

**MUNICIPAL GOVERNMENT AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carlene M. Walker**

House Sponsor: Aaron Tilton

---

---

**LONG TITLE**

**General Description:**

This bill modifies provisions of the Utah Municipal Code.

**Highlighted Provisions:**

This bill:

- ▶ rewrites and reorganizes provisions relating to forms of municipal government and municipal administration;
- ▶ repeals provisions relating to forms of municipal government that have been rewritten or made obsolete by the rewritten provisions;
- ▶ clarifies the forms of government under which a municipality may operate;
- ▶ clarifies provisions relating to the council-mayor, six-member council, and five-member council forms of municipal government;
- ▶ specifies that an election on a proposed change in the form of municipal government occur on a municipal general election or regular general election date;
- ▶ requires municipalities to operate under a council-mayor, six-member council, or five-member council form of government, except those currently operating under a specified council-manager form;
- ▶ requires municipalities operating under the former council-manager form of government to continue to operate under that form of government, subject to a future potential change to another form; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

30 **Other Special Clauses:**

31           This bill coordinates with S.B. 72 by merging technical and substantive amendments.

32 **Utah Code Sections Affected:**

33 **AMENDS:**

- 34           **10-2-112**, as last amended by Laws of Utah 2004, Chapter 202
- 35           **10-2-114**, as last amended by Laws of Utah 2004, Chapter 202
- 36           **10-2-125**, as last amended by Laws of Utah 2007, Chapter 212
- 37           **10-2-303**, as last amended by Laws of Utah 2004, Chapter 202
- 38           **10-3-301**, as last amended by Laws of Utah 2000, Chapter 65
- 39           **10-3-502**, as last amended by Laws of Utah 2003, Chapter 292
- 40           **10-3-504**, as last amended by Laws of Utah 2004, Chapter 202
- 41           **10-3-507**, as last amended by Laws of Utah 2004, Chapter 202
- 42           **10-3-820**, as enacted by Laws of Utah 1977, Chapter 48
- 43           **10-3-902**, as enacted by Laws of Utah 1977, Chapter 48
- 44           **10-3-1106**, as last amended by Laws of Utah 2004, Chapter 260
- 45           **10-6-151**, as last amended by Laws of Utah 2005, Chapter 71
- 46           **10-9a-103**, as last amended by Laws of Utah 2007, Chapters 188, 199, and 329
- 47           **20A-1-102**, as last amended by Laws of Utah 2007, Chapters 75, 256, 285, and 329
- 48           **20A-1-506**, as last amended by Laws of Utah 2008, Chapter 3
- 49           **20A-1-510**, as last amended by Laws of Utah 2000, Chapter 3
- 50           **20A-9-203**, as last amended by Laws of Utah 2007, Chapters 83, 97, and 256
- 51           **78A-7-202**, as renumbered and amended by Laws of Utah 2008, Chapter 3

52 **ENACTS:**

- 53           **10-3b-101**, Utah Code Annotated 1953
- 54           **10-3b-102**, Utah Code Annotated 1953
- 55           **10-3b-103**, Utah Code Annotated 1953
- 56           **10-3b-104**, Utah Code Annotated 1953
- 57           **10-3b-105**, Utah Code Annotated 1953

- 58           **10-3b-201**, Utah Code Annotated 1953
- 59           **10-3b-202**, Utah Code Annotated 1953
- 60           **10-3b-203**, Utah Code Annotated 1953
- 61           **10-3b-204**, Utah Code Annotated 1953
- 62           **10-3b-205**, Utah Code Annotated 1953
- 63           **10-3b-301**, Utah Code Annotated 1953
- 64           **10-3b-302**, Utah Code Annotated 1953
- 65           **10-3b-303**, Utah Code Annotated 1953
- 66           **10-3b-401**, Utah Code Annotated 1953
- 67           **10-3b-402**, Utah Code Annotated 1953
- 68           **10-3b-403**, Utah Code Annotated 1953
- 69           **10-3b-501**, Utah Code Annotated 1953
- 70           **10-3b-502**, Utah Code Annotated 1953
- 71           **10-3b-503**, Utah Code Annotated 1953
- 72           **10-3b-504**, Utah Code Annotated 1953
- 73           **10-3b-505**, Utah Code Annotated 1953
- 74           **10-3b-506**, Utah Code Annotated 1953
- 75           **10-3b-507**, Utah Code Annotated 1953

76 REPEALS:

- 77           **10-3-101**, as last amended by Laws of Utah 2004, Chapter 202
- 78           **10-3-102**, as enacted by Laws of Utah 1977, Chapter 48
- 79           **10-3-106**, as last amended by Laws of Utah 2004, Chapters 90 and 202
- 80           **10-3-206**, as last amended by Laws of Utah 2004, Chapter 202
- 81           **10-3-207**, as enacted by Laws of Utah 1977, Chapter 48
- 82           **10-3-403**, as enacted by Laws of Utah 1977, Chapter 48
- 83           **10-3-404**, as enacted by Laws of Utah 1977, Chapter 48
- 84           **10-3-501**, as last amended by Laws of Utah 1979, Chapter 30
- 85           **10-3-503**, as last amended by Laws of Utah 1987, Chapter 92

- 86           **10-3-802**, as last amended by Laws of Utah 1987, Chapter 92  
87           **10-3-804**, as last amended by Laws of Utah 1977, Chapter 39  
88           **10-3-806**, as last amended by Laws of Utah 1993, Chapter 4  
89           **10-3-807**, as last amended by Laws of Utah 1977, Chapter 39  
90           **10-3-808**, as last amended by Laws of Utah 2003, Chapter 292  
91           **10-3-809**, as last amended by Laws of Utah 2003, Chapter 292  
92           **10-3-810**, as last amended by Laws of Utah 2003, Chapter 292  
93           **10-3-811**, as last amended by Laws of Utah 2003, Chapter 292  
94           **10-3-812**, as last amended by Laws of Utah 2003, Chapter 292  
95           **10-3-813**, as enacted by Laws of Utah 1977, Chapter 48  
96           **10-3-814**, as enacted by Laws of Utah 1977, Chapter 48  
97           **10-3-815**, as enacted by Laws of Utah 1977, Chapter 48  
98           **10-3-816**, as enacted by Laws of Utah 1977, Chapter 48  
99           **10-3-817**, as enacted by Laws of Utah 1977, Chapter 48  
100          **10-3-830**, as last amended by Laws of Utah 2007, Chapter 266  
101          **10-3-901**, as enacted by Laws of Utah 1977, Chapter 48  
102          **10-3-1201**, as enacted by Laws of Utah 1977, Chapter 48  
103          **10-3-1202**, as enacted by Laws of Utah 1977, Chapter 48  
104          **10-3-1203**, as last amended by Laws of Utah 2004, Chapters 202 and 371  
105          **10-3-1204**, as enacted by Laws of Utah 1977, Chapter 48  
106          **10-3-1205**, as enacted by Laws of Utah 1977, Chapter 48  
107          **10-3-1206**, as last amended by Laws of Utah 1985, Chapter 222  
108          **10-3-1207**, as enacted by Laws of Utah 1977, Chapter 48  
109          **10-3-1208**, as last amended by Laws of Utah 2004, Chapter 202  
110          **10-3-1210**, as enacted by Laws of Utah 1977, Chapter 48  
111          **10-3-1211**, as enacted by Laws of Utah 1977, Chapter 48  
112          **10-3-1212**, as last amended by Laws of Utah 2006, Chapter 14  
113          **10-3-1213**, as enacted by Laws of Utah 1977, Chapter 48

- 114           **10-3-1214**, as enacted by Laws of Utah 1977, Chapter 48
- 115           **10-3-1215**, as enacted by Laws of Utah 1977, Chapter 48
- 116           **10-3-1216**, as last amended by Laws of Utah 1991, Chapter 54
- 117           **10-3-1217**, as last amended by Laws of Utah 1981, Chapter 47
- 118           **10-3-1218**, as repealed and reenacted by Laws of Utah 1993, Chapter 1
- 119           **10-3-1219**, as last amended by Laws of Utah 2004, Chapter 156
- 120           **10-3-1219.5**, as enacted by Laws of Utah 1979, Chapter 39
- 121           **10-3-1220**, as enacted by Laws of Utah 1977, Chapter 48
- 122           **10-3-1221**, as enacted by Laws of Utah 1977, Chapter 48
- 123           **10-3-1222**, as last amended by Laws of Utah 1993, Chapter 231
- 124           **10-3-1223**, as enacted by Laws of Utah 1977, Chapter 48
- 125           **10-3-1224**, as enacted by Laws of Utah 1977, Chapter 48
- 126           **10-3-1225**, as enacted by Laws of Utah 1977, Chapter 48
- 127           **10-3-1226**, as enacted by Laws of Utah 1977, Chapter 48
- 128           **10-3-1227**, as enacted by Laws of Utah 1977, Chapter 48
- 129           **10-3-1228**, as enacted by Laws of Utah 1977, Chapter 48



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

132           Section 1. Section **10-2-112** is amended to read:

133           **10-2-112. Ballot used at the incorporation election.**

134           (1) The ballot at the incorporation election under Subsection 10-2-111(1) shall pose the  
135 incorporation question substantially as follows:

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

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

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

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

144 Five-member [~~City~~] council form

145 Six-member [~~City~~] council form

146 [~~Council-Mayor~~] Five-member council-mayor form

147 [~~Council-Manager form~~] Seven-member council-mayor form.

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

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

151 If the above incorporation proposal passes, shall members of the city council of (insert  
152 the name of the proposed city) be elected by district?

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

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

156 **10-2-114. Determination of number of council members -- Determination of**  
157 **election districts -- Hearings and notice.**

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

160 (a) if the voters at the incorporation election choose [~~either~~] the council-mayor [~~or the~~  
161 ~~council-manager~~] form of government, determine the number of council members that will  
162 constitute the council of the future city;

163 (b) if the voters at the incorporation election vote to elect council members by district,  
164 determine the number of council members to be elected by district and draw the boundaries of  
165 those districts, which shall be substantially equal in population;

166 (c) determine the initial terms of the mayor and members of the city council so that:

167 (i) the mayor and approximately half the members of the city council are elected to  
168 serve an initial term, of no less than one year, that allows their successors to serve a full  
169 four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

170 (ii) the remaining members of the city council are elected to serve an initial term, of no  
171 less than one year, that allows their successors to serve a full four-year term that coincides with  
172 the schedule established in Subsection 10-3-205(2); and

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

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

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

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

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

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

189 Section 3. Section **10-2-125** is amended to read:

190 **10-2-125. Incorporation of a town.**

191 (1) As used in this section:

192 (a) "Base petition" means a petition under this section proposing the incorporation of a  
193 town and signed by the owners of private real property that:

194 (i) is located within the area proposed to be incorporated;

195 (ii) covers at least a majority of the total private land area within the area proposed to  
196 be incorporated; and

197 (iii) is equal in value to at least 1/3 but not more than 1/2 of the value of all private real

198 property within the area proposed to be incorporated.

199 (b) "Qualifying petition" means a petition under this section proposing the incorporation  
200 of a town and signed by the owners of private real property that:

201 (i) is located within the area proposed to be incorporated;

202 (ii) covers at least a majority of the total private land area within the area proposed to  
203 be incorporated; and

204 (iii) is equal in value to more than 1/2 of the value of all private real property within the  
205 area proposed to be incorporated.

206 (2) (a) A contiguous area of a county not within a municipality, with a population of at  
207 least 100 but less than 1,000, may incorporate as a town as provided in this section.

208 (b) (i) The population figure under Subsection (2)(a) shall be derived from the most  
209 recent official census or census estimate of the United States Bureau of the Census.

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

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

215 (b) Each petition under Subsection (3)(a) shall:

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

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

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

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

221 (ii) state the legal description of the boundaries of the area proposed to be incorporated  
222 as a town;

223 (iii) designate up to five signers of the petition as sponsors, one of whom shall be  
224 designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;

225 (iv) be accompanied by and circulated with an accurate map or plat, prepared by a



226 licensed surveyor, showing the boundaries of the proposed town; and

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

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

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

232 We, the undersigned owners of real property within the area described in this petition,  
233 respectfully petition the county legislative body for the area described in this petition to be  
234 incorporated as a town. Each of the undersigned affirms that each has personally signed this  
235 petition and is an owner of real property within the described area, and that the current  
236 residence address of each is correctly written after the signer's name. The area proposed to be  
237 incorporated as a town is described as follows: (insert an accurate description of the area  
238 proposed to be incorporated).

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

241 (i) was filed before the filing of the petition; and

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

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

246 (5) (a) (i) The legislative body of each county with which a base petition is filed under  
247 this section shall commission and pay for a feasibility study as provided in Section 10-2-103.

248 (ii) If the results of the feasibility study under Subsection (5)(a)(i) meet the  
249 requirements of Subsection 10-2-109(3), the county legislative body shall grant the petition.

250 (iii) If the results of the feasibility study under Subsection (5)(a)(i) do not meet the  
251 requirements of Subsection 10-2-109(3), the county legislative body may:

252 (A) deny the petition;

253 (B) grant the petition; or

254 (C) with the consent of the petition sponsors, grant the petition, after:

255 (I) imposing conditions to mitigate the fiscal inequities identified in the feasibility study;

256 or

257 (II) altering the boundaries of the area proposed to be incorporated as a town to  
258 approximate the boundaries necessary to meet the requirements of Subsection 10-2-109(3).

259 (iv) Each town that incorporates pursuant to a petition granted after the county  
260 legislative body imposes conditions under Subsection (5)(a)(iii)(C)(I) shall comply with those  
261 conditions.

262 (b) The legislative body of each county of the second, third, fourth, fifth, or sixth class  
263 with which a qualifying petition is filed shall grant the petition.

264 (6) (a) Upon the granting of a petition filed under this section, the legislative body of  
265 the county in which the proposed town is located shall appoint a mayor and members of the  
266 town council from a list of qualified individuals approved by the petition sponsors.

267 (b) The officers appointed under Subsection (6)(a) shall hold office until the next  
268 regular municipal election and until their successors are elected and qualified.

269 (7) Each newly incorporated town shall operate under the [~~six-member~~] five-member  
270 council form of government as [~~described~~] defined in Section [~~10-3-101~~] 10-3b-102.

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

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

274 (9) A town is incorporated upon the lieutenant governor's issuance of a certificate of  
275 entity creation under Section 67-1a-6.5.

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

278 Section 4. Section **10-2-303** is amended to read:

279 **10-2-303. Effect of change in class.**

280 (1) [~~(a)~~] If a municipality changes from one class to another:

281 [~~(i)~~] (a) all property, property rights, and other rights that belonged to or were vested in

282 the municipality at the time of the change shall belong to and be vested in it after the change;

283       ~~[(ii)]~~ (b) no contract, claim, or right of the municipality or demand or liability against it  
284 shall be altered or affected in any way by the change;

285       ~~[(iii)]~~ (c) each ordinance, order, and resolution in force in the municipality when it  
286 changes classes shall, to the extent that it is not inconsistent with law, not be affected by the  
287 change and shall remain in effect until repealed or amended;

288       ~~[(iv)]~~ (d) the change shall not affect the identity of the municipality;

289       ~~[(v)]~~ (e) each municipal officer in office at the time of the change shall continue as an  
290 officer until that officer's term expires and a successor is duly elected and qualified; and

291       ~~[(vi) except as provided in Subsection (1)(b);]~~

292       (f) the municipality maintains after the change in class the same form of government  
293 that it had immediately before the change.

294       ~~[(b) (i) If a town operating under a five-member council form of government changes  
295 classes to a fifth class city, its form of government shall, upon issuance of the lieutenant  
296 governor's certificate under Section 10-2-302, change to a six-member council form.]~~

297       ~~[(ii) As soon as practicable after the change in form of government under Subsection  
298 (1)(b)(i), the governing body shall appoint a sixth council member to serve until a successor is  
299 elected at the next municipal general election at which the mayor is not subject to election.]~~

300       (2) (a) A change in class does not affect an action at law, prosecution, business, or  
301 work of the municipality changing classes, and proceedings shall continue and may be  
302 conducted and proceed as if no change in class had occurred.

303       (b) Notwithstanding Subsection (2)(a), if the law applicable to a municipality under the  
304 new class provides the municipality a different remedy with respect to a right that it possessed  
305 at the time of the change, the remedy shall be cumulative to the remedy applicable before the  
306 change in class.

307       Section 5. Section **10-3-301** is amended to read:

308       **10-3-301. Eligibility and residency requirements for elected municipal office --**  
309 **Mayor and recorder limitations.**

310 (1) ~~[(a)]~~ A person filing a declaration of candidacy for a municipal office shall ~~[-(i)- have~~  
311 ~~been a resident of the municipality in which the person seeks office for at least 365 consecutive~~  
312 ~~days immediately before the date of the election; and (ii)]~~ meet the [other] requirements of  
313 Section 20A-9-203.

314 ~~[(b) A person living in an area annexed to a municipality meets the residency~~  
315 ~~requirement of this subsection if that person resided within the area annexed to the municipality~~  
316 ~~for at least 365 consecutive days before the date of the election.]~~

317 ~~[(c) For purposes of determining whether a person meets the residency requirement of~~  
318 ~~Subsection (1)(a)(i) in a municipality that was incorporated less than 365 days before the~~  
319 ~~election, the municipality shall be considered to have been incorporated 365 days before the~~  
320 ~~election.]~~

321 (2) Any person elected to municipal office shall be a registered voter in the municipality  
322 in which the person was elected.

323 (3) (a) Each elected officer of a municipality shall maintain residency within the  
324 boundaries of the municipality during the officer's term of office.

325 (b) If an elected officer of a municipality establishes a principal place of residence as  
326 provided in Section 20A-2-105 outside the municipality during the officer's term of office, the  
327 office is automatically vacant.

328 (4) If an elected municipal officer is absent from the municipality any time during the  
329 officer's term of office for a continuous period of more than 60 days without the consent of the  
330 municipal legislative body, the municipal office is automatically vacant.

331 (5) (a) A mayor of a municipality may not also serve as the municipal recorder or  
332 treasurer.

333 (b) The recorder of a municipality may not also serve as the municipal treasurer.

334 Section 6. Section **10-3-502** is amended to read:

335 **10-3-502. Regular and special council meetings.**

336 ~~[In each city of the third, fourth, or fifth class and each town, the governing body shall]~~

337 (1) The council of each municipality shall:

338 (a) by ordinance prescribe the time and place for holding its regular meeting [~~which~~  
339 ~~shall be held~~], subject to Subsection (1)(b); and

340 (b) hold a regular meeting at least once each month. [~~If at any time the business of such~~  
341 ~~city or town requires a special meeting of the governing body, such meeting may be ordered by~~  
342 ~~the mayor or any two members of the governing body. The order shall]~~

343 (2) (a) The mayor of a municipality or two council members may order the convening  
344 of a special meeting of the council.

345 (b) Each order convening a special meeting of the council shall:

346 (i) be entered in the minutes of the [~~governing body. The order shall]~~ council; and

347 (ii) provide at least three hours' notice of the special meeting [~~and notice thereof shall~~  
348 ~~be served by the~~].

349 (c) The municipal recorder or clerk shall serve notice of the special meeting on each  
350 council member who did not sign the order by delivering the notice personally or by leaving it at  
351 the member's usual place of abode.

352 (d) The personal appearance by a council member at [~~any specially called~~] a special  
353 meeting of the council constitutes a waiver of the notice required [~~in this section~~] under  
354 Subsection (2)(c).

355 Section 7. Section **10-3-504** is amended to read:

356 **10-3-504. Quorum defined.**

357 [(+) The number of council members [~~of the governing body~~] necessary to constitute a  
358 quorum is:

359 [~~(a) in a municipality operating under a five-member or six-member city council form of~~  
360 ~~government or a five-member council-manager form of government, three or more; or]~~

361 [~~(b) in a seven-member council-manager form of government, four or more.]~~

362 [(2) ~~The number of members of the legislative body of a municipality operating under a~~  
363 ~~council-mayor form of government necessary to constitute a quorum is:]~~

364 [~~(a) for a five-member council-mayor form, three; and]~~

365 [~~(b) for a seven-member council-mayor form, four.]~~

- 366 (1) in a municipality with a seven-member council, four;
- 367 (2) in a municipality with a five-member council, three; and
- 368 (3) in a municipality operating under a six-member council form of government, three,
- 369 excluding the mayor.

370 Section 8. Section **10-3-507** is amended to read:

371 **10-3-507. Minimum vote required.**

372 (1) ~~[(a)]~~ The minimum number of yes votes required to pass any ordinance or  
373 resolution, or to take any action by the ~~[governing body]~~ council, unless otherwise prescribed  
374 by law, ~~[shall be]~~ is a majority of ~~[the]~~ all voting members of the ~~[quorum, but may never be less~~  
375 ~~than:]~~ council, without considering any vacancy in the council.

376 ~~[(i) for a municipality operating under a five-member or six-member council form of~~  
377 ~~government or a five-member council-manager form of government, three; or]~~

378 ~~[(ii) for a municipality operating under a seven-member council-manager form of~~  
379 ~~government, four.]~~

380 ~~[(b) The minimum number of yes votes requires to pass an ordinance or resolution or to~~  
381 ~~take an action by the legislative body of a municipality operating under a council-mayor form of~~  
382 ~~government, unless otherwise prescribed by law, shall be a majority of the members of the~~  
383 ~~quorum, but may never be less than:]~~

384 ~~[(i) for a five-member council-mayor form, three; and]~~

385 ~~[(ii) for a seven-member council-mayor form, four.]~~

386 (2) (a) Any ordinance, resolution, or motion of the ~~[governing body]~~ council having  
387 fewer favorable votes than required in this section ~~[shall be considered]~~ is defeated and invalid;  
388 ~~except].~~

389 (b) ~~Notwithstanding Subsection (2)(a),~~ a council meeting may be adjourned to a  
390 specific time by a majority vote of the ~~[governing body]~~ council even though ~~[such]~~ the majority  
391 vote is less than that required in this section.

392 (3) A majority of the council members ~~[of the governing body]~~, regardless of number,  
393 may fill any vacancy in the ~~[governing body]~~ council.

394 Section 9. Section **10-3-820** is amended to read:

395 **10-3-820. Bonds of officers in cities of the first and second class.**

396 In cities of the first and second class, the mayor and each [~~commissioner~~] council  
397 member shall give a penal bond, with approved corporate surety, in the amount of not less than  
398 \$10,000 and the auditor shall give a penal bond with approved corporate surety in the sum of  
399 not less than \$20,000 conditioned for the faithful performance of the duties of their offices and  
400 payment of all monies received by them according to law and the ordinances of the city.

401 Section 10. Section **10-3-902** is amended to read:

402 **10-3-902. City engineer required to be licensed.**

403 [~~In cities of the first and second class the board of commissioners shall appoint a~~  
404 ~~qualified person to each of the offices of recorder, treasurer, engineer and attorney, and may~~  
405 ~~create any other office that may be deemed necessary for the government of the city, and~~  
406 ~~regulate and prescribe the powers, duties and compensation of all officers of the city, except as~~  
407 ~~otherwise provided by law. The]~~

408 Each person [~~so~~] appointed as city engineer shall be a registered professional engineer  
409 under Title 58, Chapter 22[~~. The board of commissioners may appoint all officers and agents as~~  
410 ~~may be provided for by law or ordinances, and fill all vacancies occurring therein~~], Professional  
411 Engineers and Professional Land Surveyors Licensing Act.

412 Section 11. Section **10-3-1106** is amended to read:

413 **10-3-1106. Discharge, suspension without pay, or involuntary transfer -- Appeals**  
414 **-- Board -- Procedure.**

415 (1) An employee to which Section 10-3-1105 applies may not be discharged, suspended  
416 without pay, or involuntarily transferred to a position with less remuneration:

417 (a) because of the employee's politics or religious belief; or

418 (b) incident to, or through changes, either in the elective officers, governing body, or  
419 heads of departments.

420 (2) (a) If an employee is discharged, suspended for more than two days without pay, or  
421 involuntarily transferred from one position to another with less remuneration for any reason, the

422 employee may, subject to Subsection (2)(b), appeal the discharge, suspension without pay, or  
423 involuntary transfer to a board to be known as the appeal board, established under Subsection  
424 (7).

425 (b) If the municipality provides an internal grievance procedure, the employee shall  
426 exhaust the employee's rights under that grievance procedure before appealing to the board.

427 (3) (a) Each appeal under Subsection (2) shall be taken by filing written notice of the  
428 appeal with the municipal recorder within ten days after:

429 (i) if the municipality provides an internal grievance procedure, the employee receives  
430 notice of the final disposition of the municipality's internal grievance procedure; or

431 (ii) if the municipality does not provide an internal grievance procedure, the discharge,  
432 suspension, or involuntary transfer.

433 (b) (i) Upon the filing of an appeal under Subsection (3)(a), the municipal recorder shall  
434 forthwith refer a copy of the appeal to the appeal board.

435 (ii) Upon receipt of the referral from the municipal recorder, the appeal board shall  
436 forthwith commence its investigation, take and receive evidence, and fully hear and determine  
437 the matter which relates to the cause for the discharge, suspension, or transfer.

438 (4) An employee who is the subject of the discharge, suspension, or transfer may:

439 (a) appear in person and be represented by counsel;

440 (b) have a public hearing;

441 (c) confront the witness whose testimony is to be considered; and

442 (d) examine the evidence to be considered by the appeal board.

443 (5) (a) (i) Each decision of the appeal board shall be by secret ballot, and shall be  
444 certified to the recorder within 15 days from the date the matter is referred to it, except as  
445 provided in Subsection (5)(a)(ii).

446 (ii) For good cause, the board may extend the 15-day period under Subsection (5)(a)(i)  
447 to a maximum of 60 days, if the employee and municipality both consent.

448 (b) If it finds in favor of the employee, the board shall provide that the employee shall  
449 receive:



450 (i) the employee's salary for the period of time during which the employee is discharged  
451 or suspended without pay; or

452 (ii) any deficiency in salary for the period during which the employee was transferred to  
453 a position of less remuneration.

454 (6) (a) A final action or order of the appeal board may be appealed to the Court of  
455 Appeals by filing with that court a notice of appeal.

456 (b) Each notice of appeal under Subsection (6)(a) shall be filed within 30 days after the  
457 issuance of the final action or order of the appeal board.

458 (c) The Court of Appeals' review shall be on the record of the appeal board and for the  
459 purpose of determining if the appeal board abused its discretion or exceeded its authority.

460 (7) (a) The method and manner of choosing the members of the appeal board, the  
461 number of members, the designation of their terms of office, and the procedure for conducting  
462 an appeal and the standard of review shall be prescribed by the governing body of each  
463 municipality by ordinance.

464 (b) For a municipality operating under a form of government other than a  
465 council-mayor form under [~~Part 12, Optional Forms of Municipal Government Act~~] Chapter 3b,  
466 Part 2, Council-Mayor Form of Municipal Government, an ordinance adopted under Subsection  
467 (7)(a) may provide that the governing body of the municipality shall serve as the appeal board.

468 Section 12. Section **10-3b-101** is enacted to read:

469 **CHAPTER 3a. (RESERVED)**

470 **CHAPTER 3b. FORMS OF MUNICIPAL GOVERNMENT**

471 **Part 1. General Provisions**

472 **10-3b-101. Title.**

473 This chapter is known as "Forms of Municipal Government."

474 Section 13. Section **10-3b-102** is enacted to read:

475 **10-3b-102. Definitions.**

476 As used in this chapter:

477 (1) "Council-mayor form of government" means the form of municipal government that:

478 (a) (i) is provided for in Laws of Utah 1977, Chapter 48;  
479 (ii) may not be adopted without voter approval; and  
480 (iii) consists of two separate, independent, and equal branches of municipal  
481 government; and  
482 (b) on and after May 5, 2008, is described in Part 2, Council-Mayor Form of Municipal  
483 Government.  
484 (2) "Five-member council form of government" means the form of municipal  
485 government described in Part 4, Five-Member Council Form of Municipal Government.  
486 (3) "Six-member council form of government" means the form of municipal government  
487 described in Part 3, Six-Member Council Form of Municipal Government.  
488 Section 14. Section **10-3b-103** is enacted to read:  
489 **10-3b-103. Forms of municipal government -- Form of government for towns --**  
490 **Former council-manager form.**  
491 (1) A municipality operating on May 4, 2008 under the council-mayor form of  
492 government:  
493 (a) shall, on and after May 5, 2008:  
494 (i) operate under a council-mayor form of government, as defined in Section 10-3b-102;  
495 and  
496 (ii) be subject to:  
497 (A) this part;  
498 (B) Part 2, Council-Mayor Form of Municipal Government;  
499 (C) Part 5, Changing to Another Form of Municipal Government; and  
500 (D) except as provided in Subsection (1)(b), other applicable provisions of this title; and  
501 (b) is not subject to:  
502 (i) Part 3, Six-Member Council Form of Municipal Government; or  
503 (ii) Part 4, Five-Member Council Form of Municipal Government.  
504 (2) A municipality operating on May 4, 2008 under a form of government known under  
505 the law then in effect as the six-member council form:

506           (a) shall, on and after May 5, 2008 and whether or not the council has adopted an  
507 ordinance appointing a manager for the municipality:  
508           (i) operate under a six-member council form of government, as defined in Section  
509 10-3b-102;  
510           (ii) be subject to:  
511           (A) this part;  
512           (B) Part 3, Six-Member Form of Municipal Government;  
513           (C) Part 5, Changing to Another Form of Municipal Government; and  
514           (D) except as provided in Subsection (2)(b), other applicable provisions of this title; and  
515           (b) is not subject to:  
516           (i) Part 2, Council-Mayor Form of Municipal Government; or  
517           (ii) Part 4, Five-Member Council Form of Municipal Government.  
518           (3) A municipality operating on May 4, 2008 under a form of government known under  
519 the law then in effect as the five-member council form:  
520           (a) shall, on and after May 5, 2008:  
521           (i) operate under a five-member council form of government, as defined in Section  
522 10-3b-102;  
523           (ii) be subject to:  
524           (A) this part;  
525           (B) Part 4, Five-Member Council Form of Municipal Government;  
526           (C) Part 5, Changing to Another Form of Municipal Government; and  
527           (D) except as provided in Subsection (3)(b), other applicable provisions of this title; and  
528           (b) is not subject to:  
529           (i) Part 2, Council-Mayor Form of Municipal Government; or  
530           (ii) Part 3, Six-Member Council Form of Municipal Government.  
531           (4) Subject to Subsection (5), each municipality incorporated on or after the effective  
532 date of this section shall operate under:  
533           (a) the council-mayor form of government, with a five-member council;

534 (b) the council-mayor form of government, with a seven-member council;  
535 (c) the six-member council form of government; or  
536 (d) the five-member council form of government.  
537 (5) Each town shall operate under a five-member council form of government unless:  
538 (a) before May 5, 2008, the town has changed to another form of municipal  
539 government; or  
540 (b) on or after May 5, 2008, the town changes its form of government as provided in  
541 Part 5, Changing to Another Form of Municipal Government.  
542 (6) (a) As used in this Subsection (6), "council-manager form of government" means  
543 the form of municipal government:  
544 (i) provided for in Laws of Utah 1977, Chapter 48;  
545 (ii) that cannot be adopted without voter approval; and  
546 (iii) that provides for an appointed manager with duties and responsibilities established  
547 in Laws of Utah 1977, Chapter 48.  
548 (b) A municipality operating on May 4, 2008 under the council-manager form of  
549 government:  
550 (i) shall:  
551 (A) continue to operate, on and after May 5, 2008, under the council-manager form of  
552 government according to the applicable provisions of Laws of Utah 1977, Chapter 48; and  
553 (B) be subject to:  
554 (I) this Subsection (6) and other applicable provisions of this part;  
555 (II) Part 5, Changing to Another Form of Municipal Government; and  
556 (III) except as provided in Subsection (6)(b)(ii), other applicable provisions of this title;  
557 and  
558 (ii) is not subject to:  
559 (A) Part 2, Council-Mayor Form of Municipal Government;  
560 (B) Part 3, Six-Member Council Form of Municipal Government; or  
561 (C) Part 4, Five-Member Council Form of Municipal Government.

562 (7) Nothing in this section may be construed to prevent or limit a municipality operating  
563 under any form of municipal government from changing to another form of government as  
564 provided in Part 5, Changing to Another Form of Municipal Government.

565 Section 15. Section **10-3b-104** is enacted to read:

566 **10-3b-104. Powers and duties of mayor in six-member council and five-member**  
567 **council forms of government.**

568 (1) Except as provided in Subsection (2), the mayor in a municipality operating under a  
569 six-member council form of government or a five-member council form of government:

570 (a) is the chief executive officer of the municipality to whom all employees of the  
571 municipality report;

572 (b) shall:

573 (i) keep the peace and enforce the laws of the municipality;

574 (ii) ensure that all applicable statutes and municipal ordinances and resolutions are  
575 faithfully executed and observed;

576 (iii) if the mayor remits a fine or forfeiture under Subsection (1)(c)(ii), report the  
577 remittance to the council at the council's next meeting after the remittance;

578 (iv) perform all duties prescribed by statute or municipal ordinance or resolution;

579 (v) report to the council the condition and needs of the municipality; and

580 (vi) report to the council any release granted under Subsection (1)(c)(iv); and

581 (c) may:

582 (i) recommend for council consideration any measure that the mayor considers to be in  
583 the best interests of the municipality;

584 (ii) remit fines and forfeitures;

585 (iii) if necessary, call on residents of the municipality over the age of 21 years to assist  
586 in enforcing the laws of the state and ordinances of the municipality;

587 (iv) release a person imprisoned for a violation of a municipal ordinance;

588 (v) with the council's advice and consent:

589 (A) assign or appoint a member of the council to administer one or more departments

590 of the municipality; and  
591 (B) appoint a person to fill:  
592 (I) a municipal office; or  
593 (II) a vacancy on a commission or committee of the municipality; and  
594 (vi) at any reasonable time, examine and inspect the official books, papers, records, or  
595 documents of:

596 (A) the municipality; or  
597 (B) any officer, employee, or agency of the municipality.  
598 (2) The powers and duties in Subsection (1) are subject to:

599 (a) municipal ordinances in effect on May 4, 2008 modifying the powers and duties of  
600 the mayor; and

601 (b) the council's authority to limit or expand the mayor's powers and duties under:  
602 (i) Subsection 10-3b-303(2)(a), for a municipality operating under the six-member  
603 council form of government; and

604 (ii) Subsection 10-3b-403(2)(a), for a municipality operating under the five-member  
605 council form of government.

606 Section 16. Section **10-3b-105** is enacted to read:

607 **10-3b-105. Municipal council in six-member council and five-member council**  
608 **forms of government.**

609 In a municipality operating under a six-member council form of government or a  
610 five-member council form of government, the council:

611 (1) is the legislative body of the municipality and exercises the legislative powers and  
612 performs the legislative duties and functions of the municipality; and

613 (2) may:

614 (a) adopt rules and regulations, not inconsistent with statute, for the efficient  
615 administration, organization, operation, conduct, and business of the municipality;

616 (b) prescribe by resolution additional duties, powers, and responsibilities for any elected  
617 or appointed municipal official, unless prohibited by statute;

618 (c) require by ordinance that any or all appointed officers reside in the municipality;

619 (d) create any office that the council considers necessary for the government of the  
620 municipality;

621 (e) provide for filling a vacancy in an elective or appointive office;

622 (f) take any action allowed under Section 10-8-84; and

623 (g) perform any function specifically provided for by statute or necessarily implied by  
624 law.

625 Section 17. Section **10-3b-201** is enacted to read:

626 **Part 2. Council-Mayor Form of Municipal Government**

627 **10-3b-201. Separate branches of government under a council-mayor form of**  
628 **government.**

629 The powers of municipal government in a municipality operating under the  
630 council-mayor form of government are vested in two separate, independent, and equal branches  
631 of municipal government consisting of:

632 (1) a council composed of five or seven members; and

633 (2) a mayor and, under the mayor's supervision, any executive or administrative  
634 departments, divisions, and offices and any executive or administrative officers provided for by  
635 statute or municipal ordinance.

636 Section 18. Section **10-3b-202** is enacted to read:

637 **10-3b-202. Mayor in council-mayor form of government.**

638 (1) The mayor in a municipality operating under the council-mayor form of  
639 government:

640 (a) is the chief executive and administrative officer of the municipality;

641 (b) exercises the executive and administrative powers and performs or supervises the  
642 performance of the executive and administrative duties and functions of the municipality;

643 (c) shall:

644 (i) keep the peace and enforce the laws of the municipality;

645 (ii) execute the policies adopted by the council;

646 (iii) appoint, with the council's advice and consent, a qualified person for each of the  
647 following positions:

648 (A) subject to Subsection (3), chief administrative officer, if required under the  
649 resolution or petition under Subsection 10-3b-503(1)(a) that proposed the change to a  
650 council-mayor form of government;

651 (B) recorder;

652 (C) treasurer;

653 (D) engineer; and

654 (E) attorney;

655 (iv) provide to the council, at intervals provided by ordinance, a written report to the  
656 council setting forth:

657 (A) the amount of budget appropriations;

658 (B) total disbursements from the appropriations;

659 (C) the amount of indebtedness incurred or contracted against each appropriation,  
660 including disbursements and indebtedness incurred and not paid; and

661 (D) the percentage of the appropriations encumbered;

662 (v) report to the council the condition and needs of the municipality;

663 (vi) report to the council any release granted under Subsection (1)(d)(xiii);

664 (vii) if the mayor remits a fine or forfeiture under Subsection (1)(d)(xi), report the  
665 remittance to the council at the council's next meeting after the remittance;

666 (viii) perform each other duty:

667 (A) prescribed by statute; or

668 (B) required by a municipal ordinance that is not inconsistent with statute;

669 (d) may:

670 (i) subject to budget constraints:

671 (A) appoint:

672 (I) a chief administrative officer; and

673 (II) one or more deputies or administrative assistants to the mayor; and



674 (B) (I) create any other administrative office that the mayor considers necessary for  
675 good government of the municipality; and  
676 (II) appoint a person to the office;  
677 (ii) with the council's advice and consent and except as otherwise specifically limited by  
678 statute, appoint:  
679 (A) each department head of the municipality;  
680 (B) each statutory officer of the municipality; and  
681 (C) each member of a statutory commission, board, or committee of the municipality;  
682 (iii) dismiss any person appointed by the mayor;  
683 (iv) as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation  
684 passed by the council;  
685 (v) exercise control of and supervise each executive or administrative department,  
686 division, or office of the municipality;  
687 (vi) within the general provisions of statute and ordinance, regulate and prescribe the  
688 powers and duties of each other executive or administrative officer or employee of the  
689 municipality;  
690 (vii) attend each council meeting, take part in council meeting discussions, and freely  
691 give advice to the council;  
692 (viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill in  
693 all other respects the requirements of, as the case may be:  
694 (A) Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; or  
695 (B) Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;  
696 (ix) execute an agreement on behalf of the municipality, or delegate, by written  
697 executive order, the authority to execute an agreement on behalf of the municipality:  
698 (A) if the obligation under the agreement is within certified budget appropriations; and  
699 (B) subject to Section 10-6-138;  
700 (x) at any reasonable time, examine and inspect the official books, papers, records, or  
701 documents of:

702 (A) the municipality; or  
703 (B) any officer, employee, or agent of the municipality;  
704 (xi) remit fines and forfeitures;  
705 (xii) if necessary, call on residents of the municipality over the age of 21 years to assist  
706 in enforcing the laws of the state and ordinances of the municipality; and  
707 (xiii) release a person imprisoned for a violation of a municipal ordinance; and  
708 (e) may not vote on any matter before the council.  
709 (2) (a) The first mayor elected under a newly established mayor-council form of  
710 government shall, within six months after taking office, draft and submit to the council a  
711 proposed ordinance:  
712 (i) providing for the division of the municipality's administrative service into  
713 departments, divisions, and bureaus; and  
714 (ii) defining the functions and duties of each department, division, and bureau.  
715 (b) Before the council adopts an ordinance on the municipality's administrative service,  
716 the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness  
717 in the divisions of the municipal government.  
718 (3) Each person appointed as chief administrative officer under Subsection (1)(c)(iii)(A)  
719 shall be appointed on the basis of:  
720 (a) the person's ability and prior experience in the field of public administration; and  
721 (b) any other qualification prescribed by ordinance.  
722 Section 19. Section **10-3b-203** is enacted to read:  
723 **10-3b-203. Council in a council-mayor form of government.**  
724 (1) The council in a municipality operating under a council-mayor form of government:  
725 (a) shall:  
726 (i) by ordinance, provide for the manner in which:  
727 (A) municipal property is bought, sold, traded, encumbered, or otherwise transferred;  
728 and  
729 (B) a subdivision or annexation is approved, disapproved, or otherwise regulated;

- 730 (ii) pass ordinances, appropriate funds, and review municipal administration;
- 731 (iii) perform all duties that the law imposes on the council; and
- 732 (iv) elect one of its members to be the chair of the council;
- 733 (b) may:
- 734 (i) adopt an ordinance, to be known as the municipal administrative code:
- 735 (A) dividing the municipality's administrative service into departments, divisions, and
- 736 bureaus; and
- 737 (B) defining the functions and duties of each department, division, and bureau;
- 738 (ii) adopt an ordinance:
- 739 (A) creating, consolidating, or abolishing departments, divisions, and bureaus; and
- 740 (B) defining or altering the functions and duties of each department, division, and
- 741 bureau;
- 742 (iii) notwithstanding Subsection (1)(c)(iii), make suggestions or recommendations to a
- 743 subordinate of the mayor;
- 744 (iv) (A) notwithstanding Subsection (1)(c), appoint a committee of council members or
- 745 citizens to conduct an investigation into:
- 746 (I) an officer, department, or agency of the municipality; or
- 747 (II) any other matter relating to the welfare of the municipality; and
- 748 (B) delegate to an appointed committee powers of inquiry that the council considers
- 749 necessary;
- 750 (v) make and enforce any additional rule or regulation for the government of the
- 751 council, the preservation of order, and the transaction of the council's business that the council
- 752 considers necessary; and
- 753 (vi) take any action allowed under Section 10-8-84; and
- 754 (c) may not:
- 755 (i) direct or request, other than in writing, the appointment of a person to or the
- 756 removal of a person from an executive municipal office;
- 757 (ii) interfere in any way with an executive officer's performance of the officer's duties;

758 or

759 (iii) publicly or privately give orders to a subordinate of the mayor.

760 (2) A member of a council in a municipality operating under the council-mayor form of  
761 government may not have any other compensated employment with the municipality.

762 Section 20. Section **10-3b-204** is enacted to read:

763 **10-3b-204. Presenting council action to mayor -- Veto -- Reconsideration -- When**  
764 **ordinance, tax levy, or appropriation takes effect.**

765 (1) The council in each municipality operating under a council-mayor form of municipal  
766 government shall present to the mayor each ordinance, tax levy, and appropriation passed by the  
767 council.

768 (2) (a) The mayor in a municipality operating under a council-mayor form of municipal  
769 government may veto an ordinance or tax levy or all or any part of an appropriation passed by  
770 the council.

771 (b) If a mayor vetoes an ordinance or tax levy or all or any part of an appropriation, the  
772 mayor shall return the ordinance, tax levy, or appropriation to the council within 15 days after  
773 the council presents the ordinance, tax levy, or appropriation to the mayor, with a statement  
774 explaining the mayor's objections.

775 (3) At its next meeting following a mayor's veto under Subsection (2), the council shall  
776 reconsider the vetoed ordinance, tax levy, or appropriation.

777 (4) An ordinance, tax levy, or appropriation passed by the council takes effect upon  
778 recording as provided in Chapter 3, Part 7, Municipal Ordinances, Resolutions, and Procedure,  
779 if:

780 (a) the mayor signs the ordinance, tax levy, or appropriation;

781 (b) the mayor fails to sign the ordinance, tax levy, or appropriation within 15 days after  
782 the council presents the ordinance, tax levy, or appropriation to the mayor; or

783 (c) following a veto, the council reconsiders the ordinance, tax levy, or appropriation  
784 and passes it by a vote of at least two-thirds of all council members.

785 Section 21. Section **10-3b-205** is enacted to read:

786 **10-3b-205. Rules and regulations by municipal officers.**

787 A municipal officer in a municipality operating under a council-mayor form of  
788 government may prescribe rules and regulations, not inconsistent with statute, municipal  
789 ordinance, or the merit plan.

790 Section 22. Section **10-3b-301** is enacted to read:

791 **Part 3. Six-Member Council Form of Municipal Government**

792 **10-3b-301. Municipal government powers vested in a six-member council.**

793 The powers of municipal government in a municipality operating under the six-member  
794 council form of government are vested in a council consisting of six members, one of which is a  
795 mayor.

796 Section 23. Section **10-3b-302** is enacted to read:

797 **10-3b-302. Mayor in six-member council form of government -- Mayor pro**  
798 **tempore.**

799 (1) The mayor in a municipality operating under a six-member council form of  
800 municipal government:

801 (a) is, except as provided in Subsection (1)(b), a nonvoting member of the council;

802 (b) votes as a voting member of the council:

803 (i) on each matter for which there is a tie vote of the other council members present at a  
804 council meeting; or

805 (ii) when the council is voting on:

806 (A) whether to appoint or dismiss a municipal manager; or

807 (B) an ordinance that enlarges or restricts the mayor's powers, duties, or functions;

808 (c) is the chair of the council and presides at all council meetings;

809 (d) exercises ceremonial functions for the municipality;

810 (e) may not veto an ordinance, tax levy, or appropriation passed by the council;

811 (f) except as modified by ordinance under Subsection 10-3b-303(2), has the powers and  
812 duties described in Section 10-3b-104; and

813 (g) may, within budget constraints, appoint one or more administrative assistants to the

814 mayor.

815 (2) (a) If the mayor is absent or unable or refuses to act, the council may elect a  
816 member of the council as mayor pro tempore, to:

817 (i) preside at a council meeting; and

818 (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and  
819 functions of mayor.

820 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting the  
821 election of a council member as mayor pro tempore under Subsection (2)(a).

822 Section 24. Section **10-3b-303** is enacted to read:

823 **10-3b-303. Council in six-member council form of government.**

824 (1) The council in a municipality operating under a six-member council form of  
825 government:

826 (a) exercises any executive or administrative power and performs or supervises the  
827 performance of any executive or administrative duty or function that:

828 (i) has not been given to the mayor under Section 10-3b-104; or

829 (ii) has been given to the mayor under Section 10-3b-104 but is removed from the  
830 mayor under Subsection (1)(b)(i)(A);

831 (b) may:

832 (i) subject to Subsections (1)(c) and (2), adopt an ordinance:

833 (A) removing from the mayor any power, duty, or function of the mayor under Section  
834 10-3b-104; or

835 (B) reinstating to the mayor any power, duty, or function previously removed under  
836 Subsection (1)(b)(i)(A);

837 (ii) adopt an ordinance delegating to the mayor any executive or administrative power,  
838 duty, or function that the council has under Subsection (1)(a);

839 (iii) subject to Subsection 10-3b-302(1)(b)(ii)(A):

840 (A) appoint a manager to perform executive and administrative duties or functions that  
841 the council by ordinance delegates to the manager, subject to Subsection (1)(c); and

842 (B) dismiss a manager appointed under Subsection (1)(b)(iii)(A); and  
 843 (iv) assign any or all council members, including the mayor, to supervise one or more  
 844 administrative departments of the municipality; and  
 845 (c) may not remove from the mayor or delegate to a manager appointed by the council:  
 846 (i) any of the mayor's legislative or judicial powers or ceremonial functions;  
 847 (ii) the mayor's position as chair of the council; or  
 848 (iii) any ex officio position that the mayor holds.  
 849 (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to  
 850 the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative  
 851 vote of:

- 852 (a) the mayor and a majority of all other council members; or
- 853 (b) all council members except the mayor.

854 Section 25. Section **10-3b-401** is enacted to read:

**Part 4. Five-Member Council Form of Municipal Government**

**10-3b-401. Municipal government powers vested in a five-member council.**

857 The powers of municipal government in a municipality operating under the five-member  
 858 council form of municipal government are vested in a council consisting of five members, one of  
 859 which is a mayor.

860 Section 26. Section **10-3b-402** is enacted to read:

**10-3b-402. Mayor in a five-member council form of government.**

862 (1) The mayor in a municipality operating under a five-member council form of  
 863 municipal government:

- 864 (a) is a regular and voting member of the council;
- 865 (b) is the chair of the council and presides at all council meetings;
- 866 (c) exercises ceremonial functions for the municipality;
- 867 (d) may not veto any ordinance, tax levy, or appropriation passed by the council; and
- 868 (e) except as modified by ordinance under Subsection 10-3b-403(2), has the powers  
 869 and duties described in Section 10-3b-104.

870 (2) (a) If the mayor is absent or unable or refuses to act, the council may elect a  
871 member of the council as mayor pro tempore, to:

872 (i) preside at a council meeting; and

873 (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and  
874 functions of mayor.

875 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting the  
876 election of a council member as mayor pro tempore under Subsection (2)(a).

877 Section 27. Section **10-3b-403** is enacted to read:

878 **10-3b-403. Council in a five-member council form of government.**

879 (1) The council in a municipality operating under a five-member council form of  
880 municipal government:

881 (a) exercises any executive or administrative power and performs or supervises the  
882 performance of any executive or administrative duty or function that:

883 (i) has not been given to the mayor under Section 10-3b-104; or

884 (ii) has been given to the mayor under Section 10-3b-104 but is removed from the  
885 mayor under Subsection (1)(b)(i)(A);

886 (b) may:

887 (i) subject to Subsections (1)(c) and (2), adopt an ordinance:

888 (A) removing from the mayor any power, duty, or function of the mayor under Section  
889 10-3b-104; and

890 (B) reinstating to the mayor any power, duty, or function previously removed under  
891 Subsection (1)(b)(i)(A);

892 (ii) adopt an ordinance delegating to the mayor any executive or administrative power,  
893 duty, or function that the council has under Subsection (1)(a);

894 (iii) appoint a manager to perform executive and administrative duties or functions that  
895 the council by ordinance delegates to the manager, subject to Subsection (1)(c);

896 (iv) dismiss a manager appointed under Subsection (1)(b)(iii); and

897 (v) assign any or all council members, including the mayor, to supervise one or more



898 administrative departments of the municipality; and

899 (c) may not remove from the mayor or delegate to a manager appointed by the council:

900 (i) any of the mayor's legislative or judicial powers or ceremonial functions;

901 (ii) the mayor's position as chair of the council; or

902 (iii) any ex officio position that the mayor holds.

903 (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to

904 the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative

905 vote of:

906 (a) the mayor and a majority of all other council members; or

907 (b) all council members except the mayor.

908 Section 28. Section **10-3b-501** is enacted to read:

909 **Part 5. Changing to Another Form of Municipal Government**

910 **10-3b-501. Authority to change to another form of municipal government.**

911 As provided in this part, a municipality may change from the form of government under

912 which it operates to:

913 (1) the council-mayor form of government with a five-member council;

914 (2) the council-mayor form of government with a seven-member council;

915 (3) the six-member council form of government; or

916 (4) the five-member council form of government.

917 Section 29. Section **10-3b-502** is enacted to read:

918 **10-3b-502. Voter approval required for a change in the form of government.**

919 A municipality may not change its form of government under this part unless voters of

920 the municipality approve the change at an election held for that purpose.

921 Section 30. Section **10-3b-503** is enacted to read:

922 **10-3b-503. Resolution or petition proposing a change in the form of government.**

923 (1) The process to change the form of government under which a municipality operates

924 is initiated by:

925 (a) the council's adoption of a resolution proposing a change; or

926 (b) the filing of a petition, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives  
927 - Procedures, proposing a change.

928 (2) Within 45 days after the adoption of a resolution under Subsection (1)(a) or the  
929 declaring of a petition filed under Subsection (1)(b) as sufficient under Section 20A-7-507, the  
930 council shall hold at least two public hearings on the proposed change.

931 (3) (a) Except as provided in Subsection (3)(b), the council shall hold an election on the  
932 proposed change in the form of government at the next municipal general election or regular  
933 general election that is more than 75 days after, as the case may be:

934 (i) a resolution under Subsection (1)(a) is adopted; or

935 (ii) a petition filed under Subsection (1)(b) is declared sufficient under Section  
936 20A-7-507.

937 (b) Notwithstanding Subsection (3)(a), an election on a proposed change in the form of  
938 government may not be held if:

939 (i) in the case of a proposed change initiated by the council's adoption of a resolution  
940 under Subsection (1)(a), the council rescinds the resolution within 60 days after adopting it; or

941 (ii) in the case of a proposed change initiated by a petition under Subsection (1)(b),  
942 enough signatures are withdrawn from the petition within 60 days after the petition is declared  
943 sufficient under Section 20A-7-507 that the petition is no longer sufficient.

944 (4) Each resolution adopted under Subsection (1)(a) or petition filed under Subsection  
945 (1)(b) shall:

946 (a) state the method of election and initial terms of council members; and

947 (b) specify the boundaries of districts substantially equal in population, if some or all  
948 council members are to be elected by district.

949 (5) A resolution under Subsection (1)(a) or petition under Subsection (1)(b) proposing  
950 a change to a council-mayor form of government may require that, if the change is adopted, the  
951 mayor appoint, with the council's advice and consent, a chief administrative officer, to exercise  
952 the administrative powers and perform the duties that the mayor prescribes.

953 Section 31. Section **10-3b-504** is enacted to read:

954 **10-3b-504. Limitations on adoption of a resolution and filing of a petition.**

955 A resolution may not be adopted under Subsection 10-3b-503(1)(a) and a petition may  
956 not be filed under Subsection 10-3b-503(1)(b) within:

957 (1) two years after an election at which voters reject a proposal to change the  
958 municipality's form of government, if the resolution or petition proposes changing to the same  
959 form of government that voters rejected at the election; or

960 (2) four years after the effective date of a change in the form of municipal government.  
961 Section 32. Section **10-3b-505** is enacted to read:

962 **10-3b-505. Ballot form.**

963 The ballot at an election on a proposal to change the municipality's form of government  
964 shall:

965 (1) state the ballot question substantially as follows: "Shall (state the municipality's  
966 name), Utah change its form of government to the (state "council-mayor form, with a  
967 five-member council," "council-mayor form, with a seven-member council," "six-member  
968 council form," or "five-member council form," as applicable)?"; and

969 (2) provide a space or method for the voter to vote "yes" or "no."

970 Section 33. Section **10-3b-506** is enacted to read:

971 **10-3b-506. Election of officers after a change in the form of government.**

972 (1) If voters approve a proposal to change the municipality's form of government at an  
973 election held as provided in this part, an election of officers under the new form of government  
974 shall be held on the municipal general election date following the election at which voters  
975 approve the proposal.

976 (2) If a municipality changes its form of government under this part resulting in the  
977 elimination of an elected official's position, the municipality shall continue to pay that official at  
978 the same rate until the date on which the official's term would have expired, unless under the  
979 new form of government the official holds municipal office for which the official is regularly  
980 compensated.

981 (3) A council member whose term has not expired at the time the municipality changes

982 its form of government under this part may, at the council member's option, continue to serve as  
983 a council member under the new form of government for the remainder of the member's term.

984 (4) The term of the mayor and each council member is four years or until a successor is  
985 qualified, except that approximately half of the initial council members, chosen by lot, shall  
986 serve a term of two years or until a successor is qualified.

987 Section 34. Section **10-3b-507** is enacted to read:

988 **10-3b-507. Effective date of change in the form of government.**

989 A change in the form of government under this chapter takes effect at noon on the first  
990 Monday of January next following the election of officers under Section 10-3b-506.

991 Section 35. Section **10-6-151** is amended to read:

992 **10-6-151. Independent audit requirements.**

993 Independent audits of all cities are required[;] to be performed in conformity with Title  
994 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and  
995 Other Local Entities Act. [~~In the case of a city organized under Title 10, Chapter 3, Part 12,~~  
996 ~~Optional Forms of Municipal Government Act, the council shall appoint an independent auditor~~  
997 ~~for the purpose of complying with the requirements of this section and of Title 51, Chapter 2a,~~  
998 ~~Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local~~  
999 ~~Entities Act.]~~

1000 Section 36. Section **10-9a-103** is amended to read:

1001 **10-9a-103. Definitions.**

1002 As used in this chapter:

1003 (1) "Affected entity" means a county, municipality, local district, special service district  
1004 under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, school district, interlocal  
1005 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified  
1006 public utility, a property owner, a property owners association, or the Utah Department of  
1007 Transportation, if:

1008 (a) the entity's services or facilities are likely to require expansion or significant  
1009 modification because of an intended use of land;

1010 (b) the entity has filed with the municipality a copy of the entity's general or long-range  
1011 plan; or

1012 (c) the entity has filed with the municipality a request for notice during the same  
1013 calendar year and before the municipality provides notice to an affected entity in compliance  
1014 with a requirement imposed under this chapter.

1015 (2) "Appeal authority" means the person, board, commission, agency, or other body  
1016 designated by ordinance to decide an appeal of a decision of a land use application or a  
1017 variance.

1018 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
1019 residential property if the sign is designed or intended to direct attention to a business, product,  
1020 or service that is not sold, offered, or existing on the property where the sign is located.

1021 (4) "Charter school" includes:

1022 (a) an operating charter school;

1023 (b) a charter school applicant that has its application approved by a chartering entity in  
1024 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

1025 (c) an entity who is working on behalf of a charter school or approved charter applicant  
1026 to develop or construct a charter school building.

1027 [~~(5) "Chief executive officer" means the:~~]

1028 [~~(a) mayor in municipalities operating under all forms of municipal government except  
1029 the council-manager form; or]~~]

1030 [~~(b) city manager in municipalities operating under the council-manager form of  
1031 municipal government.]~~]

1032 [~~(6)~~] (5) "Conditional use" means a land use that, because of its unique characteristics  
1033 or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not  
1034 be compatible in some areas or may be compatible only if certain conditions are required that  
1035 mitigate or eliminate the detrimental impacts.

1036 [~~(7)~~] (6) "Constitutional taking" means a governmental action that results in a taking of  
1037 private property so that compensation to the owner of the property is required by the:

1038 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1039 (b) Utah Constitution Article I, Section 22.

1040 [~~(8)~~] (7) "Culinary water authority" means the department, agency, or public entity with  
1041 responsibility to review and approve the feasibility of the culinary water system and sources for  
1042 the subject property.

1043 [~~(9)~~] (8) (a) "Disability" means a physical or mental impairment that substantially limits  
1044 one or more of a person's major life activities, including a person having a record of such an  
1045 impairment or being regarded as having such an impairment.

1046 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
1047 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
1048 802.

1049 [~~(10)~~] (9) "Elderly person" means a person who is 60 years old or older, who desires or  
1050 needs to live with other elderly persons in a group setting, but who is capable of living  
1051 independently.

1052 [~~(11)~~] (10) "Fire authority" means the department, agency, or public entity with  
1053 responsibility to review and approve the feasibility of fire protection and suppression services  
1054 for the subject property.

1055 [~~(12)~~] (11) "General plan" means a document that a municipality adopts that sets forth  
1056 general guidelines for proposed future development of the land within the municipality.

1057 [~~(13)~~] (12) "Identical plans" means building plans submitted to a municipality that are  
1058 substantially identical to building plans that were previously submitted to and reviewed and  
1059 approved by the municipality and describe a building that is:

1060 (a) located on land zoned the same as the land on which the building described in the  
1061 previously approved plans is located; and

1062 (b) subject to the same geological and meteorological conditions and the same law as  
1063 the building described in the previously approved plans.

1064 [~~(14)~~] (13) "Land use application" means an application required by a municipality's  
1065 land use ordinance.

1066            [~~(15)~~] (14) "Land use authority" means a person, board, commission, agency, or other  
1067 body designated by the local legislative body to act upon a land use application.

1068            [~~(16)~~] (15) "Land use ordinance" means a planning, zoning, development, or  
1069 subdivision ordinance of the municipality, but does not include the general plan.

1070            [~~(17)~~] (16) "Land use permit" means a permit issued by a land use authority.

1071            [~~(18)~~] (17) "Legislative body" means the municipal council.

1072            [~~(19)~~] (18) "Local district" means an entity under Title 17B, Limited Purpose Local  
1073 Government Entities - Local Districts, and any other governmental or quasi-governmental entity  
1074 that is not a county, municipality, school district, or unit of the state.

1075            [~~(20)~~] (19) "Lot line adjustment" means the relocation of the property boundary line in  
1076 a subdivision between two adjoining lots with the consent of the owners of record.

1077            [~~(21)~~] (20) "Moderate income housing" means housing occupied or reserved for  
1078 occupancy by households with a gross household income equal to or less than 80% of the  
1079 median gross income for households of the same size in the county in which the city is located.

1080            [~~(22)~~] (21) "Nominal fee" means a fee that reasonably reimburses a municipality only  
1081 for time spent and expenses incurred in:

1082            (a) verifying that building plans are identical plans; and

1083            (b) reviewing and approving those minor aspects of identical plans that differ from the  
1084 previously reviewed and approved building plans.

1085            [~~(23)~~] (22) "Noncomplying structure" means a structure that:

1086            (a) legally existed before its current land use designation; and

1087            (b) because of one or more subsequent land use ordinance changes, does not conform  
1088 to the setback, height restrictions, or other regulations, excluding those regulations, which  
1089 govern the use of land.

1090            [~~(24)~~] (23) "Nonconforming use" means a use of land that:

1091            (a) legally existed before its current land use designation;

1092            (b) has been maintained continuously since the time the land use ordinance governing  
1093 the land changed; and

1094 (c) because of one or more subsequent land use ordinance changes, does not conform  
1095 to the regulations that now govern the use of the land.

1096 [~~25~~] (24) "Official map" means a map drawn by municipal authorities and recorded in  
1097 a county recorder's office that:

1098 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for  
1099 highways and other transportation facilities;

1100 (b) provides a basis for restricting development in designated rights-of-way or between  
1101 designated setbacks to allow the government authorities time to purchase or otherwise reserve  
1102 the land; and

1103 (c) has been adopted as an element of the municipality's general plan.

1104 [~~26~~] (25) "Person" means an individual, corporation, partnership, organization,  
1105 association, trust, governmental agency, or any other legal entity.

1106 [~~27~~] (26) "Plan for moderate income housing" means a written document adopted by  
1107 a city legislative body that includes:

1108 (a) an estimate of the existing supply of moderate income housing located within the  
1109 city;

1110 (b) an estimate of the need for moderate income housing in the city for the next five  
1111 years as revised biennially;

1112 (c) a survey of total residential land use;

1113 (d) an evaluation of how existing land uses and zones affect opportunities for moderate  
1114 income housing; and

1115 (e) a description of the city's program to encourage an adequate supply of moderate  
1116 income housing.

1117 [~~28~~] (27) "Plat" means a map or other graphical representation of lands being laid out  
1118 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

1119 [~~29~~] (28) "Public hearing" means a hearing at which members of the public are  
1120 provided a reasonable opportunity to comment on the subject of the hearing.

1121 [~~30~~] (29) "Public meeting" means a meeting that is required to be open to the public



1122 under Title 52, Chapter 4, Open and Public Meetings Act.

1123        ~~[(31)]~~ (30) "Record of survey map" means a map of a survey of land prepared in  
1124 accordance with Section 17-23-17.

1125        ~~[(32)]~~ (31) "Receiving zone" means an area of a municipality that the municipality's land  
1126 use authority designates as an area in which an owner of land may receive transferrable  
1127 development rights.

1128        ~~[(33)]~~ (32) "Residential facility for elderly persons" means a single-family or  
1129 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not  
1130 include a health care facility as defined by Section 26-21-2.

1131        ~~[(34)]~~ (33) "Residential facility for persons with a disability" means a residence:

1132           (a) in which more than one person with a disability resides; and

1133           (b) (i) is licensed or certified by the Department of Human Services under Title 62A,  
1134 Chapter 2, Licensure of Programs and Facilities; or

1135           (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,  
1136 Health Care Facility Licensing and Inspection Act.

1137        ~~[(35)]~~ (34) "Sanitary sewer authority" means the department, agency, or public entity  
1138 with responsibility to review and approve the feasibility of sanitary sewer services or onsite  
1139 wastewater systems.

1140        ~~[(36)]~~ (35) "Sending zone" means an area of a municipality that the municipality's land  
1141 use authority designates as an area from which an owner of land may transfer transferrable  
1142 development rights to an owner of land in a receiving zone.

1143        ~~[(37)]~~ (36) "Specified public utility" means an electrical corporation, gas corporation,  
1144 or telephone corporation, as those terms are defined in Section 54-2-1.

1145        ~~[(38)]~~ (37) "Street" means a public right-of-way, including a highway, avenue,  
1146 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or  
1147 other way.

1148        ~~[(39)]~~ (38) (a) "Subdivision" means any land that is divided, resubdivided or proposed  
1149 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the

1150 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
1151 installment plan or upon any and all other plans, terms, and conditions.

1152 (b) "Subdivision" includes:

1153 (i) the division or development of land whether by deed, metes and bounds description,  
1154 devise and testacy, map, plat, or other recorded instrument; and

1155 (ii) except as provided in Subsection [~~(39)~~ (38)(c), divisions of land for residential and  
1156 nonresidential uses, including land used or to be used for commercial, agricultural, and  
1157 industrial purposes.

1158 (c) "Subdivision" does not include:

1159 (i) a bona fide division or partition of agricultural land for the purpose of joining one of  
1160 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither  
1161 the resulting combined parcel nor the parcel remaining from the division or partition violates an  
1162 applicable land use ordinance;

1163 (ii) a recorded agreement between owners of adjoining unsubdivided properties  
1164 adjusting their mutual boundary if:

1165 (A) no new lot is created; and

1166 (B) the adjustment does not violate applicable land use ordinances;

1167 (iii) a recorded document, executed by the owner of record:

1168 (A) revising the legal description of more than one contiguous unsubdivided parcel of  
1169 property into one legal description encompassing all such parcels of property; or

1170 (B) joining a subdivided parcel of property to another parcel of property that has not  
1171 been subdivided, if the joinder does not violate applicable land use ordinances; or

1172 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting  
1173 their mutual boundary if:

1174 (A) no new dwelling lot or housing unit will result from the adjustment; and

1175 (B) the adjustment will not violate any applicable land use ordinance.

1176 (d) The joining of a subdivided parcel of property to another parcel of property that has  
1177 not been subdivided does not constitute a subdivision under this Subsection [~~(39)~~ (38) as to the

1178 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's  
1179 subdivision ordinance.

1180       ~~[(40)]~~ (39) "Transferrable development right" means the entitlement to develop land  
1181 within a sending zone that would vest according to the municipality's existing land use  
1182 ordinances on the date that a completed land use application is filed seeking the approval of  
1183 development activity on the land.

1184       ~~[(41)]~~ (40) "Unincorporated" means the area outside of the incorporated area of a city  
1185 or town.

1186       ~~[(42)]~~ (41) "Zoning map" means a map, adopted as part of a land use ordinance, that  
1187 depicts land use zones, overlays, or districts.

1188       Section 37. Section **20A-1-102** is amended to read:

1189       **20A-1-102. Definitions.**

1190       As used in this title:

1191       (1) "Active voter" means a registered voter who has not been classified as an inactive  
1192 voter by the county clerk.

1193       (2) "Automatic tabulating equipment" means apparatus that automatically examines and  
1194 counts votes recorded on paper ballots or ballot sheets and tabulates the results.

1195       (3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon  
1196 which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and  
1197 secrecy envelopes.

1198       (4) "Ballot sheet":

1199       (a) means a ballot that:

1200       (i) consists of paper or a card where the voter's votes are marked or recorded; and

1201       (ii) can be counted using automatic tabulating equipment; and

1202       (b) includes punch card ballots, and other ballots that are machine-countable.

1203       (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that  
1204 contain the names of offices and candidates and statements of ballot propositions to be voted on  
1205 and which are used in conjunction with ballot sheets that do not display that information.

1206 (6) "Ballot proposition" means opinion questions specifically authorized by the  
1207 Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions  
1208 that are submitted to the voters for their approval or rejection.

1209 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and  
1210 20A-4-306 to canvass election returns.

1211 (8) "Bond election" means an election held for the purpose of approving or rejecting the  
1212 proposed issuance of bonds by a government entity.

1213 (9) "Book voter registration form" means voter registration forms contained in a bound  
1214 book that are used by election officers and registration agents to register persons to vote.

1215 (10) "By-mail voter registration form" means a voter registration form designed to be  
1216 completed by the voter and mailed to the election officer.

1217 (11) "Canvass" means the review of election returns and the official declaration of  
1218 election results by the board of canvassers.

1219 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at  
1220 the canvass.

1221 (13) "Convention" means the political party convention at which party officers and  
1222 delegates are selected.

1223 (14) "Counting center" means one or more locations selected by the election officer in  
1224 charge of the election for the automatic counting of ballots.

1225 (15) "Counting judge" means a poll worker designated to count the ballots during  
1226 election day.

1227 (16) "Counting poll watcher" means a person selected as provided in Section  
1228 20A-3-201 to witness the counting of ballots.

1229 (17) "Counting room" means a suitable and convenient private place or room,  
1230 immediately adjoining the place where the election is being held, for use by the poll workers and  
1231 counting judges to count ballots during election day.

1232 (18) "County executive" has the meaning as provided in Subsection 68-3-12(2).

1233 (19) "County legislative body" has the meaning as provided in Subsection 68-3-12(2).

1234           (20) "County officers" means those county officers that are required by law to be  
1235 elected.

1236           (21) "Election" means a regular general election, a municipal general election, a  
1237 statewide special election, a local special election, a regular primary election, a municipal  
1238 primary election, and a local district election.

1239           (22) "Election Assistance Commission" means the commission established by Public  
1240 Law 107-252, the Help America Vote Act of 2002.

1241           (23) "Election cycle" means the period beginning on the first day persons are eligible to  
1242 file declarations of candidacy and ending when the canvass is completed.

1243           (24) "Election judge" means a poll worker that is assigned to:

1244           (a) preside over other poll workers at a polling place;

1245           (b) act as the presiding election judge; or

1246           (c) serve as a canvassing judge, counting judge, or receiving judge.

1247           (25) "Election officer" means:

1248           (a) the lieutenant governor, for all statewide ballots;

1249           (b) the county clerk or clerks for all county ballots and for certain ballots and elections  
1250 as provided in Section 20A-5-400.5;

1251           (c) the municipal clerk for all municipal ballots and for certain ballots and elections as  
1252 provided in Section 20A-5-400.5;

1253           (d) the local district clerk or chief executive officer for certain ballots and elections as  
1254 provided in Section 20A-5-400.5; and

1255           (e) the business administrator or superintendent of a school district for certain ballots or  
1256 elections as provided in Section 20A-5-400.5.

1257           (26) "Election official" means any election officer, election judge, or poll worker.

1258           (27) "Election results" means, for bond elections, the count of those votes cast for and  
1259 against the bond proposition plus any or all of the election returns that the board of canvassers  
1260 may request.

1261           (28) "Election returns" includes the pollbook, all affidavits of registration, the military

1262 and overseas absentee voter registration and voting certificates, one of the tally sheets, any  
1263 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled  
1264 ballots, the ballot disposition form, and the total votes cast form.

1265 (29) "Electronic ballot" means a ballot that is recorded using a direct electronic voting  
1266 device or other voting device that records and stores ballot information by electronic means.

1267 (30) (a) "Electronic voting device" means a voting device that uses electronic ballots.

1268 (b) "Electronic voting device" includes a direct recording electronic voting device.

1269 (31) "Inactive voter" means a registered voter who has been sent the notice required by  
1270 Section 20A-2-306 and who has failed to respond to that notice.

1271 (32) "Inspecting poll watcher" means a person selected as provided in this title to  
1272 witness the receipt and safe deposit of voted and counted ballots.

1273 (33) "Judicial office" means the office filled by any judicial officer.

1274 (34) "Judicial officer" means any justice or judge of a court of record or any county  
1275 court judge.

1276 (35) "Local district" means a local government entity under Title 17B, Limited Purpose  
1277 Local Government Entities - Local Districts, and includes a special service district under Title  
1278 17A, Chapter 2, Part 13, Utah Special Service District Act.

1279 (36) "Local district officers" means those local district officers that are required by law  
1280 to be elected.

1281 (37) "Local election" means a regular municipal election, a local special election, a local  
1282 district election, and a bond election.

1283 (38) "Local political subdivision" means a county, a municipality, a local district, or a  
1284 local school district.

1285 (39) "Local special election" means a special election called by the governing body of a  
1286 local political subdivision in which all registered voters of the local political subdivision may  
1287 vote.

1288 (40) "Municipal executive" means:

1289 [~~(a) the city council or town council in the traditional management arrangement~~]

1290 established by Title 10, Chapter 3, Part 1, ~~Governing Body;~~

1291 ~~[(b)]~~ (a) the mayor in the council-mayor ~~[optional]~~ form of government defined in  
1292 Section ~~[10-3-101]~~ 10-3b-102; and

1293 ~~[(c)]~~ (b) the ~~[manager]~~ mayor in the council-manager ~~[optional]~~ form of government  
1294 defined in ~~[Section 10-3-101]~~ Subsection 10-3b-103(6).

1295 (41) "Municipal general election" means the election held in municipalities and local  
1296 districts on the first Tuesday after the first Monday in November of each odd-numbered year for  
1297 the purposes established in Section 20A-1-202.

1298 (42) "Municipal legislative body" means~~[-(a)]~~ the ~~[city]~~ council of the city or town  
1299 ~~[council]~~ in ~~[the traditional management arrangement established by Title 10, Chapter 3, Part 1,~~  
1300 ~~Governing Body;]~~ any form of municipal government.

1301 ~~[(b) the municipal council in the council-mayor optional form of government defined in~~  
1302 ~~Section 10-3-101; and]~~

1303 ~~[(c) the municipal council in the council-manager optional form of government defined~~  
1304 ~~in Section 10-3-101;]~~

1305 (43) "Municipal officers" means those municipal officers that are required by law to be  
1306 elected.

1307 (44) "Municipal primary election" means an election held to nominate candidates for  
1308 municipal office.

1309 (45) "Official ballot" means the ballots distributed by the election officer to the poll  
1310 workers to be given to voters to record their votes.

1311 (46) "Official endorsement" means:

1312 (a) the information on the ballot that identifies:

1313 (i) the ballot as an official ballot;

1314 (ii) the date of the election; and

1315 (iii) the facsimile signature of the election officer; and

1316 (b) the information on the ballot stub that identifies:

1317 (i) the poll worker's initials; and

1318 (ii) the ballot number.

1319 (47) "Official register" means the official record furnished to election officials by the  
1320 election officer that contains the information required by Section 20A-5-401.

1321 (48) "Paper ballot" means a paper that contains:

1322 (a) the names of offices and candidates and statements of ballot propositions to be  
1323 voted on; and

1324 (b) spaces for the voter to record his vote for each office and for or against each ballot  
1325 proposition.

1326 (49) "Political party" means an organization of registered voters that has qualified to  
1327 participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party  
1328 Formation and Procedures.

1329 (50) (a) "Poll worker" means a person assigned by an election official to assist with an  
1330 election, voting, or counting votes.

1331 (b) "Poll worker" includes election judges.

1332 (c) "Poll worker" does not include a watcher.

1333 (51) "Pollbook" means a record of the names of voters in the order that they appear to  
1334 cast votes.

1335 (52) "Polling place" means the building where voting is conducted.

1336 (53) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in  
1337 which the voter marks his choice.

1338 (54) "Provisional ballot" means a ballot voted provisionally by a person:

1339 (a) whose name is not listed on the official register at the polling place;

1340 (b) whose legal right to vote is challenged as provided in this title; or

1341 (c) whose identity was not sufficiently established by a poll worker.

1342 (55) "Provisional ballot envelope" means an envelope printed in the form required by  
1343 Section 20A-6-105 that is used to identify provisional ballots and to provide information to  
1344 verify a person's legal right to vote.

1345 (56) "Primary convention" means the political party conventions at which nominees for



1346 the regular primary election are selected.

1347 (57) "Protective counter" means a separate counter, which cannot be reset, that is built  
1348 into a voting machine and records the total number of movements of the operating lever.

1349 (58) "Qualify" or "qualified" means to take the oath of office and begin performing the  
1350 duties of the position for which the person was elected.

1351 (59) "Receiving judge" means the poll worker that checks the voter's name in the  
1352 official register, provides the voter with a ballot, and removes the ballot stub from the ballot  
1353 after the voter has voted.

1354 (60) "Registration form" means a book voter registration form and a by-mail voter  
1355 registration form.

1356 (61) "Regular ballot" means a ballot that is not a provisional ballot.

1357 (62) "Regular general election" means the election held throughout the state on the first  
1358 Tuesday after the first Monday in November of each even-numbered year for the purposes  
1359 established in Section 20A-1-201.

1360 (63) "Regular primary election" means the election on the fourth Tuesday of June of  
1361 each even-numbered year, at which candidates of political parties and nonpolitical groups are  
1362 voted for nomination.

1363 (64) "Resident" means a person who resides within a specific voting precinct in Utah.

1364 (65) "Sample ballot" means a mock ballot similar in form to the official ballot printed  
1365 and distributed as provided in Section 20A-5-405.

1366 (66) "Scratch vote" means to mark or punch the straight party ticket and then mark or  
1367 punch the ballot for one or more candidates who are members of different political parties.

1368 (67) "Secrecy envelope" means the envelope given to a voter along with the ballot into  
1369 which the voter places the ballot after he has voted it in order to preserve the secrecy of the  
1370 voter's vote.

1371 (68) "Special election" means an election held as authorized by Section 20A-1-204.

1372 (69) "Spoiled ballot" means each ballot that:

1373 (a) is spoiled by the voter;

1374 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

1375 (c) lacks the official endorsement.

1376 (70) "Statewide special election" means a special election called by the governor or the  
1377 Legislature in which all registered voters in Utah may vote.

1378 (71) "Stub" means the detachable part of each ballot.

1379 (72) "Substitute ballots" means replacement ballots provided by an election officer to  
1380 the poll workers when the official ballots are lost or stolen.

1381 (73) "Ticket" means each list of candidates for each political party or for each group of  
1382 petitioners.

1383 (74) "Transfer case" means the sealed box used to transport voted ballots to the  
1384 counting center.

1385 (75) "Vacancy" means the absence of a person to serve in any position created by  
1386 statute, whether that absence occurs because of death, disability, disqualification, resignation, or  
1387 other cause.

1388 (76) "Valid voter identification" means:

1389 (a) a form of identification that bears the name and photograph of the voter which may  
1390 include:

1391 (i) a currently valid Utah driver license;

1392 (ii) a currently valid identification card that is issued by:

1393 (A) the state;

1394 (B) a local government within the state; or

1395 (C) a branch, department, or agency of the United States;

1396 (iii) an identification card that is issued by an employer for an employee;

1397 (iv) a currently valid identification card that is issued by a college, university, technical  
1398 school, or professional school that is located within the state;

1399 (v) a currently valid Utah permit to carry a concealed weapon;

1400 (vi) a currently valid United States passport; or

1401 (vii) a valid tribal identification card; or

1402 (b) two forms of identification that bear the name of the voter and provide evidence that  
1403 the voter resides in the voting precinct, which may include:

- 1404 (i) a voter identification card;
- 1405 (ii) a current utility bill or a legible copy thereof;
- 1406 (iii) a bank or other financial account statement, or a legible copy thereof;
- 1407 (iv) a certified birth certificate;
- 1408 (v) a valid Social Security card;
- 1409 (vi) a check issued by the state or the federal government or a legible copy thereof;
- 1410 (vii) a paycheck from the voter's employer, or a legible copy thereof;
- 1411 (viii) a currently valid Utah hunting or fishing license;
- 1412 (ix) a currently valid United States military identification card;
- 1413 (x) certified naturalization documentation;
- 1414 (xi) a currently valid license issued by an authorized agency of the United States;
- 1415 (xii) a certified copy of court records showing the voter's adoption or name change;
- 1416 (xiii) a Bureau of Indian Affairs card;
- 1417 (xiv) a tribal treaty card;
- 1418 (xv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card; or
- 1419 (xvi) a form of identification listed in Subsection (76)(a) that does not contain a  
1420 photograph, but establishes the name of the voter and provides evidence that the voter resides in  
1421 the voting precinct.

1422 (77) "Valid write-in candidate" means a candidate who has qualified as a write-in  
1423 candidate by following the procedures and requirements of this title.

1424 (78) "Voter" means a person who meets the requirements for voting in an election,  
1425 meets the requirements of election registration, is registered to vote, and is listed in the official  
1426 register book.

1427 (79) "Voter registration deadline" means the registration deadline provided in Section  
1428 20A-2-102.5.

1429 (80) "Voting area" means the area within six feet of the voting booths, voting machines,

1430 and ballot box.

1431 (81) "Voting booth" means:

1432 (a) the space or compartment within a polling place that is provided for the preparation  
1433 of ballots, including the voting machine enclosure or curtain; or

1434 (b) a voting device that is free standing.

1435 (82) "Voting device" means:

1436 (a) an apparatus in which ballot sheets are used in connection with a punch device for  
1437 piercing the ballots by the voter;

1438 (b) a device for marking the ballots with ink or another substance;

1439 (c) an electronic voting device or other device used to make selections and cast a ballot  
1440 electronically, or any component thereof;

1441 (d) an automated voting system under Section 20A-5-302; or

1442 (e) any other method for recording votes on ballots so that the ballot may be tabulated  
1443 by means of automatic tabulating equipment.

1444 (83) "Voting machine" means a machine designed for the sole purpose of recording and  
1445 tabulating votes cast by voters at an election.

1446 (84) "Voting poll watcher" means a person appointed as provided in this title to witness  
1447 the distribution of ballots and the voting process.

1448 (85) "Voting precinct" means the smallest voting unit established as provided by law  
1449 within which qualified voters vote at one polling place.

1450 (86) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll  
1451 watcher, and a testing watcher.

1452 (87) "Western States Presidential Primary" means the election established in Title 20A,  
1453 Chapter 9, Part 8.

1454 (88) "Write-in ballot" means a ballot containing any write-in votes.

1455 (89) "Write-in vote" means a vote cast for a person whose name is not printed on the  
1456 ballot according to the procedures established in this title.

1457 Section 38. Section **20A-1-506** is amended to read:

1458 **20A-1-506. Vacancy in the office of justice court judge.**

1459 (1) As used in this section:

1460 (a) "Appointing authority" means:

1461 (i) for a county:

1462 ~~[(i)]~~ (A) the chair of the county commission in [counties] a county having the county  
1463 commission or expanded county commission form of county government; and

1464 ~~[(i)]~~ (B) the county executive in [counties] a county having the county  
1465 executive-council form of government; and

1466 ~~[(iii) the chair]~~ (ii) for a city or town, the mayor of the city [council] or town [council  
1467 in municipalities having:];

1468 ~~[(A) the traditional management arrangement established by Title 10, Chapter 3, Part 1;~~  
1469 ~~Governing Body; and]~~

1470 ~~[(B) the council-manager optional form of government defined in Section 10-3-101;~~  
1471 ~~and]~~

1472 ~~[(iv) the mayor, in the council-mayor optional form of government defined in Section~~  
1473 ~~10-3-101;]~~

1474 (b) "Local legislative body" means:

1475 (i) for a county, the county commission or county council; and

1476 (ii) for a city or town, the [city] council of the city or town [council].

1477 (2) (a) If a vacancy occurs in the office of a municipal justice court judge before the  
1478 completion of his term of office, the appointing authority may:

1479 (i) fill the vacancy by appointment for the unexpired term by following the procedures  
1480 and requirements for appointments in Section 78A-7-202; or

1481 (ii) contract with a justice court judge of the county, an adjacent county, or another  
1482 municipality within those counties for judicial services.

1483 (b) When the appointing authority chooses to contract under Subsection (2)(a)(ii), it  
1484 shall ensure that the contract is for the same term as the term of office of the judge whose  
1485 services are replaced by the contract.

1486 (c) The appointing authority shall notify the Office of the State Court Administrator in  
1487 writing of the appointment, resignation, or the contractual agreement for services of a judge  
1488 under this section within 30 days after filling the vacancy.

1489 (3) (a) If a vacancy occurs in the office of a county justice court judge before the  
1490 completion of that judge's term of office, the appointing authority may fill the vacancy by  
1491 appointment for the unexpired term by following the procedures and requirements for  
1492 appointments in Section 78A-7-202.

1493 (b) The appointing authority shall notify the Office of the State Court Administrator in  
1494 writing of any appointment of a county justice court judge under this section within 30 days  
1495 after the appointment is made.

1496 (4) (a) When a vacancy occurs in the office of a justice court judge, the appointing  
1497 authority shall:

- 1498 (i) advertise the vacancy and solicit applications for the vacancy;
- 1499 (ii) appoint the best qualified candidate to office based solely upon fitness for office;
- 1500 (iii) comply with the procedures and requirements of Title 52, Chapter 3, prohibiting  
1501 employment of relatives in making appointments to fill the vacancy; and
- 1502 (iv) submit the name of the appointee to the local legislative body.

1503 (b) If the local legislative body does not confirm the appointment within 30 days of  
1504 submission, the appointing authority may either appoint another of the applicants or reopen the  
1505 vacancy by advertisement and solicitations of applications.

1506 Section 39. Section **20A-1-510** is amended to read:

1507 **20A-1-510. Midterm vacancies in municipal offices.**

1508 (1) (a) Except as otherwise provided in Subsection (2), if any vacancy occurs in the  
1509 office of municipal executive or member of a municipal legislative body, the municipal  
1510 legislative body shall appoint a registered voter in the municipality who meets the qualifications  
1511 for office established in Section 10-3-301 to fill the unexpired term of the office vacated until  
1512 the January following the next municipal election.

1513 (b) Before acting to fill the vacancy, the municipal legislative body shall:

1514 (i) give public notice of the vacancy at least two weeks before the municipal legislative  
1515 body meets to fill the vacancy; and

1516 (ii) identify, in the notice:

1517 (A) the date, time, and place of the meeting where the vacancy will be filled; and

1518 (B) the person to whom a person interested in being appointed to fill the vacancy may  
1519 submit his name for consideration and any deadline for submitting it.

1520 (c) (i) If, for any reason, the municipal legislative body does not fill the vacancy within  
1521 30 days after the vacancy occurs, the municipal legislative body shall vote upon the names that  
1522 have been submitted.

1523 (ii) The two persons having the highest number of votes of the municipal legislative  
1524 body shall appear before the municipal legislative body and the municipal legislative body shall  
1525 vote again.

1526 (iii) If neither candidate receives a majority vote of the municipal legislative body at that  
1527 time, the vacancy shall be filled by lot in the presence of the municipal legislative body.

1528 (2) (a) A vacancy in the office of municipal executive or member of a municipal  
1529 legislative body shall be filled by an interim appointment, followed by an election to fill a  
1530 two-year term, if:

1531 (i) the vacancy occurs, or a letter of resignation is received, by the municipal executive  
1532 at least 14 days before the deadline for filing for election in an odd-numbered year; and

1533 (ii) two years of the vacated term will remain after the first Monday of January  
1534 following the next municipal election.

1535 (b) In appointing an interim replacement, the municipal legislative body shall comply  
1536 with the notice requirements of this section.

1537 (3) A member of a municipal legislative body may not participate in any part of the  
1538 process established in this section to fill a vacancy if that member is being considered for  
1539 appointment to fill the vacancy.

1540 (4) (a) In a municipality operating under the council-mayor form of government, as  
1541 defined in Section 10-3b-102:

1542 (i) the council may appoint a person to fill a vacancy in the office of mayor before the  
1543 effective date of the mayor's resignation by making the effective date of the appointment the  
1544 same as the effective date of the mayor's resignation; and

1545 (ii) if a vacancy in the office of mayor occurs before the effective date of an  
1546 appointment under Subsection (1) or (2) to fill the vacancy, the council chair shall serve as  
1547 acting mayor during the time between the creation of the vacancy and the effective date of the  
1548 appointment to fill the vacancy.

1549 (b) While serving as acting mayor under Subsection (4)(a)(ii), the council chair  
1550 continues to:

1551 (i) act as a council member; and

1552 (ii) vote at council meetings.

1553 Section 40. Section **20A-9-203** is amended to read:

1554 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

1555 (1) (a) (i) A person may become a candidate for any municipal office if:

1556 (A) the person is a registered voter; and~~[:]~~

1557 ~~[(+)]~~ (B) (I) the person has resided within the municipality in which that person seeks to  
1558 hold elective office for the 12 consecutive months immediately before the date of the election;  
1559 or

1560 ~~[(+)]~~ (II) if the territory in which the person resides was annexed into the municipality,  
1561 the person has resided within the annexed territory or the municipality ~~[for 12 months:]~~ the 12  
1562 consecutive months immediately before the date of the election.

1563 (ii) For purposes of determining whether a person meets the residency requirement of  
1564 Subsection (1)(a)(i)(B)(I) in a municipality that was incorporated less than 12 months before the  
1565 election, the municipality shall be considered to have been incorporated 12 months before the  
1566 date of the election.

1567 (b) In addition to the requirements of Subsection (1)(a), ~~[candidates]~~ each candidate for  
1568 a municipal council position ~~[under the council-mayor or council-manager alternative forms of~~  
1569 ~~municipal government]~~ shall, if elected from ~~[districts, be residents]~~ a district, be a resident of



1570 the council district from which ~~[they are]~~ elected.

1571 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally  
1572 incompetent person, any person convicted of a felony, or any person convicted of treason or a  
1573 crime against the elective franchise may not hold office in this state until the right to hold  
1574 elective office is restored under Section 20A-2-101.5.

1575 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to  
1576 become a candidate for a municipal office shall:

1577 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during  
1578 office hours and not later than 5 p.m. between July 1 and July 15 of any odd numbered year; and

1579 (ii) pay the filing fee, if one is required by municipal ordinance.

1580 (b) (i) As used in this Subsection (2)(b), "registered voters" means the number of  
1581 persons registered to vote in the municipality on the January 1 of the municipal election year.

1582 (ii) A third, fourth, or fifth class city that used the convention system to nominate  
1583 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the  
1584 process contained in this Subsection (2)(b) in the last municipal election or a town that used the  
1585 convention system to nominate candidates in the last municipal election as authorized by  
1586 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last  
1587 municipal election may, by ordinance, require, in lieu of the convention system, that candidates  
1588 for municipal office file a nominating petition signed by a percentage of registered voters at the  
1589 same time that the candidate files a declaration of candidacy.

1590 (iii) The ordinance shall specify the number of signatures that the candidate must obtain  
1591 on the nominating petition in order to become a candidate for municipal office under this  
1592 Subsection (2), but that number may not exceed 5% of registered voters.

1593 (c) Any resident of a municipality may nominate a candidate for a municipal office by:

1594 (i) filing a nomination petition with the city recorder or town clerk during office hours,  
1595 but not later than 5 p.m., between July 1 and July 15 of any odd-numbered year; and

1596 (ii) paying the filing fee, if one is required by municipal ordinance.

1597 (d) When July 15 is a Saturday, Sunday, or holiday, the filing time shall be extended

1598 until 5 p.m. on the following regular business day.

1599 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination  
1600 petition, the filing officer shall:

1601 (i) read to the prospective candidate or person filing the petition the constitutional and  
1602 statutory qualification requirements for the office that the candidate is seeking; and

1603 (ii) require the candidate or person filing the petition to state whether or not the  
1604 candidate meets those requirements.

1605 (b) If the prospective candidate does not meet the qualification requirements for the  
1606 office, the filing officer may not accept the declaration of candidacy or nomination petition.

1607 (c) If it appears that the prospective candidate meets the requirements of candidacy, the  
1608 filing officer shall:

1609 (i) inform the candidate that the candidate's name will appear on the ballot as it is  
1610 written on the declaration of candidacy;

1611 (ii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide  
1612 Electronic Voter Information Website Program and inform the candidate of the submission  
1613 deadline under Subsection 20A-7-801(4)(a);

1614 (iii) provide the candidate with a copy of the pledge of fair campaign practices  
1615 described under Section 20A-9-206 and inform the candidate that:

1616 (A) signing the pledge is voluntary; and

1617 (B) signed pledges shall be filed with the filing officer; and

1618 (iv) accept the declaration of candidacy or nomination petition.

1619 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer  
1620 shall:

1621 (i) accept the candidate's pledge; and

1622 (ii) if the candidate has filed for a partisan office, provide a certified copy of the  
1623 candidate's pledge to the chair of the county or state political party of which the candidate is a  
1624 member.

1625 (4) The declaration of candidacy shall substantially comply with the following form:

1626 "I, (print name) \_\_\_\_\_, being first sworn, say that I reside at \_\_\_\_\_ Street, City of \_\_\_\_\_,  
1627 County of \_\_\_\_\_, state of Utah, Zip Code \_\_\_\_\_, Telephone Number (if any) \_\_\_\_\_; that I am a  
1628 registered voter; and that I am a candidate for the office of \_\_\_\_\_ (stating the term). I request  
1629 that my name be printed upon the applicable official ballots. (Signed) \_\_\_\_\_

1630 Subscribed and sworn to (or affirmed) before me by \_\_\_\_\_ on this  
1631 \_\_\_\_\_(month\day\year).

1632 (Signed) \_\_\_\_\_ (Clerk or other officer qualified to administer oath)"

1633 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that  
1634 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not  
1635 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated  
1636 for municipal office by submitting a petition signed by:

- 1637 (i) 25 residents of the municipality who are at least 18 years old; or
- 1638 (ii) 20% of the residents of the municipality who are at least 18 years old.

1639 (b) (i) The petition shall substantially conform to the following form:

1640 "NOMINATION PETITION

1641 The undersigned residents of (name of municipality) being 18 years old or older  
1642 nominate (name of nominee) to the office of \_\_\_\_\_ for the (two or four-year term, whichever is  
1643 applicable)."

1644 (ii) The remainder of the petition shall contain lines and columns for the signatures of  
1645 persons signing the petition and their addresses and telephone numbers.

1646 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized  
1647 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection  
1648 (2)(b), any registered voter may be nominated for municipal office by submitting a petition  
1649 signed by the same percentage of registered voters in the municipality as required by the  
1650 ordinance passed under authority of Subsection (2)(b).

1651 (b) (i) The petition shall substantially conform to the following form:

1652 "NOMINATION PETITION

1653 The undersigned residents of (name of municipality) being 18 years old or older

1654 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,  
1655 whichever is applicable)."

1656 (ii) The remainder of the petition shall contain lines and columns for the signatures of  
1657 persons signing the petition and their addresses and telephone numbers.

1658 (7) If the declaration of candidacy or nomination petition fails to state whether the  
1659 nomination is for the two or four-year term, the clerk shall consider the nomination to be for the  
1660 four-year term.

1661 (8) (a) The clerk shall verify with the county clerk that all candidates are registered  
1662 voters.

1663 (b) Any candidate who is not registered to vote is disqualified and the clerk may not  
1664 print the candidate's name on the ballot.

1665 (9) Immediately after expiration of the period for filing a declaration of candidacy, the  
1666 clerk shall:

1667 (a) cause the names of the candidates as they will appear on the ballot to be published in  
1668 at least two successive publications of a newspaper with general circulation in the municipality;  
1669 and

1670 (b) notify the lieutenant governor of the names of the candidates as they will appear on  
1671 the ballot.

1672 (10) A declaration of candidacy or nomination petition filed under this section may not  
1673 be amended after the expiration of the period for filing a declaration of candidacy.

1674 (11) (a) A declaration of candidacy or nomination petition filed under this section is  
1675 valid unless a written objection is filed with the clerk within five days after the last day for filing.

1676 (b) If an objection is made, the clerk shall:

1677 (i) mail or personally deliver notice of the objection to the affected candidate  
1678 immediately; and

1679 (ii) decide any objection within 48 hours after it is filed.

1680 (c) If the clerk sustains the objection, the candidate may correct the problem by  
1681 amending the declaration or petition within three days after the objection is sustained or by filing

1682 a new declaration within three days after the objection is sustained.

1683 (d) (i) The clerk's decision upon objections to form is final.

1684 (ii) The clerk's decision upon substantive matters is reviewable by a district court if  
1685 prompt application is made to the district court.

1686 (iii) The decision of the district court is final unless the Supreme Court, in the exercise  
1687 of its discretion, agrees to review the lower court decision.

1688 (12) Any person who filed a declaration of candidacy and was nominated, and any  
1689 person who was nominated by a nomination petition, may, any time up to 23 days before the  
1690 election, withdraw the nomination by filing a written affidavit with the clerk.

1691 Section 41. Section **78A-7-202** is amended to read:

1692 **78A-7-202. Justice court judges to be appointed -- Procedure -- Report to**  
1693 **Judicial Council -- Retention election -- Vacancy.**

1694 (1) As used in this section:

1695 (a) "Appointing authority" means:

1696 (i) for a county:

1697 [(†) (A) the chair of the county commission in [~~counties having~~] a county operating  
1698 under the county commission or expanded county commission form of county government;

1699 [(††) (B) the county executive in [~~counties having~~] a county operating under the county  
1700 executive-council form of county government; and

1701 (C) the county manager in a county operating under the council-manager form of  
1702 county government; and

1703 [~~(iii) the chair~~] (ii) for a city or town, the mayor of the city [council] or town [council  
1704 in municipalities having the traditional management arrangement established by Title 10,  
1705 Chapter 3, Part 1, Governing Body;].

1706 [(iv) ~~the city manager, in the council-manager optional form of government defined in~~  
1707 Section 10-3-101; and]

1708 [~~(v) the mayor, in the council-mayor optional form of government defined in Section~~  
1709 10-3-101.]

- 1710 (b) "Local legislative body" means:
- 1711 (i) for a county, the county commission or county council; and
- 1712 (ii) for a city or town, the [city] council of the city or town [council].
- 1713 (2) Justice court judges shall be appointed by the appointing authority and confirmed by
- 1714 a majority vote of the local legislative body.
- 1715 (3) (a) After a newly appointed justice court judge has been confirmed, the local
- 1716 legislative body shall report the confirmed judge's name to the Judicial Council.
- 1717 (b) The Judicial Council shall certify the judge as qualified to hold office upon
- 1718 successful completion of the orientation program and upon the written opinion of the county or
- 1719 municipal attorney that the judge meets the statutory qualifications for office.
- 1720 (c) A justice court judge may not perform judicial duties until certified by the Judicial
- 1721 Council.
- 1722 (4) Upon the expiration of a county justice court judge's term of office the judge shall
- 1723 be subject to an unopposed retention election in accordance with the procedures set forth in
- 1724 Section 20A-12-201.
- 1725 (5) Upon the expiration of a municipal justice court judge's term of office a municipal
- 1726 justice court judge shall be reappointed absent a showing of good cause by the appointing
- 1727 authority.
- 1728 (a) If an appointing authority asserts good cause to not reappoint a municipal justice
- 1729 court judge, at the request of the judge, the good cause shall be presented at a formal hearing of
- 1730 the local legislative body.
- 1731 (b) The local legislative body shall determine by majority vote whether good cause
- 1732 exists not to reappoint the municipal justice court judge.
- 1733 (c) The decision of the local legislative body is not subject to appeal.
- 1734 (d) In determining whether good cause exists to not reappoint a municipal justice court
- 1735 judge, the appointing authority and local legislative body shall consider:
- 1736 (i) whether or not the judge has been certified as meeting the evaluation criteria for
- 1737 judicial performance established by the Judicial Council; and

- 1738 (ii) any other factors considered relevant by the appointing authority.
- 1739 (6) Before reappointment or retention election, each justice court judge shall be
- 1740 evaluated in accordance with the performance evaluation program established in Subsection
- 1741 78A-2-104(5).
- 1742 (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of
- 1743 justice court judge, the appointing authority may contract with a justice court judge in the
- 1744 county or an adjacent county to serve as justice court judge.
- 1745 (b) The contract shall be for the duration of the justice court judge's term of office.
- 1746 (8) Vacancies in the office of justice court judge shall be filled as provided in Section
- 1747 20A-1-506.
- 1748 **Section 42. Repealer.**
- 1749 This bill repeals:
- 1750 **Section 10-3-101, Governing body -- Legislative and executive powers.**
- 1751 **Section 10-3-102, Governing body -- Other functions.**
- 1752 **Section 10-3-106, Governing body in towns.**
- 1753 **Section 10-3-206, Election of officers in towns operating under a five-member**
- 1754 **council form of government.**
- 1755 **Section 10-3-207, Determining two and four year terms.**
- 1756 **Section 10-3-403, Mayor as presiding officer -- Mayor pro tempore.**
- 1757 **Section 10-3-404, No veto.**
- 1758 **Section 10-3-501, Meetings in cities of the first and second class.**
- 1759 **Section 10-3-503, Quorum necessary to do business.**
- 1760 **Section 10-3-802, Designation of department head in cities of the first class.**
- 1761 **Section 10-3-804, Change in names, functions and superintendents of departments.**
- 1762 **Section 10-3-806, Designation of department head in cities of the second class.**
- 1763 **Section 10-3-807, Commissioners may administer two departments -- Change in**
- 1764 **names, functions and superintendents.**
- 1765 **Section 10-3-808, Administration vested in mayor.**

- 1766 Section **10-3-809, Powers of mayors in a city of third, fourth, or fifth class or a**
- 1767 **town.**
- 1768 Section **10-3-810, Additional powers and duties of elected officials in a city of the**
- 1769 **third, fourth, or fifth class or a town.**
- 1770 Section **10-3-811, Members of the governing body may be appointed to**
- 1771 **administration in a city of the third, fourth, or fifth class or a town.**
- 1772 Section **10-3-812, Change of duties in a city of the third, fourth, or fifth class or a**
- 1773 **town.**
- 1774 Section **10-3-813, General administrative powers of all municipalities.**
- 1775 Section **10-3-814, Personnel assigned to one or more departments.**
- 1776 Section **10-3-815, Rules and regulations for administration of municipality.**
- 1777 Section **10-3-816, Appointed officers -- Residency requirement authorized.**
- 1778 Section **10-3-817, Elected executives to appoint their deputies.**
- 1779 Section **10-3-830, Appointment of city or town manager.**
- 1780 Section **10-3-901, Creating offices -- Filling vacancies.**
- 1781 Section **10-3-1201, Citation of act.**
- 1782 Section **10-3-1202, Legislative finding.**
- 1783 Section **10-3-1203, Election requirements and procedure for organization under**
- 1784 **different form of government.**
- 1785 Section **10-3-1204, Application of act.**
- 1786 Section **10-3-1205, Rights, powers, and duties of municipality operating under**
- 1787 **optional form.**
- 1788 Section **10-3-1206, Limitation on changing form of government.**
- 1789 Section **10-3-1207, Disapproval of optional form by voters -- Limitation on**
- 1790 **resubmission.**
- 1791 Section **10-3-1208, Election of officers -- When new government operative --**
- 1792 **Compensation of officials without position in new government.**
- 1793 Section **10-3-1210, Functions of the council.**



- 1794           Section **10-3-1211, Council members -- Qualifications -- Terms of office.**
- 1795           Section **10-3-1212, Meetings of council -- Access to records.**
- 1796           Section **10-3-1213, Chairmen of councils -- Power to call witnesses and administer**
- 1797 **oath -- Quorum -- Voting procedure.**
- 1798           Section **10-3-1214, Ordinance adoption under council-mayor form -- Powers of**
- 1799 **mayor.**
- 1800           Section **10-3-1215, Rules and regulations for government of council.**
- 1801           Section **10-3-1216, Council members elected from districts -- Boundary --**
- 1802 **Adjustments.**
- 1803           Section **10-3-1217, Limitations on actions and authority of council members --**
- 1804 **Investigatory committees.**
- 1805           Section **10-3-1218, Vacancy in council.**
- 1806           Section **10-3-1219, Council-mayor form -- Powers and duties of mayor.**
- 1807           Section **10-3-1219.5, Council-mayor form -- Ordinances on transfer of municipal**
- 1808 **property and regulation of subdivisions or annexations.**
- 1809           Section **10-3-1220, Council-mayor form -- Appointment of chief administrative**
- 1810 **officer.**
- 1811           Section **10-3-1221, Municipal administrative code in council-mayor form.**
- 1812           Section **10-3-1222, Council-mayor form -- Vacancy in office of mayor.**
- 1813           Section **10-3-1223, Council-manager form -- Election and powers and duties of**
- 1814 **mayor.**
- 1815           Section **10-3-1224, Council-manager form -- Appointment of municipal manager.**
- 1816           Section **10-3-1225, Manager -- Removal from office.**
- 1817           Section **10-3-1226, Manager -- Powers and duties.**
- 1818           Section **10-3-1227, Municipal administrative code in council-manager form.**
- 1819           Section **10-3-1228, Manager -- Working time and compensation.**
- 1820           Section **43. Coordinating S.B. 20 with S.B. 72 -- Merging technical and**
- 1821 **substantive amendments.**

1822 If this S.B. 20 and S.B. 72, Justice Court Amendments, both pass, it is the intent of the  
1823 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah  
1824 Code database for publication, modify Subsection 78A-7-202(1), repealed and reenacted by  
1825 S.B. 72, to read:

1826 "(1) As used in this section:

1827 (a) "Local government executive" means:

1828 (i) for a county:

1829 (A) the chair of the county commission in a county operating under the county  
1830 commission or expanded county commission form of county government;

1831 (B) the county executive in a county operating under the county executive-council form  
1832 of county government; and

1833 (C) the county manager in a county operating under the council-manager form of  
1834 county government; and

1835 (ii) for a city or town, the mayor of the city or town.

1836 (b) "Local legislative body" means:

1837 (i) for a county, the county commission or county council; and

1838 (ii) for a city or town, the council of the city or town."