

**A RESOLUTION OF THE TOWN COUNCIL OF WALLSBURG TOWN, UTAH,
CALLING FOR THE REPEAL OF PRELIMINARY MUNICIPALITY CODE**

WHEREAS, Wasatch County and Wallsburg Town have completed comprehensive updates to their General Plans that included robust public engagement; and

WHEREAS, Wasatch County's and Wallsburg Town's adopted general plans and the community values they represent are in conflict with the proposed preliminary municipalities; and

WHEREAS, local governments are best situated to balance competing property rights related to land use development; and

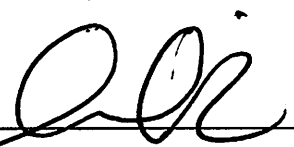
WHEREAS, Wasatch County has compiled a report documenting issues with existing state code; and

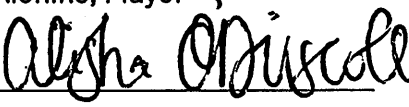
WHEREAS, Wasatch County adopted a resolution calling for the repeal of preliminary municipality code;

NOW, Therefore be it resolved that Wallsburg Town, along with the Wasatch County Legislative Body, finds that the Utah State Legislature should immediately repeal the changes adopted in SB258 from the 2024 General Session and terminate the Preliminary Municipality pilot program for the reasons listed in the attached report, completed by Wasatch County.

ADOPTED AND APPROVED by the Town Council of Wallsburg Town, Utah, this 17th day of September 2026.

WALLSBURG TOWN COUNCIL

By: 
Celeni Richins, Mayor

Attest: 
Alisha O'Driscoll, Town Clerk

Vote

Mayor Celeni Richins
Council Member Terri Eisel
Council Member Mary Piscitelli
Council Member Rohn Hortin
Council Member Peter Nielsen

<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
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Preliminary Municipalities Report: Flaws in Existing Statutory Processes

Executive Summary

Wasatch County understands the intent of Utah Code Title 10, Chapter 2a, Part 5: giving landowners a path to self-organize new communities. But as written, the statute contains structural flaws that let developers entitle large-scale projects while sidestepping the infrastructure, housing, oversight, and accountability standards every other community in Utah must meet. The County's direct experience administering an active preliminary municipality application has surfaced five structural problems the Legislature should address.

1. Regional infrastructure is not a statutory consideration

The statute requires an analysis of whether sufficient water will be available, but sets no standard of what satisfies that requirement, and does not require an applicant to quantify a project's impact on regional wastewater or transportation systems. It gives counties no added tools to respond when impacts are severe. In one Wasatch County case, a preliminary municipality is proposed on land zoned for 160-acre minimum lots, with no transportation corridor built for concentrated development, virtually no underlying water rights, and a feasibility study that proposes septic systems on parcels far smaller than the five-acre minimum established by a Wasatch County ground water study.

2. The process can worsen, not improve, affordable housing availability

The statute does not require an applicant to specify when, how, or where the 10% of affordable units would be built. Feasibility studies are not required to demonstrate compliance with that threshold. The draft study reviewed by the County shows units priced from \$1.5 million to \$10 million, alongside commercial and hospitality space that will demand a workforce the project does not adequately house, adding to the affordable housing deficit instead of relieving it.

3. Perverse incentives cloud regulatory oversight

Ordinary development proceeds under continuous county or municipal oversight, including engineering review, code compliance, and stormwater and wetlands enforcement. The preliminary municipality framework leaves these responsibilities under owner-appointed oversight during the pre-incorporation period, asking the property owner to police their own project.

4. The feasibility study cannot test the plan it approves

Feasibility studies are not required to show a project can actually be built, and outside parties have no defined way to challenge their assumptions. One study assumed 75% primary occupancy, against a roughly 5% rate for comparable Wasatch County developments, a gap large enough to keep the project from reaching the population threshold incorporation requires. The same study ignores wastewater infrastructure that cannot be permitted and built on a feasible timeline.

5. The law creates self-entitlement with no enforceable backstop

A property owner can obtain preliminary municipality status with little real obligation to complete the project. Utah Code § 10-2a-507(3)(d) is meant to enforce consequences for failure, but is effectively unenforceable against an LLC that can simply dissolve or declare bankruptcy — leaving the county as the inevitable backstop for the obligations left behind.

Wasatch County has concluded that these problems highlight structural flaws with the preliminary municipality pilot program. The County recommends that the Legislature repeal Title 10, Chapter 2a, Part 5 and convene a stakeholder process to design a framework that meets a higher standard for current and future property owners. Detailed findings and recommendations follow.

Full Report

Background

Utah's preliminary municipality statute, enacted as S.B. 258 from the 2024 General Session and codified at Utah Code Title 10, Chapter 2a, Part 5, allows a landowner to petition to organize an unincorporated area as a preliminary municipality, a step toward eventual full incorporation. The process requires a feasibility study but sets a comparatively low bar for what that study must show and grants the applicant substantial entitlement and development authority well before the community it describes has any residents, tax base, or independent capacity to deliver services.

The complaint challenging the Echo Canyon preliminary municipality argues that §§ 10-2a-501 through 10-2a-510 improperly permit private interests to control or exercise municipal functions, create a municipality without a conventional resident electorate, and raise special-legislation and democratic-accountability concerns. These allegations have not been adjudicated but provide a relevant constitutional framework for evaluating the statute.

Wasatch County is currently examining an active preliminary municipality application and has reviewed the draft feasibility study submitted in support of it. The study remains in draft form and may be revised before a final version is issued. The findings below reflect the draft as reviewed. The County's concerns are focused by a specific project, but the concerns below are structural and are likely to recur in any future application under the statute as written, in Wasatch County or elsewhere in the state.

1. Regional Infrastructure Is Not a Statutory Consideration

The preliminary municipality statute requires a feasibility study to analyze whether sufficient water will be available to serve the project but it sets no standard for what that analysis must show or how sufficiency is measured, leaving compliance effectively self-certified by the applicant. A county general plan is intended to coordinate growth, transportation, water, wastewater, emergency services, housing, open space, and other infrastructure across the entire jurisdiction. Because § 10-2a-509 gives a preliminary municipality zoning and land-use authority, creation of a preliminary municipality can fragment that countywide planning framework by removing the area from County land-use control. The statute requires no comparable analysis of wastewater treatment, or transportation impact, and gives counties no additional regulatory tools to address the impacts that result. Infrastructure adequacy is treated as the new municipality's problem to solve after the fact contrary to the County's General Plan, not a threshold question to answer before entitlement is granted. Four specific areas of concern are as follows:

- **Transportation:** the existing road network was built for large lot, low-traffic agricultural and preservation use, not for the trip generation of hundreds of new residential units, a 200-room hotel, and 160 glamping units which will require substantial upgrades outside of the project area on roads owned by the County.
- **Water:** the property carries little to no existing water rights, meaning the water supply for the entire development is not yet secured at the point the county is asked to review the feasibility study. The statute requires an analysis of water sufficiency, but sets no standard for what quantity, certainty, or documentation would satisfy that requirement.

- **Wastewater:** the draft feasibility study states that wastewater treatment “within the proposed preliminary municipality is assumed to be provided through individual onsite septic systems.” None of the proposed residential units are sited on lots of five acres or larger, the minimum required by health department regulation based on a water quality study for septic system installation, and an onsite septic approach is not a viable or compliant option for a 200-unit hotel in any case. This area is in a critical watershed, a portion of which drains into culinary water sources for existing residents.
- **Fire risk and evacuation:** the site lies entirely within the Wildland Urban Interface, and the County's General Plan affirms that this area should remain low-density and in preservation given its elevated wildfire risk and constrained terrain. The same steep, difficult terrain that heightens fire risk also limits evacuation capacity which the feasibility study does not address.

2. The Process Undercuts the State's Own Affordable Housing Goals

Utah's housing affordability crisis is a stated legislative priority, and preliminary municipality legislation has at times been framed as part of the state's broader effort to expand housing supply. The statute does require at least 10% of a preliminary municipality's housing be affordable, but imposes no requirement that an applicant disclose when, how, or where any affordable units would be built. No part of the statute requires an evaluation or verification of compliance with the 10% threshold at all, or any consequences for non-compliance.

The draft feasibility study reviewed by the County makes no mention of affordable housing, and offers no way to confirm whether the statutory 10% threshold would be met. The least expensive unit listed in its appendix is a \$1.5 million, quarter-acre home; the range extends to \$10 million, 2.5-acre estate homes. Even under an optimistic assumption that the statutory minimum of 10% of the 754 total units are built as affordable housing, that yields only 75 affordable units against a project that also includes a 200-room hotel, 160 glamping units, and 142,115 square feet of commercial space — and those uses alone will require well more than 75 employees to operate, before counting the service demand from new residents and visitors.

Rather than relieving pressure on the regional affordable housing supply, a project of this price and scope adds workforce demand while building insufficient units for its own needs, which pushes that demand onto existing communities elsewhere in the county.

3. Perverse Incentives Exist for Regulatory Oversight

Ordinary development in Utah proceeds under continuous oversight from a municipality or county: engineers and building/fire inspectors are engaged, code compliance is verified at each stage, and stormwater and wetlands obligations under state and federal law are enforced by an entity independent of the developer. Almost no development of any scale is completed without regulatory back-and-forth as issues surface during entitlement and construction.

The preliminary municipality framework does not clearly assign these responsibilities during the pre-incorporation period. Who selects and pays the engineering and building inspectors who monitor the project, who verifies stormwater and wetland-mitigation compliance, and who confirms that roadway widths are adequate for fire apparatus and suppression efforts? As the statute stands, the property owner

is positioned to oversee its own compliance, which puts the party with the greatest financial interest in the project's approval in charge of certifying its soundness.

Developers regularly terminate engineers that work on their side of the development if they don't sufficiently challenge regulatory requirements. No mechanism exists to ensure that an oversight engineer would be qualified in all areas and able to maintain independence through the life of the project.

4. The Feasibility Study Cannot Test the Plan It Approves

The feasibility study is the statute's primary safeguard, but as structured it tests very little. It does not evaluate whether the project as described can actually be constructed, does not require a demonstration that site access meets essential health and safety standards, and gives outside parties, including the county, no defined mechanism to challenge the assumptions it relies on. Section 10-2a-510 delays transition to an elected mayor and council until the statutory population threshold is reached, meaning substantial municipal authority may exist before the community has a conventional resident electorate.

Three assumptions and omissions in the study reviewed by the County illustrate the problem.

First, it lacks any credible plan for the wastewater treatment infrastructure the project would require; permitting and constructing a new treatment facility within the project's stated construction timeline is not a realistic expectation for that kind of infrastructure, yet the study offers no contingency and no independent check on the assumption.

Second, the study assumes a 75% primary-occupancy rate for the completed community. Comparable existing developments of similar values elsewhere in Wasatch County run close to 5% primary occupancy. At that gap, the project may not reach the resident-population threshold Utah Code requires for incorporation even twenty-four years after breaking ground.

Third, the study gives no consideration to the ongoing municipal service burden the community would create: it never addresses how the new town would manage snow removal across the site's difficult terrain, or whether the proposed street and site design would even support efficient removal, and it assumes no meaningful impact to Fire/EMS or recreation services despite a development of this scale and location despite demonstrable impacts.

5. The Law Creates a Self-Entitlement Pathway with No Enforceable Backstop

These gaps, taken together, let a private property owner effectively self-entitle a large-scale development, obtain the benefits of preliminary municipality status, and face little practical obligation to see the project through to the completion and incorporation the statute contemplates.

Utah Code § 10-2a-507(3)(d) is written as a check against exactly this outcome, but it is only as strong as the entity it applies against. Where the property owner is an LLC or similar liability-limited structure, that entity can dissolve or declare bankruptcy and owners walk away from the statutory obligation with no meaningful consequence to the individuals who controlled it. Wasatch County views it as likely that a project of this kind will, at some point, fail to meet the statutory timelines for completion or incorporation, and that the county, not the developer, will be asked to absorb the resulting financial and service obligations.

Recommendation

The five issues identified in this report are intended to highlight the structural flaws in this pilot program and why the law should be repealed. They stem from the basis that large scale entitlement is granted before infrastructure, housing, oversight, and accountability standards can be tested or enforced.

The preliminary municipality statute was adopted as a pilot program, intended to be tried and evaluated rather than treated as a finished framework. Wasatch County's experience with an active application has now surfaced the flaws described in this report, which is the kind of result a pilot program is meant to produce. Repeal is consistent with that intent rather than a departure from it.

Wasatch County recommends that the Legislature repeal Utah Code Title 10, Chapter 2a, Part 5. The County further recommends that the Legislature convene a stakeholder process, including counties, municipalities, service districts, and the development community, to design a framework that meets a higher standard for current and future property owners.

