or techniques selected provide a realistic opportunity to meet the
979 objectives of this section. Such techniques may include:

980 (a) rezoning for densities necessary to assure the economic viability of inclusionary
981 developments, either through mandatory set asides or density bonuses;

982 (b) infrastructure expansion and rehabilitation that will facilitate the construction of
983 moderate income housing;

984 (c) rehabilitation of existing uninhabitable housing stock;

985 (d) consideration of waiving construction related fees generally imposed by the
986 municipality;

987 (e) utilization of state or federal funds or tax incentives to promote the construction of
988 moderate income housing;

989 (f) utilization of programs offered by the Utah Housing Corporation within that
990 agency's funding capacity; and

991 (g) utilization of affordable housing programs administered by the Department of
992 Community and Economic Development.

993 (5) (a) After adoption of a plan for moderate income housing under Subsection (3), the
994 legislative body of each city that is located within a county of the first or second class and of
995 each other city [~~with a population over 10,000~~] of the first, second, third, or fourth class shall
996 annually:

997 (i) review the plan and its implementation; and

998 (ii) prepare a report setting forth the findings of the review.

999 (b) Each report under Subsection (5)(a)(ii) shall include a description of:

1000 (i) efforts made by the municipality to reduce, mitigate, or eliminate local regulatory
1001 barriers to moderate income housing;

1002 (ii) actions taken by the municipality to encourage preservation of existing moderate
1003 income housing and development of new moderate income housing;

1004 (iii) progress made within the municipality to provide moderate income housing, as
1005 measured by permits issued for new units of moderate income housing; and

1006 (iv) efforts made by the municipality to coordinate moderate income housing plans and
1007 actions with neighboring municipalities.

1008 (c) The legislative body of each city that is located within a county of the first or
1009 second class and of each other city [~~with a population over 10,000~~] of the first, second, third, or
1010 fourth class shall send a copy of the report under Subsection (5)(a)(ii) to the Department of
1011 Community and Economic Development and the association of governments in which the
1012 municipality is located.

1013 Section 41. Section **10-11-1** is amended to read:

1014 **10-11-1. Abatement of weeds, garbage, refuse, and unsightly objects.**

1015 [~~The city commissioners of cities of the first and second class and the city councils of~~
1016 ~~the cities of the third class, and the board of trustees of towns,] A municipal legislative body
1017 may designate, and regulate the abatement of, injurious and noxious weeds, garbage, refuse, or
1018 any unsightly or deleterious objects or structures, and may appoint a [~~city~~] municipal inspector
1019 for the purpose of carrying out the provisions of this chapter.~~

1020 Section 42. Section **10-17-102** is amended to read:

1021 **10-17-102. Definitions.**

1022 As used in this chapter:

1023 (1) "Animal" means a cat or dog.

1024 (2) "Animal shelter" means a facility or program:

1025 (a) providing services for stray, lost, or unwanted animals, including holding and
1026 placing the animals for adoption, but does not include an institution conducting research on
1027 animals, as defined in Section 26-26-1; and

1028 (b) operated by:

1029 (i) a first or second class county as defined in Section 17-50-501;

1030 (ii) a [~~municipality with a population of 40,000 or greater~~] city of the first, second, or
1031 third class;

1032 (iii) a first or second class county operating the shelter jointly with any municipality; or

1033 (iv) a private humane society or private animal welfare organization located within a
1034 first or second class county or within a [~~municipality with a population of 40,000 or greater~~]
1035 city of the first, second, or third class.

1036 (3) "Person" means an individual, an entity, or a representative of an entity.

1037 (4) "Proof of sterilization" means a written document signed by a veterinarian licensed
1038 under Title 58, Chapter 28, Veterinary Practice Act, stating:

1039 (a) a specified animal has been sterilized;

1040 (b) the date on which the sterilization was performed; and

1041 (c) the location where the sterilization was performed.

1042 (5) "Recipient" means the person to whom an animal shelter transfers an animal for
1043 adoption.

1044 (6) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a
1045 recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in
1046 accordance with an agreement between the recipient or the claimant and the animal shelter.

1047 (7) "Sterilized" means that an animal has been surgically altered, either by the spaying
1048 of a female animal or by the neutering of a male animal, so it is unable to reproduce.

1049 (8) "Transfer" means that an animal shelter sells, gives away, places for adoption, or
1050 transfers an animal to a recipient.

1051 Section 43. Section **11-14-3** is amended to read:

1052 **11-14-3. Notice of election -- Contents -- Publication -- Mailing.**

1053 (1) (a) Notice of the election shall be published once a week during three consecutive
1054 weeks in a newspaper designated in accordance with Section 11-14-21, the first publication to
1055 be not less than 21 nor more than 35 days before the election.

1056 (b) If no official newspaper is designated, the notices shall be published in a newspaper
1057 published in the municipality, or if no newspaper is published in the municipality, the notices
1058 shall be published in a newspaper having general circulation in the municipality.

1059 (2) When the debt service on the bonds to be issued will increase the property tax
1060 imposed upon the average value of a residence by an amount that is greater than or equal to \$15
1061 per year, the governing body shall, at least seven days but not more than 30 days before the
1062 bond election, if the bond election is not held on the date of a regular primary election, a
1063 municipal primary election, a regular general election, or a municipal general election, either
1064 mail:

1065 (a) written notice of the bond election on a minimum three inch by five inch postcard
1066 to every household containing a registered voter who is eligible to vote on the bonds; or

1067 (b) a voter information pamphlet prepared by the governing body, if one is prepared,
1068 that includes the information required by Subsection (4).

1069 (3) (a) Except as provided in Subsection (3)(b), election notice given for any bond
1070 election held in this state need not be posted by any persons.

1071 (b) (i) In a city of the third, fourth, or fifth class [~~cities~~] or [~~towns~~] a town where no
1072 newspaper is published, the governing body may require that notice of a bond election be given
1073 by posting in lieu of the publication requirements of Subsection (1).

1074 (ii) When the governing body imposes a posting requirement, the city recorder, town
1075 clerk, or other officer designated by the governing body shall post notice of the bond election in
1076 at least five public places in the city or town at least 21 days before the election.

1077 (4) The printed, posted, and mailed notice required by this section shall identify:

1078 (a) the date and place of the election;

1079 (b) the hours during which the polls will be open; and

1080 (c) the purpose for which the bonds are to be issued, the maximum amount of bonds to
1081 be issued, and the maximum number of years to maturity of the bonds.

1082 (5) The governing body shall pay the costs associated with the printed, posted, and
1083 mailed notice required by this section.

1084 Section 44. Section **17-42-102** is amended to read:

1085 **17-42-102. Definitions.**

1086 As used in this chapter:

1087 (1) "Animal" means a cat or dog.

1088 (2) "Animal shelter" means a facility or program:

1089 (a) providing services for stray, lost, or unwanted animals, including holding and
1090 placing the animals for adoption, but does not include an institution conducting research on
1091 animals, as defined in Section 26-26-1; and

1092 (b) operated by:

1093 (i) a first or second class county as defined in Section 17-50-501;

1094 (ii) a [~~municipality with a population of 40,000 or greater~~] city of the first, second, or
1095 third class;

1096 (iii) a first or second class county operating the shelter jointly with any municipality; or

1097 (iv) a private humane society or private animal welfare organization located within a
1098 first or second class county or within a [~~municipality with a population of 40,000 or greater~~]
1099 city of the first, second, or third class.

1100 (3) "Person" means an individual, an entity, or a representative of an entity.

1101 (4) "Proof of sterilization" means a written document signed by a veterinarian licensed
1102 under Title 58, Chapter 28, Veterinary Practice Act, stating:

1103 (a) a specified animal has been sterilized;

1104 (b) the date on which the sterilization was performed; and

1105 (c) the location where the sterilization was performed.

1106 (5) "Recipient" means the person to whom an animal shelter transfers an animal for
1107 adoption.

1108 (6) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a
1109 recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in
1110 accordance with an agreement between the recipient or the claimant and the animal shelter.

1111 (7) "Sterilized" means that an animal has been surgically altered either by the spaying
1112 of a female animal or by the neutering of a male animal, so it is unable to reproduce.

1113 (8) "Transfer" means that an animal shelter sells, gives away, places for adoption, or
1114 transfers an animal to a recipient.

1115 Section 45. Section **17A-2-1302** is amended to read:

1116 **17A-2-1302. Definitions.**

1117 As used in this part:

1118 (1) "County" means a county of this state and includes any such county regardless of
1119 the form of government under which it is operating.

1120 (2) "Facility" or "facilities" means any structure, building, system, land, water right,
1121 and other real and personal property required to provide any service authorized by Section
1122 17A-2-1304, including, without limitation, all related and appurtenant easements and
1123 rights-of-way, improvements, utilities, landscaping, sidewalks, roads, curbs and gutters, and
1124 equipment and furnishings.

1125 (3) "Governing authority" means the board or body, however designated, in which the
1126 general legislative powers of a county, municipality, or improvement district are vested [~~and~~
1127 ~~includes the board of commissioners of a county or a city of the first or second class, the city~~
1128 ~~council of a city of the third class, the town council of a town, and the board of trustees of an~~
1129 ~~improvement district]~~.

1130 (4) "Guaranteed bonds" mean bonds the annual debt service on which is or will be
1131 guaranteed by one or more taxpayers owning property within the boundaries of the service
1132 district.

1133 (5) "Improvement district" means an improvement district established under Chapter 2,
1134 Part 3, County Improvement Districts for Water, Sewerage, Flood Control, Electric and Gas.

1135 (6) "Municipality" means a city or town of this state.

1136 (7) "Service district" means a special service district established in the manner
1137 provided by this part under Article XIV, Section 8 of the Constitution of Utah.

1138 Section 46. Section **17A-2-1308** is amended to read:

1139 **17A-2-1308. Publication of notice.**

1140 The notice of intention to establish a service district shall be published at least once a
1141 week during three consecutive weeks, the first publication to be not less than 21 days nor more
1142 than 35 days before the hearing, in a newspaper having general circulation in the county or
1143 municipality proposing the establishment of the service district; except for service districts

1144 located entirely within [~~cities~~] a city of the third, fourth, or fifth class or [~~towns~~] a town where
1145 there is no newspaper published in the city or town, the governing authority of that city or town
1146 may provide that the notice of intention may be given by posting in lieu of publication of the
1147 notice. In this event the notice of intention shall be posted by the city recorder, town clerk, or
1148 other officer designated by the governing authority in at least five public places in the city or
1149 town at least 21 days before the hearing. If the service district proposed to be established by a
1150 county includes any part of another county or counties or improvement district or if proposed
1151 by a municipality includes any part of another municipality or improvement district, the notice
1152 of intention shall also be published or posted in each such other county or counties,
1153 municipality or municipalities, or improvement district, as the case may be.

1154 Section 47. Section **17A-3-306** is amended to read:

1155 **17A-3-306. Notice of intention to create district -- Publication -- Mailing.**

1156 (1) (a) The notice of intention shall be published in a newspaper published in the
1157 municipality, or if there is no newspaper published in the municipality, then in a newspaper
1158 having general circulation in the municipality.

1159 (b) In a city of the third, fourth, or fifth class or a town where there is no newspaper
1160 published or of general circulation in the city or town, the governing body may provide that the
1161 notice of intention be given by posting in lieu of publication of this notice.

1162 (2) If the notice is published, it shall be published once during each week for four
1163 successive weeks, the last publication to be at least five days and not more than 20 days prior to
1164 the time fixed in the notice as the last day for filing of protests.

1165 (3) If the notice is posted, it shall be posted in at least three public places in the
1166 municipality at least 20 and not more than 35 days prior to the time fixed in the notice as the
1167 last day for the filing of protests.

1168 (4) (a) No later than ten days after the first publication or posting of the notice, it shall
1169 be mailed, postage prepaid:

1170 (i) addressed to each owner of property to be assessed within the special improvement
1171 district at the last-known address of that owner using for this purpose the names and addresses
1172 appearing on the last completed real property assessment rolls of the county in which the
1173 property is located; and

1174 (ii) addressed to "owner" at the street number of each piece of improved property to be

1175 assessed.

1176 (b) If a street number has not been assigned, then the post office box, rural route
1177 number, or any other mailing address of the improved property shall be used for the mailing of
1178 the notice under Subsection (4)(a)(ii).

1179 Section 48. Section **17A-3-317** is amended to read:

1180 **17A-3-317. Assessment list -- Board of equalization and review -- Hearings --**
1181 **Appeal -- Corrections -- Report -- Waiver of objections.**

1182 (1) Before an assessment is levied, an assessment list shall be prepared designating
1183 each parcel of property proposed to be assessed and the amount of the assessment apportioned
1184 to this property as provided in this part.

1185 (2) (a) Upon completion of the assessment list, the governing body shall:

1186 (i) appoint a board of equalization and review consisting of three or more of the
1187 members of the governing body or, at the option of the governing body of any municipality,
1188 consisting of the municipal recorder or a designee, the municipal engineer or public works
1189 director or a designee, or the municipal attorney or a designee; and

1190 (ii) give public notice of the completion of the assessment list and of the time and place
1191 of the holding of public hearings relating to the proposed assessments.

1192 (b) If the board of equalization and review consists of other than members of the
1193 governing body of the municipality, appeal from a decision of the board of equalization and
1194 review shall be taken to the governing body of the municipality by filing a written notice of
1195 appeal in the offices of the city or town recorder within 15 days from the date the board's final
1196 report to the governing body is mailed to the affected property owners as provided in
1197 Subsection (7).

1198 (3) (a) The notice shall be published in a newspaper published in the municipality or, if
1199 there is no newspaper published in the municipality, in a newspaper having general circulation
1200 in the municipality. In [~~cities~~] a city of the third, fourth, or fifth class or [~~towns~~] a town where
1201 there is no newspaper published, the governing body may provide that the notice be given by
1202 posting in lieu of publication.

1203 (b) The notice shall be published at least one time or, if posted, shall be posted in at
1204 least three public places in the municipality. In either case, the first publication or posting shall
1205 be at least 20 and not more than 35 days prior to the date the board will begin its hearings.

1206 (4) Not later than ten days after the first publication or posting of the notice, the notice
1207 shall be mailed, postage prepaid:

1208 (a) addressed to each owner of property to be assessed within the special improvement
1209 district at the last-known address of the owner, using for this purpose the names and addresses
1210 appearing on the last completed real property assessment rolls of the county in which the
1211 property is located; and

1212 (b) addressed to "owner" at the street number of each piece of improved property to be
1213 assessed. If a street number has not been assigned, then the post office box, rural route
1214 number, or any other mailing address of the improved property shall be used for the mailing of
1215 the notice.

1216 (5) The board of equalization and review shall convene at the time and place specified
1217 in the notice. Hearings shall be held on not less than three consecutive days for at least one
1218 hour between [~~9:00~~] 9 a.m. and [~~9:00~~] 9 p.m. as specified in the notice. The hearings may be
1219 adjourned or recessed from time to time to a specific place and a specific hour and day until the
1220 work of the board shall have been completed. At each hearing the board shall hear arguments
1221 from any person who believes himself to be aggrieved, including arguments relating to the
1222 benefits accruing to any tract, block, lot, or parcel of property in the district or relating to the
1223 amount of the proposed assessment against that tract, block, lot, or parcel.

1224 (6) (a) After the hearings have been completed, the board shall consider all facts and
1225 arguments presented and shall make those corrections in any proposed assessment as it may
1226 consider just and equitable. These corrections may eliminate one or more pieces of property or
1227 may increase or decrease the amount of the assessment proposed to be levied against any piece
1228 of property.

1229 (b) If the corrections result in an increase of any proposed assessment, before
1230 approving the corrected assessment list, the board shall cause to be mailed, to each owner of
1231 property whose assessment is to be increased, a notice stating that the assessment will be
1232 increased, the amount of the proposed new assessment, that a hearing will be held at which the
1233 owner may appear and make any objections to the increase, and the time and place of the
1234 hearing. The notice shall be mailed to the last known address of the owner, using for this
1235 purpose the names and addresses appearing on the last completed real property assessment rolls
1236 of the county where the affected property is located. A copy of the notice shall be addressed to

1237 "owner" and shall be so mailed addressed to the street number of each piece of improved
1238 property to be affected by the increased assessment. If a street number has not been assigned,
1239 then the post office box, rural route number, or any other mailing address of the improved
1240 property shall be used for the mailing of the notice. The notice shall be mailed at least 15 days
1241 prior to the date stated in the notice for the holding of the new hearing.

1242 (7) (a) After all corrections have been made and all hearings, including hearings under
1243 Subsection (6), have been held, the board shall report to the governing body its findings that
1244 each piece of property within the special improvement district will be benefited in an amount
1245 not less than the assessment to be levied against the property, and that no piece of property
1246 listed on the assessment will bear more than its proportionate share of the cost of the
1247 improvement.

1248 (b) The board shall cause to be mailed a copy of the board's final report to each owner
1249 of property who objected at the hearings of the board to the assessment proposed to be levied
1250 against his property.

1251 (c) The findings of the board, when approved by the governing body or after passage of
1252 time for appeal and review by the governing body of the city, shall be final and, except as
1253 provided in Subsection (2)(b), no appeal may be taken from them.

1254 (d) After receipt of the report from the board and the running of the appeal period
1255 provided in Subsection (2)(b), if applicable, the governing body may proceed with the levy of
1256 the assessments.

1257 (8) Each person whose property is subject to assessment and who fails to appear before
1258 the board of equalization and review to raise his objections to the levy of the assessment shall
1259 be deemed to have waived all objections to the levy except the objection that the governing
1260 body failed to obtain jurisdiction to order the making of the improvements which the
1261 assessment is intended to pay.

1262 Section 49. Section **17A-3-407** is amended to read:

1263 **17A-3-407. Publication or posting of notice.**

1264 (1) The notice of intention to establish a district shall be published at least once a week
1265 during three consecutive weeks, the first publication to be not less than 21 days nor more than
1266 35 days before the hearing, in a newspaper published or of general circulation in the county or
1267 municipality proposing the establishment of the district.

1268 (2) (a) If a district is located entirely within a city of the third, fourth, or fifth class or
1269 town where there is no newspaper published or of general circulation in the city or town, the
1270 governing authority of that city or town may provide that the notice of intention may be given
1271 by posting in lieu of publication of the notice.

1272 (b) The notice of intention under Subsection (2)(a) shall be posted by the city recorder,
1273 town clerk, or other officer designated by the governing authority in at least five public places
1274 in the city or town at least 21 days before the hearing.

1275 Section 50. Section **20A-5-301** is amended to read:

1276 **20A-5-301. Combined voting precincts -- Municipalities.**

1277 (1) (a) The municipal legislative body of [~~cities~~] a city of the first [~~and~~] or second class
1278 may combine two regular county voting precincts into one municipal voting precinct for
1279 purposes of a municipal election if they designate the location and address of each of those
1280 combined voting precincts.

1281 (b) The polling place shall be within the combined voting precinct or within 1/2 mile
1282 of the boundaries of the voting precinct.

1283 (2) (a) The municipal legislative body of [~~cities~~] a city of the third, fourth, or fifth class
1284 [~~and towns~~] or town may combine two or more regular county voting precincts into one
1285 municipal voting precinct for purposes of an election if [~~they designate~~] it designates the
1286 location and address of that combined voting precinct.

1287 (b) If only two precincts are combined, the polling place shall be within the combined
1288 precinct or within 1/2 mile of the boundaries of the combined voting precinct.

1289 (c) If more than two precincts are combined, the polling place should be as near as
1290 practical to the middle of the combined precinct.

1291 Section 51. Section **20A-7-601** is amended to read:

1292 **20A-7-601. Referenda -- General signature requirements -- Signature**
1293 **requirements for land use laws -- Time requirements.**

1294 (1) Except as provided in Subsection (2), a person seeking to have a law passed by the
1295 local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

1296 (a) 10% of all the votes cast in the county, city, or town for all candidates for governor
1297 at the last election at which a governor was elected if the total number of votes exceeds 25,000;

1298 (b) 12-1/2% of all the votes cast in the county, city, or town for all candidates for

1299 governor at the last election at which a governor was elected if the total number of votes does
1300 not exceed 25,000 but is more than 10,000;

1301 (c) 15% of all the votes cast in the county, city, or town for all candidates for governor
1302 at the last election at which a governor was elected if the total number of votes does not exceed
1303 10,000 but is more than 2,500;

1304 (d) 20% of all the votes cast in the county, city, or town for all candidates for governor
1305 at the last election at which a governor was elected if the total number of votes does not exceed
1306 2,500 but is more than 500;

1307 (e) 25% of all the votes cast in the county, city, or town for all candidates for governor
1308 at the last election at which a governor was elected if the total number of votes does not exceed
1309 500 but is more than 250; and

1310 (f) 30% of all the votes cast in the county, city, or town for all candidates for governor
1311 at the last election at which a governor was elected if the total number of votes does not exceed
1312 250.

1313 (2) (a) As used in this Subsection (2), "land use law" includes a land use development
1314 code, an annexation ordinance, and comprehensive zoning ordinances.

1315 (b) A person seeking to have a land use law passed by the local legislative body
1316 submitted to a vote of the people shall obtain legal signatures equal to:

1317 (i) in ~~[counties and]~~ a county or in a city of the first [and] or second class [cities], 20%
1318 of all votes cast in the county or city for all candidates for governor at the last election at which
1319 a governor was elected; and

1320 (ii) in a city of the third, fourth, or fifth class [cities and towns] or a town, 35% of all
1321 the votes cast in the city or town for all candidates for governor at the last election at which a
1322 governor was elected.

1323 (3) (a) Sponsors of any referendum petition challenging, under Subsection (1) or (2),
1324 any local law passed by a local legislative body shall file the petition within 35 days after the
1325 passage of the local law.

1326 (b) The local law remains in effect until repealed by the voters via referendum.

1327 (4) If the referendum passes, the local law that was challenged by the referendum is
1328 repealed as of the date of the election.

1329 Section 52. Section **20A-9-404** is amended to read:

1330 **20A-9-404. Municipal primary elections.**

1331 (1) (a) Except as otherwise provided in this section, candidates for municipal office in
1332 all municipalities shall be nominated at a municipal primary election.

1333 (b) Municipal primary elections shall be held:

1334 (i) on the Tuesday following the first Monday in the October before the regular
1335 municipal election; and

1336 (ii) whenever possible, at the same polling places as the regular municipal election.

1337 (2) If the number of candidates for a particular municipal office does not exceed twice
1338 the number of persons needed to fill that office, a primary election for that office may not be
1339 held and the candidates are considered nominated.

1340 (3) (a) For purposes of this Subsection (3), "convention" means an organized assembly
1341 of voters or delegates.

1342 (b) (i) By ordinance adopted before the June 1 before a regular municipal election, any
1343 third, fourth, or fifth class city or town may exempt itself from a primary election by providing
1344 that the nomination of candidates for municipal office to be voted upon at a municipal election
1345 be nominated by a political party convention or committee.

1346 (ii) Any primary election exemption ordinance adopted under the authority of this
1347 subsection remains in effect until repealed by ordinance.

1348 (c) (i) A convention or committee may not nominate more than one group of
1349 candidates or have placed on the ballot more than one group of candidates for the municipal
1350 offices to be voted upon at the municipal election.

1351 (ii) A convention or committee may nominate a person who has been nominated by a
1352 different convention or committee.

1353 (iii) A political party may not have more than one group of candidates placed upon the
1354 ballot and may not group the same candidates on different tickets by the same party under a
1355 different name or emblem.

1356 (d) (i) The convention or committee shall prepare a certificate of nomination for each
1357 person nominated.

1358 (ii) The certificate of nomination shall:

1359 (A) contain the name of the office for which each person is nominated, the name, post
1360 office address, and, if in a city, the street number of residence and place of business, if any, of

1361 each person nominated;

1362 (B) designate in not more than five words the political party that the convention or
1363 committee represents;

1364 (C) contain a copy of the resolution passed at the convention that authorized the
1365 committee to make the nomination;

1366 (D) contain a statement certifying that the name of the candidate nominated by the
1367 political party will not appear on the ballot as a candidate for any other political party;

1368 (E) be signed by the presiding officer and secretary of the convention or committee;

1369 and

1370 (F) contain a statement identifying the residence and post office address of the
1371 presiding officer and secretary and certifying that the presiding officer and secretary were
1372 officers of the convention or committee and that the certificates are true to the best of their
1373 knowledge and belief.

1374 (iii) Certificates of nomination shall be filed with the clerk not later than the sixth
1375 Tuesday before the November municipal election.

1376 (e) A committee appointed at a convention, if authorized by an enabling resolution,
1377 may also make nominations or fill vacancies in nominations made at a convention.

1378 (f) The election ballot shall substantially comply with the form prescribed in Title 20A,
1379 Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall
1380 be included with the candidate's name.

1381 (4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the July 1
1382 before the regular municipal election that:

1383 (i) exempts the city from the other methods of nominating candidates to municipal
1384 office provided in this section; and

1385 (ii) provides for a partisan primary election method of nominating candidates as
1386 provided in this Subsection (4).

1387 (b) (i) Any party that was a registered political party at the last regular general election
1388 or regular municipal election is a municipal political party under this section.

1389 (ii) Any political party may qualify as a municipal political party by presenting a
1390 petition to the city recorder that:

1391 (A) is signed by registered voters within the municipality equal to at least 20% of the

1392 number of votes cast for all candidates for mayor in the last municipal election at which a
1393 mayor was elected;

1394 (B) is filed with the city recorder by the seventh Tuesday before the date of the
1395 municipal primary election;

1396 (C) is substantially similar to the form of the signature sheets described in Section
1397 20A-7-303; and

1398 (D) contains the name of the municipal political party using not more than five words.

1399 (c) (i) If the number of candidates for a particular office does not exceed twice the
1400 number of offices to be filled at the regular municipal election, no partisan primary election for
1401 that office shall be held and the candidates are considered to be nominated.

1402 (ii) If the number of candidates for a particular office exceeds twice the number of
1403 offices to be filled at the regular municipal election, those candidates for municipal office shall
1404 be nominated at a partisan primary election.

1405 (d) The clerk shall ensure that:

1406 (i) the partisan municipal primary ballot is similar to the ballot forms required by
1407 Sections 20A-6-401 and 20A-6-401.1;

1408 (ii) the candidates for each municipal political party are listed in one or more columns
1409 under their party name and emblem;

1410 (iii) the names of candidates of all parties are printed on the same ballot, but under
1411 their party designation;

1412 (iv) every ballot is folded and perforated so as to separate the candidates of one party
1413 from those of the other parties and so as to enable the elector to separate the part of the ballot
1414 containing the names of the party of his choice from the remainder of the ballot; and

1415 (v) the side edges of all ballots are perforated so that the outside sections of the ballots,
1416 when detached, are similar in appearance to inside sections when detached.

1417 (e) After marking a municipal primary ballot, the voter shall:

1418 (i) detach the part of the ballot containing the names of the candidates of the party he
1419 has voted from the rest of the ballot;

1420 (ii) fold the detached part so that its face is concealed and deposit it in the ballot box;
1421 and

1422 (iii) fold the remainder of the ballot containing the names of the candidates of the

1423 parties for whom the elector did not vote and deposit it in the blank ballot box.

1424 (f) Immediately after the canvass, the election judges shall, without examination,
1425 destroy the tickets deposited in the blank ballot box.

1426 Section 53. Section **32A-2-101** is amended to read:

1427 **32A-2-101. Commission's power to establish state stores -- Limitations.**

1428 (1) The commission may establish state stores in numbers and at places, owned or
1429 leased by the department, it considers proper for the sale of liquor, by employees of the state, in
1430 accordance with this title and the rules made under this title. Employees of state stores are
1431 considered employees of the department and shall meet all qualification requirements for
1432 employment outlined in Section 32A-1-111.

1433 (2) The total number of state stores may not at any time aggregate more than that
1434 number determined by dividing the population of the state by 48,000. Population shall be
1435 determined by the most recent United States decennial or special census or by any other
1436 population determination made by the United States or state governments.

1437 (3) (a) A state store may not be established within 600 feet of any public or private
1438 school, church, public library, public playground, or park as measured by the method in
1439 Subsection (4).

1440 (b) A state store may not be established within 200 feet of any public or private school,
1441 church, public library, public playground, or park measured in a straight line from the nearest
1442 entrance of the proposed state store to the nearest property boundary of the public or private
1443 school, church, public library, public playground, or park.

1444 (c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the
1445 following exceptions applies:

1446 (i) The commission finds after full investigation that the premises are located within a
1447 city of the third, fourth, or fifth class or a town, and compliance with the distance requirements
1448 would result in peculiar and exceptional practical difficulties or exceptional and undue
1449 hardships in the establishment of a state store. In that event, the commission may, after giving
1450 full consideration to all of the attending circumstances, following a public hearing in the city or
1451 town, and where practical in the neighborhood concerned, authorize a variance from the
1452 distance requirements to relieve the difficulties or hardships if the variance may be granted
1453 without substantial detriment to the public good and without substantially impairing the intent

1454 and purpose of this title.

1455 (ii) With respect to the establishment of a state store in any location, the commission
1456 may, after giving full consideration to all of the attending circumstances, following a public
1457 hearing in the county, and where practical in the neighborhood concerned, reduce the proximity
1458 requirements in relation to a church if the local governing body of the church in question gives
1459 its written approval.

1460 (4) With respect to any public or private school, church, public library, public
1461 playground, or park, the 600 foot limitation is measured from the nearest entrance of the state
1462 store by following the shortest route of either ordinary pedestrian traffic or, where applicable,
1463 vehicular travel along public thoroughfares, whichever is the closer, to the property boundary
1464 of the public or private school, church, public library, public playground, school playground, or
1465 park.

1466 (5) Nothing in this section prevents the commission from considering the proximity of
1467 any educational, religious, and recreational facility, or any other relevant factor in reaching a
1468 decision on a proposed location. For purposes of this subsection, "educational facility"
1469 includes nursery schools, infant day care centers, and trade and technical schools.

1470 Section 54. Section **32A-3-101** is amended to read:

1471 **32A-3-101. Commission's power to establish package agencies -- Limitations.**

1472 (1) (a) The commission may, when considered necessary, create package agencies by
1473 entering into contractual relationships with persons to sell liquor in sealed packages from
1474 premises other than those owned or leased by the state.

1475 (b) The commission shall authorize a person to operate a package agency by issuing a
1476 certificate from the commission that designates the person in charge of the agency as a
1477 "package agent" as defined under Section 32A-1-105.

1478 (2) (a) Subject to this Subsection (2), the total number of package agencies may not at
1479 any time aggregate more than that number determined by dividing the population of the state
1480 by 18,000.

1481 (b) For purposes of Subsection (2)(a), population shall be determined by:

1482 (i) the most recent United States decennial or special census; or

1483 (ii) any other population determination made by the United States or state
1484 governments.

1485 (c) The commission may establish seasonal package agencies established in areas and
1486 for periods it considers necessary. A seasonal package agency may not be operated for a period
1487 longer than nine consecutive months subject to the restrictions stated in Subsections (2)(c)(i)
1488 through (iii).

1489 (i) A package agency established for operation during a summer time period is known
1490 as a "Seasonal A" package agency. The period of operation for a "Seasonal A" agency may
1491 begin as early as February 1 and may continue until October 31.

1492 (ii) A package agency established for operation during a winter time period is known as
1493 a "Seasonal B" package agency. The period of operation for a "Seasonal B" agency may begin
1494 as early as September 1 and may continue until May 31.

1495 (iii) In determining the number of package agencies that the commission may establish
1496 under this section:

1497 (A) a seasonal package agency is counted as one half of one package agency;

1498 (B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency; and

1499 (C) the total number of months that each combined pair may be established for
1500 operation may not exceed 12 months for each calendar year.

1501 (d) (i) If the location, design, and construction of a hotel may require more than one
1502 package agency sales location to serve the public convenience, the commission may authorize a
1503 single package agent to sell liquor at as many as three locations within the hotel under one
1504 package agency if:

1505 (A) the hotel has a minimum of 150 guest rooms; and

1506 (B) all locations under the agency are:

1507 (I) within the same hotel facility; and

1508 (II) on premises that are managed or operated and owned or leased by the package
1509 agent.

1510 (ii) Facilities other than hotels may not have more than one sales location under a
1511 single package agency.

1512 (3) (a) As measured by the method in Subsection (4), a package agency may not be
1513 established within 600 feet of any:

1514 (i) public or private school;

1515 (ii) church;

- 1516 (iii) public library;
- 1517 (iv) public playground; or
- 1518 (v) park.

1519 (b) A package agency may not be established within 200 feet of any public or private
1520 school, church, public library, public playground, or park, measured in a straight line from the
1521 nearest entrance of the proposed package agency to the nearest property boundary of the public
1522 or private school, church, public library, public playground, or park.

1523 (c) The restrictions contained in Subsections (3)(a) and (b) govern unless Subsection
1524 (3)(c)(i) or (ii) applies.

1525 (i) If the commission finds after full investigation that the premises are located within a
1526 city of the third, fourth, or fifth class or a town, and compliance with the distance requirements
1527 would result in peculiar and exceptional practical difficulties or exceptional and undue
1528 hardships in the establishment of a package agency, the commission may authorize a variance
1529 from the distance requirement to relieve the difficulties or hardships:

1530 (A) after giving full consideration to all of the attending circumstances;

1531 (B) following a public hearing in:

1532 (I) the city or town concerned; and

1533 (II) where practical, in the neighborhood concerned; and

1534 (C) if the variance may be granted without:

1535 (I) substantial detriment to the public good; and

1536 (II) substantially impairing the intent and purpose of this title.

1537 (ii) With respect to the establishment of a package agency in any location, the
1538 commission may reduce the proximity requirements in relation to a church:

1539 (A) after giving full consideration to all of the attending circumstances;

1540 (B) following a public hearing in:

1541 (I) the county concerned; and

1542 (II) where practical, in the neighborhood concerned; and

1543 (C) if the local governing body of the church in question gives its written approval.

1544 (4) With respect to any public or private school, church, public library, public
1545 playground, or park, the 600 foot limitation is measured from the nearest entrance of the
1546 package agency by following the shortest route of either ordinary pedestrian traffic, or where

1547 applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property
1548 boundary of the public or private school, church, public library, public playground, school
1549 playground, or park.

1550 (5) (a) Nothing in this section prevents the commission from considering the proximity
1551 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
1552 decision on a proposed location.

1553 (b) For purposes of Subsection (5)(a), "educational facility" includes:

1554 (i) a nursery school;

1555 (ii) an infant day care center; and

1556 (iii) a trade and technical school.

1557 (6) (a) The package agent, under the direction of the department, shall be responsible
1558 for implementing and enforcing this title and the rules adopted under this title to the extent they
1559 relate to the conduct of the agency and its sale of liquor.

1560 (b) A package agent may not be, or construed to be, a state employee nor be otherwise
1561 entitled to any benefits of employment from the state.

1562 (c) A package agent, when selling liquor from a package agency, is considered an agent
1563 of the state only to the extent specifically expressed in the package agency agreement.

1564 (7) The commission may prescribe by policy, directive, or rule, consistent with this
1565 title, general operational requirements of all package agencies relating to:

1566 (a) physical facilities;

1567 (b) conditions of operation;

1568 (c) hours of operation;

1569 (d) inventory levels;

1570 (e) payment schedules;

1571 (f) methods of payment;

1572 (g) premises security; and

1573 (h) any other matters considered appropriate by the commission.

1574 Section 55. Section **32A-4-101** is amended to read:

1575 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1576 (1) Before any restaurant may sell or allow the consumption of liquor on its premises,
1577 it shall first obtain a license from the commission as provided in this part.

1578 (2) The commission may issue restaurant liquor licenses for the purpose of establishing
1579 restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and
1580 consumption of liquor on premises operated as public restaurants.

1581 (3) Subject to this Subsection (3), the total number of restaurant liquor licenses may
1582 not at any time aggregate more than that number determined by dividing the population of the
1583 state by 4,500. Population shall be determined by the most recent United States decennial or
1584 special census or by any other population determination made by the United States or state
1585 governments.

1586 (a) The commission may issue seasonal restaurant liquor licenses established in areas
1587 and for periods it considers necessary. A seasonal restaurant liquor license may not be
1588 operated for a period longer than nine consecutive months subject to the following restrictions:

1589 (i) Licenses issued for operation during summer time periods are known as "Seasonal
1590 A" restaurant licenses. The period of operation for a "Seasonal A" restaurant license may begin
1591 as early as February 1 and may continue until October 31.

1592 (ii) Licenses issued for operation during winter time periods are known as "Seasonal
1593 B" restaurant licenses. The period of operation for a "Seasonal B" restaurant license may begin
1594 as early as September 1 and may continue until May 31.

1595 (iii) In determining the number of restaurant liquor licenses that the commission may
1596 issue under this section, seasonal licenses are counted as 1/2 of one restaurant liquor license.
1597 Each "Seasonal A" license shall be paired with a "Seasonal B" license and the total number of
1598 months that each combined pair may be issued for operation may not exceed 12 months for
1599 each calendar year.

1600 (b) If the location, design, and construction of a hotel may require more than one
1601 restaurant liquor sales location within the hotel to serve the public convenience, the
1602 commission may authorize the sale of liquor at as many as three restaurant locations within the
1603 hotel under one license if the hotel has a minimum of 150 guest rooms and if all locations
1604 under the license are within the same hotel facility and on premises that are managed or
1605 operated and owned or leased by the licensee. Facilities other than hotels shall have a separate
1606 restaurant liquor license for each restaurant where liquor is sold.

1607 (4) (a) Restaurant liquor licensee premises may not be established within 600 feet of
1608 any public or private school, church, public library, public playground, or park, as measured by

1609 the method in Subsection (5).

1610 (b) Restaurant liquor licensee premises may not be established within 200 feet of any
1611 public or private school, church, public library, public playground, or park, measured in a
1612 straight line from the nearest entrance of the proposed outlet to the nearest property boundary
1613 of the public or private school, church, public library, public playground, or park.

1614 (c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the
1615 following exemptions applies:

1616 (i) The commission finds after full investigation that the premises are located within a
1617 city of the third, fourth, or fifth class, a town, or the unincorporated area of a county, and
1618 compliance with the distance requirements would result in peculiar and exceptional practical
1619 difficulties or exceptional and undue hardships in the granting of a restaurant liquor license. In
1620 that event, the commission may, after giving full consideration to all of the attending
1621 circumstances, following a public hearing in the city or town, and where practical in the
1622 neighborhood concerned, authorize a variance from the distance requirements to relieve the
1623 difficulties or hardships if the variance may be granted without substantial detriment to the
1624 public good and without substantially impairing the intent and purpose of this title.

1625 (ii) With respect to the establishment of a restaurant licensee in any location, the
1626 commission may, after giving full consideration to all of the attending circumstances,
1627 following a public hearing in the county, and where practical in the neighborhood concerned,
1628 reduce the proximity requirements in relation to a church if the local governing body of the
1629 church in question gives its written approval.

1630 (iii) Any on-premises beer retailer licensee existing on March 1, 1990, need not comply
1631 with the restrictions contained in Subsections (4)(a) and (b) if it applies for a restaurant liquor
1632 license before January 1, 1991.

1633 (5) With respect to any public or private school, church, public library, public
1634 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
1635 by following the shortest route of either ordinary pedestrian traffic, or where applicable,
1636 vehicular travel along public thoroughfares, whichever is the closer, to the property boundary
1637 of the public or private school, church, public library, public playground, school playground, or
1638 park.

1639 (6) Nothing in this section prevents the commission from considering the proximity of

1640 any educational, religious, and recreational facility, or any other relevant factor in reaching a
1641 decision on a proposed location. For purposes of this Subsection (6), "educational facility"
1642 includes nursery schools, infant day care centers, and trade and technical schools.

1643 Section 56. Section **32A-5-101** is amended to read:

1644 **32A-5-101. Commission's power to license private clubs -- Limitations.**

1645 (1) Before any private club may sell or allow the consumption of liquor on its
1646 premises, it shall first obtain a license from the commission as provided in this chapter.

1647 (2) The commission may issue private club liquor licenses to social clubs, recreational,
1648 athletic, or kindred associations incorporated under the Utah Nonprofit Corporation and
1649 Cooperative Association Act, which desire to maintain premises upon which alcoholic
1650 beverages may be stored, sold, served, and consumed. All such licenses shall be issued in the
1651 name of an officer or director of the club or association.

1652 (3) A nonprofit corporation, association, or club or any officer, director, managing
1653 agent, or employee of a nonprofit corporation, association, or club may not store, sell, serve, or
1654 permit consumption of liquor upon its premises, under a permit issued by local authority or
1655 otherwise, unless a private club liquor license has been first issued by the commission.

1656 Violation of this Subsection is (3) a class A misdemeanor.

1657 (4) Subject to this Subsection (4), the commission may issue private club liquor
1658 licenses at places and in numbers as it considers necessary. The total number of private club
1659 liquor licenses may not at any time aggregate more than that number determined by dividing
1660 the population of the state by 7,000. Population shall be determined by the most recent United
1661 States decennial or special census or by any other population determination made by the United
1662 States or state governments.

1663 (a) The commission may issue seasonal private club liquor licenses to be established in
1664 areas and for periods as it considers necessary. A seasonal private club liquor license may not
1665 be operated for a period longer than nine consecutive months subject to the following
1666 restrictions:

1667 (i) Licenses issued for operation during summer time periods are known as "Seasonal
1668 A" club licenses. The period of operation for a "Seasonal A" club license may begin as early as
1669 February 1 and may continue until October 31.

1670 (ii) Licenses issued for operation during winter time periods are known as "Seasonal

1671 B" club licenses. The period of operation for a "Seasonal B" club license may begin as early as
1672 September 1 and may continue until May 31.

1673 (iii) In determining the number of private club liquor licenses that the commission may
1674 issue under this section, seasonal licenses are counted as one half of one private club liquor
1675 license. Each "Seasonal A" license shall be paired with a "Seasonal B" license and the total
1676 number of months that each combined pair may be issued for operation may not exceed 12
1677 months for each calendar year.

1678 (b) If the location, design, and construction of a hotel may require more than one
1679 private club location within the hotel to serve the public convenience, the commission may
1680 authorize as many as three private club locations within the hotel under one license if the hotel
1681 has a minimum of 150 guest rooms and if all locations under the license are within the same
1682 hotel facility and on premises which are managed or operated and owned or leased by the
1683 licensee. Facilities other than hotels may not have more than one private club location under a
1684 single private club liquor license.

1685 (5) (a) A private club licensee's premises may not be established within 600 feet of any
1686 public or private school, church, public library, public playground, or park, as measured by the
1687 method in Subsection (6).

1688 (b) A private club licensee premises may not be established within 200 feet of any
1689 public or private school, church, public library, public playground, or park, measured in a
1690 straight line from the nearest entrance of the proposed outlet to the nearest property boundary
1691 of the public or private school, church, public library, public playground, or park.

1692 (c) The restrictions contained in Subsections (5)(a) and (b) govern unless one of the
1693 following exemptions applies:

1694 (i) The commission finds after full investigation that the premises are located within a
1695 city of the third, fourth, or fifth class or a town, and compliance with the distance requirements
1696 would result in peculiar and exceptional practical difficulties or exceptional and undue
1697 hardships in the granting of a private club license. In that event, the commission may, after
1698 giving full consideration to all of the attending circumstances, following a public hearing in the
1699 city or town, and where practical in the neighborhood concerned, authorize a variance from the
1700 distance requirements to relieve the difficulties or hardships if the variance may be granted
1701 without substantial detriment to the public good and without substantially impairing the intent

1702 and purpose of this title.

1703 (ii) With respect to the establishment of a private club licensee in any location, the
1704 commission may, after giving full consideration to all of the attending circumstances,
1705 following a public hearing in the county, and where practical in the neighborhood concerned,
1706 reduce the proximity requirements in relation to a church if the local governing body of the
1707 church in question gives its written approval.

1708 (iii) Any on-premises beer retailer licensee existing on March 1, 1990, need not comply
1709 with the restrictions contained in Subsections (5)(a) and (b) if it applies for a private club liquor
1710 license before January 1, 1991.

1711 (6) With respect to any public or private school, church, public library, public
1712 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
1713 by following the shortest route of either ordinary pedestrian traffic, or where applicable,
1714 vehicular travel along public thoroughfares, whichever is the closer, to the property boundary
1715 of the public or private school, church, public library, public playground, or park.

1716 (7) Nothing in this section prevents the commission from considering the proximity of
1717 any educational, religious, and recreational facility, or any other relevant factor in reaching a
1718 decision on whether to issue a private club liquor license. For purposes of this Subsection (7),
1719 "educational facility" includes nursery schools, infant day care centers, and trade and technical
1720 schools.

1721 Section 57. Section **32A-10-201** is amended to read:

1722 **32A-10-201. Commission's power to grant licenses -- Limitations.**

1723 (1) Beginning January 1, 1991, before any establishment may sell beer at retail for
1724 on-premise consumption, it shall first obtain:

1725 (a) an on-premise beer retailer license from the commission as provided in this part;
1726 and

1727 (b) a license issued by the local authority, as provided in Section 32A-10-101, to sell
1728 beer at retail for on-premise consumption or other written consent of the local authority to sell
1729 beer at retail for on-premise consumption.

1730 (2) The commission may issue on-premise beer retailer licenses for the purpose of
1731 establishing on-premise beer retailer outlets at places and in numbers as it considers proper for
1732 the storage, sale, and consumption of beer on premises operated as on-premise beer retailer

1733 outlets.

1734 (3) (a) Beginning January 1, 1991, on-premise beer retailer licensee premises may not
1735 be established within 600 feet of any public or private school, church, public library, public
1736 playground, or park, as measured by the method in Subsection (5).

1737 (b) Beginning January 1, 1991, on-premise beer retailer licensee premises may not be
1738 established within 200 feet of any public or private school, church, public library, public
1739 playground, or park, measured in a straight line from the nearest entrance of the proposed
1740 outlet to the nearest property boundary of the public or private school, church, public library,
1741 public playground, or park.

1742 (4) The restrictions of Subsection (3) govern unless one of the following exemptions
1743 applies:

1744 (a) The commission finds after full investigation that the premises are located within a
1745 city of the third, fourth, or fifth class, a town, or the unincorporated area of a county, and
1746 compliance with the distance requirements would result in peculiar and exceptional practical
1747 difficulties or exceptional and undue hardships in the granting of an on-premise beer retailer
1748 license. In that event, the commission may, after giving full consideration to all of the
1749 attending circumstances, following a public hearing in the city or town, and where practical in
1750 the neighborhood concerned, authorize a variance from the distance requirements to relieve the
1751 difficulties or hardships if the variance may be granted without substantial detriment to the
1752 public good and without substantially impairing the intent and purpose of this title.

1753 (b) With respect to the establishment of an on-premise beer retailer licensee in any
1754 location, the commission may, after giving full consideration to all of the attending
1755 circumstances, following a public hearing in the county, and where practical in the
1756 neighborhood concerned, reduce the proximity requirements in relation to a church if the local
1757 governing body of the church in question gives its written approval.

1758 (c) With respect to any on-premise beer retailer license issued by the commission
1759 before July 1, 1991, to an establishment that undergoes a change in ownership after that date,
1760 the commission may waive the proximity restrictions of Subsection (3) in considering whether
1761 to grant an on-premise retailer beer license to the new owner.

1762 (5) With respect to any public or private school, church, public library, public
1763 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet

1764 by following the shortest route of either ordinary pedestrian traffic, or where applicable,
1765 vehicular travel along public thoroughfares, whichever is the closer, to the property boundary
1766 of the public or private school, church, public library, public playground, school playground or
1767 park.

1768 (6) Nothing in this section prevents the commission from considering the proximity of
1769 any educational, religious, and recreational facility, or any other relevant factor in reaching a
1770 decision on a proposed location. For purposes of this Subsection (6), "educational facility"
1771 includes nursery schools, infant day care centers, and trade and technical schools.

1772 Section 58. Section **45-1-2** is amended to read:

1773 **45-1-2. Maximum charge.**

1774 A legal rate of 30 cents per line on the basis of an eight-point line, not less than [eleven]
1775 11 ems wide, is hereby established in [~~all cities and towns having a population under 25,000~~]
1776 each city of the fourth and fifth class and each town for the publishing of any notice,
1777 advertisement, or publication of any kind required by law.

1778 Section 59. Section **53-6-106** is amended to read:

1779 **53-6-106. Creation of Peace Officer Standards and Training Council -- Purpose --**
1780 **Membership -- Quorum -- Meetings -- Compensation.**

1781 (1) There is created the Peace Officer Standards and Training Council.

1782 (2) The council shall serve as an advisory board to the director of the division on
1783 matters relating to peace officer and dispatcher standards and training.

1784 (3) The council includes:

1785 (a) the attorney general or his designated representative;

1786 (b) the superintendent of the highway patrol;

1787 (c) the executive director of the Department of Corrections or his designated
1788 representative; and

1789 (d) 14 additional members appointed by the governor having qualifications,
1790 experience, or education in the field of law enforcement as follows:

1791 (i) one incumbent mayor;

1792 (ii) one incumbent county commissioner;

1793 (iii) three incumbent sheriffs, one of whom is a representative of the Utah Sheriffs

1794 Association, one of whom is from a county having a population of 100,000 or more, and one of

1795 whom is from a county having a population of less than 100,000;

1796 (iv) three incumbent police chiefs, one of whom is a representative of the Utah Chiefs
1797 of Police Association, one of whom is from a city of the first or second class, and one of whom
1798 is from a city of the third, fourth, or fifth class or town;

1799 (v) one officer from the Federal Bureau of Investigation appointed by the governor
1800 upon the recommendation of the agency;

1801 (vi) a representative of the Utah Peace Officers Association;

1802 (vii) an educator in the field of public administration, criminal justice, or related area;

1803 and

1804 (viii) three persons selected at large by the governor.

1805 (4) (a) Except as required by Subsection (4)(b), the 14 members of the council shall be
1806 appointed by the governor for four-year terms.

1807 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
1808 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1809 council members are staggered so that approximately half of the council is appointed every two
1810 years.

1811 (c) A member may be reappointed for additional terms.

1812 (d) When a vacancy occurs in the membership for any reason, the replacement shall be
1813 appointed for the unexpired term by the governor from the same category in which the vacancy
1814 occurs.

1815 (5) A member of the council ceases to be a member:

1816 (a) immediately upon the termination of his holding the office or employment that was
1817 the basis for his eligibility to membership on the council; or

1818 (b) upon two unexcused absences in one year from regularly scheduled council
1819 meetings.

1820 (6) The council shall select a chair and vice chair from among its members.

1821 (7) Ten members of the advisory council constitute a quorum.

1822 (8) (a) Meetings may be called by the chair, the commissioner, or the director and shall
1823 be called by the chair upon the written request of nine members.

1824 (b) Meetings shall be held at the times and places determined by the director.

1825 (9) The council shall meet at least two times per year.

1826 (10) (a) (i) Members who are not government employees shall receive no
1827 compensation or benefits for their services, but may receive per diem and expenses incurred in
1828 the performance of the member's official duties at the rates established by the Division of
1829 Finance under Sections 63A-3-106 and 63A-3-107.

1830 (ii) Members may decline to receive per diem and expenses for their service.

1831 (b) (i) State government officer and employee members who do not receive salary, per
1832 diem, or expenses from their agency for their service may receive per diem and expenses
1833 incurred in the performance of their official duties from the council at the rates established by
1834 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1835 (ii) State government officer and employee members may decline to receive per diem
1836 and expenses for their service.

1837 (c) (i) Local government members who do not receive salary, per diem, or expenses
1838 from the entity that they represent for their service may receive per diem and expenses incurred
1839 in the performance of their official duties at the rates established by the Division of Finance
1840 under Sections 63A-3-106 and 63A-3-107.

1841 (ii) Local government members may decline to receive per diem and expenses for their
1842 service.

1843 (11) Membership on the council does not disqualify any member from holding any
1844 other public office or employment.

1845 Section 60. Section **57-11-4** is amended to read:

1846 **57-11-4. Exemptions.**

1847 (1) Unless the method of disposition is adopted for the purpose of evasion of this
1848 chapter or the federal act, this chapter does not apply to offers or dispositions of an interest in
1849 land:

1850 (a) by a purchaser of subdivided lands for his own account in a single or isolated
1851 transaction;

1852 (b) on each unit of which there is a residential, commercial, or industrial building, or
1853 on each unit of which there is a legal obligation on the part of the seller to complete
1854 construction of such a building within two years from date of disposition;

1855 (c) to any person who acquires that interest for use in the business of constructing
1856 residential, commercial, or industrial buildings, or to any person who acquires that type of land

1857 for the purpose of disposition to a person engaged in that business, unless the person who
1858 acquires land for these purposes sells that land to individuals as unimproved lots with no legal
1859 obligation on the part of the seller to construct a residential, commercial, or industrial building
1860 on that lot within two years from the date of disposition;

1861 (d) pursuant to court order;

1862 (e) by any government or government agency;

1863 (f) if at the time of the offer or disposition the subdivider furnishes satisfactory
1864 assurance of completion of the improvements described in Subsections (1)(f)(ii) and (iii) and
1865 the interest lies within the boundaries of a [~~first, second, or third class~~] city or a county which:

1866 (i) has a planning and zoning board utilizing or employing at least one professional
1867 planner;

1868 (ii) enacts ordinances that require approval of planning, zoning, and plats, including the
1869 approval of plans for streets, culinary water, sanitary sewer, and flood control; and

1870 (iii) in which the interest in land will have the improvements described in Subsection
1871 (1)(f)(ii) plus telephone and electricity;

1872 (g) in an industrial park;

1873 (h) as cemetery lots; or

1874 (i) if the interest is offered as part of a camp resort as defined in Section 57-19-2 or a
1875 timeshare development as defined in Section 57-19-2.

1876 (2) Unless the method of disposition is adopted for the purpose of evasion of this
1877 chapter or the provisions of the federal act, the provisions of this chapter, except as specifically
1878 designated, do not apply to:

1879 (a) offers or dispositions of evidences of indebtedness secured by a mortgage or deed
1880 of trust on real estate;

1881 (b) offers or dispositions of securities or units of interest issued by a real estate
1882 investment trust regulated under any state or federal statute;

1883 (c) offers or dispositions of subdivided lands registered under the federal act and which
1884 the division finds to be in the public interest to exempt from the registration requirements of
1885 this chapter. A subdivider seeking to qualify under this exemption shall file with the division a
1886 copy of an effective statement of record filed with the secretary of the Department of Housing
1887 and Urban Development together with a filing fee of \$100. In the event the subdivider does

1888 not qualify under this exemption, this amount shall be credited to the filing fee required for
1889 registration under this chapter. Nothing in this Subsection (2)(c) exempts a subdivider from
1890 the provisions of Sections 57-11-16 and 57-11-17 or the requirement to file an annual report
1891 with the division under Section 57-11-10;

1892 (d) offers or dispositions of securities currently registered with the Securities Division;
1893 or

1894 (e) offers or dispositions of any interest in oil, gas, or other minerals or any royalty
1895 interest in these assets if the offers or dispositions of those interests are regulated as securities
1896 by the United States or by the Securities Division.

1897 (3) (a) Notwithstanding the exemptions in Subsections (1) and (2), any person making
1898 an offer or disposition of an interest in land which is located in Utah shall apply to the division
1899 for an exemption before the offer or disposition is made if:

1900 (i) the person is representing, in connection with the offer or disposition, the
1901 availability of culinary water service to or on the subdivided land; and

1902 (ii) the culinary water service is provided by a water corporation as defined in Section
1903 54-2-1.

1904 (b) A subdivider seeking to qualify under this exemption shall file with the division an
1905 application for exemption together with a filing fee of \$50 and an application containing:

1906 (i) information required by the division to show that the offer or disposition is exempt
1907 under the provisions of this section;

1908 (ii) a statement as to what entity will be providing culinary water service and the nature
1909 of that entity; and

1910 (iii) a copy of the entity's certificate of convenience and necessity issued by the Public
1911 Service Commission, or evidence that the entity providing water service is exempt from the
1912 jurisdiction of the Public Service Commission.

1913 (4) The director may by rule or order exempt any person from any requirement of this
1914 chapter if the director finds that the offering of an interest in a subdivision is essentially
1915 noncommercial. For purposes of this section, the bulk sale of subdivided lands by a subdivider
1916 to another person who will become the subdivider of those lands is considered essentially
1917 noncommercial.

1918 Section 61. Section **67-3-8** is amended to read:

1919 **67-3-8. Preparation and distribution of budget forms.**

1920 The state auditor shall formulate and print budget forms for all cities [~~of the first class,~~
1921 ~~cities of the second class, cities of the third class~~], all counties, and all school districts. These
1922 budget forms shall be distributed at cost to each city, county, and school district.

1923 Section 62. Section **72-3-104** is amended to read:

1924 **72-3-104. City streets -- Class C roads -- Construction and maintenance.**

1925 (1) City streets comprise:

1926 (a) highways, roads, and streets within the corporate limits of the municipalities that
1927 are not designated as class A state roads or as class B roads; and

1928 (b) those highways, roads, and streets located within a national forest and constructed
1929 or maintained by the municipality under agreement with the appropriate federal agency.

1930 (2) City streets are class C roads.

1931 (3) Except for city streets within counties of the first and second class as defined in
1932 Section [~~17-16-13~~] 17-50-501, the state and city have joint undivided interest in the title to all
1933 rights-of-way for all city streets.

1934 (4) The municipal governing body exercises sole jurisdiction and control of the city
1935 streets within the municipality.

1936 (5) The department shall cooperate with the municipal legislative body in the
1937 construction and maintenance of the class C roads within each municipality.

1938 (6) The municipal legislative body shall expend or cause to be expended upon the class
1939 C roads the funds allocated to each municipality from the Transportation Fund under rules
1940 made by the department.

1941 (7) Any town or city in the third, fourth, or fifth class may:

1942 (a) contract with the county or the department for the construction and maintenance of
1943 class C roads within its corporate limits; or

1944 (b) transfer, with the consent of the county, its:

1945 (i) class C roads to the class B road system; and

1946 (ii) funds allocated from the Transportation Fund to the municipality to the county
1947 legislative body for use upon the transferred class C roads.

1948 (8) A municipal legislative body of any [~~municipality~~] city of the third, fourth, or fifth
1949 class may use any portion of the class C road funds allocated to the municipality for the

1950 construction of sidewalks, curbs, and gutters on class A state roads within the municipal limits
1951 by cooperative agreement with the department.

1952 Section 63. Section **72-8-102** is amended to read:

1953 **72-8-102. Definitions.**

1954 As used in this chapter:

1955 (1) "Construction" means the function of constructing or reconstructing a sidewalk
1956 with or without curb and gutter and includes land acquisition and engineering or inspection as
1957 defined by the rules and regulations of the department.

1958 (2) "Curb and gutter" means the area between the roadway and sidewalk designed for
1959 water runoff and providing a barrier for safety of pedestrian and vehicular traffic.

1960 (3) "Participating municipality" means [~~any municipality having at least~~] a city of the
1961 third, fourth, or fifth class [status] or a town.

1962 (4) "Pedestrian safety devices" means any device or method designed to foster the
1963 safety of pedestrian traffic including sidewalks, curbs, gutters, and pedestrian overpasses.

Legislative Review Note
as of 2-3-03 3:43 PM

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

Office of Legislative Research and General Counsel

Fiscal Note**Municipal Government Amendments***10-Feb-03***Bill Number HB0244***8:10 AM*

State Impact

No fiscal impact.

Individual and Business ImpactNo fiscal impact.

Office of the Legislative Fiscal Analyst