



# Staff Report

Coalville City  
Community Development Director

To: Coalville City Council and Mayor  
From: Don Sargent, Community Development Director  
Date of Meeting: April 10, 2023  
Re: Cedar Hollow Annexation Petitions  
Action: Acceptance Consideration to Proceed with Public Hearing Process

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## Cedar Hollow Annexation Petitions

### REQUEST

Review and discuss annexation petitions for completeness and compliance with City and State Code requirements for moving forward with the public hearing process.

### BACKGROUND

Two annexation petitions have recently been filed with the City including the following:

- Cedar Crest Land Holdings, LLC - Parcel NS-496, 49.9 Acres
- Cedar Hollow Investments, LLC - Parcel NS-492, 40.0 Acres

The applicant for both petitions is Kelvin Judd. Attachment A includes an aerial location map showing both proposed annexation areas. As shown in Attachment B the petition areas are located within the city annexation declaration boundary and are adjacent to the existing city limit line.

The applicant is proposing residential zoning of the annexation property for a total of 141 single-family lots as shown on the conceptual plans as Attachment D for Parcel NS-496 and Attachment E for Parcel NS-492. Attachment F includes the existing Zoning Map and Attachment G includes the existing Future Land Use Map for reference.

Attachment C includes the Annexation Petition Application Packet Staff recently prepared to process annexation petitions consistent with the Utah Code and the City Development Code.

### ANALYSIS

According to the steps identified in the Annexation Petition Packet the applicant and city staff have completed Steps 1 and 2. Step 3.2 requires the annexation application and petition to be scheduled on the City Council agenda for a determination of acceptance for further review. The

review of the annexation petitions should address the following requirements of Subsection 10-2-403(3) and (4) of the Utah Code:

*(3) Each petition under Subsection [\(1\)](#) shall:*

*(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;*

*(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:*

*(i) is located within the area proposed for annexation;*

*(ii) (A) subject to Subsection [\(3\)\(b\)\(ii\)\(C\)](#), covers a majority of the private land area within the area proposed for annexation;*

*(B) covers 100% of rural real property within the area proposed for annexation; and*

*(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under [Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas](#), or a migratory bird production area created under [Title 23, Chapter 28, Migratory Bird Production Area](#); and*

*(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;*

*(c) be accompanied by:*

*(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section [17-23-20](#), of the area proposed for annexation; and*

*(ii) a copy of the notice sent to affected entities as required under Subsection [\(2\)\(a\)\(i\)\(B\)](#) and a list of the affected entities to which notice was sent;*

*(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:*

*"Notice:*

*• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.*

• *If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.*";

*(e) if the petition proposes a cross-county annexation, as defined in Section [10-2-402.5](#), be accompanied by a copy of the resolution described in Subsection [10-2-402.5\(4\)\(a\)\(iii\)\(A\)](#); and*

*(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor and indicate the mailing address of each sponsor.*

*(4) A petition under Subsection [\(1\)](#) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.*

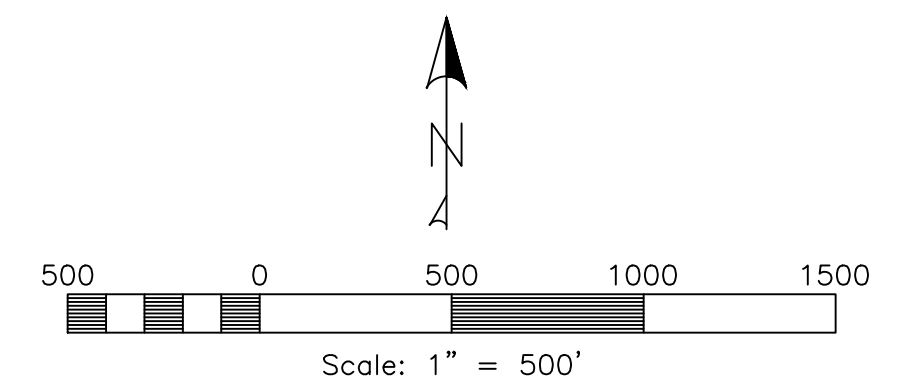
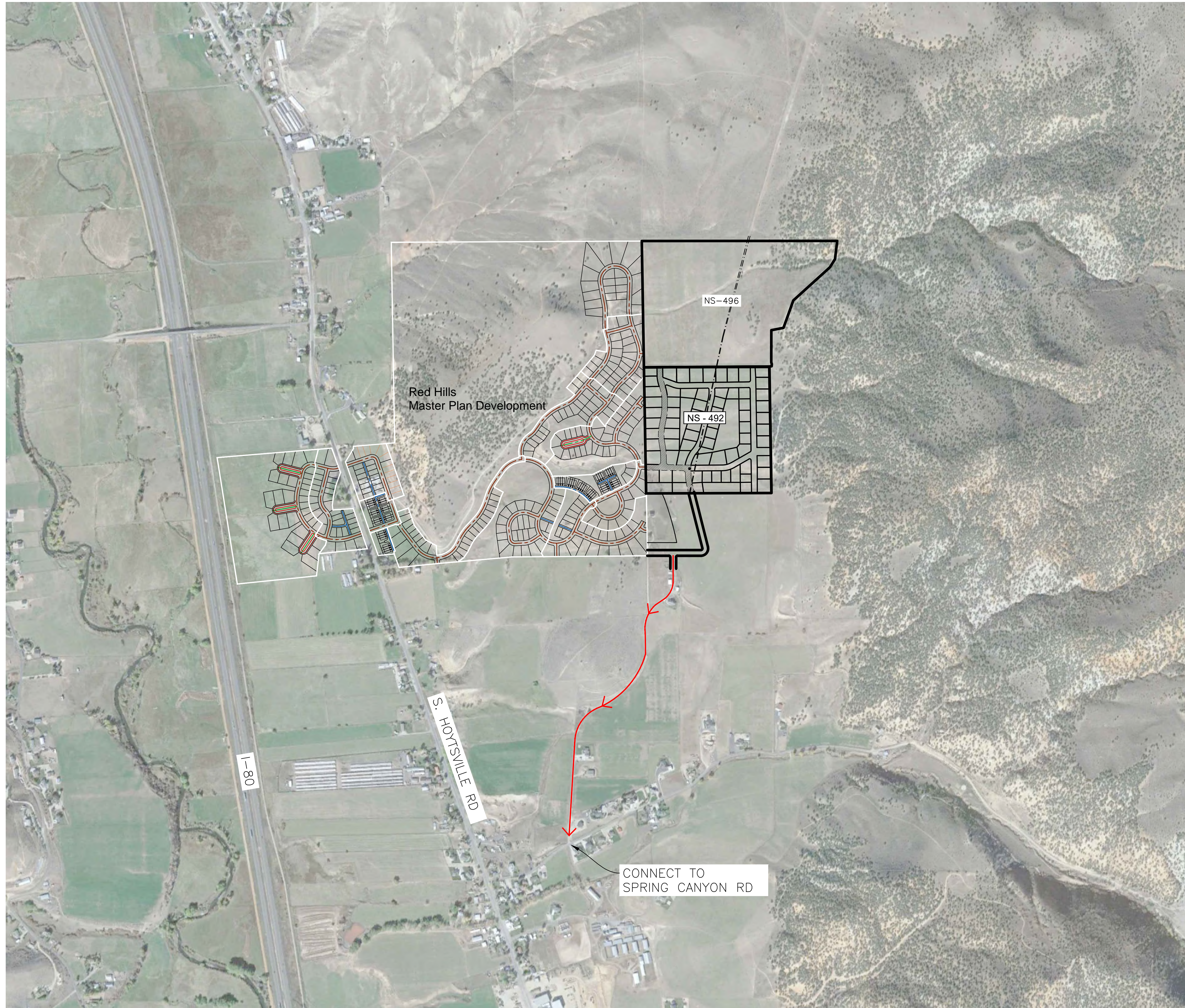
Attachment D includes Section 10-2-Part 4 of the Utah Code for reference to the complete provisions regulating annexations with highlighted sections generally applicable to the subject annexation petitions.

**RECOMMENDATION:** Staff recommends the City Council review and discuss the annexation petitions, address any question or comments with the applicant and staff, and consider a possible acceptance determination for the annexation petitions to proceed forward with the public hearing process.

## **ATTACHMENTS**

- A.** Aerial Map
- B.** City Annexation Declaration Map
- C.** Annexation Petition Packet
- D.** Parcel NS-496 Conceptual Plan
- E.** Parcel NS-492 Conceptual Plan
- F.** City Zoning Map
- G.** City Future Land Use Map
- H.** Utah Code Section 10-2-P4 Annexations



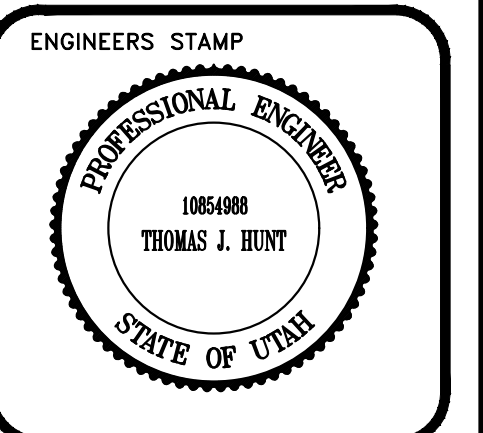


**HE HUNT**  
ENGINEERING, LLC  
HUNT ENGINEERING, LLC  
6619 Willow Creek Rd.  
Mountain Green, UT 84050  
C. 801.664.4724  
thomas.hunt@hunt-engineering.com

**Cedar Crest 50**  
**NS-492**

**Site Plan**

Revisions	Date



**PROJECT INFO.**  
Engineer: T. HUNT  
 Drafter: T. HUNT  
 Start Date: 7/25/22  
 Name: Cedar Crest 50


SHEET	1
1	SHEETS

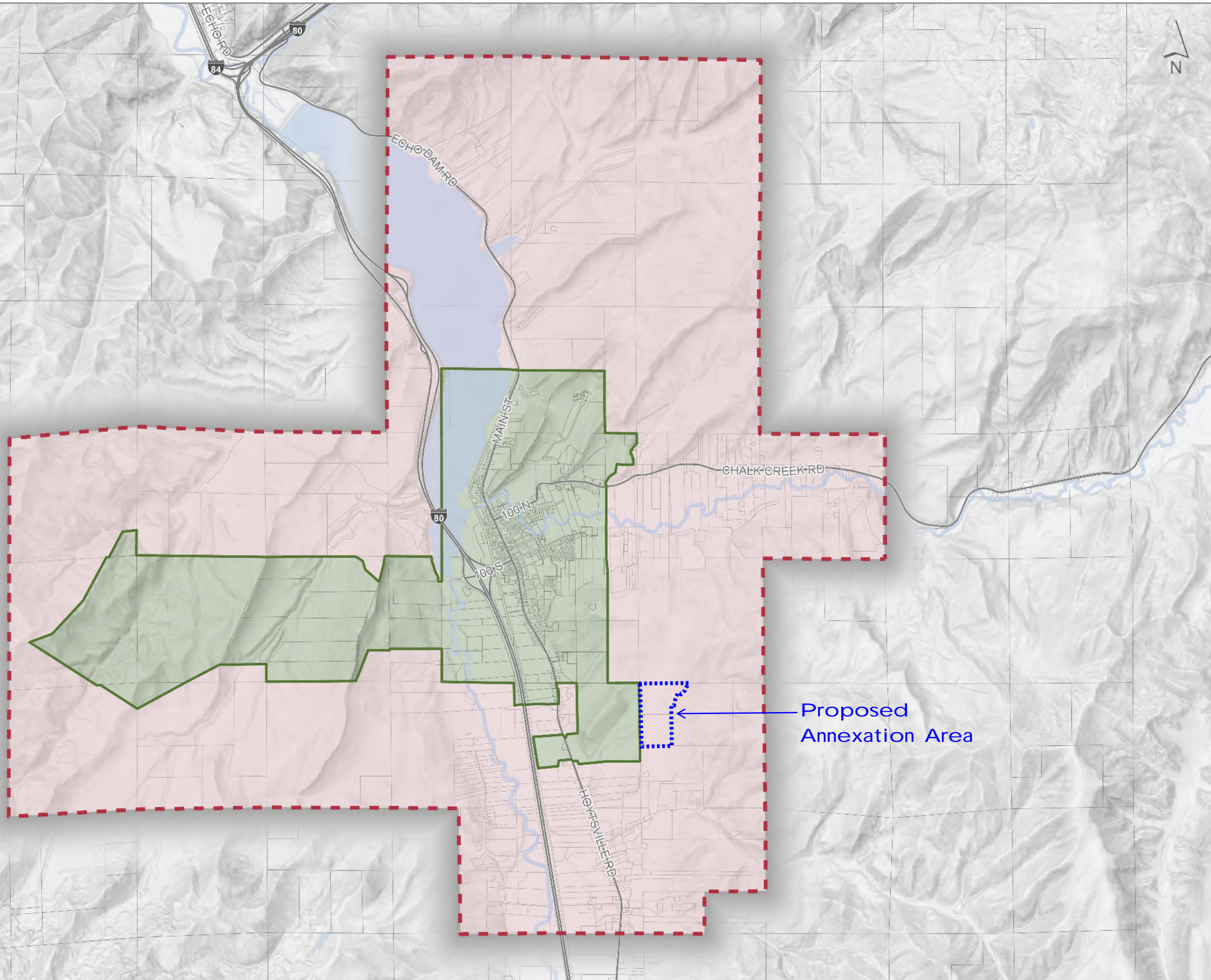
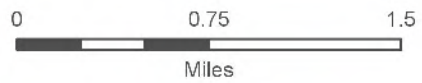


# Annexation Declaration Boundary

Coalville City, UT

January 2019

-  Annexation Declaration Boundary
-  Coalville City







# ATTACHMENT C

## ANNEXATION PETITION PACKET

### APPLICATION PROCESS

**Each step must be completed before proceeding to the next step**

#### Step One:

1. Contact Coalville City to discuss the proposed annexation to ensure it meets the requirements of state law and city ordinances.

#### Step Two:

1. Before filing a petition for annexation, the person(s) intending to file a petition shall (UCA 10-2-403):
  - a. File with the Coalville City Recorder a notice of intent to file a petition including an accurate map (11 x 17) of the proposed annexing area (plat map); and
  - b. Send a copy of the notice of intent to each affected entity and notify (email) the City Recorder that the notice and map have been mailed. (Affected Entities list provide by the Coalville City Recorder)
  - c. File the following with the Summit County Clerk/Auditor's Office, Evelyn Furse, 435-336-3204, [efurse@summitcounty.org](mailto:efurse@summitcounty.org), 60 N. Main Street, Coalville UT 84017.
    - i. Notice of intent and accurate map of the proposed annexing area.
    - ii. Summit County Application for Mailing of Notice of Proposed Annexation and pay application fee.
2. Summit County will send Coalville City a copy of the notice and certification indicating the notice has been mailed as required.

#### Step Three:

1. Once the City Recorder has received the notice and certification from Summit County, the person(s) may file an annexation application and petition with Coalville City. On the date of filing, the person(s) shall deliver or mail a copy to the Summit County Clerk. (UCA 10-2-403(6))
2. Following initial review for completeness, the annexation application and petition will be considered for further review (accept or deny) at a future regularly scheduled city council meeting at least 14 days after the date the petition was filed. If accepted for further review, staff will complete a review of the application/petition. Any deficiencies will need to be corrected. (UCA 10-2-405)
3. Following staff review, the City Recorder will determine if the petition meets the requirements of state code; and if so, certify and complete the notification process (UCA 10-2-406). This begins the 30-day protest period (UCA 10-2-407).
4. If no protest is received, a public hearing will be scheduled with the City Council and noticed according to state law. The City Council may approve the petition (ordinance). (UCA 10-2-407)
5. Following approval of the petition (ordinance), documentation will be sent to the Lt. Governor's Office for issuance of a certificate of annexation. (UCA 10-2-425)
6. Upon receipt of the certificate of annexation, the City Recorder will provide the necessary documentation to the Summit County Recorder's Office for recording and send notice according to state law.





**NOTICE OF INTENT  
To file a petition for annexation  
in Coalville City, Utah**

I/we, the undersigned, do hereby declare my/our intent to file a petition for annexation to Coalville City, Utah.

I/we certify I/we am/are the owner(s) of real property lying outside the corporate limits of Coalville City, Utah, but contiguous thereto and designated as part of the Coalville City Annexation Declaration Plan.

The property(ies) proposed to be annexed is (are) identified below and a map outlining said property(ies) is attached hereto.

Name of Property Owner (Print clearly)	Summit County Parcel Number

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(signature)

By: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_





**APPLICATION  
for Mailing of Notice of Proposed Annexation**

Pursuant to Utah Code Ann. § 10-2-403, Summit County is required to mail out the notice to affected property owners of a proposed annexation upon receipt of a written request to do so from the petitioner and payment of the estimated actual costs of mailing the notice.

Please fill out this application, pay the application fee of twenty-five dollars (\$25), and return this application together with the application fee to the County Clerk / Auditor’s Office. The County Clerk / Auditor and the Surveyor’s Offices will generate an estimated actual cost of mailing the required notice. The estimated actual cost of mailing will consist of the following: \$100 minimum, plus \$50 for each additional hour of staff time required after the first two hours, plus \$2 per address to receive the notice. The \$25 application fee is non-refundable but will be credited toward the final cost.

Name of Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Name of Proposed Annexation: \_\_\_\_\_

City into which the Proposed Area Would Be Annexed: Coalville City

Name of the Responsible Official at the Annexing City: Trevor Devey, City Recorder

Mailing Address of the Responsible Official at the Annexing City: 10 N. Main St, PO Box 188, Coalville UT 84017

Telephone Number of the Responsible Official at the Annexing City: 435-336-5981

Email Address of the Responsible Official at the Annexing City: trevor.devey@coalvillecity.org

If there is more than one person or sponsor requesting the annexation, attach additional pages listing the name, address, phone number, and email of each person involved.

Attach Accurate 8.5” x 11” Map of Proposed Annexation Area without boundary description.

Pay \$25 Application Fee.

Upon receipt of a completed application with map and application fee, the County will calculate the estimated actual cost of mailing notice to the affected property owners (those within the proposed annexation area and a 300-foot area around the proposed annexation area) and provide that cost calculation to the petitioner(s) by invoice from the Clerk / Auditor’s Office. Upon receipt of full payment of the invoice setting forth the estimated actual cost of mailing, then the County will mail notice to the affected property owners within 20 days.





# Annexation

## Development Review Submittal Form

<b>For Office Use Only</b>		Annexation Fee: \$1,500, plus \$10 per acre  Fee is non-refundable and no guarantee of approval of proposed annexation shall be implied by this fee.  NOTE: Plus, additional costs for recording fees.
Application # _____	CC Accept - Review Date _____	
Application Date _____	PC Public Meeting Date _____	
Approval Date _____	CC Meeting Date _____	
Denial Date _____		

Annexation Name: \_\_\_\_\_

Annexation Location: \_\_\_\_\_

Summit County Parcel No(s): \_\_\_\_\_

Total Acreage: \_\_\_\_\_ Requested Zone: \_\_\_\_\_

Name of Annexation Sponsor: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Name of Engineer or Licensed Land Surveyor: \_\_\_\_\_

Company Name: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Does the annexation contain property in any of the following?

- Rural real property, as defined in Utah State Code?  Yes  No - list parcel #'s and acreage  
\_\_\_\_\_
- Agriculture protection area?  Yes  No - list parcel #'s and acreage  
\_\_\_\_\_
- Is the Annexation completely located in the Coalville City Annexation Declaration Plan?  Yes  No

I certify that this application and all the information submitted as a part of this application is true, complete, and accurate to the best of my knowledge. I acknowledge that I have reviewed the applicable sections of the Coalville City Municipal Code, that items and checklists contained in this application are basic and minimum requirements only, and that other requirements may be imposed that are unique to individual projects or uses. I agree to comply with any and all applicable laws, ordinances, and resolutions in effect at this time. Should any of the information or representations submitted in connection with this application be incorrect or untrue, I understand that Coalville City may rescind any approval or take any other legal or appropriate action. I also agree to allow the staff, planning commission, city council, or appointed agents of the city to enter the subject property to make any necessary inspections thereof.

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Annexation

### Submittal Requirements

Submit to: Coalville City Hall, 10 N. Main Street, PO Box 188, Coalville, UT 84017

Submit fee: Per current annexation fee (Payable to Coalville City)

**NOTE:**

1. Applications will not be accepted without ALL the required submittal materials. The city will not hold partial submittals.
2. Acceptance of this submittal to the city staff for review is not an acknowledgement by the city of a complete application. This determination will be made by staff in accordance with UCA 10-9a-509.5.

**Submittal Checklist** (applicant – please ensure all items are included in this submittal, if additional space is needed, use a separate sheet of paper)

- 1. Signatures from the owners of real property located in the area proposed for annexation that covers a majority of the private land (**Document on the Petition for Annexation sheet**)
- 2. Signatures from the owners of real property located in the area proposed for annexation that is equal in value to at least one third (1/3) of the assessed value of all private real property, as shown by the latest tax assessment rolls of Utah County (**Document on the Petition for Annexation sheet**)
- 3. Deliver or mail a copy of this annexation petition to the Summit County Clerk.
- 4. An ownership plat map from the Summit County Recorder's Office showing all property owners in Coalville within five hundred (500) feet of the proposed annexation and ½ mile of the annexation in the unincorporated area of Summit County.
- 5. One 24" x 36" and one 11" x 17" of the accurate and recordable annexation plat map prepared by a licensed surveyor of the area proposed for annexation identifying each parcel and labeling each parcel with the owner's name, tax identification number, and acreage. NOTE: A mylar is required to be submitted following approval by the city council.
- 6. Copy of the Notice of Intent to affected entities and the list of affected interties to which the notice was sent.
- 7. Legal description in Word format.
- 8. Electronic file with all plans and supporting documentation in PDF format.

**Note: If the petition is accepted for further review the following will also need to be submitted**

- 1. Additional information required by staff.
- 2. Documentation for conveyance of public rights-of-way, streets, and other dedications.
- 3. Documentation of water rights associated with the property and/or conveyance of water rights.
- 4. One stamped, addressed envelope for each owner in Coalville within five hundred (500) feet of the proposed annexation and ½ mile of the annexation in the unincorporated area of Summit County.
- 5. Check payable to the Summit County Surveyor for \$125 for review of the annexation plat.
- 6. Check payable to Coalville City for publication fees (\$150).
- 7. Check Payable to Coalville City for Annexation Agreement fees (\$1,500).
- 8. Mylar of annexation plat map prior to the final public hearing of the city council.

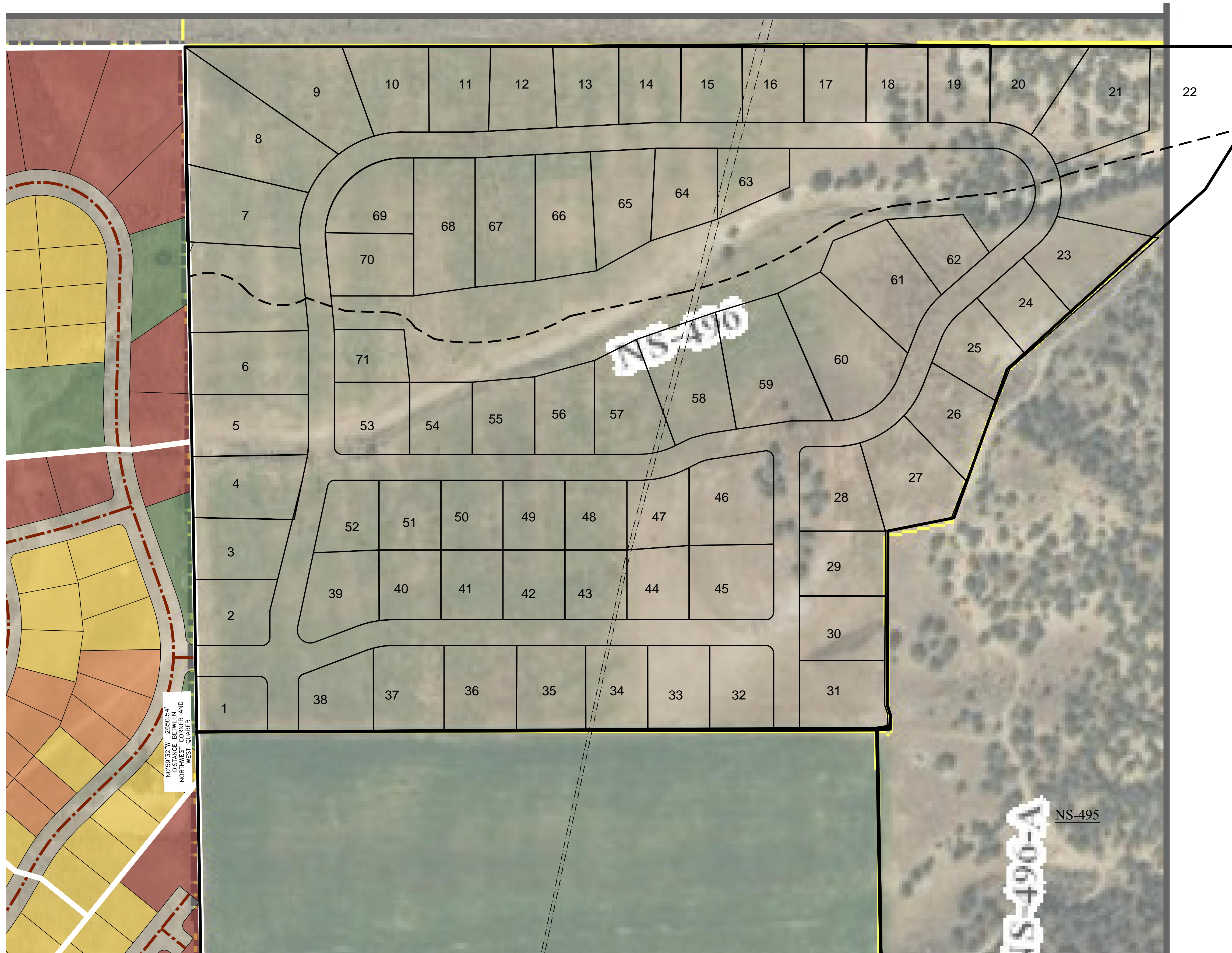
**Additional Information (Links)**

Coalville City Development Code, Title 10 - Land Use: <http://www.coalvillecity.org/title-10-land-use.htm>









**Site Information**

LOCATED IN: SUMMIT COUNTY  
 PHASE 1: 50.00 ACRES  
 71 LOTS  
 1.42 LOTS/ACRE

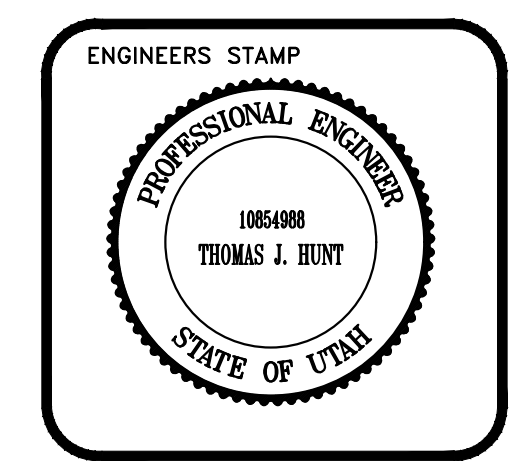
**LOT SIZES: .25-1+ ACRES**  
**AVG LOT SIZE: .5 ACRES**

**HE HUNT**  
 ENGINEERING, LLC  
 HUNT ENGINEERING, LLC  
 6619 Willow Creek Rd.  
 Mountain Green, UT 84050  
 C. 801.664.4724  
 thomas.hunt@hunt-engineering.com

**Project Name**  
**Project Address**

**Site Plan**

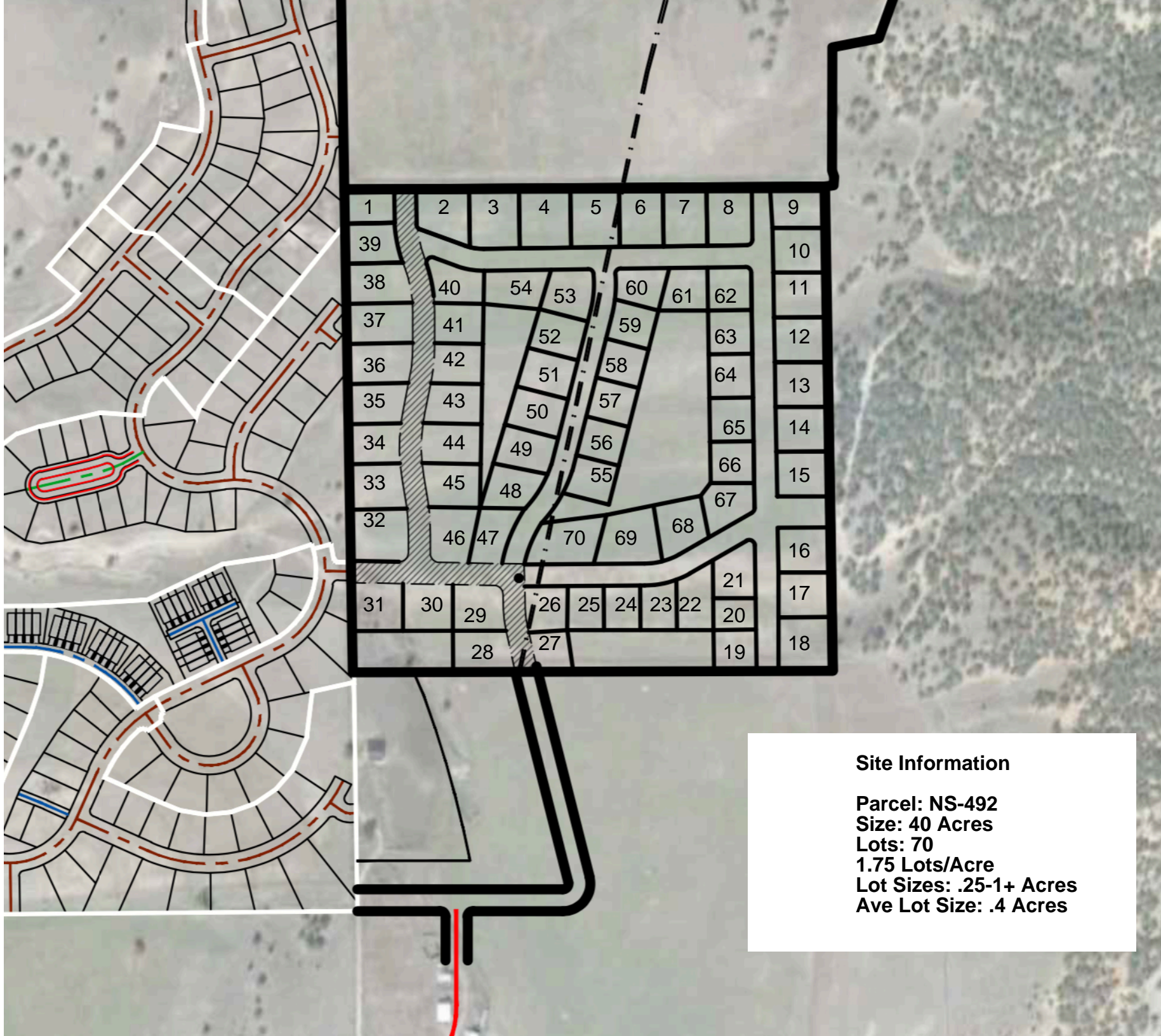
Revisions	Date



**PROJECT INFO.**  
 Engineer: T. HUNT  
 Drafter: T. HUNT  
 Start Date: xx/xx/xx  
 Name: \_\_\_\_\_

SHEET	9
3	SHEETS





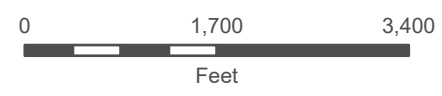
### Site Information

**Parcel: NS-492**  
**Size: 40 Acres**  
**Lots: 70**  
**1.75 Lots/Acre**  
**Lot Sizes: .25-1+ Acres**  
**Ave Lot Size: .4 Acres**

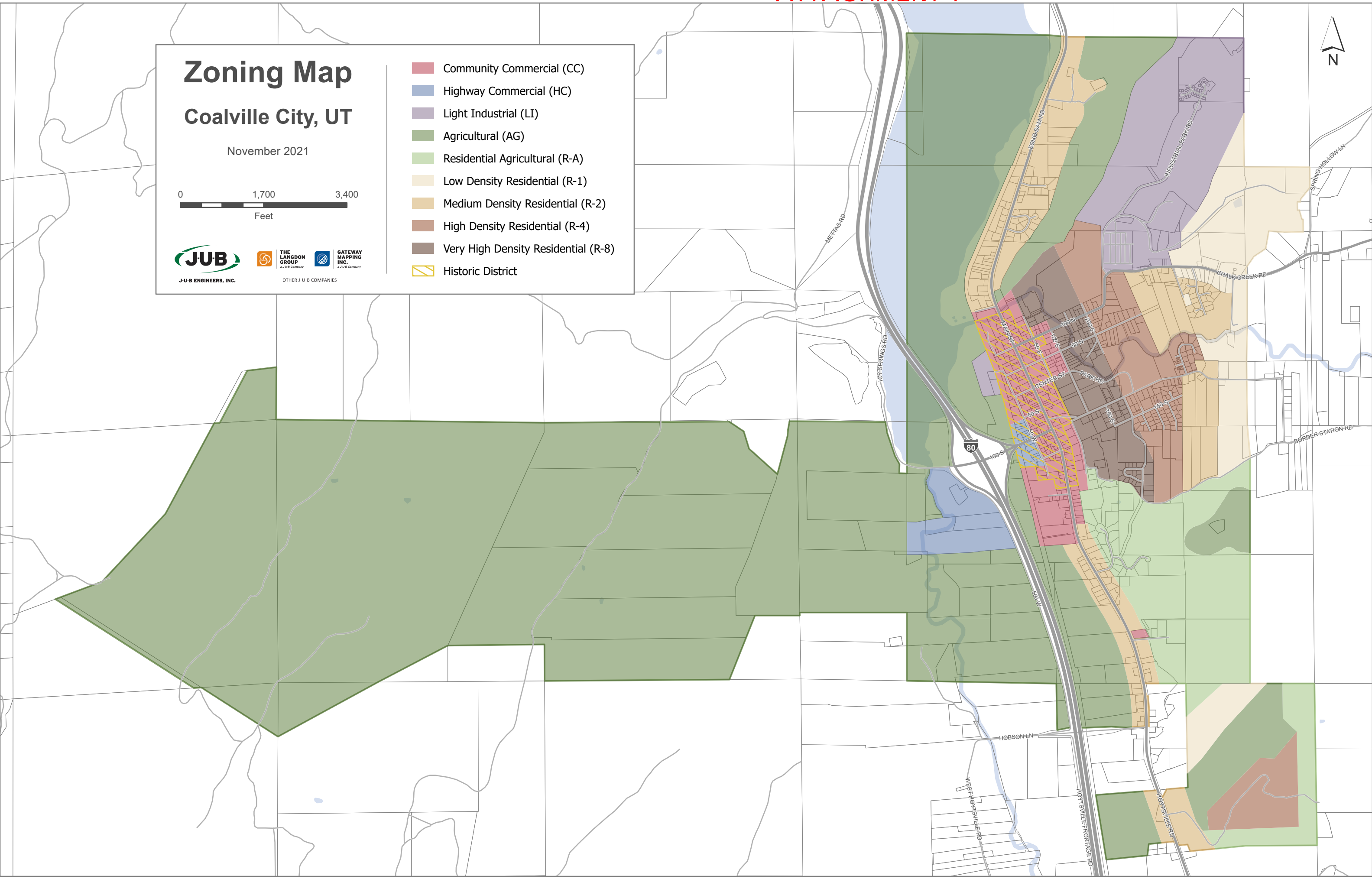


# Zoning Map Coalville City, UT

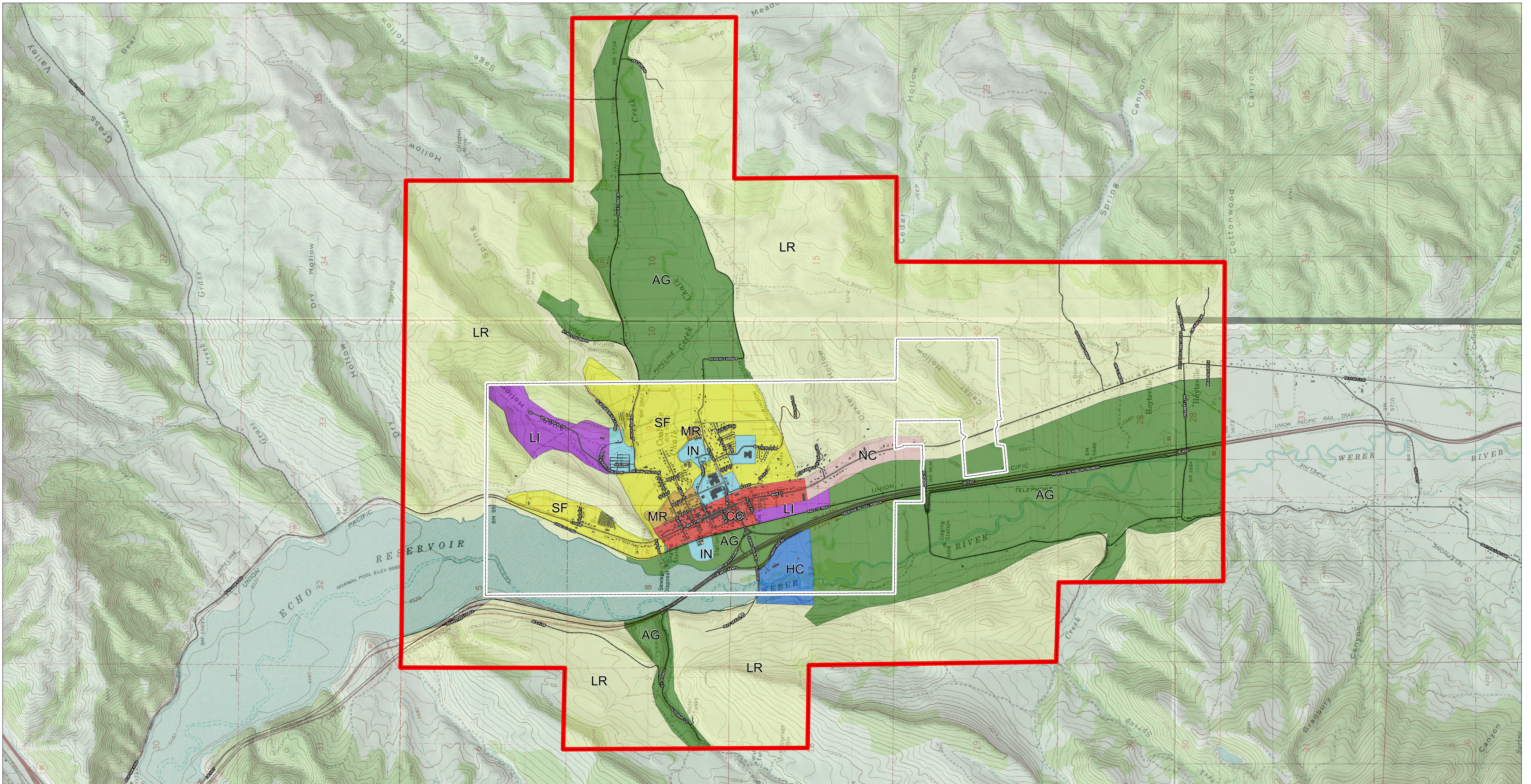
November 2021



- Community Commercial (CC)
- Highway Commercial (HC)
- Light Industrial (LI)
- Agricultural (AG)
- Residential Agricultural (R-A)
- Low Density Residential (R-1)
- Medium Density Residential (R-2)
- High Density Residential (R-4)
- Very High Density Residential (R-8)
- Historic District







LEGEND

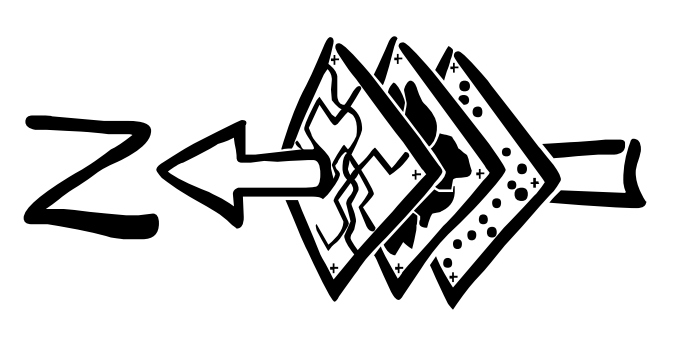
- |                              |                      |                         |                     |
|------------------------------|----------------------|-------------------------|---------------------|
| Community Commercial (CC)    | Agricultural (AG)    | Medium Residential (MR) | Annexation Boundary |
| Highway Commercial (HC)      | Single Family (SF)   | Institutional (IN)      | City Limits         |
| Neighborhood Commercial (NC) | Low Residential (LR) | Light Industrial (LI)   | Roadways            |

# COALVILLE CITY MUNICIPAL CORPORATION

## Future Land Use Map



CITY COUNCIL APPROVAL  
 Prepared under direction of the Coalville City Planning Commission and approved by the Coalville City Council as amended.  
 May 24, 2012





**Part 4**  
**Annexation**

**10-2-401 Definitions -- Property owner provisions.**

- (1) As used in this part:
- (a) "Affected entity" means:
    - (i) a county of the first or second class in whose unincorporated area the area proposed for annexation is located;
    - (ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development;
    - (iii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;
    - (iv) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and
    - (v) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.
  - (b) "Annexation petition" means a petition under Section 10-2-403 proposing the annexation to a municipality of a contiguous, unincorporated area that is contiguous to the municipality.
  - (c) "Commission" means a boundary commission established under Section 10-2-409 for the county in which the property that is proposed for annexation is located.
  - (d) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in the future.
  - (e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.
  - (f) "Mining protection area" means the same as that term is defined in Section 17-41-101.
  - (g) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.
  - (h) "Planning advisory area" means the same as that term is defined in Section 17-27a-306.
  - (i) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision or governmental entity of the state.
  - (j) "Rural real property" means the same as that term is defined in Section 17B-2a-1107.
  - (k) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.
  - (l) "Unincorporated peninsula" means an unincorporated area:
    - (i) that is part of a larger unincorporated area;
    - (ii) that extends from the rest of the unincorporated area of which it is a part;
    - (iii) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and
    - (iv) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.
  - (m) "Urban development" means:



- (i) a housing development with more than 15 residential units and an average density greater than one residential unit per acre; or
  - (ii) a commercial or industrial development for which cost projections exceed \$750,000 for all phases.
- (2) For purposes of this part:
- (a) the owner of real property shall be:
    - (i) except as provided in Subsection (2)(a)(ii), the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or
    - (ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and
  - (b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.
- (3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:
- (a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:
    - (i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or
    - (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;
  - (b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:
    - (i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and
    - (ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and
  - (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.

Amended by Chapter 112, 2021 General Session

**10-2-401.5 Annexation policy plan.**

- (1) No municipality may annex an unincorporated area located within a specified county unless the municipality has adopted an annexation policy plan as provided in this section.
- (2) To adopt an annexation policy plan:
  - (a) the planning commission shall:
    - (i) prepare a proposed annexation policy plan that complies with Subsection (3);
    - (ii) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on it;
    - (iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;
    - (iv) accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);
    - (v) before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers



- appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);
- (vi) hold a public hearing on the proposed annexation policy plan;
- (vii) provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;
- (viii) make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing; and
- (ix) submit the planning commission's recommended annexation policy plan to the municipal legislative body; and
- (b) the municipal legislative body shall:
  - (i) hold a public hearing on the annexation policy plan recommended by the planning commission;
  - (ii) provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;
  - (iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and
  - (iv) adopt the recommended annexation policy plan, with or without modifications.
- (3) Each annexation policy plan shall include:
  - (a) a map of the expansion area which may include territory located outside the county in which the municipality is located;
  - (b) a statement of the specific criteria that will guide the municipality's decision whether or not to grant future annexation petitions, addressing matters relevant to those criteria including:
    - (i) the character of the community;
    - (ii) the need for municipal services in developed and undeveloped unincorporated areas;
    - (iii) the municipality's plans for extension of municipal services;
    - (iv) how the services will be financed;
    - (v) an estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area; and
    - (vi) the interests of all affected entities;
  - (c) justification for excluding from the expansion area any area containing urban development within 1/2 mile of the municipality's boundary; and
  - (d) a statement addressing any comments made by affected entities at or within 10 days after the public meeting under Subsection (2)(a)(ii).
- (4) In developing, considering, and adopting an annexation policy plan, the planning commission and municipal legislative body shall:
  - (a) attempt to avoid gaps between or overlaps with the expansion areas of other municipalities;
  - (b) consider population growth projections for the municipality and adjoining areas for the next 20 years;
  - (c) consider current and projected costs of infrastructure, urban services, and public facilities necessary:
    - (i) to facilitate full development of the area within the municipality; and
    - (ii) to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area;
  - (d) consider, in conjunction with the municipality's general plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development;
  - (e) consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and
  - (f) be guided by the principles set forth in Subsection 10-2-403(5).



- (5) Within 30 days after adopting an annexation policy plan, the municipal legislative body shall submit a copy of the plan to the legislative body of each county in which any of the municipality's expansion area is located.
- (6) Nothing in this chapter may be construed to prohibit or restrict two or more municipalities in specified counties from negotiating and cooperating with respect to defining each municipality's expansion area under an annexation policy plan.

Amended by Chapter 112, 2021 General Session

**10-2-402 Annexation -- Limitations.**

- (1)
  - (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.
  - (b) Except as provided in Subsection (1)(c), an unincorporated area may not be annexed to a municipality unless:
    - (i) the unincorporated area is a contiguous area;
    - (ii) the unincorporated area is contiguous to the municipality;
    - (iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:
      - (A) except as provided in Subsection 10-2-418(3); or
      - (B) unless the county and municipality have otherwise agreed; and
    - (iv) for an area located in a specified county, the area is within the proposed annexing municipality's expansion area.
  - (c) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated island or unincorporated peninsula, if:
    - (i) the area is within the annexing municipality's expansion area;
    - (ii) the specified county in which the area is located and the annexing municipality agree to the annexation;
    - (iii) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and
    - (iv) the annexation is for the purpose of providing municipal services to the area.
- (2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.
- (3)
  - (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.
  - (b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.
- (4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.
- (5)
  - (a) As used in this subsection, "expansion area urban development" means:
    - (i) for a specified county, urban development within a city or town's expansion area; or
    - (ii) for a county of the first class, urban development within a city or town's expansion area that:
      - (A) consists of 50 or more acres;

- (B) requires the county to change the zoning designation of the land on which the urban development is located; and
  - (C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.
- (b) A county legislative body may not approve expansion area urban development unless:
- (i) the county notifies the city or town of the proposed development; and
  - (ii)
    - (A) the city or town consents in writing to the development;
    - (B) within 90 days after the county's notification of the proposed development, the city or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or
    - (C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.
- (6)
- (a) As used in this Subsection (6), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.
  - (b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.
  - (c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (6)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.
- (7)
- (a) As used in this Subsection (7), "project area" means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.
  - (b) A municipality may not annex an unincorporated area located within a project area without the authority's approval.
  - (c)
    - (i) Except as provided in Subsection (7)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if the Military Installation Development Authority was the sole private property owner within the area:
      - (A) an area within a project area;
      - (B) an area that is contiguous to a project area and within the boundaries of a military installation;
      - (C) an area owned by the Military Installation Development Authority; and
      - (D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.
    - (ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county:
      - (A) the annexation process shall follow the requirements for a specified county; and
      - (B) the provisions of Section 10-2-402.5 do not apply.



- (8) A municipality may not annex an unincorporated area if:
- (a) the area is proposed for incorporation in:
    - (i) a feasibility study conducted under Section 10-2a-205; or
    - (ii) a supplemental feasibility study conducted under Section 10-2a-206;
  - (b) the lieutenant governor completes the first public hearing on the proposed incorporation under Subsection 10-2a-207(4); and
  - (c) the time period for a specified landowner, as defined in Section 10-2a-203, to request that the lieutenant governor exclude the specified landowner's property from the proposed incorporation under Subsection 10-2a-207(5)(a) has expired.

Amended by Chapter 112, 2021 General Session

**10-2-402.5 Cross-county annexation -- Requirements.**

- (1) As used in this section:
- (a) "Affected county" means the county in which an area proposed for cross-county annexation is located.
  - (b) "Affected municipality" means a municipality:
    - (i) located in an affected county; and
    - (ii) whose expansion area includes the area proposed for cross-county annexation.
  - (c) "Applicant" means a person intending to file an annexation petition proposing a cross-county annexation.
  - (d) "Cross-county annexation" means the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located.
  - (e) "Specified public utility" means the same as that term is defined in Section 10-9a-103.
- (2) An applicant may not file a petition under Section 10-2-403 proposing a cross-county annexation unless:
- (a) the applicant sends a written notice of intent to file a petition proposing a cross-county annexation to the legislative body of each affected municipality describing:
    - (i) the area proposed for cross-county annexation; and
    - (ii) the proposed annexing municipality;
  - (b) the proposed annexing municipality adopts or amends the municipality's annexation policy plan under Section 10-2-401.5 to include the area proposed for cross-county annexation within the proposed annexing municipality's expansion area;
  - (c) the applicant files a request to approve the proposed cross-county annexation with the legislative body of the affected county:
    - (i) no sooner than 90 days after the day on which the applicant sends the written notice described in Subsection (2)(a) to each affected municipality; and
    - (ii) no later than 180 days after the day on which the applicant sends the written notice described in Subsection (2)(a) to each affected municipality;
  - (d) a feasibility consultant conducts a feasibility study in accordance with Subsection (3), unless the feasibility study is waived under Subsection (3)(b); and
  - (e) the legislative body of the affected county:
    - (i) holds a public hearing in accordance with Subsection (4); and
    - (ii) adopts the resolution described in Subsection (4)(a)(iii)(A).
- (3)
- (a) Within 60 days after the day on which a legislative body of an affected county receives the request described in Subsection (2)(c), or within a time period longer than 60 days if agreed

- to by the legislative body of the affected county and the applicant, the legislative body of the affected county and the applicant shall jointly select and engage a feasibility consultant to:
- (i) conduct a feasibility study on the proposed cross-county annexation; and
  - (ii) submit written results of the feasibility study to the legislative body of the affected county and the applicant no later than 90 days after the day on which the feasibility consultant is engaged to conduct the feasibility study.
- (b) The legislative body of the affected county may waive the requirement for a feasibility study under Subsection (3)(a).
- (c) The feasibility study under Subsection (3)(a) shall determine:
- (i) whether the proposed cross-county annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;
  - (ii) the fiscal impact of the proposed cross-county annexation on:
    - (A) the affected county;
    - (B) affected municipalities;
    - (C) specified public utilities that serve the area proposed for cross-county annexation; and
    - (D) affected entities;
  - (iii) the estimated cost that the proposed annexing municipality would incur to provide governmental services in the area proposed for cross-county annexation during the current fiscal year;
  - (iv) the estimated revenue that the proposed annexing municipality would receive from the area proposed for cross-county annexation during the current fiscal year; and
  - (v)
    - (A) each entity that has provided municipal-type services in the area proposed for cross-county annexation;
    - (B) the methods under which each entity described in Subsection (3)(c)(v)(A) has provided municipal-type services in the area proposed for cross-county annexation; and
    - (C) the feasibility of the proposed annexing municipality providing municipal-type services in the area proposed for cross-county annexation.
- (d) For purposes of Subsection (3)(c)(iv), the feasibility consultant shall assume that the ad valorem property tax rate on property within the area proposed for cross-county annexation is the same property tax rate that the proposed annexing municipality currently imposes on property within the municipality.
- (e) The applicant and the affected county shall share equally the feasibility consultant fees and expenses.
- (4)
- (a) A legislative body of an affected county shall hold, within 30 days after the day on which the legislative body receives the written results of the feasibility study under Subsection (3)(a) or waives the requirement for a feasibility study under Subsection (3)(b), a public hearing to:
    - (i) determine whether the requirements described in Subsections (2)(a) and (b) have been met;
    - (ii) consider the results of the feasibility study under Subsection (3)(a), unless the feasibility study is waived under Subsection (3)(b); and
    - (iii)
      - (A) adopt a resolution approving the proposed cross-county annexation; or
      - (B) adopt a resolution rejecting the proposed cross-county annexation.
  - (b) The legislative body of the affected county shall send, at least 15 days before the day on which the public hearing described in Subsection (4)(a) occurs, written notice of the public hearing to:
    - (i) the applicant;



- (ii) each residence within, and to each owner of real property located within:
    - (A) the area proposed for cross-county annexation; and
    - (B) 300 feet of the area proposed for cross-county annexation;
  - (iii) the legislative body of:
    - (A) the proposed annexing municipality; and
    - (B) the county in which the proposed annexing municipality is located;
  - (iv) each specified public utility that serves the area proposed for cross-county annexation;
  - (v) each affected municipality; and
  - (vi) each affected entity.
  - (c) At the public hearing described in Subsection (4)(a), the legislative body of the affected county shall allow the individuals present to speak to the proposed cross-county annexation.
  - (d) A legislative body of an affected county may not adopt a resolution rejecting a proposed cross-county annexation under this section unless the legislative body determines that:
    - (i) the requirements described in Subsections (2)(a) and (b) have not been met; or
    - (ii) the results of the feasibility study under Subsection (3)(a) show that:
      - (A) the proposed cross-county annexation would impose a substantial burden on the affected county;
      - (B) the estimated revenue under Subsection (3)(c)(iv) exceeds the estimated cost to provide governmental services under Subsection (3)(c)(iii) by more than 5%; or
      - (C) it would not be feasible for the proposed annexing municipality to provide municipal-type services in the area proposed for cross-county annexation.
  - (e) A legislative body of an affected county that adopts a resolution rejecting a proposed cross-county annexation under this section shall provide to the applicant a written explanation of the legislative body's decision.
  - (f) A legislative body of an affected county may adopt a resolution approving a proposed cross-county annexation under this section regardless of the results of a feasibility study under Subsection (3)(a).
- (5)
- (a) A party adversely affected by a legislative body of an affected county's decision under Subsection (4)(a) may, within 30 days after the day on which the legislative body issues the legislative body's decision, file a petition for review of the decision in the district court with jurisdiction in the affected county.
  - (b) The district court shall defer to the legislative body of the affected county's decision under Subsection (4)(a) unless the court determines that the decision is arbitrary, capricious, or unlawful.
- (6) Section 10-2-418 does not apply to a cross-county annexation.

Enacted by Chapter 112, 2021 General Session

**10-2-403 Annexation petition -- Requirements -- Notice required before filing.**

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2)

(a)

(i) Before filing a petition under Subsection (1), the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b)

(i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.



(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c)

(i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii)

(A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

• If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5, be accompanied by a copy of the resolution described in Subsection 10-2-402.5(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

- (a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;
  - (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;
  - (c) to facilitate the consolidation of overlapping functions of local government;
  - (d) to promote the efficient delivery of services; and
  - (e) to encourage the equitable distribution of community resources and obligations.
- (6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.
- (7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Amended by Chapter 112, 2021 General Session

**10-2-405 Acceptance or denial of an annexation petition -- Petition certification process -- Modified petition.**

- (1)
- (a)
    - (i) A municipal legislative body may:
      - (A) subject to Subsection (1)(a)(ii), deny a petition filed under Section 10-2-403; or
      - (B) accept the petition for further consideration under this part.
    - (ii) A petition shall be considered to have been accepted for further consideration under this part if a municipal legislative body fails to act to deny or accept the petition under Subsection (1)(a)(i):
      - (A) in the case of a city of the first or second class, within 14 days after the filing of the petition; or
      - (B) in the case of a city of the third, fourth, or fifth class, a town, or a metro township, at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days after the date the petition was filed.
  - (b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall, within five days after the denial, mail written notice of the denial to:
    - (i) the contact sponsor; and
    - (ii) the clerk of the county in which the area proposed for annexation is located.
- (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town clerk, as the case may be, shall, within 30 days after that acceptance:
- (a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located the records the city recorder or town clerk needs to determine whether the petition meets the requirements of Subsections 10-2-403(3) and (4);
  - (b) with the assistance of the municipal attorney, determine whether the petition meets the requirements of Subsections 10-2-403(3) and (4); and
  - (c)
    - (i) if the city recorder or town clerk determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, and the county legislative body; or



- (ii) if the city recorder or town clerk determines that the petition fails to meet any of those requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the municipal legislative body, the contact sponsor, and the county legislative body.
- (3)
- (a)
    - (i) If the city recorder or town clerk rejects a petition under Subsection (2)(c)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the city recorder or town clerk, as the case may be.
    - (ii) A signature on an annexation petition filed under Section 10-2-403 may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as modified under Subsection (3)(a)(i).
  - (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city recorder or town clerk under Subsection (2)(c)(ii), the refiled petition shall be treated as a newly filed petition under Subsection 10-2-403(1).
- (4) Each county assessor, clerk, surveyor, and recorder shall provide copies of records that a city recorder or town clerk requests under Subsection (2)(a).

Amended by Chapter 112, 2021 General Session

**10-2-406 Notice of certification -- Providing notice of petition.**

- (1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall provide notice:
- (a) within the area proposed for annexation and the unincorporated area within 1/2 mile of the area proposed for annexation, no later than 10 days after the day on which the municipal legislative body receives the notice of certification:
    - (i) by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or
    - (ii) by mailing the notice to each residence within, and to each owner of real property located within, the combined area;
  - (b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;
  - (c) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity; and
  - (d) if the municipality has a website, by posting notice on the municipality's website for the period of time described in Subsection (1)(b).
- (2) The notice described in Subsection (1) shall:
- (a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;
  - (b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);
  - (c) describe the area proposed for annexation in the annexation petition;
  - (d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

- (e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;
  - (f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;
  - (g) state that the area proposed for annexation to the municipality will also automatically be annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:
    - (i) the proposed annexing municipality is entirely within the boundaries of a local district:
      - (A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and
      - (B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and
    - (ii) the area proposed to be annexed to the municipality is not already within the boundaries of the local district; and
  - (h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:
    - (i) the petition proposes the annexation of an area that is within the boundaries of a local district:
      - (A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and
      - (B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and
    - (ii) the proposed annexing municipality is not within the boundaries of the local district.
- (3)
- (a) The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.
  - (b) In addition to the requirements under Subsection (2), a notice under Subsection (1) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:
    - (i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;
    - (ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and
    - (iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Amended by Chapter 15, 2021 Special Session 1

**10-2-407 Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.**

- (1) A protest to an annexation petition under Section 10-2-403 may only be filed by:
  - (a) the legislative body or governing board of an affected entity;



- (b) an owner of rural real property;
  - (c) for a proposed annexation of an area within a county of the first class, an owner of private real property that:
    - (i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;
    - (ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and
    - (iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation; or
  - (d) an owner of private real property located in a mining protection area.
- (2) Each protest under Subsection (1) shall:
- (a) be filed:
    - (i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and
    - (ii)
      - (A) in a county that has already created a commission under Section 10-2-409, with the commission; or
      - (B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;
  - (b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;
  - (c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and
  - (d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.
- (3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.
- (4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:
- (a) immediately notify the county legislative body of the protest; and
  - (b) deliver the protest to the boundary commission within five days after:
    - (i) receipt of the protest, if the boundary commission has previously been created; or
    - (ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.
- (5)
- (a) If a protest is filed under this section:
    - (i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or
    - (ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.
  - (b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:
    - (i) the contact sponsor of the annexation petition;
    - (ii) the commission; and
    - (iii) each entity that filed a protest.

- (6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.
- (7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and provide notice of the public hearing:
  - (a)
    - (i) at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the municipality and the area proposed for annexation, in places within that combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or
    - (ii) at least 10 days before the day of the public hearing, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);
  - (b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the public hearing; and
  - (c) if the municipality has a website, by posting notice on the municipality's website for seven days before the day of the public hearing.
- (8)
  - (a) Subject to Subsection (8)(b), only a person or entity that is described in Subsection (1) has standing to challenge an annexation in district court.
  - (b) A person or entity described in Subsection (1) may only bring an action in district court to challenge an annexation if the person or entity has timely filed a protest as described in Subsection (2) and exhausted the administrative remedies described in this section.

Amended by Chapter 355, 2022 General Session

**10-2-408 Denying or approving the annexation petition -- Notice of approval.**

- (1) After receipt of the commission's decision on a protest under Subsection 10-2-416(2), a municipal legislative body may:
  - (a) deny the annexation petition; or
  - (b) subject to Subsection (2), if the commission approves the annexation, approve the annexation petition consistent with the commission's decision.
- (2) A municipal legislative body shall exclude:
  - (a) rural real property, unless the owner of the rural real property gives written consent to include the rural real property; and
  - (b) private real property located in a mining protection area, unless the owner of the private real property gives written consent to include the private real property.

Amended by Chapter 112, 2021 General Session

**10-2-409 Boundary commission -- Creation -- Members.**

- (1) The legislative body of each county:
  - (a) may create a boundary commission on its own initiative at any time; and
  - (b) shall create a boundary commission within 30 days of the filing of a protest under Section 10-2-407.
- (2) Each commission shall be composed of:
  - (a) in a county with two or more municipalities:
    - (i) two members who are elected county officers, appointed by:



- (A)
  - (I) in a county of the first class operating under a form of government in which the executive and legislative functions are separated, the county executive with the advice and consent of the county legislative body; or
  - (II) in a county of the first class operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body; or
- (B) in a specified county, the county legislative body;
- (ii) two members who are elected municipal officers from separate municipalities within the county, appointed by the municipal selection committee; and
- (iii) three members who are residents of the county, none of whom is a county or municipal officer, appointed by the four other members of the boundary commission; and
- (b) in a county with only one municipality:
  - (i) two members who are county elected officers, appointed by the county legislative body;
  - (ii) one member who is a municipal officer, appointed by the governing body of the municipality; and
  - (iii) two members who are residents of the county, neither of whom is a county or municipal officer, appointed by the other three members of the boundary commission.
- (3) At the expiration of the term of each member appointed under this section, the member's successor shall be appointed by the same body that appointed the member whose term is expiring, as provided in this section.

Amended by Chapter 206, 2001 General Session

**10-2-409.5 Municipal selection committee.**

- (1) In each county in which there are two or more municipalities there shall be a municipal selection committee consisting of the mayor of each municipality.
- (2) A majority of the members of the municipal selection committee constitutes a quorum.
- (3) The municipal selection committee shall appoint each municipal member of the county boundary commission under Subsection 10-2-409(2)(a)(iii) and fill each vacancy in that position as it occurs.

Enacted by Chapter 206, 2001 General Session

**10-2-410 Boundary commission member terms -- Staggered terms -- Chair -- Quorum -- Vacancy.**

- (1) Except as provided in Subsection (2), the term of each member of a boundary commission is four years and begins and expires the first Monday in January of the applicable year.
- (2) Notwithstanding Subsection (1), the terms of the first members of a commission shall be staggered by lot so that:
  - (a) on a seven-member commission, the term of one member is approximately one year, the term of two members is approximately two years, the term of two members is approximately three years, and the term of two members is approximately four years; and
  - (b) on a five-member commission, the term of two members is approximately two years and the term of the other three members is approximately four years.
- (3)
  - (a) The members of each boundary commission shall elect as chair a person from their number whose term on the boundary commission does not expire for at least two years.

- (b) The term of a boundary commission chair is two years.
- (4) A majority of the commission constitutes a quorum, and commission action requires a majority vote of the commission.
- (5) Each vacancy on a commission of a member or an alternate member shall be filled for the remaining unexpired term of the vacating member by the body that appointed the vacating member under Section 10-2-409.

Amended by Chapter 206, 2001 General Session

**10-2-411 Disqualification of commission member -- Alternate member.**

- (1) A member of the boundary commission is disqualified with respect to a protest before the commission if that member owns property:
  - (a) for a proposed annexation of an area located within a county of the first class:
    - (i) within the area proposed for annexation in a petition that is the subject of the protest; or
    - (ii) that is in the unincorporated area within 1/2 mile of the area proposed for annexation in a petition that is the subject of a protest under Subsection 10-2-407(1)(c); or
  - (b) for a proposed annexation of an area located in a specified county, within the area proposed for annexation.
- (2) If a member is disqualified under Subsection (1), the body that appointed the disqualified member shall appoint an alternate member to serve on the commission for purposes of the protest as to which the member is disqualified.

Amended by Chapter 352, 2015 General Session

**10-2-412 Boundary commission authority -- Expenses -- Records.**

- (1) The boundary commission for each county shall hear and decide, according to the provisions of this part, each protest filed under Section 10-2-407, with respect to an area that is located within that county.
- (2) A boundary commission may:
  - (a) adopt and enforce rules of procedure for the orderly and fair conduct of its proceedings;
  - (b) authorize a member of the commission to administer oaths if necessary in the performance of the commission's duties;
  - (c) employ staff personnel and professional or consulting services reasonably necessary to enable the commission to carry out its duties; and
  - (d) incur reasonable and necessary expenses to enable the commission to carry out its duties.
- (3) The legislative body of each county shall, with respect to the boundary commission in that county:
  - (a) furnish the commission necessary quarters, equipment, and supplies;
  - (b) pay necessary operating expenses incurred by the commission; and
  - (c) reimburse the reasonable and necessary expenses incurred by each member appointed under Subsection 10-2-409(2)(a)(iii) or (b)(iii), unless otherwise provided by interlocal agreement.
- (4) Each county or municipal legislative body shall reimburse the reasonable and necessary expenses incurred by a commission member who is an elected county or municipal officer, respectively.
- (5) Records, information, and other relevant materials necessary to enable the commission to carry out its duties shall, upon request by the commission, be furnished to the boundary commission by the personnel, employees, and officers of:



- (a) for a proposed annexation of an area located in a county of the first class:
  - (i) each county, local district, and special service district whose boundaries include an area that is the subject of a protest under the commission's consideration; and
  - (ii) each municipality whose boundaries may be affected by action of the boundary commission;  
or
- (b) for a proposed annexation of an area located in a specified county, each affected entity:
  - (i) whose boundaries include any part of the area proposed for annexation; or
  - (ii) that may be affected by action of the boundary commission.

Amended by Chapter 329, 2007 General Session

**10-2-413 Feasibility consultant -- Feasibility study -- Modifications to feasibility study.**

- (1)
  - (a) For a proposed annexation of an area located in a county of the first class, unless a proposed annexing municipality denies an annexation petition under Subsection 10-2-407(5)(a)(i) and except as provided in Subsection (1)(b), the commission shall choose and engage a feasibility consultant within 45 days of:
    - (i) the commission's receipt of a protest under Section 10-2-407, if the commission had been created before the filing of the protest; or
    - (ii) the commission's creation, if the commission is created after the filing of a protest.
  - (b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study with respect to a petition that proposes the annexation of an area that:
    - (i) is undeveloped; and
    - (ii) covers an area that is equivalent to less than 5% of the total land mass of all private real property within the municipality.
- (2) The commission shall require the feasibility consultant to:
  - (a) complete a feasibility study on the proposed annexation and submit written results of the study to the commission no later than 75 days after the feasibility consultant is engaged to conduct the study;
  - (b) submit with the full written results of the feasibility study a summary of the results no longer than a page in length; and
  - (c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study results and respond to questions at that hearing.
- (3)
  - (a) Subject to Subsection (4), the feasibility study shall consider:
    - (i) the population and population density within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;
    - (ii) the geography, geology, and topography of and natural boundaries within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;
    - (iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;
    - (iv) whether the proposed annexation will hinder or prevent a future and more logical and beneficial annexation or a future logical and beneficial incorporation;



- (v) the fiscal impact of the proposed annexation on the remaining unincorporated area, other municipalities, local districts, special service districts, school districts, and other governmental entities;
  - (vi) current and five-year projections of demographics and economic base in the area proposed for annexation and surrounding unincorporated area, including household size and income, commercial and industrial development, and public facilities;
  - (vii) projected growth in the area proposed for annexation and the surrounding unincorporated area during the next five years;
  - (viii) the present and five-year projections of the cost of governmental services in the area proposed for annexation;
  - (ix) the present and five-year projected revenue to the proposed annexing municipality from the area proposed for annexation;
  - (x) the projected impact the annexation will have over the following five years on the amount of taxes that property owners within the area proposed for annexation, the proposed annexing municipality, and the remaining unincorporated county will pay;
  - (xi) past expansion in terms of population and construction in the area proposed for annexation and the surrounding unincorporated area;
  - (xii) the extension during the past 10 years of the boundaries of each other municipality near the area proposed for annexation, the willingness of the other municipality to annex the area proposed for annexation, and the probability that another municipality would annex some or all of the area proposed for annexation during the next five years if the annexation did not occur;
  - (xiii) the history, culture, and social aspects of the area proposed for annexation and surrounding area;
  - (xiv) the method of providing and the entity that has provided municipal-type services in the past to the area proposed for incorporation and the feasibility of municipal-type services being provided by the proposed annexing municipality; and
  - (xv) the effect on each school district whose boundaries include part or all of the area proposed for annexation or the proposed annexing municipality.
- (b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad valorem property tax rates on residential property within the area proposed for annexation at the same level that residential property within the proposed annexing municipality would be without the annexation.
- (c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the level and quality of governmental services that will be provided to the area proposed for annexation in the future is essentially comparable to the level and quality of governmental services being provided within the proposed annexing municipality at the time of the feasibility study.
- (4)
- (a) Except as provided in Subsection (4)(b), the commission may modify the depth of study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in conducting the feasibility study depending upon:
    - (i) the size of the area proposed for annexation;
    - (ii) the size of the proposed annexing municipality;
    - (iii) the extent to which the area proposed for annexation is developed;
    - (iv) the degree to which the area proposed for annexation is expected to develop and the type of development expected; and
    - (v) the number and type of protests filed against the proposed annexation.



- (b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement that the feasibility consultant provide a full and complete analysis of the items listed in Subsections (3)(a)(viii), (ix), and (xv).
- (5) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations as to how the boundaries of the area proposed for annexation may be altered so that the requirements of Subsection 10-2-416(3) may be met.
- (6)
  - (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses shall be shared equally by the proposed annexing municipality and each entity or group under Subsection 10-2-407(1) that files a protest.
  - (b)
    - (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners under Subsection 10-2-407(1)(c), the county in which the area proposed for annexation shall pay the owners' share of the feasibility consultant's fees and expenses.
    - (ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file a protest, the county and the proposed annexing municipality shall equally share the property owners' share of the feasibility consultant's fees and expenses.

Amended by Chapter 255, 2019 General Session

**10-2-414 Modified annexation petition -- Supplemental feasibility study.**

- (1)
  - (a)
    - (i) If the results of the feasibility study with respect to a proposed annexation of an area located in a county of the first class do not meet the requirements of Subsection 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility consultant's submission of the results of the study, file with the city recorder or town clerk of the proposed annexing municipality a modified annexation petition altering the boundaries of the proposed annexation.
    - (ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition to the clerk of the county in which the area proposed for annexation is located.
  - (b) Each modified annexation petition under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-403(3) and (4).
- (2)
  - (a) Within 20 days of the city recorder or town clerk's receipt of the modified annexation petition, the city recorder or town clerk, as the case may be, shall follow the same procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and (3)(a) for an original annexation petition.
  - (b) If the city recorder or town clerk certifies the modified annexation petition under Subsection 10-2-405(2)(c)(i), the city recorder or town clerk, as the case may be, shall send written notice of the certification to:
    - (i) the commission;
    - (ii) each entity that filed a protest to the annexation petition; and
    - (iii) if a protest was filed under Subsection 10-2-407(1)(c), the contact person.
- (c)



- (i) If the modified annexation petition proposes the annexation of an area that includes part or all of a local district, special service district, or school district that was not included in the area proposed for annexation in the original petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the board of the local district, special service district, or school district.
  - (ii) If the area proposed for annexation in the modified annexation petition is within 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area proposed for annexation in the original annexation petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the legislative body of that municipality.
- (3) Within 10 days of the commission's receipt of the notice under Subsection (2)(b), the commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.
- (4) The commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the commission no later than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

Amended by Chapter 112, 2021 General Session

**10-2-415 Public hearing -- Notice.**

- (1)
- (a) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days after the day on which the commission receives the feasibility study or supplemental feasibility study results.
  - (b) At the public hearing described in Subsection (1)(a), the commission shall:
    - (i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;
    - (ii) allow those present to ask questions of the feasibility consultant regarding the study results; and
    - (iii) allow those present to speak to the issue of annexation.
- (2) The commission shall provide notice of the public hearing described in Subsection (1)(a) within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality:
- (a)
    - (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice of the public hearing to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or
    - (ii) by mailing notice to each residence within, and to each owner of real property located within, the combined area;
  - (b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks before the day of the public hearing;
  - (c) by sending written notice of the public hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity



- that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person;
- (d) if the municipality has a website, by posting notice on the municipality's website for two weeks before the day of the public hearing; and
  - (e) by posting notice on the county's website for two weeks before the day of the public hearing.
- (3) The notice described in Subsection (2) shall:
- (a) be entitled, "notice of annexation hearing";
  - (b) state the name of the annexing municipality;
  - (c) describe the area proposed for annexation; and
  - (d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:
    - (i) if the municipality has a website, the municipality's website;
    - (ii) a municipality's physical address; and
    - (iii) a mailing address and telephone number.
- (4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.
- (5) At least 14 days before the date of a hearing described in Subsection (4), the commission chair shall provide notice of the hearing:
- (a)
    - (i) by posting one notice, and at least one additional notice per 2,000 population within the area proposed for annexation, in places within the area that are most likely to give notice of the hearing to the residents within, and the owners of real property located within, the area, subject to a maximum of 10 notices; or
    - (ii) by mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;
  - (b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 14 days before the day of the hearing;
  - (c) if the municipality has a website, by posting notice on the municipality's website for two weeks before the day of the public hearing; and
  - (d) by posting notice on the county's website for two weeks before the day of the public hearing.
- (6) Each notice described in Subsection (5) shall:
- (a) state the date, time, and place of the hearing;
  - (b) briefly summarize the nature of the protest; and
  - (c) state that a copy of the protest is on file at the commission's office.
- (7) The commission may continue a hearing under Subsection (4) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.
- (8) In considering protests, the commission shall consider whether the proposed annexation:
- (a) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;
  - (b) conflicts with the annexation policy plan of another municipality; and
  - (c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.
- (9)
- (a) The commission shall record each hearing under this section by electronic means.



- (b) A transcription of the recording under Subsection (9)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Amended by Chapter 15, 2021 Special Session 1

**10-2-416 Commission decision -- Time limit -- Limitation on approval of annexation.**

- (1) Subject to Subsection (3), after the public hearing under Subsection 10-2-415(1) the boundary commission may:
  - (a) approve the proposed annexation, either with or without conditions;
  - (b) make minor modifications to the proposed annexation and approve it, either with or without conditions; or
  - (c) disapprove the proposed annexation.
- (2) The commission shall issue a written decision on the proposed annexation within 30 days after the conclusion of the hearing under Section 10-2-415 and shall send a copy of the decision to:
  - (a) the legislative body of the county in which the area proposed for annexation is located;
  - (b) the legislative body of the proposed annexing municipality;
  - (c) the contact person on the annexation petition;
  - (d) the contact person of each entity that filed a protest; and
  - (e) if a protest was filed under Subsection 10-2-407(1)(c) with respect to a proposed annexation of an area located in a county of the first class, the contact person designated in the protest.
- (3) Except for an annexation for which a feasibility study may not be required under Subsection 10-2-413(1)(b), the commission may not approve a proposed annexation of an area located within a county of the first class unless the results of the feasibility study under Section 10-2-413 show that the average annual amount under Subsection 10-2-413(3)(a)(ix) does not exceed the average annual amount under Subsection 10-2-413(3)(a)(viii) by more than 5%.

Amended by Chapter 352, 2015 General Session

**10-2-417 District court review -- Notice.**

- (1) Review of a boundary commission decision may be sought in the district court with jurisdiction in the county in which the boundary commission is established by filing a petition for review of the decision within 20 days of the commission's decision under Section 10-2-416.
- (2) The district court review shall be on the record of the hearing under Section 10-2-415 and may not be de novo review.
- (3) The district court shall affirm the commission's decision unless the court determines that the decision is arbitrary or capricious.

Repealed and Re-enacted by Chapter 389, 1997 General Session

**10-2-418 Annexation of an island or peninsula without a petition -- Notice -- Hearing.**

- (1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.
- (2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:



- (a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and
- (b)
  - (i)
    - (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;
    - (B) the majority of each island or peninsula consists of residential or commercial development;
    - (C) the area proposed for annexation requires the delivery of municipal-type services; and
    - (D) the municipality has provided most or all of the municipal-type services to the area for more than one year;
  - (ii)
    - (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and
    - (B) the municipality has provided one or more municipal-type services to the area for at least one year;
  - (iii) the area consists of:
    - (A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and
    - (B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or
  - (iv)
    - (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;
    - (B) the area to be annexed is located in the expansion area of a municipality; and
    - (C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.
- (3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:
  - (a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and
  - (b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.
- (4)
  - (a) This Subsection (4) applies only to an annexation within a county of the first class.
  - (b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.
  - (c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:
    - (i) the majority of the total private land area within the area proposed for annexation; and



- (ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.
- (d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:
  - "Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d)."
- (e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).
- (5) The legislative body of each municipality intending to annex an area under this section shall:
  - (a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and
  - (b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).
- (6) A legislative body described in Subsection (5) shall provide notice of a public hearing described in Subsection (5)(b):
  - (a)
    - (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the municipality and the area proposed for annexation, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or
    - (ii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection (6)(a)(i);
  - (b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;
  - (c) by sending written notice to:
    - (i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and
    - (ii) the legislative body of the county in which the area proposed for annexation is located; and
  - (d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.
- (7) The legislative body of the annexing municipality shall ensure that:
  - (a) each notice described in Subsection (6):
    - (i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;
    - (ii) states the date, time, and place of the public hearing described in Subsection (5)(b);
    - (iii) describes the area proposed for annexation; and
    - (iv) except for an annexation that meets the requirements of Subsection (8)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:



- (A) is located within the area proposed for annexation;
  - (B) covers a majority of the total private land area within the entire area proposed for annexation; and
  - (C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and
- (b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).
- (8)
- (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:
    - (i) is located within the area proposed for annexation;
    - (ii) covers a majority of the total private land area within the entire area proposed for annexation; and
    - (iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.
  - (b)
    - (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.
    - (ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.
  - (c)
    - (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:
      - (A) the area to be annexed can be more efficiently served by the municipality than by the county;
      - (B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;
      - (C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and
      - (D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.
    - (ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:
      - (A) existing development in the area;
      - (B) natural or other conditions that may limit the future development of the area; or
      - (C) other factors that the county legislative body considers relevant.



- (iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.
  - (iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):
    - (A) the relevant municipality is not required to proceed with the recommended annexation; and
    - (B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.
  - (v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.
- (9)
- (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed under Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.
  - (b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

Amended by Chapter 15, 2021 Special Session 1

**10-2-419 Boundary adjustment -- Notice and hearing -- Protest.**

- (1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.
- (2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:
  - (a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and
  - (b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).
- (3) A legislative body described in Subsection (2) shall provide notice of a public hearing described in Subsection (2)(b):
  - (a)
    - (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality, subject to a maximum of 10 notices; or
    - (ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;
  - (b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;
  - (c) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the



adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

- (i) the title holder of any state-owned real property described in this Subsection (3)(d); and
  - (ii) the Utah State Developmental Center Board, created under Section 62A-5-202.5, if any state-owned real property described in this Subsection (3)(d) is associated with the Utah State Developmental Center; and
  - (d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.
- (4) The notice described in Subsection (3) shall:
- (a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;
  - (b) describe the area proposed to be adjusted;
  - (c) state the date, time, and place of the public hearing described in Subsection (2)(b);
  - (d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:
    - (i) an owner of private real property that:
      - (A) is located within the area proposed for adjustment;
      - (B) covers at least 25% of the total private land area within the area proposed for adjustment; and
      - (C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or
    - (ii) a title holder of state-owned real property described in Subsection (3)(d);
  - (e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:
    - (i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:
      - (A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and
      - (B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and
    - (ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and
  - (f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:
    - (i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:
      - (A) that provides fire protection, paramedic, and emergency services; and
      - (B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and
    - (ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.
- (5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at



or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(c)(i) or (ii).

(6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(7)

(a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Amended by Chapter 15, 2021 Special Session 1

**10-2-420 Bonds not affected by boundary adjustments or annexations -- Payment of property taxes.**

(1) A boundary adjustment or annexation under this part may not jeopardize or endanger any general obligation or revenue bond.

(2) A bondholder may require the payment of property taxes from any area that:

(a) was included in the taxable value of the municipality or other governmental entity issuing the bond at the time the bond was issued; and

(b) is no longer within the boundaries of the municipality or other governmental entity issuing the bond due to the boundary adjustment or annexation.

Repealed and Re-enacted by Chapter 389, 1997 General Session

**10-2-421 Electric utility service in annexed area -- Reimbursement for value of facilities -- Liability -- Arbitration.**

(1) As used in this section:

(a) "Commission" means the Public Service Commission established in Section 54-1-1.

(b) "Current replacement cost" means the cost the transferring party would incur to construct the facility at the time of transfer using the transferring party's:

(i) standard estimating rates and standard construction methodologies for the facility; and

(ii) standard estimating process.

(c) "Depreciation" means an amount calculated:

(i) based on:

(A) the life and depreciation mortality curve most recently set for the type of facility in the depreciation rates set by the commission or other governing regulatory authority for the electrical corporation; or

(B) a straight-line depreciation rate that represents the expended life if agreed to by the transferring and receiving parties; and

(ii) to include the gross salvage value of the type of facility based on the latest depreciation life approved by the commission or other governing regulatory authority for the electrical corporation, with a floor at the gross salvage value of the asset and in no case less than zero.

(d) "Electrical corporation" means:

(i) an entity as defined in Section 54-2-1; or

(ii) an improvement district system described in Subsection 17B-2a-403(1)(a)(iv).

(e) "Facility" means electric equipment or infrastructure used to serve an electric customer, above ground or underground, including:



- (i) a power line, transformer, switch gear, pole, wire, guy anchor, conductor, cable, or other related equipment; or
  - (ii) a right-of-way, easement, or any other real property interest or legal right or interest used to operate and maintain the electric equipment or infrastructure.
  - (f) "Facility transfer" means the transfer of a facility from a transferring party to a receiving party in accordance with Subsection (3).
  - (g) "Lost or stranded facility" means a facility that is currently used by a transferring party that will no longer be used, whether in whole or in part, as a result of a facility transfer.
  - (h) "Receiving party" means a municipality or electrical corporation to whom a facility is transferred.
  - (i) "Transferring party" means a municipality or electrical corporation that transfers a facility.
- (2)
- (a) If an electric customer in an area being annexed by a municipality receives electric service from an electrical corporation that is not an improvement district system described in Subsection 17B-2a-403(1)(a)(iv), the municipality may not, without the agreement of the electrical corporation, furnish municipal electric service to any electric customer in the annexed area until the municipality has reimbursed the electrical corporation for the value of each facility used to serve any electric customer within the annexed area, including the value of any facility owned by a wholesale electric cooperative affiliated with the electrical corporation, dedicated to provide service to the annexed area.
  - (b) If an electric customer in an area being annexed by a municipality receives electric service from an electrical corporation that is an improvement district system described in Subsection 17B-2a-403(1)(a)(iv), the municipality may not, without the agreement of the electrical corporation, furnish municipal electric service to the electric customer until the municipality has reimbursed the electric corporation for the value of the facility used to serve the electric customer within the annexed area.
- (3) The following procedures shall apply if a municipality transfers a facility to an electrical corporation in accordance with Section 10-8-14 or if an electrical corporation transfers a facility to a municipality in accordance with Subsection (2), Section 54-3-30, or 54-3-31:
- (a) The transferring party shall provide a written estimate of the transferring party's cost of preparing the inventory required in Subsection (3)(c) to the receiving party no later than 60 days after the date of notice from the receiving party.
  - (b)
    - (i) The receiving party shall pay the estimated cost of preparing the inventory to the transferring party no later than 60 days after the day that the receiving party receives the written estimate.
    - (ii) If the actual cost of preparing the inventory differs from the estimated cost, the transferring party shall include the difference between the actual cost and the estimated cost in the reimbursement described in Subsection (5).
  - (c) Except as provided in Subsection (3)(f), the transferring party shall prepare, in accordance with Subsection (4), and deliver the inventory to the receiving party no later than 180 days after the day that the transferring party receives the payment specified in Subsection (3)(b).
  - (d)
    - (i) At any time, the parties may by agreement correct or update the inventory.
    - (ii) If the parties are unable to reach an agreement on an updated inventory, they shall:
      - (A) proceed with the facility transfer and reimbursement based on the inventory as submitted in accordance with Subsection (3)(c); and
      - (B) resolve their dispute as provided in Subsection (6).



- (e) Except as provided in Subsection (3)(f), the parties shall complete each facility transfer and reimbursement contemplated by this Subsection (3) no later than 180 days after the date that the transferring party delivers the inventory to the receiving party in accordance with Subsection (3)(c).
  - (f) The periods specified in Subsections (3)(c) and (e) may be extended for up to an additional 90 days by agreement of the parties.
- (4)
- (a) The inventory prepared by a transferring party in accordance with Subsection (3)(c) shall include an identification of each facility to be transferred and the amount of reimbursement as provided in Subsection (5).
  - (b) The transferring party may not include in the inventory a facility that the transferring party removed from service for at least 36 consecutive months prior to the date of the inventory, unless the facility was taken out of service as a result of an action by the receiving party.
- (5)
- (a) Unless otherwise agreed by the parties, the reimbursement for the transfer of each facility shall include:
    - (i) the cost of preparing the inventory as provided in Subsection (3)(b);
    - (ii) subject to Subsection (5)(b)(i), the value of each transferred facility calculated by the current replacement cost of the facility less depreciation based on facility age;
    - (iii) the cost incurred by the transferring party for:
      - (A) the physical separation of each facility from its system, including the cost of any facility constructed or installed that is necessary for the transferring party to continue to provide reliable electric service to its remaining customers;
      - (B) administrative, engineering, and record keeping expenses incurred by the transferring party for the transfer of each facility to the receiving party, including any difference between the actual cost of preparing the inventory and the estimated cost of preparing the inventory; and
      - (C) reimbursement for any tax consequences to the transferring party resulting from each facility transfer;
    - (iv) the value of each lost or stranded facility of the transferring party based on the valuation formula described in Subsection (5)(a)(ii) or as otherwise agreed by the parties;
    - (v) the diminished value of each transferring party facility that will not be transferred based on the percentage of the facility that will no longer be used as a result of the facility transfer; and
    - (vi) the transferring party's book value of a right-of-way or easement transferred with each facility.
  - (b)
    - (i)
      - (A) The receiving party may review the estimation of the current replacement costs of each facility, including the wage rates, material costs, overhead assumptions, and other pricing used to establish the estimation of the current replacement costs of the facility.
      - (B) Prior to reviewing the estimation, the receiving party shall enter into a nondisclosure agreement acceptable to the transferring party.
      - (C) The nondisclosure agreement shall restrict the use of the information provided by the transferring party solely for the purpose of reviewing the estimation of the current replacement cost and preserve the confidentiality of the information to prevent any effect on a competitive bid received by either party.
    - (ii)



- (A) If the age of a facility may be readily determined by the transferring party, the transferring party shall use that age to determine the facility's depreciation.
  - (B) If the age of a facility cannot be readily determined, the transferring party shall estimate the age of the facility based on the average remaining life approved for the same type of facility in the most current depreciation rates set by the commission or other governing regulatory authority for the electrical corporation.
- (c)
- (i)
    - (A) A transferring party that transfers a facility in accordance with this section shall, upon delivery of a document conveying title to the receiving party, transfer the facility without any express or implied warranties.
    - (B) A receiving party that receives a facility in accordance with this section shall, upon receipt of a document conveying title, accept the facility in its existing condition and assume any and all liability, fault, risk, or potential loss arising from or related to the facility.
  - (ii) Notwithstanding Subsection (5)(c)(i), if, within six months after the date that any oil filled equipment is transferred, the receiving party discovers that a transferred oil filled equipment contains polychlorinated biphenyl, the transferring party shall reimburse the receiving party for the cost of testing and disposal of that oil filled equipment.
- (6)
- (a) If the parties cannot agree on each facility to be transferred or the respective reimbursement amount, the parties shall:
    - (i) proceed with the facility transfer and the reimbursement based on the inventory as submitted by the transferring party in accordance with Subsection (3)(c) and in accordance with the schedule provided in Subsection (3)(e); and
    - (ii) submit the dispute for mediation or arbitration.
  - (b) The parties shall share equally in the costs of mediation or arbitration.
  - (c) If the parties are unable to resolve the dispute through mediation or arbitration, either party may bring an action in the state court of jurisdiction.
  - (d) The arbitrator, or state court if the parties cannot agree on arbitration, shall determine each facility to be transferred and the amount to be reimbursed in accordance with Subsection (5).
  - (e) If the arbitrator or state court determines that:
    - (i) a transferring party transferred a facility that should not have been transferred, the receiving party shall return the facility;
    - (ii) a party did not transfer a facility that should have been transferred, the party that should have transferred the facility shall transfer the facility to the party to whom the facility should have been transferred;
    - (iii) the amount reimbursed by the receiving party is insufficient, the receiving party shall pay the difference to the transferring party; or
    - (iv) the amount reimbursed by the receiving party is more than the amount that should have been reimbursed, the transferring party shall pay the difference to the receiving party.
- (7) Unless otherwise agreed upon in writing by the parties:
- (a) a party shall transfer a facility to be transferred in accordance with Subsection (6)(e) no later than 60 days after the day that the arbitrator or court issues a determination unless the parties mutually agree to a longer time to complete the transfer; and
  - (b) a party shall:
    - (i) pay an amount required to be paid in accordance with Subsection (6)(e) no later than 30 days after the day that the arbitrator or court issues a determination; and



- (ii) include interest in the payment at the overall rate of return on the rate base most recently authorized by the commission or other governing regulatory agency for the electrical corporation from the date the reimbursement was originally paid until the difference is paid.
- (8)
- (a) Nothing in this section limits the availability of other damages under law arising by virtue of an agreement between the municipality and the electrical corporation.
  - (b) Notwithstanding Subsection (8)(a), a party described in this section is not entitled to an award for:
    - (i) damages that are indirect, incidental, punitive, exemplary, or consequential;
    - (ii) lost profits; or
    - (iii) other business interruption damages.
- (9) Nothing in this section or Section 10-8-14, 54-3-30, or 54-3-31 applies to a transfer of facilities from an electrical corporation to a municipality in accordance with a decision by a municipality that did not previously provide electric service and seeks to commence providing electric service to a customer currently served by an electrical corporation within the municipal boundary.
- (10) The provisions of this section apply to any annexation under this part.

Amended by Chapter 54, 2021 General Session

**10-2-422 Conclusive presumption of annexation.**

An area annexed to a municipality under this part shall be conclusively presumed to have been validly annexed if:

- (1) the municipality has levied and the taxpayers within the area have paid property taxes for more than one year after annexation; and
- (2) no resident of the area has contested the annexation in a court of proper jurisdiction during the year following annexation.

Repealed and Re-enacted by Chapter 389, 1997 General Session

**10-2-425 Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.**

- (1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:
  - (a) within 60 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:
    - (i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
    - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5;
  - (b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:
    - (i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment,



- the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or
- (ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:
    - (A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;
    - (B) submit to the recorder of each other county a certified copy of the documents listed in Subsection (1)(b)(ii)(A); and
    - (C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and
  - (c) concurrently with Subsection (1)(b):
    - (i) send notice of the annexation or boundary adjustment to each affected entity; and
    - (ii) in accordance with Section 26-8a-414, file with the Department of Health:
      - (A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and
      - (B) a copy of the approved final local entity plat.
- (2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a local district under Section 17B-1-416 or an automatic withdrawal from a local district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the local district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.
- (3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).
- (4) An annexation or boundary adjustment under this part is completed and takes effect:
- (a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:
    - (i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:
      - (A) the certificate is issued during the preceding November 1 through April 30; and
      - (B) the requirements of Subsection (1) are met before that July 1; or
    - (ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:
      - (A) the certificate is issued during the preceding May 1 through October 31; and
      - (B) the requirements of Subsection (1) are met before that January 1; and
  - (b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.
- (5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:
- (a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and
  - (b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).



- (6)
- (a) As used in this Subsection (6):
    - (i) "Affected area" means:
      - (A) in the case of an annexation, the annexed area; and
      - (B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.
    - (ii) "Annexing municipality" means:
      - (A) in the case of an annexation, the municipality that annexes an unincorporated area; and
      - (B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.
  - (b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.
  - (c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:
    - (i) levy or collect a property tax on property within an affected area;
    - (ii) levy or collect an assessment on property within an affected area; or
    - (iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Amended by Chapter 159, 2019 General Session

**10-2-426 Division of municipal-type services revenues.**

- (1) The legislative body of each county of the first class in which an area proposed for annexation under this part is located shall, until the date of annexation, continue:
- (a) to levy and collect ad valorem property tax and other revenues from or pertaining to the area; and
  - (b) except as otherwise agreed by the county legislative body and the municipal legislative body, to provide the same services to the area proposed for annexation as the county provided before the commencement of the annexation proceedings.
- (2)
- (a) The legislative body of each county of the first class in which an area proposed for annexation is located shall, after annexation, share pro rata with the annexing municipality the taxes and service charges or fees levied and collected by the county under Section 17-34-3 during the year of the annexation if and to the extent that the annexing municipality provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.
  - (b) The pro rata allocation of taxes under Subsection (2)(a) shall be based on the date of annexation, and the pro rata allocation of service charges and fees shall be based on the proportion of services related to the service charges and fees that remain to be rendered after annexation.

Amended by Chapter 206, 2001 General Session

**10-2-428 Neither annexation nor boundary adjustment has an effect on the boundaries of most local districts or special service districts.**



Except as provided in Section 17B-1-416 and Subsection 17B-1-502(2), the annexation of an unincorporated area by a municipality or the adjustment of a boundary shared by municipalities does not affect the boundaries of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

Amended by Chapter 360, 2008 General Session