

## **Part 7**

### **Dissolution of Municipalities**

#### **10-2-701 Petition for disincorporation -- Validity -- District court order for election.**

Disincorporation of a municipality shall be initiated upon petition. The petition shall bear signatures equal in number to 25% of all votes cast from the municipality at the last congressional election. No signature is valid, for purposes of this section, unless it is that of a registered voter who is a resident of the municipality proposed for disincorporation.

The petition containing the specified number of signatures shall be filed with the county clerk for validation by that officer. If the county clerk finds the petition valid, the clerk shall file the original with the district court and furnish a copy to the governing body of the municipality.

The district court, upon determining that the petition comports with Section 10-2-701.5 and that it does not offend Section 10-2-710 and is otherwise complete, shall order that the question of dissolution be placed before the voters of the municipality.

Enacted by Chapter 55, 1981 General Session

#### **10-2-701.5 Form of petition.**

A petition for municipal disincorporation shall substantially comply with, and be circulated in, the following form:

##### **PETITION FOR MUNICIPAL DISINCORPORATION**

To the Honorable District Court of \_\_\_\_ County, Utah:

We, the undersigned citizens and legal voters of the State of Utah, and residents of \_\_\_\_ City, Utah, respectfully petition the Court to submit a proposal to disincorporate \_\_\_\_ City, Utah, to the legal voters resident within said city for their approval or rejection at a special election ordered held by the court for that purpose; and each signator for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Utah; I am a resident of \_\_\_\_ City, Utah, and my residence and post office address are correctly written after my name.

Enacted by Chapter 55, 1981 General Session

#### **10-2-702 District court to examine petition -- Set date for election.**

If the court determines that the petition is complete, the court shall set a date for the election to determine the question of dissolution which date shall be at least 60 but not more than 90 days after the petition is filed with the court.

Amended by Chapter 55, 1981 General Session

#### **10-2-703 Providing notice of election.**

- (1) Immediately after setting the date for the election, the court shall order for notice to be provided of the:
  - (a) petition; and
  - (b) date the election is to be held to determine the question of dissolution.
- (2) The notice described in Subsection (1) shall be provided:
  - (a)
    - (i) at least four weeks before the day of the election, 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 the voters in the municipality, subject to a maximum of 10 notices; or

- (ii) at least one month before the day of the election, by mailing notice to each registered voter in the municipality;
- (b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the election; and
- (c) if the municipality has a website, by posting notice on the municipality's website for four weeks before the day of the election.

Amended by Chapter 15, 2021 Special Session 1

**10-2-704 Form of ballot.**

The form of the ballot used to vote on the issue of dissolution shall be separate from any other ballot and shall read substantially as follows:

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Shall the municipality of \_\_\_\_\_

Yes

(insert name)

be dissolved?

No

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The voters shall mark their ballots with a cross (x) opposite the word "yes" or "no".

Enacted by Chapter 48, 1977 General Session

**10-2-705 Judgment -- Determination of claims.**

The vote shall be taken and canvassed in the same manner as in other municipal elections, and return thereof made to the district court. If the district court finds that a majority of the votes cast favored dissolution, a judgment shall be entered approving the dissolution of the municipality and, upon dissolution, the corporate powers of such municipality shall cease, and the court shall cause notice to be given in a manner to be prescribed by it, requiring all claims against the municipality to be filed in the court within a time fixed in the notice, not exceeding six months, and all claims not so filed shall be forever barred. At the expiration of the time so fixed the court shall adjudicate claims so filed, which shall be treated as denied, and any citizen of the municipality at the time the vote was taken may appear and defend against any claim so filed, or the court may in its discretion appoint some person for that purpose.

Amended by Chapter 350, 2009 General Session

**10-2-706 Taxes to meet municipal obligations.**

The court shall have power to wind down the affairs of the municipality, to dispose of its property as provided by law, and to make provisions for the payment of all indebtedness thereof and for the performance of its contracts and obligations, and shall order such taxes levied from time to time

as may be requisite therefore, which the county legislative body shall levy against the property within the municipality. The taxes shall be collected by the county treasurer in the manner for collecting other property taxes and shall be paid out under the orders of the court, and the surplus, if any, shall be paid into the school fund for the district in which the taxes were levied. All municipal property remaining after the winding down of the affairs of the municipality, shall be transferred to the board of education of such school district, which board hereby is empowered to enforce all claims for the same and to have the use of all property so vesting.

Amended by Chapter 227, 1993 General Session

**10-2-707 Disposition of records.**

The books, documents, records, papers, and seal of any dissolved municipality shall be deposited with the county clerk for safekeeping and reference. All court records of justice court judges shall be deposited with a justice court judge of the county to be designated by the court, and other records with the district court. The courts respectively have authority to execute and complete all unfinished business standing on the same.

Amended by Chapter 59, 1990 General Session

**10-2-708 Notice of disincorporation.**

When a municipality has been dissolved, the clerk of the court shall provide notice of the dissolution:

- (1)
  - (a) by posting one notice, and at least one additional notice per 2,000 population of the county in places within the county that are most likely to give notice to the residents within, and the owners of real property located within, the county, including the residents and owners within the municipality that is dissolved, subject to a maximum of 10 notices; or
  - (b) by mailing notice to each residence within, and each owner of real property located within, the county;
- (2) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks;
- (3) if the municipality has a website, by posting notice on the municipality's website for four weeks; and
- (4) by posting notice on the county's website for four weeks.

Amended by Chapter 15, 2021 Special Session 1

**10-2-709 Expenses of election.**

The expenses of the election, of winding down the affairs and of dissolving the municipality, shall be the obligation of the municipality and shall be paid by it.

Enacted by Chapter 48, 1977 General Session

**10-2-710 Limitation on jurisdiction of court to consider disincorporation petition.**

No district court has jurisdiction to consider a petition seeking disincorporation of a municipality or to order an election based upon the submission of such a petition if:

- (1) the disincorporation petition is filed with the court less than two years after the official date of incorporation of the municipality which the petition seeks to dissolve; or

- (2) the disincorporation petition is filed with the court less than two years after the date of an election held to decide the question of dissolution of the municipality which the petition seeks to dissolve.

Enacted by Chapter 55, 1981 General Session

**10-2-711 Dissolution by the county legislative body.**

- (1)
  - (a) A municipality having fewer than 50 residents may be dissolved on application to the district court by the county legislative body of the county where the municipality is located.
  - (b)
    - (i) The population figure under Subsection (1)(a) shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.
    - (ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Committee.
- (2) Notice of the application shall be served on the municipality in the manner prescribed by law or by publication in the manner provided by law if the municipal authorities cannot be served.
- (3) The district court may enter an order approving the dissolution of the municipality on a finding that the existence of the municipality serves no valid municipal purpose, its existence is a sham, or on a clear and convincing showing that the best interests of the community would be served by the dissolution.
- (4) If the municipality is dissolved, the district court shall wind down the affairs and dissolve the municipality as quickly as possible in the same manner as is provided in Sections 10-2-705 through 10-2-709.

Amended by Chapter 330, 2018 General Session

**10-2-712 Power of court -- Articles of dissolution -- Notice to lieutenant governor -- Recording requirements -- Effective date of dissolution.**

- (1) The district court may:
  - (a) enforce compliance with any order issued to give effect to this part by proceedings for contempt; and
  - (b) appoint any person to assist it in carrying out the provisions of this part.
- (2)
  - (a) Upon entering an order approving the dissolution of a municipality, the district court shall file with the lieutenant governor:
    - (i) a copy of 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 certified copy of the court order approving the dissolution.
  - (b) Upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5:
    - (i) the municipality is dissolved; and
    - (ii) the court shall:
      - (A) if the dissolved municipality was located within the boundary of a single county, submit to the recorder of that county:
        - (I) a certified copy of the court order approving dissolution of the municipality; and
        - (II) the original certificate of dissolution; or

- (B) if the dissolved municipality was located within the boundaries of more than a single county:
  - (I) submit to the recorder of one of those counties:
    - (Aa) a certified copy of the court order approving dissolution of the municipality; and
    - (Bb) the original certificate of dissolution; and
  - (II) submit to the recorder of each other county:
    - (Aa) a certified copy of the court order approving dissolution of the municipality; and
    - (Bb) a certified copy of the certificate of dissolution.
- (3)
  - (a) The effective date of a dissolution of a municipality for purposes of assessing property within the dissolved municipality is governed by Section 59-2-305.5.
  - (b) Until the documents listed in Subsection (2)(b)(ii) are recorded in the office of the recorder of each county in which the property is located, a county in which a dissolved municipality is located may not:
    - (i) levy or collect a property tax on property within the former boundary of the dissolved municipality unless the county was levying and collecting the tax immediately before dissolution;
    - (ii) levy or collect an assessment on property within the former boundary of the dissolved municipality unless the county was levying and collecting the assessment immediately before dissolution; or
    - (iii) charge or collect a fee for service provided to property within the former boundary of the dissolved municipality unless the county was levying and collecting the fee immediately before dissolution.

Amended by Chapter 350, 2009 General Session