

Section 1: Local Government

Chapter 2: Structure of local government

In general

The Michigan Constitution of 1963 (as did its precursors) recognizes various units of government within the state. Article VII of the constitution, entitled Local Government, authorizes the establishment of counties, townships, cities and villages. Section 21 of Article VII directs the state legislature to provide general laws for the incorporation of cities and villages.

Sources of village incorporation

Before 1908, villages in Michigan were incorporated either under a local act of the legislature, which provided the structure, powers, immunities, rights and obligations of the village much like local act cities, or under the general act (the General Law Village Act, 1895 PA 3 (MCL 61.1 et seq.)) which provided the population and other qualification requirements, procedure for incorporation, governmental structure, officers and powers, immunities, rights and obligations of the village. Some local act villages incorporated the provisions of the General Law Village Act, sometimes with selected exceptions and additions. After 1908, villages were incorporated either under the General Law Village Act or as home rule villages under the 1908 and the 1963 Constitutions and the Home Rule Village Act, 1909 PA 278 (MCL 78.1 et seq.). Regardless how a village was incorporated, it is subject to the constitutional limitations and restrictions set forth in articles I, VII and IX of the Michigan Constitution of 1963 and general state law.

Relationship between village and township

The purpose of incorporating and organizing a village government is to furnish and fund local public services for residents of an area within a township which the township government normally cannot provide because of its limitations and which villages are empowered to provide. Village residents pay for these local services through village taxes and, in addition, are taxed to fund the activities of the township government.

Villages remain part of the township in which they are located. Village residents are electors of the village for village purposes and of the township for township, county, state and federal elections. Village residents are subject to both village and township taxes.

Each incorporated village is part of at least one township, and some are part of two or more. The Constitution mandates that when village boundaries are coterminous with township boundaries so there is no remaining unincorporated territory in the township, the legislature must provide for the dissolution of the township government and for the classification of the village or villages as cities. (Mich Const 1963, art VII §20)

Current law

Incorporated villages now in existence in Michigan are organized and governed either as general law villages under the General Law Village Act, 1895 PA 3, or as home rule villages under the Home Rule Village Act, 1909 PA 278. Effective January 2006, of the 259 villages in Michigan, 211 are general law villages and the remaining 48 are home rule villages. The provisions

relating to new village incorporation in the General Law Village Act were superseded by the Home Rule Village Act in 1909. New village incorporations after that date were carried out under the later act (although general law village governance is still controlled by the GLV Act). Incorporation of a village is now initiated pursuant to the Home Rule Village Act and the Boundary Commission Act.

Intergovernmental agreements

Villages have the authority to enter into intergovernmental agreements with other units of government. For example, many general law villages contract with their county sheriff for law enforcement services. Villages can also be parties to intergovernmental agreements for police and fire, sewer projects and emergency ambulance services.

Home rule villages

Incorporation

Home rule villages are created by adoption of a charter under article VII, sections 21 and 22 of the Michigan Constitution of 1963 and the Home Rule Village Act. Incorporation is initiated by petition of electors. The proposed village must contain at least 150 inhabitants and have an average of not less than 100 inhabitants per square mile. The charter commission is composed of five electors. (MCL 78.3, .11). The proposed charter and its structure, and the powers, immunities, obligations and rights of the village and its officers and citizens are framed in the charter and are subject to general state law.

Charter provision

The Home Rule Village Act provides for the content of the new charter with mandatory charter provisions for election, by nonpartisan ballot, of a president, village clerk and a legislative body; the fixing of compensation; the levy and collection of taxes; annual appropriations for municipal purposes; public peace; health and safety; election districts; keeping a written or

printed journal; publication of all ordinances and for a system of accounts. (MCL 78.23)

The charter may also contain certain permissive provisions including the borrowing of money, acquisition or building of improvements, etc. (MCL 78.24)

Certain charter provisions are prohibited such as increasing taxation without a vote of the majority of the electors or adopting or amending a charter without consent of the electors. (MCL 78.26)

General law villages

Incorporation

Under the General Law Village Act of 1895, all villages then incorporated were reincorporated and made subject to its provisions. The local acts and all previous general laws governing village incorporation were repealed. Moreover, all new villages were to be incorporated pursuant to the new act. (MCL 74.7). Villages incorporated before the act was passed remain subject to it and the act constitutes their general law charter. (MCL 61.1b) General law villages are subject to legislative amendments to the General Law Village Act. Many changes were made to the act by virtue of 1998 PAs 254 and 255.

Amendments to general law charter

The General Law Village Act originally made no provision for the village electorate to amend the general law charter, and amendments were made by state law. The Home Rule Village Act, however, authorized the electorate of a general law village to adopt local amendments to the General Law Village Act by and within the Home Rule Village Act and thereby change its provisions insofar as the amendment would apply to that particular village. (MCL 78.28)

An amendment must be approved by the village council, submitted to the governor's office for review and approved by the village electors. A village council interested in amending its charter should work with its village attorney, so that the procedure required in the state statutes is followed.

Authority to adopt local amendments to the general law charter without reincorporating or adopting a new charter under the Home Rule Village Act applies only in matters of a purely local character.

New incorporations

The General Law Village Act provisions for new incorporations were superseded by the Home Rule Village Act. As a result, all new incorporations of villages must be accomplished under the Home Rule Village Act. Although the incorporation provisions of the General Law Village Act have been superseded, a village that incorporates as a home rule village may adopt the provisions of the General Law Village Act for its charter.

Alternate forms of government

Becoming a home rule city or home rule village is another alternative. Villages can become cities if they meet the standards designated by the state legislature and if their citizens approve the change. Information on the process can be obtained from the Michigan Municipal League's Library.

About the authors...

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