

LPC Meeting Materials

December 11, 2017

1. Fireworks Restrictions Legislation
2. Draft language – Improvement Completion Assurance
3. Draft Language – Impact Fees
4. Local Option Sales and Use Taxes for Transportation (OLRGC)
 5. C/AP Options (OLRGC)
 6. Draft Language – Plan Review
 7. Draft Language – Vesting Revision
8. ULCT Constitutional Bylaws Redline
 9. ULCT Legislative Guide

FIREWORKS RESTRICTIONS

2018 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill amends provisions related to the permissible discharge of fireworks.

Highlighted Provisions:

This bill:

- ▶ amends and clarifies the dates on which a person may legally discharge fireworks;
- ▶ increases the criminal fine for discharging fireworks outside of permitted dates and times;
- ▶ clarifies when a municipality may prohibit a person from discharging fireworks;
- ▶ increases the areas within which a municipality or the state forester may prohibit the discharge of fireworks;
- ▶ in certain situations, requires local governments and the state forester to create and provide maps identifying areas in which fireworks are prohibited due to hazardous environmental conditions;
- ▶ requires retailers that sell fireworks to display:
 - maps a county provides indicating areas within the county in which fireworks are prohibited due to hazardous environmental conditions; and
 - signs regarding permissible discharge dates and times and certain criminal penalties;
- ▶ prohibits the state forester from limiting or restricting the discharge of fireworks within municipal boundaries;
- ▶ imposes civil liability when certain fireworks discharge causes a fire; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

33 AMENDS:

34 **10-8-47**, as last amended by Laws of Utah 2012, Chapter 140

35 **11-3-8**, as last amended by Laws of Utah 1993, Chapter 234

36 **15A-5-202.5**, as last amended by Laws of Utah 2016, Chapter 216

37 **53-7-221**, as enacted by Laws of Utah 1993, Chapter 234

38 **53-7-225**, as last amended by Laws of Utah 2016, Chapter 216

39 **65A-8-212**, as last amended by Laws of Utah 2013, Chapter 307

40 ENACTS:

41 **53-7-225.1**, Utah Code Annotated 1953

42

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

44 Section 1. Section **10-8-47** is amended to read:

45 **10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit**
 46 **larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses**
 47 **and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of**
 48 **controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

49 (1) A municipal legislative body may:

50 (a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights,
 51 bullfights, and all disorderly conduct and provide against and punish the offenses of assault and
 52 battery and petit larceny;

53 (b) [~~the municipal legislative body may~~] restrain riots, routs, noises, disturbances, or
 54 disorderly assemblies in any street, house, or place in the city;

55 (c) [~~the municipal legislative body may~~] regulate and prevent the discharge of firearms,
 56 rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or
 57 combustible material;

58 (d) [~~the municipal legislative body may~~] provide against and prevent the offense of
 59 obtaining money or property under false pretenses and the offense of embezzling money or
 60 property in all cases where the money or property embezzled or obtained under false pretenses
 61 does not exceed in value the sum of \$500; and

62 (e) [~~may~~] prohibit the sale, giving away, or furnishing of narcotics, alcoholic beverages
 63 to a person younger than 21 years of age, or tobacco to any person younger than 19 years of

64 age[; cities may,].

65 (2) A city may:

66 (a) by ordinance, prohibit the possession of controlled substances as defined in the
67 Utah Controlled Substances Act or any other endangering or impairing substance, provided the
68 conduct is not a class A misdemeanor or felony[;]; and

69 (b) provide for treatment of alcoholics, narcotic addicts, and other persons who are
70 addicted to the use of drugs or intoxicants such that a person substantially lacks the capacity to
71 control the person's use of the drugs or intoxicants, and judicial supervision may be imposed as
72 a means of effecting their rehabilitation.

73 Section 2. Section **11-3-8** is amended to read:

74 **11-3-8. Conflicting local ordinances prohibited.**

75 A county, city, [or] town, or metro township may not adopt an ordinance or regulation
76 in conflict with Sections 53-7-220 through 53-7-225.

77 Section 3. Section **15A-5-202.5** is amended to read:

78 **15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.**

79 (1) For IFC, Chapter 3, General Requirements:

80 (a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six
81 and replace it with: "the Utah Administrative Code, R652-122-200, Minimum Standards for
82 Wildland Fire Ordinance".

83 (b) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted
84 and rewritten as follows: "1. When the fire code official determines that existing or historical
85 hazardous environmental conditions necessitate controlled use of any ignition source, including
86 fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may
87 occur:

88 [±] 1.1. If the existing or historical hazardous environmental conditions exist in a
89 municipality, the legislative body of the municipality may prohibit the ignition or use of an
90 ignition source in:

91 1.1.1. mountainous, brush-covered, [or] forest-covered, or dry grass-covered areas [or];

92 1.1.2. within 200 feet of waterways, trails, canyons, washes, ravines, or similar areas;

93 1.1.3. the wildland urban interface area, which means the line, area, or zone where

94 structures or other human development meet or intermingle with undeveloped wildland or land

95 being used for an agricultural purpose[-]; or

96 1.1.4 a limited area outside the hazardous areas described in this paragraph 1.1 to
97 facilitate a readily identifiable closed area, in accordance with paragraph 2.

98 ~~[2]~~ 1.2. ~~[Except as provided in paragraph 3, if the]~~ If the existing or historical
99 hazardous environmental conditions exist in an unincorporated area, the state forester may
100 prohibit the ignition or use of an ignition source in all or part of the areas described in
101 paragraph [†] 1.1 that are within the unincorporated area, after consulting with the county fire
102 code official who has jurisdiction over that area.

103 ~~[3]~~ 1.3. If the existing or historical hazardous environmental conditions exist in a metro
104 township created under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and
105 Unincorporated Islands in a County of the First Class[-] on and after May 12, 2015, the metro
106 township legislative body may prohibit the ignition or use of an ignition source in all or part of
107 the areas described in paragraph [†] 1.1 that are within the township.[^u]

108 2. If a municipal legislative body, the state forester, or a metro township legislative
109 body closes an area to the discharge of fireworks under paragraph 1, the legislative body or
110 state forester shall:

111 2.1. designate the closed area along readily identifiable features like major roadways,
112 waterways, or geographic features;

113 2.2. ensure that the boundary of the designated closed area is as close as is practical to
114 the defined hazardous area, provided that the closed area may include areas outside of the
115 hazardous area to facilitate a readily identifiable line; and

116 2.3. identify the closed area through a written description or map that is readily
117 available to the public.

118 3. A municipal legislative body, the state forester, or a metro township legislative body
119 may close a defined area to the discharge of fireworks due to a historical hazardous
120 environmental condition under paragraph 1 if the legislative body or state forester:

121 3.1. makes a finding that the historical hazardous environmental condition has existed
122 in the defined area before July 1 of at least two of the preceding five years;

123 3.2. produces a map indicating the boundaries, in accordance with paragraph 2, of the
124 defined area described; and

125 3.3. before May 1 of each year the defined area is closed, provides the map described

126 in paragraph 3.2 to the county in which the defined area is located.

127 4. A municipal legislative body, the state forester, or a metro township legislative body
128 may not close an area to the discharge of fireworks due to a historical hazardous environmental
129 condition unless the legislative body or state forester provides a map, in accordance with
130 paragraph 3."

131 (c) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On
132 line 10 delete the words "International Property Maintenance Code and the".

133 (d) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete
134 the word "shall" and replace it with the word "may".

135 (e) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the
136 following: "Exception: Where storage is not directly below the sprinkler heads, storage is
137 allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler
138 heads in occupancies meeting classification as light or ordinary hazard."

139 (2) IFC, Chapter 4, Emergency Planning and Preparedness:

140 (a) IFC, Chapter 4, Section 403.10.2.1, College and university buildings, is deleted and
141 replaced with the following:

142 "403.10.2.1 College and university buildings and fraternity and sorority houses.

143 (a) College and university buildings, including fraternity and sorority houses, shall
144 prepare an approved fire safety and evacuation plan, in accordance with Section 404.

145 (b) Group R-2 college and university buildings, including fraternity and sorority
146 houses, shall comply with Sections 403.10.2.1.1 and 403.10.2.1.2."

147 (b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following
148 footnotes:

149 (i) "e. Secondary schools in Group E occupancies shall have an emergency evacuation
150 drill for fire conducted at least every two months, to a total of four emergency evacuation drills
151 during the nine-month school year. The first emergency evacuation drill for fire shall be
152 conducted within 10 school days after the beginning of classes. The third emergency
153 evacuation drill for fire, weather permitting, shall be conducted 10 school days after the
154 beginning of the next calendar year. The second and fourth emergency evacuation drills may
155 be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock
156 down for violence. If inclement weather causes a secondary school to miss the 10-day deadline

157 for the third emergency evacuation drill for fire, the secondary school shall perform the third
158 emergency evacuation drill for fire as soon as practicable after the missed deadline."

159 (ii) "f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the
160 monthly required emergency evacuation drill can be substituted by a security or safety drill to
161 include shelter in place, earthquake drill, or lock down for violence. The routine emergency
162 evacuation drill for fire must be conducted at least every other evacuation drill."

163 (iii) "g. A-3 occupancies in academic buildings of institutions of higher learning are
164 required to have one emergency evacuation drill per year, provided the following conditions are
165 met:

166 (A) The building has a fire alarm system in accordance with Section 907.2.

167 (B) The rooms classified as assembly shall have fire safety floor plans as required in
168 Subsection 404.2.2(4) posted.

169 (C) The building is not classified a high-rise building.

170 (D) The building does not contain hazardous materials over the allowable quantities by
171 code."

172 Section 4. Section **53-7-221** is amended to read:

173 **53-7-221. Exceptions from Utah Fireworks Act.**

174 (1) Sections 53-7-220 through 53-7-225 do not apply to class A, class B, and class C
175 explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit
176 for destinations outside of Utah.

177 (2) Sections 53-7-220 through 53-7-225 do not supersede Section 23-13-7, regarding
178 use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

179 (3) Section 53-7-225 does not supersede Section 65A-8-212 regarding the authority of
180 the state forester to close hazardous areas.

181 Section 5. Section **53-7-225** is amended to read:

182 **53-7-225. Times for sale and discharge of fireworks -- Criminal penalty --**
183 **Permissible closure of certain areas -- Maps and signage.**

184 (1) [~~This~~] Except as provided in Section 53-7-221, this section supercedes any other
185 code provision regarding the sale or discharge of fireworks.

186 (2) A person may sell class C common state approved explosives in the state as
187 follows:

- 188 (a) beginning on June ~~[23]~~ 24 and ending on July ~~[27]~~ 25;
- 189 (b) beginning on December 29 and ending on December 31; and
- 190 (c) two days before and on the Chinese New Year's eve.
- 191 (3) ~~[Except as provided in Subsection (5), a county or municipality may not prohibit~~
- 192 ~~any person from discharging]~~ A person may not discharge class C common state approved
- 193 explosives in the state except as follows:
- 194 (a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the
- 195 hours are 11 a.m. to midnight:
- 196 (i) beginning on July ~~[1]~~ 2 and ending on July ~~[7]~~ 5; and
- 197 (ii) beginning on July ~~[21]~~ 22 and ending on July ~~[27]~~ 25;
- 198 (b) (i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day;
- 199 or
- 200 (ii) if New Year's eve is on a Sunday and the ~~[local governmental jurisdiction]~~ county,
- 201 municipality, or metro township determines to celebrate New Year's eve on the prior Saturday,
- 202 then ~~[it is lawful to discharge Class]~~ a person may discharge class C common state approved
- 203 explosives on that prior Saturday within the county, municipality, or metro township; and
- 204 (c) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the
- 205 following day.
- 206 (4) A person ~~[who violates the time restrictions stated in Subsection (3)(a), (b), or (c)]~~
- 207 is guilty of an infraction~~[-]~~, punishable by a fine of up to \$1,000, if the person discharges a
- 208 class C common state approved explosive:
- 209 (a) outside the legal discharge dates and times described in Subsection (3); or
- 210 (b) in an area in which fireworks are prohibited under Subsection 15A-5- 202.5(1)(b).
- 211 (5) (a) Except as provided in Subsection (5)(b) or (c), a county, a municipality, a metro
- 212 township, or the state forester may not prohibit a person from discharging class C common
- 213 state approved explosives during the permitted periods described in Subsection (3).
- 214 (b) (i) As used in this Subsection (5)(b), "negligent discharge":
- 215 (A) means the improper use and discharge of a class C common state approved
- 216 explosive; and
- 217 (B) does not include the date or location of discharge or the type of explosive used.
- 218 ~~[(5)]~~ (ii) A ~~[county or]~~ municipality or metro township may prohibit ~~[any person from~~

219 ~~discharging~~]:

220 (A) the discharge of class C common state approved explosives[~~:(a) as provided~~] in
221 certain areas with hazardous environmental conditions, in accordance with Subsection
222 15A-5-202.5(1)(b); or

223 [~~(b) in accordance with a municipal ordinance prohibiting~~]

224 (B) the negligent discharge of class C common state approved explosives.

225 (iii) A county may prohibit the negligent discharge of class C common state approved
226 explosives.

227 (c) The state forester may prohibit the discharge of class C common state approved
228 explosives as provided in Subsection 15A-5-202.5(1)(b) or Section 65A-8-212.

229 (6) If a municipal legislative body, the state forester, or a metro township legislative
230 body provides a map to a county identifying an area in which the discharge of fireworks is
231 prohibited due to a historical hazardous environmental condition under Subsection
232 15A-5-202.5(1)(b), the county shall, before June 1 of that same year:

233 (a) create a county-wide map, based on each map the county has received, indicating
234 each area within the county in which fireworks are prohibited under Subsection
235 15A-5-202.5(1)(b);

236 (b) provide the map described in Subsection (6)(a) to:

237 (i) each retailer that sells fireworks within the county; and

238 (ii) the state fire marshal; and

239 (c) publish the map on the county's website.

240 (7) Retailers that sell fireworks shall display:

241 (a) a sign that:

242 (i) is clearly visible to the general public in a prominent location near the point of sale;

243 (ii) indicates the legal discharge dates and times described in Subsection (3); and

244 (iii) indicates the criminal charge and fine associated with discharge:

245 (A) outside the legal dates and times described in Subsection (3); and

246 (B) within an area in which fireworks are prohibited under Subsection

247 15A-5-202.5(1)(b); and

248 (b) the map that the county provides, in accordance with Subsection (6)(b).

249 Section 6. Section **53-7-225.1** is enacted to read:

250 **53-7-225.1. Civil liability.**

251 (1) An individual who negligently, recklessly, or intentionally causes or spreads a fire
252 through discharge of a class C explosive is liable for the cost of suppressing that fire and any
253 damages the fire causes.

254 (b) If the individual described in Subsection (1)(a) is a minor, the parent or legal
255 guardian having legal custody of the minor is liable for the costs and damages for which the
256 minor is liable under this section.

257 (c) A court may waive part or all of the parent or guardian's liability for damages under
258 Subsection (1)(b) if the court finds

259 (i) good cause; and

260 (ii) that the parent or legal guardian:

261 (A) made a reasonable effort to supervise and direct the minor; or

262 (B) in the event the parent or guardian knew in advance of the negligent, reckless, or
263 intentional conduct described in Subsection (1)(a), made a reasonable effort to restrain the
264 minor.

265 (2) (a) The conduct described in Subsection (1) includes any negligent, reckless, or
266 intentional conduct, regardless of whether:

267 (i) the person discharges a class C common state approved explosive:

268 (A) within the permitted time periods described in Subsection 53-7-225(3); or

269 (B) in an area where discharge was not prohibited under Subsection 53-7-225(5)(b) or

270 (c); or

271 (ii) the fire begins on:

272 (A) private land;

273 (B) land owned by the state or a political subdivision of the state;

274 (C) federal land; or

275 (D) tribal land.

276 (b) Discharging a class C explosive in an area in which fireworks are prohibited due to
277 hazardous environmental conditions, in accordance with Subsection 15A-5-202.5(1)(b),
278 constitutes the negligent, reckless, or intentional conduct described in Subsection (1).

279 (3) A person who incurs costs to suppress a fire described in Subsection (1) may bring
280 an action under this section to recover those costs against an individual described in Subsection

281 (1).

282 (4) A person who suffers damage from a fire described in Subsection (1) may:

283 (a) bring an action under this section for those damages against an individual described
284 in Subsection (1); and

285 (b) pursue all other legal remedies in addition to seeking damages under Subsection
286 (4)(a).

287 Section 7. Section **65A-8-212** is amended to read:

288 **65A-8-212. Power of state forester to close hazardous areas -- Violations of an**
289 **order closing an area.**

290 (1) (a) If the state forester finds conditions in a given area in the state to be extremely
291 hazardous, "extremely hazardous" means categorized as "extreme" under a nationally
292 recognized standard for rating fire danger, he shall close those areas to any forms of use by the
293 public, or to limit that use, except as provided in Subsection (5).

294 (b) The closure shall include, for the period of time the state forester considers
295 necessary, the prohibition of open fires, and may include restrictions and prohibitions on:

296 (i) smoking;

297 (ii) the use of vehicles or equipment;

298 (iii) welding, cutting, or grinding of metals;

299 (iv) subject to Subsection (5), fireworks;

300 (v) explosives; or

301 (vi) the use of firearms for target shooting.

302 (c) Any restriction or closure relating to firearms use:

303 (i) shall be done with support of the duly elected county sheriff of the affected county
304 or counties;

305 (ii) shall undergo a formal review by the State Forester and County Sheriff every 14
306 days; and

307 (iii) may not prohibit a person from legally possessing a firearm or lawfully
308 participating in a hunt.

309 (d) The State Forester and County Sheriff shall:

310 (i) agree to the terms of any restriction or closure relating to firearms use;

311 (ii) reduce the agreement to writing;

312 (iii) sign the agreement indicating approval of its terms and duration; and
313 (iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review
314 and at termination of the restriction or closure.

315 (2) Nothing in this chapter prohibits any resident within the area from full and free
316 access to his home or property, or any legitimate use by the owner or lessee of the property.

317 (3) The order or proclamation closing or limiting the use in the area shall set forth:

318 (a) the exact area coming under the order;

319 (b) the date when the order becomes effective; and

320 (c) if advisable, the authority from whom permits for entry into the area may be
321 obtained.

322 (4) Any entry into or use of any area in violation of this section is a class B
323 misdemeanor.

324 (5) The state forester may not restrict or prohibit the discharge of fireworks within the
325 municipal boundaries of a city, town, or metro township.

11/29/17 Approved changes to Section 10-9a-604.5 and 10-9a-802. Vetted and Supported by the ULCT & PRC Land Use Task Force

Formatted: Font: 10 pt

Formatted: Font: 10 pt

10-9a-604.5 Subdivision plat recording or development activity before required infrastructure is completed – ~~[Infrastructure]~~ Improvement completion assurance – ~~[Infrastructure]~~ Improvement warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement.

(2) (a) Prior to any plat recordation or development activity, an applicant shall either:

(i) complete any required landscaping ~~or~~ and infrastructure improvement; or

(ii) post an improvement completion assurance for any required landscaping ~~or~~ and infrastructure improvement.

(b) If an applicant elects to post an improvement completion assurance, the assurance shall:

(i) provide for completion of 100% of the required landscaping ~~or~~ and infrastructure improvements; or

(ii) if the land use authority has inspected and accepted a portion of the landscaping ~~or~~ and infrastructure improvements, provide for completion of 100% of the unaccepted landscaping ~~or~~ and infrastructure improvements.

(c) A municipality:

(i) shall allow an applicant to post an improvement completion assurance that meets the conditions of this title and local ordinance if the applicant elects to post an improvement completion assurance;

(ii) may not require an applicant to post an improvement completion assurance for landscaping or an infrastructure improvement that has previously been inspected and accepted by the municipality;

(iii) shall establish a system for the partial release of an improvement completion assurance as portions of required landscaping or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) shall comply with section 10-9a-802 in issuing or denying a building permit based on the installation of landscaping or an infrastructure improvement.

(3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:

(i) municipal engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(4) The provisions of this section may not be interpreted to supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

11/29/17 Approved changes to Section 10-9a-604.5 and 10-9a-802. Vetted and Supported by the ULCT & PRC Land Use Task Force

Formatted: Font: 10 pt

Formatted: Font: 10 pt

10-9a-802 Enforcement.

Formatted: Font: 14 pt

(1)

(a) A municipality or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A municipality need only establish the violation to obtain the injunction.

(2)

(a) A municipality may enforce the municipality's ordinance by withholding a building permit.

(b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may not deny an applicant a building permit because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit under the building code and fire code; and

(ii) for which the municipality has accepted an [infrastructure] improvement completion assurance for landscaping and infrastructure improvements for the development.

~~(e) A municipality may withhold the issuance of a certificate of occupancy until required landscaping and infrastructure improvements have been completed and accepted.~~

10/12/17 Draft

Index Utah Code
Title 11 Cities, Counties, and Local Taxing Units
Chapter 36a Impact Fees Act
Part 6 Impact Fee Proceeds
Section 603 Refunds.
(Effective 5/9/2017)

Effective 5/9/2017

11-36a-603. Refunds.

- (1) A local political subdivision shall refund any impact fee paid by a developer, plus interest earned, when:
- (a) the developer does not proceed with the development activity and has filed a written request for a refund;
 - (b) the fee has not been spent or encumbered; and
 - (c) no impact has resulted.
- (2) (a) As used in this Subsection (2):
- (i) "Affected lot" means the lot or parcel with respect to which a local political subdivision collected an impact fee that is subject to a refund under this Subsection (2).
 - (ii) "Claimant" means:
 - (A) the person who paid the fee;
~~the original owner; or~~
 - (B) the original owner; or
~~another person who, under Subsection (2)(d), submits a timely notice of the person's valid legal claim to an impact fee refund.~~
 - (iii) "Original owner" means the record owner of an affected lot at the time the local political subdivision collected the impact fee.
 - (iv) "Unclaimed refund" means an impact fee that:
 - (A) is subject to refund under this Subsection (2); and

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted Table

10/12/17 Draft

- (B) the local political subdivision has not refunded after application of Subsections (2)(b) and (c).
- (b) If an impact fee is not spent or encumbered within the time specified in Subsection 11-36a-602(2), the local political subdivision shall, subject to Subsection (2)(c):
 - (i) refund the impact fee to:
 - (A) the original owner, if the original owner is the sole claimant; or
 - (B) to the claimants, as the claimants agree, if there are multiple claimants; or
 - (ii) interplead the impact fee refund to a court of competent jurisdiction for a determination of the entitlement to the refund, if there are multiple claimants who fail to agree on how the refund should be paid to the claimants.
- (c) If the original owner's last known address is no longer valid at the time a local political subdivision attempts under Subsection (2)(b) to refund an impact fee to the original owner, the local political subdivision shall:
 - (i) post a notice on the local political subdivision's website, stating the local political subdivision's intent to refund the impact fee and identifying the original owner;
 - (ii) maintain the notice on the website for a period of one year; and
 - (iii) disqualify the original owner as a claimant unless the original owner submits a written request for the refund within one year after the first posting of the notice under Subsection (2)(c)(i).
- (d) (i) In order to be considered as a claimant for an impact fee refund under this Subsection (2), a person, other than the original owner, shall submit a written notice of the person's valid legal claim to the impact fee refund.
 - (ii) A notice under Subsection (2)(d)(i) shall:
 - (A) explain the person's valid legal claim to the refund; and
 - (B) be submitted to the local political subdivision no later than 30 days after expiration of the time specified in Subsection 11-36a-602(2) for the impact fee that is the subject of the refund.
- (e) A local political subdivision:
 - (i) may retain an unclaimed refund; and

10/12/17 Draft

(ii) shall expend any unclaimed refund on capital facilities identified in the current capital facilities plan for the type of public facility for which the impact fee was collected.

(f) Any potential Claimant as defined in this Subsection shall have standing to bring an action challenging whether an impact fee has been spent or encumbered in accordance with the provisions of §11-36a-602.

11-36a-702(1)(d) for a challenge under Subsection 11-36a-603(2)(f), one year after expiration of the time specified in Subsection 11-36a-602(2) for impact fees that have been spent or encumbered; and two years after expiration of the time specified in Subsection 11-36a-602(2) for impact fees that have not been spent or encumbered .

Effective 5/9/2017

11-36a-602. Expenditure of impact fees.

- (1) A local political subdivision may expend impact fees only for a system improvement:
 - (a) identified in the impact fee facilities plan; and
 - (b) for the specific public facility type for which the fee was collected.
- (2) (a) Except as provided in Subsection (2)(b), a local political subdivision shall expend or encumber an impact fee collected with respect to a lot:
 - (i) for a permissible use; and
 - (ii) within six years after the impact fee with respect to that lot is collected.
- (b) A local political subdivision may hold the fees for longer than six years if it identifies, in writing:
 - (i) an extraordinary and compelling reason why the fees should be held longer than six years; and
 - (ii) an absolute date by which the fees will be expended.

Local Option Sales and Use Taxes for Transportation

Options (one option per entity)	Allowable Rate	Allowable Uses	Extent of Imposition (% of taxable sales is estimated) (as of April 1, 2017)	Revenue (FY 2017)
1st Quarter^A				
Option 1 (59-12-2213)	up to 0.30%	- 100% Public transit ^B	80% of taxable sales (Countywide in Davis, Salt Lake, Utah, and Weber counties and within 23 jurisdictions in other counties)	\$112.7M ^C
Option 2 (59-12-2215)	up to 0.30%	- City/town highways - Public transit	11% of taxable sales (25 cities/towns)	\$14.5M
2nd Quarter^A				
Option 1 (59-12-2214)	0.25%	<u>First Class County</u> - 80% public transit ^B - 20% County of the First Class ^B Highway Projects Fund <u>Other Counties</u> - Public transit - Certain airports	65% of taxable sales (Imposed countywide in Davis, Salt Lake, Summit, and Weber counties and in Brigham City, Perry, and Willard)	\$81.8M ^C
Option 2 (59-12-2216)	up to 0.30%	- Public transit - Certain highway projects	15% of taxable sales (Utah County)	\$21.1M
3rd Quarter^A				
Option 1 (59-12-2217)	up to 0.25%	<u>First or Second Class County</u> - Certain highway projects - Certain public transit projects - Airports <u>Other Counties</u> - Certain highway projects <u>If 0.10% rate is imposed</u> - State highways - Airports <u>If 0.25% rate is imposed</u> - Highways - Public transit - Airports - Traffic and pedestrian safety - Active transportation facility	59% of taxable sales (Cache, Millard, Salt Lake, Summit, Weber)	\$74.2M ^C
Option 2 (59-12-2218)	0.10% or 0.25%	- Highways - Public transit - Airports - Traffic and pedestrian safety - Active transportation facility	15% of taxable sales (Utah County)	\$19.1M
4th Quarter^A				
Option 1 (59-12-2219)	0.25%	- Public transit - Highways - Traffic and pedestrian safety - Active transportation facility	21% of taxable sales (Carbon, Davis, Duchesne, Grand, Rich, San Juan, Sanpete, Sevier, Tooele, Weber)	\$27.5M

^A "Quarter" is a colloquial term often used to differentiate between the local sales taxes used for transportation. The quarters can be adopted in any order. For example, the 4th Quarter could be adopted before any of the other quarters.

^B Indicates that at least a portion of revenue is required to be used for the specified use.

^C Indicates that the figure shown is an estimate based on the estimated percent of taxable sales to which the tax applies.

4) In the area of Land Use, develop and implement a Corridor and Area Planning (C/AP) process in existing and future corridors of significance to local governments, MPOs, and the state. Development in these high-priority corridors should be strategic and support the long-term growth of the area and an effective transportation system in a manner that maintains the quality of life of the residents. The C/AP process should include:

- a) Broad goals set by the Legislature to maintain and enhance Utah's economic vitality, quality of life, and access to opportunities
- b) Identification of corridors by local governments, MPOs, and the state (UDOT, Transportation Commission)
- c) Development and adoption of corridor area plans that address the goals, by the state (UDOT, Transportation Commission), in cooperation with local governments, MPOs, economic development entities, and land owners
- d) Incentives, disincentives, and penalties for local governments, designed to encourage participation in the creation, adoption, and adherence to a C/AP
 - i) Incentives could include:
 - (1) Additional “prioritization points” during the programming of transportation projects;
 - (2) Financial and technical assistance to local governments in the form of a Transportation and Land Use Connection (TLC) program;
 - (3) Access to additional funding sources (state infrastructure bank loans, value capture tools)
 - ii) Disincentives could include:
 - (1) The ability of the state to take action when a local government refuses to participate in the creation and adoption of a C/AP
 - iii) Penalties could include:
 - (1) Fees levied by the state when a local government deviates from an agreed-upon C/AP, or delay or not building of all or any part of a project, and/or the reopening of the C/AP process at a cost to the state

In addition to the creation of a C/AP process, the working group recommends more generally that the state:

- a) Ensure that property rights are respected
- b) Establish clear criteria for the prioritization of state transportation projects
- c) Plan and help fund corridor preservation for transit expansion
- d) Coordinate with local entities to create connected roadways

12/8/17 draft MBR

- Same for Cities and Counties.

- Delete the repeal language.

10-5-132. Fees collected for construction approval -- Approval of plans.

34 (1) As used in this section,:

35 (a) "Construction project" [is as] means the same as that term is defined

36 in Section 38-1a-102.

37 (b) (i) [~~"Initial~~] "Plan review" means all of the reviews and approvals of a plan that are

38 required by a town to obtain a building permit from the town;

39 (ii) [~~"Initial~~] "Plan review" does not mean a review of a document:

40 (A) required to be re-submitted for additional modifications or substantive changes identified by

41 the plan review;

42 (B) submitted as part of a deferred submittal when requested by the applicant, [~~building~~
43 ~~official~~] and approved by the building official; ~~or~~ ~~substantive changes identified by the plan review~~;

43 (C) that, due to the document's technical nature or on the request of the applicant, is

44 reviewed by a third party. A "document's technical nature" shall be limited to those items that
45 would be outside the training and expertise of a person who regularly performs plan reviews.

45 (c) "Lodging establishment" means a place providing temporary sleeping

46 accommodations to the public, including any of the following:

47 (i) a bed and breakfast establishment;

48 (ii) a boarding house;

49 (iii) a hotel;

50 (iv) an inn;

51 (v) a lodging house;

52 (vi) a motel;

53 (vii) a resort;

(viii) a dormitory

or

54 (ix) a rooming house.

55 (2) (a) If a town collects a fee for the inspection of a construction project, the town

56 shall ensure that the construction project receives a prompt inspection.

57 [(3)] (b) If a town cannot provide a building inspection within a reasonable time, the

58 town shall promptly engage an independent inspector with fees collected from the applicant.

59 (3) (a) A town shall complete [~~a an initial~~] plan review of a construction project for a one

60 to two family dwelling or townhome by no later than 14 business days after the day on which

61 the plan is submitted to the town.

62 (b) A town shall complete [~~a an initial~~] plan review of a construction project for a

63 residential structure built under the International Building Code, not including a lodging

64 establishment, by no later than 21 business days after the day on which the plan is submitted to

65 the town.

(c) If the applicable time expires without the town performing a plan review, an applicant may request that the town complete the review of the plans. If an applicant makes such a request, the review shall be performed within the 14 or 21 business days, whichever applies.

(d)) An applicant may waive the time limitations of this Section or agree to an alternative period of time, for the purpose of allowing the town to complete the Plan Review.

(4) With regard to a construction project described in Subsection (3):

66 ~~(c)~~ (a) A town may not enforce a requirement to have [~~a an initial~~] plan reviewed by the town

67 if:

68 (i) the town does not complete the [~~initial~~] plan review within the time period described

69 in Subsection (3)(a) or (b); and

70 (ii) the plan is stamped by a licensed architect or structural engineer, ~~+~~ or both when required by law.

~~If the applicable time expires within the town performing a plan review, an applicant may request a review the plans by the town. If an applicant makes such a request, the review shall be performed within the 14 or 21 business days, whichever applies.~~

~~(d)~~ (b) a town may not require a redraft of plans where the changes requested in the plan are minor changes that may be reasonably ~~redlined or~~ included in the list of items described in subsection (c);

~~(e)~~ (c) a town may attach to the reviewed plans, a list of items the town has particular issue or concern and will specifically enforce during construction, ~~and building code violations noted in the plans.~~

~~(f)~~ (d) The scope of the Plan Review shall not exceed the following checklist of required items:

(i) "Planning approval" which shall mean verification of zoning and subdivision approval, setbacks, easements, curb and gutter elevation, grades and slopes, utilities, lot sizes, street names, defensible space provisions (if included within a Wildland Fire Interface) and elevations, including building height.

(ii) "Floor plan approval" which shall mean over- all basic dimensions, electrical service, size and fire suppression.

(iii) "Construction to applicable code" which shall mean that construction of the structure shall comply with the provisions of the current Utah State Code provisions for construction.

(iv) "Storm Water Protection Provision Compliant" which shall mean compliant with Federal, State and local storm water protection provisions.

(v) "Energy Code Compliant" which shall mean ~~that the structure meets REScheck, HERS or other similar standards for compliance.~~ review for compliance with energy codes as adopted by the State of Utah. or other compliance methods specified in the currently adopted version of the International Energy Conservation Code.

Commented [MR1]: In reference to Kevin Emerson comments and taz

(vi) "Square foot summary" which shall mean the calculation of total square footage, by level, of finished space, garage and unfinished space.

~~(viii) "Structural compliance review" which shall mean review by a licensed engineer that a stamp from a licensed engineer appears on the plans. Where approval of a licensed engineer is not required, the plans may be reviewed to establish that there is required footing size and bar placement, foundation thickness and bar placement, beam and header sizes, nailing patterns, bearing points, structural member size and span and sheathing and other structural requirements.~~ (viii) "Structural review" which shall mean review by a licensed engineer. Where review by a licensed engineer is not required, the plans may be reviewed to establish that there is required footing size and bar placement, foundation thickness and bar placement, beam and header sizes, nailing patterns, bearing points, structural member size and span and sheathing ~~and other structural requirements.~~

Commented [MR2]: Add or delete?

(ix) "Drawing Corrections" which shall mean that the review may include a correction on any item drawn incorrectly on the plan.

(x) "Reviews, sign offs and proof of payment" which shall mean that the review may require proof of sign-off by other agencies and proof of payment of required fees.

(e) All plans submitted for plan review must have a statement printed on each set of plans submitted indicating that ~~the plan~~ actual construction must comply with local ordinance and the building code adopted by the State of Utah.

~~Same for Cities and Counties.~~

~~Delete the repeal language.~~

11/29/17 Draft changes to Section 10-9a-509 discussed by ULCT & PRC Land Use Task Force – pending agreement

Brent Bateman's draft 9/26/17 agreed upon

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations

(A) in effect on the date that the application is complete, and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations in effect when a complete application is submitted and all application fees have been paid, unless:

(A) the land use authority formally finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

(B) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

M. Ryan code update with strikeout and amendment to (ii) A

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

~~(1) (a) (i) An applicant who has filed submitted a complete land use application, including the payment of all application fees, is entitled to substantive land use review of the land use application under the land use regulations~~

~~(A) in effect on the date that the application is complete, and~~

~~(B) applicable to the application or to the information shown on the submitted application, as further provided in this section.~~

~~(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's applicable land use regulations in effect when a complete application is submitted and all application fees have been paid, unless:~~

~~(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application; or~~

~~(B) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.~~

a) (i) An applicant who has filed a submitted a complete land use application, including the payment of all application fees, is entitled to substantive land use review of the land use application under the land use regulations:

(A) in effect on the date that the application is complete and

(B) as further provided in this section, applicable to the application or to the information shown on the submitted application.

11/29/17 Draft changes to Section 10-9a-509 discussed by ULCT & PRC Land Use Task Force – pending agreement

- (ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's applicable land use regulations in effect when a complete application is submitted and all application fees have been paid, unless:
- (A) the land use authority, ~~on the record~~ formally finds that a compelling, countervailing public interest would be jeopardized by approving the application; or
 - (B) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

**UTAH LEAGUE OF CITIES AND TOWNS
CONSTITUTION**

CONSTITUTION
for
UTAH LEAGUE OF CITIES AND TOWNS

The municipalities of Utah desiring to maintain an organization for their benefit hereby adopt this Constitution for its governance.

ARTICLE I
NAME

Section 1. **NAME** This organization shall be known as the Utah League of Cities and Towns (hereinafter "League").

ARTICLE II
OBJECTS AND PURPOSE

Section 1. **OBJECTS AND PURPOSES** The objects and purposes of the organization are:

- (a) To provide a headquarters, a library, and an information bureau for the collection and dissemination of information relating to municipal matters.
- (b) To provide for an annual and other meetings of the League and its affiliates for the consideration -of municipal matters.

(c) Proposed: To advocate for municipal authority and represent local government at the county, state, and federal government levels, with the business community, and with other political stakeholders

(d) To promote education related to municipal government.

(e) To assist municipalities in providing for the welfare of their employees and residents.

(f) To function as a nonpartisan organization dedicated to promoting good municipal government through the united effort and cooperation of its members.

(g) To accomplish any purpose necessary and proper for the benefit of Utah municipalities.

Section 2. **CONFLICTS OF INTEREST** In the event that a conflict of interest occurs between cities and towns and other political subdivisions in the pursuit of the activities of the League, the League shall sustain the interests of the cities and towns. The political subdivision may pursue its conflicting position without impairing its standing in the League.

ARTICLE III
MEMBERSHIP

Section 1. **MEMBERS** Any city, town or other political subdivision of the State of Utah engaged in performing municipal functions may, by payment of the prescribed annual dues, become a member for the year for which the dues are paid.

Formatted: Font: Times New Roman, 12 pt

Formatted: Right: 0", No bullets or numbering, Tab stops: Not at 0.4"

Commented [CD1]: What "political subdivisions" apply here? Metro townships? Special service districts or counties that perform multiple municipal functions?

Section 2. **AFFILIATE MEMBERS** Any organization of public officials or employees of municipalities having purposes compatible with those of this organization may affiliate with it upon such terms and conditions as the

Board by resolution may prescribe.

Section 3. **COOPERATING MEMBERS** Any governmental agency or political subdivision or department thereof having purposes compatible with the League may affiliate as a cooperating member of the League upon such terms and conditions as the Board by resolution may prescribe.

Section 4. **HONORARY MEMBERS** Any person who has rendered distinguished service for municipal government may by a majority vote of the Board be granted an honorary membership in the League for life or a period of time fixed by the Board. All Past Presidents of the League shall be honorary life members. Honorary members shall not have voting privileges.

Section 5. **ASSOCIATE MEMBERS** Any person or organization not otherwise eligible for membership may apply for an associate membership in the League under such provisions as are prescribed by the Board. Such memberships will not have voting privileges.

**ARTICLE IV
DIRECTORS AND OFFICERS**

Section 1. **DIRECTORS AND OFFICERS** The League shall be governed by a Board of Directors (hereinafter "Board"), consisting of four officers and 12 directors. They shall be elected officials of a municipality which is a member in good standing of the League. They shall serve for a term of two years commencing on election at the Annual Convention and continuing until the election and qualification of their successors at the Annual Convention. The terms of the directors shall be staggered so that approximately half of the directors are elected annually.

Section 2. **METHOD OF SELECTION** At least three months prior to the Annual Convention of the League, the Executive Director shall mail send notices to all member municipalities stating which offices are to be filled by election at the Annual Convention and inviting the municipalities to recommend the names of elected municipal officials to fill the vacancies. The notice shall state the date by which the recommendations shall be received and the name of the person and address to which the recommendations are to be submittedmailed. The notice shall also include a statement of the qualifications a person shall have to serve on the Board. Where there is a county-council of mayors or a multi-county council of mayors, such council may recommend the names of those persons to be considered by the Nominations Committee. All recommendations by municipalities, county and multi-county councils of mayors shall be received by the League's Nominations Committee at least one month week? prior to the Annual Convention.

Section 3. **REPRESENTATION** The officers and directors shall be elected so that there is at least one representative from each of the following areas:

- Area 1. Cache, Box Elder and Rich Counties
- Area 2. Davis, Weber and Morgan Counties
- Area 3. Salt Lake and Tooele Counties
- Area 4. Summit, Wasatch and Utah Counties
- Area 5. Daggett, Uintah and Duchesne Counties
- Area 6. Juab, Sevier, Sanpete, Wayne, Piute and Millard Counties
- Area 7. Washington, Beaver, Iron, Kane and Garfield Counties
- Area 8. Grand, San Juan, Emery and Carbon Counties

Commented [CD2]: To the recollection of many, we have never utilized affiliate, cooperating, honorary, or associate members. Do we want to preserve these membership options in the constitution? If so, who are the potential membership targets?

Commented [CD3]: Is a 16 member board the appropriate size for ULCT? The membership has grown by 14% since 1980 but the board has not grown accordingly.

Commented [CD4]: Most leagues that I have researched keep the board membership to elected officials only. Some leagues have voting member board spots for city managers.

Commented [CD5]: Should we change the term of service? For example, a board member could serve for 3 years and 1/3 of the board could rotate annually. Most states and NLC all use 2 year board terms.

Commented [CD6]: Questions to consider in Section 2:

Who should nominate board members?
Can someone nominate himself/herself?
Should one person nominate a board member or should it be a city/town/COM?
Should there be some sort of report-back requirement for a board member to the city/COM who nominated him/her?
Should the timeline be changed?

Commented [CD7]: Questions to consider in Section 3:

Should the ULCT regions match the AOG/MPO regions in Utah? Should Areas 3 and 4 solely focus on Salt Lake and Utah Counties?

The Board has 16 spots, of which 8 represent geographic regions and 8 are at-large. The town representative can fill a geographic region. Should more seats be tied to geographic regions? Should a board member be responsible to report back to his/her geographic region? Should the town representative be independent of the geographic region?

Should a town have a mandatory representative? Should a city of the first class? Both? Neither? As of Nov. 2017, Utah has more than 100 towns and 5 cities of the first class.

Formatted: Right: 3.5"

Formatted: Right: 2"

Formatted: Right: 3.5"

At least one town shall be represented on the Board and a majority of the Board shall be from cities which, when their residents are totaled, are approximately equal to 50% of the total number of residents of the State living in

Commented [CD8]: In 1980, people residing within the 11 incorporated municipalities of Salt Lake County consisted of 50.2% of the county's total population. In 2017, people residing within the 17 incorporated municipalities consist of 93% of the county's total population. If you include the metro townships, then 99% of the population lives within incorporated municipalities.

Meanwhile, Utah's population has grown 112% since 1980 from 1,461,037 to 3,098,761. The quantity of Utah's municipalities has increased by 10% since 1980. Specifically, Utah had one city of the first class (Salt Lake) in 1980. In 2017, Utah has five cities of the first class (Salt Lake, West Valley, Provo, West Jordan, Sandy) with several cities projected to become cities of the first class in the decades to come.

Finally, compliance with the 50% requirement is impossible. The 2016-2017 Board reflected 16% of Utah's population.

member municipalities according to the most recent population figures generally accepted by the League for its administrative purpose.

Section 4. **OFFICERS** The officers of the League shall consist of a President, First Vice President, Second Vice President elected for terms of one year, and the Immediate Past President. The First Vice President shall succeed to the office of President and the Second Vice President to the office of First Vice President unless, by two-thirds vote of the members at the Annual Convention, they are removed from office. Except for the Immediate Past President, all officers shall be elected officials of a municipality holding membership in the League. The Immediate Past President serves as a member of the Board unless he is no longer an elected official, in which case he serves in an honorary capacity without a vote.

Section 5. **EXECUTIVE COMMITTEE** There shall be an Executive Committee consisting of the officers of the League. It shall have power to perform the functions and duties of the Board during the interim between meetings, subject to the ratification of the Board.

Section 6. **TERMINATION OF OFFICE** The office of any officer or director of this organization shall become vacant when such officer or director no longer is an elected official of a municipality.

Section 7. **VACANCY** In the event of a vacancy on the Board, it shall appoint a member to fill the vacancy until the next Convention of the League when such position shall be filled by election of the members of the League for the unexpired term.

Commented [CD9]: Does the "it" refer to the full Board or to the Executive Committee?

Commented [CD10]: Should the vacancy be filled for the unexpired term or just until the next convention?

Section 8. **QUORUM AND NOTICE** Eight members of the Board shall constitute a quorum. Business may be transacted at a meeting only when notice of the meeting has been timely given to all members of the Board.

Section 9. **COMPENSATION** The Board members shall not receive compensation for their services.

Section 10. **DUTIES** The President shall preside at all business meetings of the League. He/she shall perform the duties normally performed by the President of organizations of this type and such other duties as the Board shall prescribe. The Vice Presidents shall, in their order, perform the duties of the President in case of the absence or disability of the President.

Section 11. **EMPLOYEES** The Board shall appoint an Executive Director who shall manage and direct the affairs of the League subject to the approval of the Board. The Board may appoint a Secretary-Treasurer who shall assume the responsibility of collecting prescribed dues and fees. A bond acceptable to the Board for not less than \$5,000 shall be provided by the League. The Board may employ such persons it deems necessary. They are not required to be members of the League. They shall perform the duties and receive the compensation authorized by the Board.

Commented [CD11]: Should this be a "Secretary-Treasurer" or just a "Treasurer?" Is the Secretary-Treasurer an employee per Article IV Section 11 of an officer per Article IX?

Section 12. **BYLAWS** The Board of Directors may adopt Bylaws not inconsistent with this Constitution for the governance of the League.

ARTICLE V
HEADQUARTERS

Section 1. **HEADQUARTERS** The Board shall establish and maintain a headquarters office in the City of Salt Lake, and may establish and maintain branch offices in such other cities as it may deem necessary.

ARTICLE VI
MEETINGS

Section 1. **ANNUAL CONVENTION** The Board shall fix the date and place of the annual meeting unless otherwise fixed and determined at the preceding Annual Convention.

Section 2. **MEETINGS** All meetings of the League and its Board shall be called by the President and reasonable notice given to members entitled to notice.

Section 3. **QUORUM** The members present at any meeting except meetings of the Board shall constitute a quorum.

Section 4. **VOTE** Each member municipality shall be entitled to vote at all general meetings of the League.

ARTICLE VII
FISCAL AFFAIRS

Section 1. **FISCAL YEAR** The fiscal year of this organization shall consist of 12 calendar months, which commences July 1 and ends June 30 of each year.

Section 2. **BUDGET** The Executive Director shall at least 30 days prior to the beginning of each fiscal year prepare a detailed budget setting forth the estimated revenues and expenditures for such year. It shall be submitted to the Board for approval.

Section 3. **LIMITATION OF EXPENDITURES** Expenditures incurred shall not be in excess of the actual revenues. Expenditures from each budget item shall not exceed the amount budgeted for it without approval by the Board.

Section 4. **AUDIT** There shall be an annual audit of the accounts of the League certified by a certified public accountant.

ARTICLE VIII
DUES

Section 1. **DUES** The annual dues for the member municipalities, affiliated and cooperating members shall be determined by the Board and the notice of the amount of the annual dues shall be given by mail to each member.

Section 2. ~~**DUES DATE**~~ Annual dues of all classifications of members shall be due and payable within 30 days following the beginning of the fiscal year or at such other time as may be fixed by the Board.

Commented [CD12]: Does the constitution need additional language in Article VII in light of the 2017 audit from the Office of the Utah State Auditor?

ARTICLE IX
QUALIFICATION OF OFFICERS AND DIRECTORS

Section 1. **QUALIFICATION** Except for the office of Executive Director, Secretary-Treasurer, –technical advisers and employees, no person shall be eligible to hold any elective office in the League unless such person is an elected official in the service of a member municipality at the time of election or appointment. In case any person holding office in the League shall leave and remain out of service of a member municipality during the period of his term of office, such office shall be deemed vacant and the vacancy shall be filled by appointment as herein provided.

ARTICLE X
VOTING

Section 1. **VOTING PROCEDURE AT CONVENTION** All voting during the business session of the Convention shall be conducted by raising of official voting delegate cards by certified voting delegates or certified alternate voting delegates. Voting shall by member municipalities according to population categories unless a voice, roll call, standing, or secret ballot is otherwise ordered by the President or requested by a majority of those persons certified as voting delegates. A single, certified voting or alternate voting delegate may cast the total number of votes allowed the municipality on any issue voted upon during the business session of the Convention. A certified voting or alternate voting delegate registered as a representative of one municipality may not cast votes on behalf of any other municipality. A roll call vote shall be carried out by roll call of the cities and towns having at least one fully registered and qualified voting delegate to the Convention. The ayes, nays and abstentions equal to the total number of votes allowed the municipality shall be cast only once by a single, certified voting or alternate voting delegate who was chosen to do so prior to casting of ballots on the issue for which the roll call vote was requested. The Officers and Board of Directors shall be elected by a majority vote and any changes in the Constitution shall be made by a two-thirds vote. Changes of the recommendations of the Resolutions Ceommittee or the introduction of new resolutions shall require a two-thirds majority vote of the Convention.

Section 2. **VOTING AUTHORITY** Every member of the League shall be entitled to at least one vote which shall be cast by a representative of any such member municipality present at the meeting.

Section 3. **VOTING AT BOARD MEETING** Each Board member shall have one vote. All decisions of the Board shall be made by a majority vote.

ARTICLE XI
COMMITTEES

Section 1. **COMMITTEES** There shall be a Nominations Committee, a Resolutions Committee and a Credentials Committee.

Section 2. **APPOINTMENTS** The President with the consent of the Board shall appoint at least two months prior to the Annual Convention the members of the committees as provided in the Bylaws.

Commented [CD13]: What about electronic voting?

Commented [CD14]: This provision stipulates weighted voting accordingly to classification of city.

Commented [CD15]: May a city divide votes? For example, let's say a city is entitled to 10 votes. Could the mayor cast 5 votes in favor of a resolution and 5 votes against the resolution?

How do cities determine their voting delegates?

Commented [CD16]: Do we need to reference the Legislative Policy Committee here?

Commented [CD17]: The ULCT President appoints the committee membership at least two months prior to the convention. Is that timing and process realistic?

ARTICLE XII
RULES OF ORDER

Section 1. **RULES OF ORDER** The current edition of Roberts' Rules of Order shall apply to all meetings of the League unless otherwise provided in the Bylaws.

ARTICLE XIII
AMENDMENTS

Section 1. This Constitution may be amended by a two-thirds vote of the member municipalities participating in the voting process involving a proposed amendment pursuant to the following procedures:

A. The proposed amendment must first be prepared in writing and submitted to the Board. If presented for consideration at a meeting of the membership, the presentation shall be made to the Board on or before the first day of the meeting. If presented for consideration by the members through the process of voting by ballot not incident to a meeting, the presentation shall be made to the Board at least five days prior to the mailing or other distribution of notice and ballots.

B. The proposed amendment may be presented to any annual or special meeting of members of the League.

C. The proposed amendment may, upon direction of the Board, be presented by means of a written notice and the distribution of ballots to each of the member municipalities at least 45 days prior to the date set or the counting of the voted ballots. The notice shall inform the members that each member is invited to vote on a proposition to amend the Constitution, summarize the proposal, state the date on which voted ballots must be mailed or returned to the League for counting, and the date upon which votes will be counted and tabulated.

This Constitution shall become effective on approval of a vote of at least two-thirds of the members present at the 1980 Annual Convention of the Utah League of Cities and Towns.

This Constitution was adopted and implemented on September 6, 1980, at the Business Meeting of the 73rd Annual Convention of the Utah League of Cities and Towns.

BY:

MAYOR WILLIAM H. LEVITT, President
Utah League of Cities and Towns
Mayor, Alta

OFFICERS - EXECUTIVE BOARD

First Vice President	Glenn J. Mecham, Asst. Mayor, Ogden
Second Vice President	Peter C. Knudson, Mayor, Brigham City
Immediate Past President	Walter T. Axelgard, Mayor, Price
Immediate Past President Pro Tempore	Glen N. Greener

BOARDMEMBERS

Claude J. Burtenshaw, Council Member, Logan
Ralph L. Cottrell, Jr., Council Member, South Ogden
Kendrick Harward, Mayor, Richfield
Ben Kjar, Mayor, Manti
LaRell D. Muir, Mayor, Murray
Phyllis Southwick, Council Member, Bountiful
James E. Ferguson, Mayor, Provo
John C. Green, Mayor, Park City
Ted Wilson, Mayor, Salt Lake City
James G. Larkin, Mayor, St. George
Ralph Shields, Mayor, Roosevelt

Bylaws Utah League of Cities and Towns

SECTION I NOMINATIONS COMMITTEE AND ITS PERFORMANCE

1. The Nominations Committee shall be comprised of 11 members and a chairperson. The membership of the Nominations Committee shall be appointed with consideration for geographic representation and further consideration for distribution on the basis of population among the member cities and towns on the following basis:
2. No person selected to serve on the Nominations Committee shall be a candidate for the position of Second Vice President nor be a candidate for election to a position on the Board of Directors of the Utah League of Cities and Towns.
3. The President of the Utah League of Cities and Towns shall appoint the committee members with approval of the Executive Committee. The Vice Chairman of the Nominations Committee shall be appointed from among the 11 members selected to serve on the Nominations Committee.
4. The Chairman of the Nominations Committee shall be the Second Vice President of the Utah League of Cities and Towns. The Chairman of the Nominations Committee is a nonvoting member.
5. Elected officials chosen to serve on the Nominations Committee shall be selected from a list of persons prepared for the League President by the Executive Director. It shall be prepared from names of persons recommended to serve on the committee by members of governing bodies of member municipalities in good standing, member of the Board of Directors and Officers, and recommendations of the Utah League of Cities and Towns' staff. These names shall be submitted to the League's office prior to the closing date set by the Board of Directors.
6. The appointment of persons to serve on the Nominations Committee shall be made in June.
7. The first meeting of the Nominations Committee shall be held in August at time and place selected by the chairman of the committee.
8. To encourage widespread interest in participating on the Nominations Committee and in the nomination of persons to serve on the Board of Directors of the Utah League of Cities and Towns as Second Vice President, the Executive Director shall communicate with the Mayor of each municipality in good standing for the purpose of announcing the formation of the Nominations Committee and requesting that they submit nominations for membership on the committee to the League's offices no later than the end of June. The Executive Director shall request that the Mayors submit the names of the persons being nominated to serve on the Board of Directors or as Vice President no later than the end of August. Nominations of persons to serve on the Board of Directors or as Second Vice President received after this date will not receive consideration for placement before the membership by the Nominations Committee.

Commented [CD18]: Is the June and August timing herein realistic?

9. The Nominations Committee shall meet in an appropriate place no later than noon of the day preceding the opening of the League's Annual Convention for the purpose of final consideration of the nominations to be placed before the League's membership during the Business Session.

SECTION II RESOLUTIONS COMMITTEE AND ITS PERFORMANCE

1. The Resolutions Committee shall be comprised of the members of the Legislative Policy Committee.
2. The First Vice President of the Utah League of Cities and Towns shall serve as the Chairman of the Resolutions Committee.
3. A meeting of the Resolutions Committee may be held prior to the ULCT Conference at a time and place to be set by the Committee Chairman.
4. If the Chair chooses not to call a meeting prior to the ULCT Conference, the first meeting shall be held in an appropriate place on the day immediately preceding the opening day of the ULCT Conference for the purpose of reviewing and considering the merits of proposed resolutions submitted by the membership at large and each of the four ULCT Policy Steering Committees. During this meeting the Resolutions Committee shall approve or disapprove with or without amendments the submitted resolutions. Approved resolutions shall be forwarded to the membership at the business session. Disapproved resolutions shall be sent back to the appropriate Policy Committee. Also, the Resolutions Committee shall, if it desires, prioritize the approved resolutions.
5. Resolutions may be accepted by the Resolutions Committee by a 2/3 vote of those present at any time prior to the Resolutions Committee meeting whether or not, the resolution has been heard by the appropriate Policy Committee. Resolutions submitted after the close of the Resolutions Committee, but before the beginning of that portion of the ULCT business meeting during which resolutions are to be voted upon must have the supporting signatures of (20) twenty voting delegates to be brought before the voting delegates during the business session. Resolutions may be submitted in outline form indicating concepts or in a fully developed format.

Commented [CD19]: In 1980, four policy steering committees existed. In 2017, only the LPC exists.

SECTION III CREDENTIALS COMMITTEE AND ITS PERFORMANCE

1. The Credentials Committee shall be comprised of five persons selected by the President with concurrence of the other members of the Executive Board which includes the Immediate Past President, the First Vice President, and the Second Vice President.
2. Selection of persons to serve on the Credentials Committee shall be made with due consideration for representation based on population distribution as set forth in the proposal for

Commented [CD20]: To my recollection, we have never utilized the Credentials Committee.

the development of a weighted voting process to be used in conjunction with the Business Session of the League’s Annual Convention.

3. The chairman of the Credentials Committee shall be appointed by the President.
4. The duties of the Credentials Committee shall include the development of a list of voting delegates and the alternate voting delegates as provided by the member municipalities registering for participation in the League’s Annual convention, certification of the delegates to the convention who are serving as voting or alternate voting delegates, maintenance of records relating to the nomination and certification of voting cards to the certified voting delegates, maintenance and operation of the Credentials Desk at the registration site during the League’s Annual Convention, and certifying to the chairman of the Business Session the ability of a person to act in the capacity of voting delegate, should that right be questioned for whatever the reason.
5. The Credentials Committee shall also certify to the chairman of the Business Session the total number of delegates and partners to the Convention, along with the number of persons participating as exhibitors, invited guests and speakers.
6. The Credentials Committee shall meet on the day preceding the opening of the League’s Annual Convention in an appropriate place arranged for their use by the League’s Executive Director.

SECTION IV PROVIDING FOR DEVELOPMENT OF A WEIGHTED VOTING SYSTEM TO BE USED IN CONJUNCTION WITH THE BUSINESS SESSION OF THE LEAGUE’S ANNUAL CONFERENCE FOR THE PURPOSE OF ELECTING PERSONS TO THE BOARD OF DIRECTORS AND VOTING UPON RESOLUTIONS AND OTHER MATTERS BROUGHT TO THE FLOOR FOR DELIBERATION RESULTING IN ACTION TO BE TAKEN IN THE FORM OF A VOTE BY PARTICIPATING DELEGATES.

1. In order to provide recognition of the importance of and encourage participation in the business session, cities and towns shall be divided into six categories according to population with each given a weighted vote as follows:

<u>Category</u>	<u># of Votes</u>	<u># of Municipalities</u>
1) Towns	2	106
2) Cities of 801-10,000 population	4	94
3) Cities of 10,001 - 25,000 population	5	14
4) Cities of 25,001 - 50,000 population	8	4
5) Cities of 50,001 - 100,000 population	10	6
6) Cities of 100,001+ population	12	1

Commented [CD21]: This list only reflects 225 of Utah’s 246 (soon to be 248) municipalities. The category also does not reflect current state law about classification of municipalities. Cities of the 5th class are 1,000-10,000. Cities of the 4th class are 10,001-30,000. Cities of the 3rd class are 30,001-64,999. Cities of the 2nd class are 65,000-99,999. Cities of the first class are more than 100,000 (and Sandy).

2. All voting or alternate voting delegates must be representatives of cities or towns which are members in good standing of the Utah League of Cities and Towns on or before the opening day of the League's Annual Conference.
3. All voting or alternate voting delegates may hold either elected or appointed offices in the municipal government which they represent.
4. Each municipality shall appoint in the manner provided by statute or in those cities having an alternate form of government (sec. 10-3-01 Utah Code Annotated) according to local ordinance or rule, persons to serve as voting and alternate voting delegates, and shall submit their name(s) on a form provided as part of the conference registration packet to the Credentials Committee addressed to the Utah League of Cities and Towns no later than the opening day of the League's Annual Conference. The League encourages the appointment of mayors and councilmembers to the positions of voting and alternate voting delegates.
5. Persons chosen to represent the municipality in good standing as a voting or alternate voting delegate during the Business Session must be registered as a delegate to the Conference during which voting takes place.
6. No proxy voting shall be permitted during the conduct of the Business Session.
7. The Executive Director of the Utah League of Cities and Towns shall arrange for suitable seating of the voting and alternate voting delegates in the hall where the business session is to be conducted. These seating arrangements shall be separated from the remainder of the available seating in the hall by a suitable barrier that will not inhibit other persons from viewing or hearing the business being conducted. As amended by the Board of Directors - August 20, 1983.

SECTION V ULCT POLICY COMMITTEE STRUCTURE

1. The Legislative Policy Committee (LPC) shall consist of no fewer than 50 members.
 - A. Membership of the committee will be made up of the ULCT Board of Directors and the ULCT Past Presidents still holding municipal elective offices;
 - B. In addition to subsection A, member cities and towns will nominate up to three additional voting members to serve on the Legislative Policy Committee
 - C. The ULCT Board of Directors will confirm the membership of the LPC
 - D. The guidelines of membership shall be as follows:

A majority of the committee shall be from Wasatch Front municipalities

A majority of the committee shall be made up of elected officials

A member city and town must appoint at least 1 elected official to the LPC and may not appoint non-elected officials to a majority of their LPC delegation

Commented [CD22]: Should members of the LAC be in addition to the 3 spots?

Commented [CD23]: To clarify, the Board should confirm the LPC membership at any time.

Commented [CD24]: Does "Wasatch Front" need to be defined? As of March 2017, 65% of the 238 LPC members came from Wasatch Front municipalities and 48% of the LPC members were elected officials.

2. The ULCT First Vice President shall serve as the Policy Committee Chair and shall preside over all meetings.
3. Legislative Policy Committee meetings will be held at least every other month outside of the legislative session and most weeks during the legislative session.
 - A. A meeting of the Resolutions Committee may double as a Legislative Policy Committee meeting.
4. The Legislative Policy Committee has the authority to determine League positions on legislation at any time so long as the positions are not inconsistent with the state positions of the Board of Directors. The committee has the authority to establish sub-committees or task forces to study any issue and to report findings and recommendations to the full Legislative Policy Committee.
5. There is no quorum requirement for the Legislative Policy Committee.

SECTION VI ULCT BUDGETING PROCEDURES

1. In accordance with the Constitution of the Utah League of Cities and Towns, the fiscal year of the Utah League of Cities and Towns shall consist of 12 calendar months commencing July 1 and ending June 30th of each year.
2. The Utah League of Cities and Towns shall, as much as possible, comply with the provisions of the Uniform Fiscal Procedures Act for Utah Cities.
3. The Executive Director of the League shall, on or before the 1st day of May of each year, prepare a detailed tentative budget for the Utah League of Cities and Towns and submit such tentative budget to the Board of Directors of the Utah League of Cities and Towns for their review and possible approval.
4. The budget shall have such funds and account groups as the Executive Director and the Board of Directors feel is in the best interest of the Utah League of Cities and Towns.
5. The tentative budget for each fund shall provide a complete financial plan for the budget year. Each budget shall specify as much as possible, in tabular form:
 - A. Estimates of all anticipated revenues.
 - B. All appropriations for expenditures.

The total of anticipate revenues shall equal the total of appropriated expenditures.
6. The tentative budget shall be reviewed, considered and adopted by the Board of Directors of the Utah League of Cities and Towns at any regular or special meeting called for the purpose on or before the beginning of each new fiscal year.

Commented [CD25]: The LPC bylaws are silent about voting procedure.

Threshold for support:
Should the threshold of support be 2/3 so as to match resolutions? Should it be a majority vote? Should it consider differing classifications of cities?

Voting:
Option A:
Should cities of the first and second class have weighted votes? For example, should the 3 votes from a city of the first class be worth triple (9) and the 3 votes from a city of the second class be worth double (6)?

The 9 cities of the first and second class (Millcreek is the 10th) had a cumulative 27 votes in 2016-17, which were just 10.8% of the LPC membership. If LPC were to reflect three votes for each municipality in Utah, it could have 741 members and the cities of the first and second class would amount to just 3.6% of the LPC votes.

Weighted voting as described above would increase the vote share of cities of the first and second class from 27/251 to 66/290, or 10.8% to 22.8%.

Option B:
Should cities that contribute staff or elected officials to work groups or other committees receive proportionate LPC votes? For example, let's say the City of Xanadu has a Mayor on the Board of Directors and a staff attorney on the Land Use Task Force. Should that city be entitled to those two individuals plus three others for a total of 5 votes on the LPC?

Commented [CD26]: I propose the creation of a "Legislative Advisory Committee" that would assist ULCT staff in reviewing bills, drafting documents, and advising the LPC and Board. The LAC would include managers and attorneys who are the intergovernmental representatives for their municipalities.

I also propose the creation of either:

Option A: a "Legislative Priorities Committee" that meets from Midyear to Annual to prepare resolutions and proactively seek legislative changes.

Option B: Policy committees (i.e. NLC model) that meet from Midyear to Annual to prepare resolutions and proactively seek legislative changes.

Commented [CD27]: Does Section VI need any updates in light of the 2017 audit from the Office of the Utah State Auditor?

7. The total budget appropriation of any fund may be increased by resolution of the governing body at any regular meeting or special meeting called for that purpose provided that written notice of the time, place and purpose of the meeting has been mailed or delivered to all members of the governing body prior to the meeting. The notice requirement may be waived in writing or orally during attendance at the meeting by any member of the governing body.

8. If the Utah League of Cities and Towns has maintained an emergency reserve fund or other dedicated fund or account, the fund or account cannot be invaded for purposes other than that which it is set up for, except on a two-thirds vote of the entire Board of Directors of the Utah League of Cities and Towns.

STANDING RULES ATTACHED TO BYLAWS

The position of Treasurer of the Utah League of Cities and Towns is hereby created. The position shall be filled by any competent and qualified elected official of a city located within 30 road miles of Salt Lake City, Utah.

The Treasurer shall be a member of the League's Budget and Audit Committee.

The Treasurer shall have the authority to countersign all checks, vouchers and other instruments drawing on the League funds.

The Treasurer is hereby authorized to open any savings, checking or investment account allowed by the State Money Management Act with concurrence of the Executive Director and execute any documents necessary to perform the duties of Treasurer.

Approved and Passed
by ULCT Board
February 24, 1984

WHO WE ARE

Government closest to the people governs best. The Utah League of Cities and Towns (ULCT) and Utah Association of Counties (UAC) represent the more than 1,000 mayors, council members, and commissioners in Utah's 247 cities and towns and 29 counties. This 2018 UAC-ULCT Legislative Policy Guide will provide legislators, business leaders, stakeholders, and local government officials with context for UAC-ULCT priorities in the upcoming legislative session.

Contact information for ULCT and UAC legislative staff:

ULCT: Cameron Diehl, *Executive Director* | cdiehl@ulct.org

Rachel Otto, rotto@ulct.org

Roger Tew, rtew@ulct.org

John Hiskey, jhiskey@ulct.org

Brandon Smith, bsmith@ulct.org

Karson Eilers, keilers@ulct.org

UAC: Adam Trupp, *Chief Executive Officer* | adam@uacnet.org

Lincoln Shurtz, lincoln@uacnet.org

Elizabeth Klc, elizabeth@uacnet.org

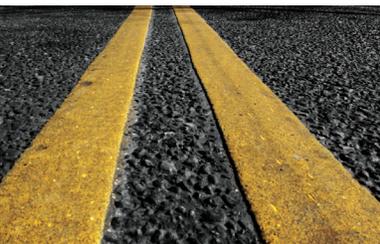
Bryan Rodgers, bryan@uacnet.org



ulct.org | 801-328-1601



uacnet.org | 801-265-1331



Mission statement/prism

Counties and cities are general-purpose local governments that provide the services—public safety, roads, sidewalks, public works, parks and recreation, social services, planning and zoning—that foster Utah’s unparalleled quality of life. Local government has constitutional authority to levy, assess, and collect taxes, issue bonds, furnish all local public services, and make public improvements. Likewise, cities and counties are empowered to pass any necessary and proper ordinances to provide for the safety, health, prosperity, and comfort of their residents.

In order for cities and counties to serve our residents, we must maintain “local control” over our responsibilities. UAC and ULCT define “local control” as:



- the legal authority to make decisions about their community.
- accountability and accessibility to residents and constituents about those decisions.
- autonomy to make those decisions without state mandates.
- the ability to evolve naturally and achieve the vision of the community.

UAC and ULCT urge legislators and our membership to view legislation through the following prism of local government principles:



1 What is the problem the bill is trying to solve?



2 Is the bill a “one size fits all” approach?

- a. Utah’s cities, towns, and counties are unique. UAC and ULCT will oppose state “one size fits all” mandates.
- b. We urge legislators to utilize ULCT and UAC to resolve specific problems within jurisdictions to avoid “one size fits all” legislation.



3 Does the bill empower or restrict the “local control” of local governments?

- a. Just like the State of Utah pushes back on federal overreach, UAC and ULCT will oppose legislation that attempts to “micro-manage” local government.



4 Does the bill have a financial impact on local government?

- a. ULCT and UAC generally do not support legislation that creates a permanent unfunded mandate on local government.

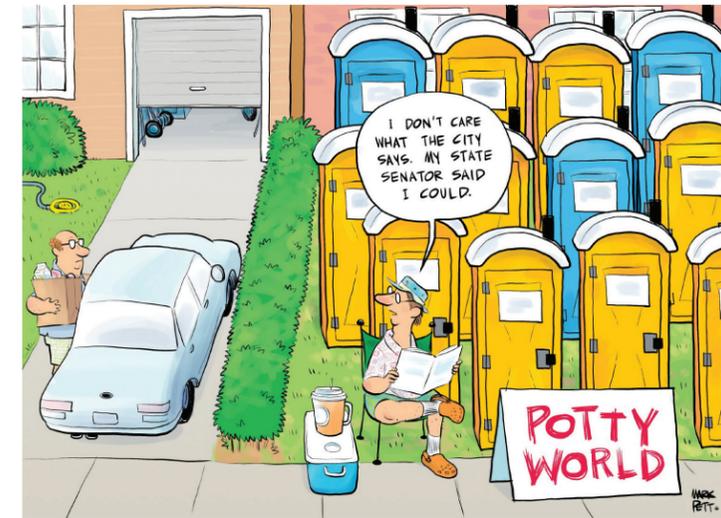
UAC and ULCT will utilize these principles to identify and highlight legislative supporters of local government and community champions. We will share the results with our membership, who will then share the results with their constituents.

Land Use and Economic Development

UAC and ULCT believe that property rights thrive on certainty. We also believe that economic growth has brought challenges in Utah. We acknowledge that market forces, labor and material costs, and regulations all impact housing affordability and that low and moderate income “affordable housing” units are in short supply. ULCT and UAC support data collection about water usage, housing, and land use processes to better inform policy making.

ULCT and UAC are willing to partner on legislation or business friendly best practices that would improve the efficiency and transparency of local government, so long as such efforts do not undermine local authority or threaten public safety and welfare. For example, more than 40 counties, cities, and towns have received the Governor’s Business Friendly City/County award since its inception in 2013. UAC and ULCT are stakeholders in the Land Use Task Force (LUTF) which brings together local government leaders and the Property Rights Coalition to seek consensus based solutions for land use legislation. Several bills in the 2018 session will reflect LUTF consensus.

That said, “Cities cannot support development proposals, task forces, commissions, districts, development authorities or other legislation that would deprive local municipalities of their traditional local land use authority on private property... we oppose any legislative effort to preempt local authority over land use decision.”—ULCT Resolution 2017-001A, as adopted at the ULCT Annual Conference by all members.



The 2017 resolution also stated that local governments are “willing and ready to collaborate and partner with the State, the business community, and other stakeholders to pursue a broad range of future economic development opportunities, including those located in proximity to state transportation infrastructure.”

Thus, UAC and ULCT are willing to partner with the State of Utah on economic development so long as the State respects local authority.

Likewise, the ULCT membership previously passed Resolution 2007-001 in 2007 on local land use: “ULCT strongly opposes any legislation attempting to take away or limit the authority of local elected officials to make land use decisions within their jurisdictions... Each jurisdiction must be allowed to adapt land use policy to its locale ... and state law (LUDMA) needs to remain flexible to allow local governments to adjust to local circumstances.”

Additionally, ULCT and UAC support changes to the Utah Fireworks Act to empower local governments to consider local geography and public safety.

Finally, UAC and ULCT support the Land Use Academy of Utah (LUAU), a legislatively funded effort to provide consistent land use law training to local government leaders, developers, and property owners. UAC and ULCT support the continued investment in LUAU and in land use training.

Transportation/Infrastructure

ULCT and UAC appreciate the Legislature’s passage of HB 362 in 2015 and HB 4002 in the 2016 Special Session. Since HB 362 passed, 20 counties put Proposition 1 on the ballot and voters approved it in 12 of them. HB 362 and HB 4002 have also increased the local government revenues from the motor fuel tax reforms by over \$40 million (31%) from FY2015 to FY2017.

ULCT and UAC also appreciate the opportunity to have participated in the Transportation Governance and Funding Task Force during the 2017 interim. Based on the Task Force dialogue to date, UAC and ULCT:

- support the recommendation for the Utah Department of Transportation to implement a Road User Charge pilot program as a surrogate to the motor fuel tax.
- support the recommendation to facilitate the usage of value capture tools for transportation funding (similar to a CDA/RDA) so long as the local government that imposes the value capture tool maintains control of the revenue.
- support the recommendation to facilitate the usage of local transportation utility fees.
- support efforts to review the governance of the Utah Transit Authority (UTA), so long as a) local governments retain their involvement and authority in that governance, since UTA is funded through county imposed local option sales taxes; and b) the governance review does not impact other transit entities around the state.
- support the modernization of the Utah Department of Transportation prioritization criteria for the funding of state projects, which could include incentives for local governments to voluntarily enter into corridor/area plans.
- oppose the recommendation that would authorize the State of Utah or another government to either compel cities or counties to participate in a corridor/area plan against their will, or penalize cities or counties for not participating in corridor/area plans with which they do not agree.

FY 2015 | \$131,136,764.51

FY 2017 | \$171,689,819.68

Increase of \$40,553,055.17 or 30.9%

31% Increase
Class B and C revenue



Taxation/Finances

SALES TAX

The Tax Base

Utah has a single sales tax base that applies to both state and local tax rates. UAC and ULCT support the critical examination of the sales tax—including which transactions should be taxed and which transactions should be exempted from taxation—with the goal of broadening the tax base.

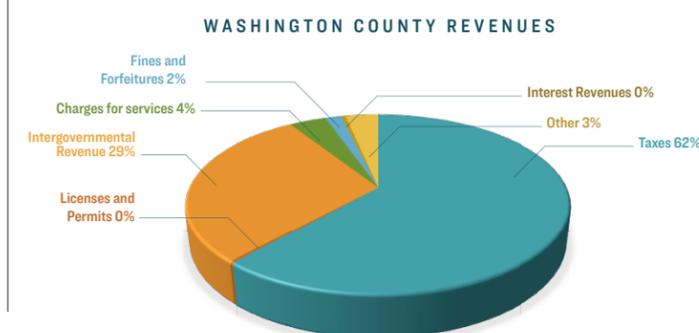
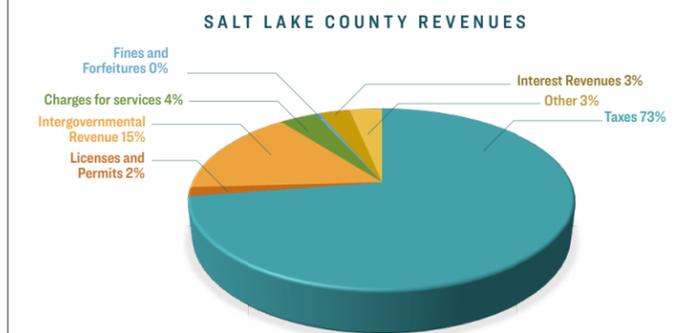
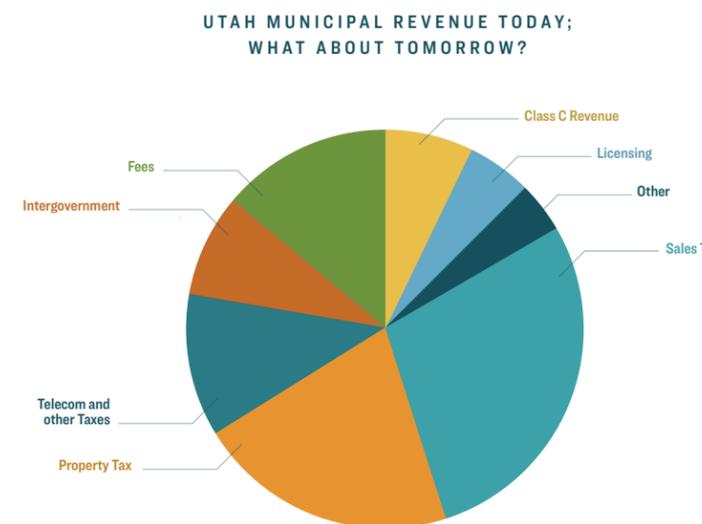
ULCT and UAC remind the legislature that even if the overall state impact of an exemption is small or the exemption is considered solely through an economic lens, the specific fiscal impact on a municipality or county may be significant. For example, a relatively small exemption that the Legislature passed in 2006 resulted in the elimination of more than half of the sales tax revenue in a rural Utah city.

UAC and ULCT are willing to examine the alignment of state and local tax incentives for development. Additionally, ULCT and UAC support re-establishing food products in the sales tax base for all sales tax rates. Finally, UAC and ULCT also support the collection and remittance of state and local sales taxes from remote and online sales.

As of November 2017, there is not yet consensus on changes to the sales tax base, rate, exemptions, or distribution formulas. Thus, ULCT and UAC caution against any changes without considerable additional deliberation with all stakeholders, especially local government.

SALES TAX DISTRIBUTION

There are 17 separate local government sales tax rates (Resort Community, transportation levies, ZAP/RAP). All but two of those rates allocate the revenue to the place where the sales tax takes place (Point of Sale). The basic general government operation rate (1%) imposed by all cities, towns, and unincorporated counties is distributed on a “50-50” basis: 50% population, and 50% point of sale. This formula was agreed to by cities in 1983 by consensus. Since then, the ULCT membership has adopted several resolutions (most recently in 2011, 2012, 2014) opposing any distribution formula changes because the changes would create “winners” and “losers” with existing revenues.



PROPERTY TAX

Truth-in-Taxation

The Utah “Truth-in-Taxation” (TT) law has many positive attributes. However, the process has no capacity to recognize the impact of inflation. That situation requires local governments to go through the difficult process of raising taxes to simply cover inflation growth, creating greater dependence on other non-stable revenues and fees that have their own policy considerations.

There are also aspects of the TT process that are costly and now of limited value—buying newspaper space for TT notices. Remember: all property owners receive an individualized notice providing the specific property tax impacts on their property. The ad is a generalized statement and provides only general and often misleading information. The ULCT membership passed Resolution 2016-3, which sought a modification in state law to allow a local government to obtain some growth in property tax. In addition, both UAC and ULCT have recommended modifications to the tax notice and newspaper ad requirement to reflect changes in how citizens generally receive news and information.

ASSESSMENT

Centrally-Assessed Appeals and General Assessment Issues

The property tax system places the responsibility to assess (value) property on county assessors and the Utah State Tax Commission. The Commission has the primary assessing responsibility for assessing “centrally-assessed property” (mines, utilities, railroads, property that crosses county lines). Although the Commission has the primary assessing role, valuation challenges fall on the county where the taxes are imposed by local government. Any valuation change in centrally assessed property creates a tax shift to other taxpayers, so counties play a vital role in protecting all taxpayers through the appeals process.

Local government has actively worked with the Tax Commission, the Utah Taxpayers’ Association, and industry representatives to look at ways to improve the appeals process, including allowing more time for all parties to collaborate and to evaluate the assessment and methodology before an appeal must be filed. For example, the current process only allows 30 days for due diligence. More time for due diligence could reduce appeals and create a more collaborative process.

Additionally, Utah’s strong economic market has resulted in significant increases in valuation for some areas. Due to that increase, many legislators have been asking questions on property tax generally and assessment methodology specifically. Local government is committed to ensuring a “fair market value” assessment and welcomes the opportunity to partner with the State to address any concerns.

Public Safety, Justice Reinvestment Initiative, Corrections, and Courts:

What is JRI? An Alternative to Incarceration

Federal, state, and local leaders continue to look for innovative ways to improve public health and public safety outcomes, while reducing the costs of criminal justice and corrections. Nationally, states continue to innovate strategies to save public funds and improve public health by keeping low-risk, non-violent drug-involved offenders out of prison or jail, while still holding them accountable and ensuring the safety of our communities.

Utah’s Response = HB 348—2015 Overview

HB 348 reduced penalties for specified offenses involving controlled substances, defined criminal risk factors, required consideration when providing mental health/substance use disorder treatment options, required standards for treatment to be created, and modified sentencing guidelines.

Current Incarceration Dynamic Chart

- Pre-JRI drug felonies 2,593 felony/quarter
- Post-JRI drug felonies 1,378 felony/quarter
47% reduction in felonies
- Pre-JRI Prison Admissions 47/quarter (all drug)
- Post-JRI Prison Admissions 28/quarter (all drug)
40% reduction in prison admissions

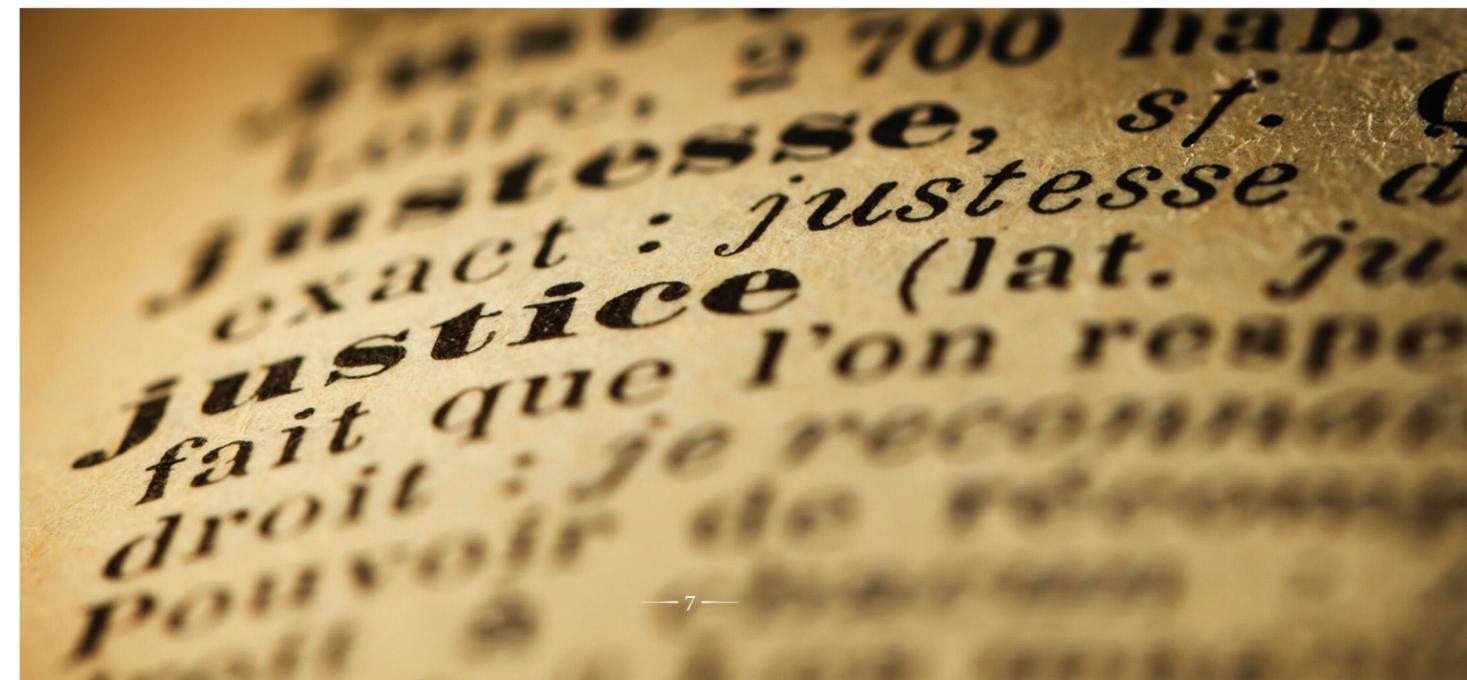
Current Behavioral and Response Dynamic Chart

- Pre-JRI drug possession charges—5,508/quarter (avg of 2014)
- Pre-JRI drug possession charges—6,166/quarter (avg of quarters immediate JRI)
- Post-JRI drug possession charges—6,996/quarter
*21% increase in charges—
Not resulting in Prison from 2014 to June 2016*

We are seeing a 21% increase in charges, but a 40% reduction in the admissions and a 47% reduction in felonies.

With this dynamic, a dramatic increase is needed in the local behavioral health system if we want to provide treatment as an alternative to incarceration. Unfortunately, JRI is still underfunded. JRI has also created a dramatic increase in county public safety and correctional response needs within our communities as they now go to county jails or county diversion programs instead of state prison.

The Legislature has shown unprecedented leadership in these areas and should be applauded for the effort. As the drug epidemic continues to surge, continued state-local partnership and investment are necessary.



Local Funding Needs: Behavioral Health Only

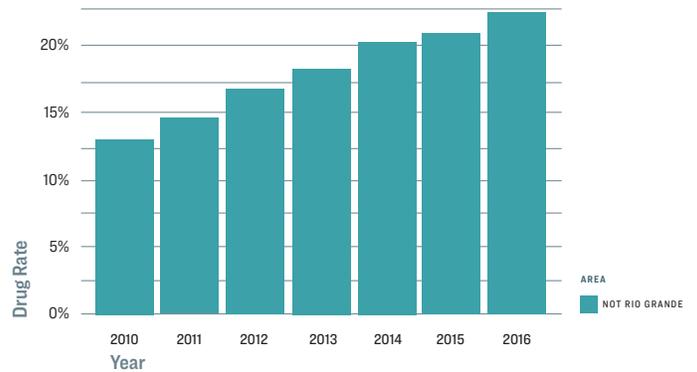
- Uninsured adults in 2015 – 94,000
- Criminal Justice Involved (CJI) – 31,020 (33%)
- % with CJI and Substance Abuse/MI – 21,714 (70%)
- Already being served by local BH– 14,985
- Case rate = \$3,100 (current avg. case rate – public)
- Case rate X population (6,729) = \$20.85M
- Amount received = \$4.5M (2016) + \$6M (2017) – \$10.5M total received

Total need, less amount received: \$10.35M

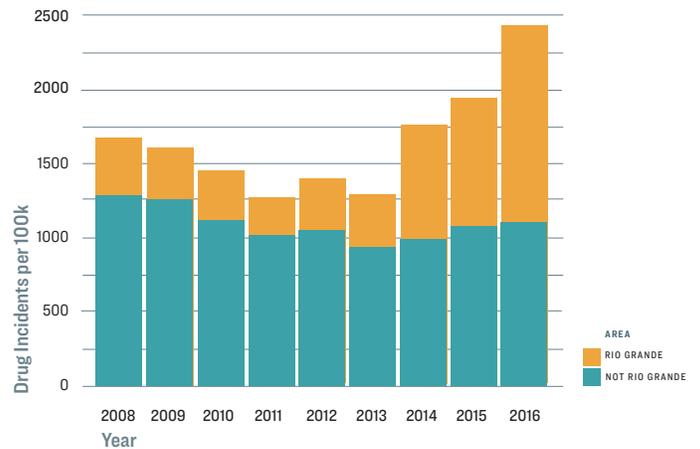
UAC and ULCT support the goal to provide a true “alternative to incarceration” as originally contemplated by the JRI effort. To accomplish that goal and provide adequate mental health and substance abuse treatment to those who historically have been incarcerated, ULCT and UAC urge the Legislature to fully fund JRI, including additional treatment/grant programs for local mental health, corrections, and support services. ULCT and UAC also urge the Legislature to cooperate with local government to improve the recruitment and retention of local law enforcement officers.

UAC and ULCT applaud the state leadership on Operation Rio Grande, homelessness, and mental health in Utah. We are actively monitoring the impact of such efforts on surrounding communities and look forward to working with the legislature to mitigate those impacts. Local government is nevertheless still concerned about the procedure of siting homeless resource centers. We encourage the legislature to work with cities and counties through the traditional land use and other local processes to address such needs.

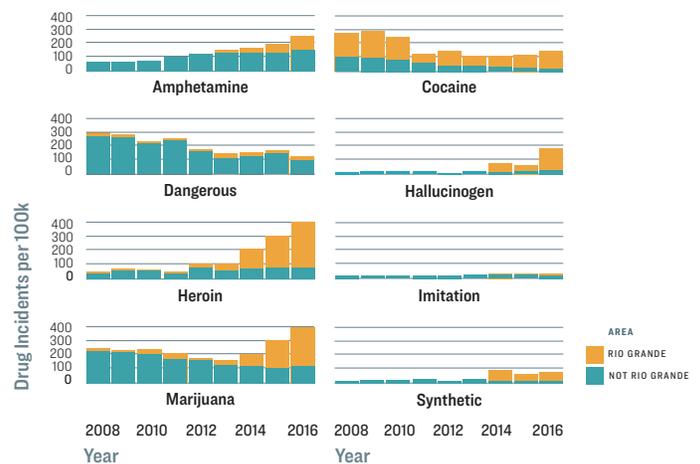
NIBRS Utah Drug Incidents As A Percentage of Total



Drug Incidents per Year



Drug Incidents by Drug Type and Location



ulct.org | 801-328-1601



uacnet.org | 801-265-1331