

# Impact of **changing** from a **village** to a **city**

edited by Sue A. Jeffers

Since 1931 there has been a steady conversion of villages to cities in Michigan. This trend may indicate that there are certain advantages to be gained by changing to the city form of government.

This article is an attempt to present an objective analysis of the factors which may influence a decision to remain a village or to seek city status. A secondary objective of this article is to compare city government with village government for citizens of built-up township areas, who may be considering some form of municipal incorporation.

All new city or village incorporations, with or without a change in boundaries, must come before the State Boundary Commission (1968 PA 19, as amended). Proposed consolidation and annexation must follow the same procedure. The only exception is for a village which constitutes all the remaining territory of a township (MCL 123.1010). Lake Angelus is an example of a city incorporated under this provision.

An important secondary advantage to be gained by incorporating as a city is the opportunity to draft a new charter under the provisions of the Home Rule City Act (1909 PA 279). The new charter may include an organizational pattern and administrative procedures which are designed for that specific municipality. While such a charter may also be secured through the process of charter revision as a home rule village, the additional benefits to be derived from city incorporation may provide the necessary stimulus for bringing it about sooner. The advantage of charter modernization

might also accrue to home rule villages operating under charters which contain obsolete provisions or are otherwise out of date.

While emphasis has been placed on the advantages of incorporating as a home rule city with the establishment of a new and more modern organizational plan, only brief reference is made to the various organizational patterns which are being used in Michigan. The selection of an organizational plan for the government of a new city is the responsibility of the charter commission elected to carry out the important duty of drafting a new charter. Information about the alternate forms of municipal organization may be secured from League headquarters.

Every consideration has been given to presenting whatever disadvantages may flow from incorporation as a city. However, the continuous study of the subject has shown that, in general, the advantages of city incorporation will result in little or no increase in the cost of government. Disadvantages that may arise because of local conditions will be apparent to officials and citizens of that particular community. The timing of the change from village to city may be all-important, and careful consideration should be given to these local conditions.

## The difference between a village and a city

Local government activities in Michigan may be divided into two broad classes based upon the type of activity performed. The first class consists of certain duties required of primary local units of

## Why don't more villages become cities?

There are in Michigan 534 cities and villages, 273 are cities, 261 are villages. (Unincorporated urbanized areas – generally very small – are neither cities nor villages). However, city government is not limited to large communities. On the basis of the 2000 census, there are eight Michigan cities under 750 population, seven between 750 and 999, 17 between 1,000 and 1,499 and 53 between 1,500 and 2,999. Indeed, 32.1 percent of all cities in Michigan have a population under 3,000.

The question might well be raised as to why there are so many villages in Michigan if there are advantages to city incorporation. The chief reason for this, of course, is that almost 50 percent of incorporated villages in the state do not meet the prerequisite of a minimum population of 750 and therefore are not eligible for making the change to the city form of government. Another important reason is simply lack of knowledge, since it was not until the League began publishing information on this subject that interest in city incorporation was aroused.

government by the state. These legally required duties are:

1. Assessing property as a basis of county and school taxes.
2. Collecting taxes for the counties and schools.
3. Conducting county, state and national elections.

The second broad class consists of local services such as fire protection, police protection, water supply, sewage disposal, zoning, public health, etc.

The primary local units of government in Michigan are cities and townships. These two units perform the duties required by the state and, in varying degrees, furnish local services. Accordingly, the entire state is divided into non-overlapping cities and townships, to which the legally required duties are assigned. Whenever a new city is incorporated, the area within the incorporated boundaries is withdrawn from the township for all governmental purposes.

A village is not a primary local unit of government because it does not assess or collect taxes (except its own village tax) or conduct a Michigan election (except its own election). Village territory remains part of a township area, village citizens are also township voters and taxpayers, and the township government provides for residents of the village the legally required duties imposed by the state as outlined above.

Although the township government may perform certain local services for village residents, this is perhaps the exception rather than the rule. The purpose in organizing a village is to furnish local services to residents of a built-up area in the township which the township government, due to its limitations, cannot provide. However, village taxpayers pay for such local services and, in addition, help support the township government. The extent of this double burden varies considerably from one township to another. Since townships receive state shared sales tax and income tax revenues, the direct cost to village residents for township government may be marginal.

In cities, however, local government activities – both state-imposed duties and local services – are unified in one government. Similarly, within the unincorporated areas of townships, the full combination of legally required duties, and any local services provided, are the sole responsibility of the township government. Only in villages are the governmental activities divided between two governments. Village residents, therefore, live under and support two local units of government – the village and the township.

Changing from a village to a city, reduced to its simplest terms, means withdrawing from the township and providing through the new city government the local services formerly provided by the village and whatever necessary and non-duplicating functions were provided by the township government.

### The effect of separation from the township

#### **Assuming state-imposed duties**

Upon incorporation, the new city must assume the legally required duties previously imposed on the township.

#### **1. Assessing Property for County and School Taxes**

**Effect of city assessing of property.** If the village changes to a city, all property would be assessed by a city assessor and a city board of review for all purposes – city, county and school. There are several important advantages in having property assessment under municipal control.

First, it is done by an assessor responsible directly and solely to the citizens of the city.

Second, the board of review, provided for by the city charter, would also be responsible only to the citizens of the city.

Third, the separation from the township for assessing purposes eliminates the possibility of a township assessing residential and commercial property at a higher ratio to value than agricultural property, thus tending to cause the village residents to pay a disproportionately higher share of school, county and township taxes. Creating a city separates the former township into two assessment districts, and provides the legal means for equalization of rural assessments and city assessments at the same level to insure a fair sharing of the costs of county and school government.

**Cost of property assessment by city.** This particular change could increase the cost of a city government compared with a present village government. The new city will be required to assess property for county and school taxes in addition to city taxes. A village which becomes a city must reestablish complete assessment operations.

#### **2. Collecting County and School Taxes**

**Effect of city collection of taxes.** The billing and collecting of county and school taxes on property within a village is performed by the township. A new city would have to take over this activity. There would be substantially no effect upon the taxpayer from this change, with the exception that all property taxes would be paid to the city treasurer.

**Cost of city collection of taxes.** A new city probably would incur some additional expense, as compared to the present village, for the collection of school and county taxes. However, the village treasurer's office is already in operation and part of the cost of collecting school and county taxes can be derived from the property tax administration fee which the city may

add to these taxes pursuant to the General Property Tax Act (MCL 211.44). Additional funds may be derived by collection of the so-called "excess of roll" – an amount, not to exceed one half of one percent, which may be added to the several taxes collected for the purpose of avoiding fractions in computations (MCL 211.39).

### **3. Conducting county, state and national elections: registration**

**Effect of city maintaining registration records.** Under village organization in Michigan, a village maintains a voter registration record and conducts elections for village purposes only. A township maintains a separate voter registration record of village voters for township, county, state and national elections. As a result, the voter must be registered in both township and the village in order to vote in all elections. In a city, however, the registration records for all election purposes are combined. A person need only register once with the city clerk.

The effect of changing from a village to a city, in this particular instance, is to save a great deal of confusion for the voter. Many voters do not realize that there are two separate sets of election officers and two separate sets of registration books, and mistakenly believe that one registration is sufficient for all elections. This sometimes results in the voter being ineligible to vote either in elections conducted by the township or in village elections.

**Cost of city maintaining voter registration records.** The responsibility for voter registration for county, state and national elections would not increase the cost of municipal government under the city form, because the one municipal registration record would simply serve for all elections. Present

township registration records for this purpose merely duplicate the registration records already kept by the village government.

### **4. Conducting county, state, and national elections: voting facilities**

**Effect of city providing voting facilities.** The citizens of a city would vote in the same place for all elections, and this single voting place would be within the city limits. A village resident, however, must vote in one place for village elections and another place for national, state and county elections, which may be outside the village limits.

**Cost of city providing voting facilities.** The cost of conducting county, state and national elections would be an additional expense for the new city as compared to the present village. However, the cost is likely to be small. If paper ballots are used, they are supplied by the county clerk. If voting machines are used, there is no cost for ballots. The only additional cost to the new city would be the publication of the election notices and compensation of election officials on election day.

### **Assuming township local services**

In addition to assuming the legally required duties imposed by the state, the new city would also have the responsibility for any local municipal service now being performed by the township which it may be desirable to continue. As pointed out above, the township government provides few local services to the village residents. Some townships, particularly in heavily populated areas, do provide certain services and public facilities, most commonly fire protection, libraries and cemeteries. There may be some additional expense to the new city

## **Recent incorporation activity**

### **Incorporation**

- Village of Clarkston, 1992 (GLV to HRC)
- Lake Isabella, 1998 (unincorporated area to HRV)
- Brown City, 1998 (4th Class City or HRC)
- City of Iron River, 1998 (consolidation of Cities of Iron River and Stambaugh and Village of Mineral Hills (GLV))
- Village of Chelsea, 2003, elected a charter commission
- Village of Douglas, 2003, in process of electing a charter commission

### **Unsuccessful Incorporation Attempts**

- Whitmore Lake Township, 1990 (Twp to HRC)
- Village of Lake Orion, 1993 (HRV to HRC)
- Village of Holly, 1988, 2002 (HRV to HRC)
- Village of Bellaire, 2002 (GLV to HRC)

### **Unsuccessful Dissolution Votes**

- Village of Roscommon, 1993 (GLV)
- Village of Lennon, 2000 (HRV)
- Village of Richland, 2001 (GLV)

government if such services are to be continued.

Due to widely varying local situations, it is not safe to generalize, and a careful analysis must be made in each instance to determine the cost and effect of the city's assuming such services. In any such analysis, the amount of township property tax is an important factor. The larger the township tax the greater the potential savings to the taxpayer by incorporation as a city.

One other matter deserves mention as a possible disadvantage in regard to cemetery service. The law provides that a township cemetery located within the boundaries of the new city becomes the property of the city. Revenues rarely pay for the cost of operating a cemetery, and the city taxpayers will be called upon to make up the difference.

Upon incorporation as a city, joint contractual relations with the township will not be severed. Joint fire protection or disaster control plans or any other service currently provided jointly by the village and township may continue in operation as before. This will not entail any additional expense and, again, depending upon whether or not a township property tax is being levied, there may be a saving to the taxpayer in the city.

### General effects

Simplification of government would be the result of changing from a village to a city. As village residents, citizens are part of two local governments. As a result, they must elect not only a village council, but the township officers making up the township board. Thus, they have two governing bodies – one for village purposes and one for township purposes and the township government is only partly responsible to the citizens of a particular village because generally it serves a much larger area. Village residents have the inconvenience of dealing with the village clerk on some matters and the township clerk on others. They pay village taxes to the village treasurer, but township, county and school district taxes are paid to the township treasurer. They have a village council taxing them for certain governmental services and a township board taxing them for others. They must

also hold a township primary election in addition to the village election. It may not be a major problem to be under two local governments, but it is an unnecessary inconvenience, expense and waste of time. The net effort of the situation is the lack of interest in and control of the “second,” or township government. As a city, all local affairs will be managed by a government consisting only of citizens of the municipality and responsible only to them.

The word “city” is often thought of as meaning a complex government unit providing more services at a greater expense to the taxpayer than in the case of a village. This is not the case. The city council may wish to maintain the same level of local services as was formerly provided by the village. In this case, the only increase in cost to the citizens would be the slight additional cost of carrying out the duties required by the state. As pointed out above, this is not a major item.

City incorporation would mean a saving in township taxes. (This does not refer to county and school district taxes collected by the township.) With the incorporation of a city, township taxes, if any are levied, will be discontinued within the municipal boundaries. Again, in fairness, it should be noted that some townships do not levy a tax, and of those that do, few have a high rate. Although this tax may be small, city incorporation means that any township taxes are saved not only for one year but permanently.

Further, city incorporation would eliminate the existing confusion about the authority of the township to enforce its ordinances within the village. In recent years the state legislature has conferred more substantial ordinance making powers on townships. As one

result, confusion has arisen as to whether such ordinances are in effect within the village. Some townships have sought to enforce their ordinances within the village even though in conflict with the village’s ordinances. There is still no clear-cut legislative answer to this problem. A somewhat similar problem is posed when a township law enforcement officer seeks to exert police authority within the village.

City incorporation will also mean a sharing in the township’s assets and liabilities. When a new city is incorporated, the assets and liabilities are divided with the city in the proportion that the assessed valuation in the area incorporated as a city bears to the total township assessed valuation before the city incorporation. The assets mentioned refer to personal property such as cash on hand or invested, furniture and fixtures, equipment and so forth. In addition, any real property owned by the township and located in the area incorporated as a city would be held jointly by the city and township and is subject to division in the same ratio as personal property.

School districts in Michigan are separate and distinct from local government units. There would be no change in the size, composition or organization of the school districts in the community as a result of incorporation as a city. The new city, however, would replace the township as the agency for the collection of school district taxes. School taxes would be collected normally by the city treasurer instead of by the township treasurer.

### Modernizing the form of government

In addition to the advantages of city incorporation which arise from separation from the township, there is also the opportunity of improving the organization of the

local government itself. Before a change from village to city government can be accomplished, the local citizens must vote favorably on the adoption of a city charter. The procedure to become a city requires that a charter commission of local citizens be elected to draw a change for presentation to the electorate of the new city. This compulsory preparation of the charter automatically provides consideration of improvements and changes in the existing form of government.

The type of charter is important because it determines, in large measure, how well a city can operate with the greatest economy, benefits and convenience to its citizens. Based upon the experience of a large number of Michigan cities during the past 40 years or so, it is evident that the most satisfactory form of local government is home rule government.

Most of the villages in the state considering the change to city government are now operating under the General Law Village Act (1895 PA 3). During the years since this law was passed, much thought has been given to providing better systems for local government. The General Law Village Act has been frequently amended, most recently in 1998.

The Home Rule City Act permits the drafting and adoption of a charter custom designed to best suit the needs and requirements of each individual city operating under its own charter. In other words, while every general law village has to operate under the same charter (that is, the General Law Village Act), every home rule city has the opportunity to operate under its own locally written and locally adopted home rule charter. Certain broad limitations and

requirements are outlined by state law, but the details of organization are decided by the elected local charter commission and must be approved by the local electorate.

### **Powers of municipalities**

Prior to the 1998 amendments, it was clear that powers of general law villages were confined to those specifically enumerated and those that must be necessarily implied. Delegated powers were strictly construed.

The 1998 amendments provided that villages were given the power to exercise all municipal powers in the management and control of municipal property, whether enumerated or not, and to do any act to advance the interests of the village. Those powers were also to be liberally construed in favor of the village. Likewise, the purpose of the home rule powers conferred by the Constitution and the implementing statutes is to confer upon local units broad powers in the conduct of their own affairs.

### **Tax rate limits**

The Home Rule City Act is somewhat generous and less cumbersome with regard to the levying of taxes than the General Law Village Act. The latter permits 12 ½ mills for the general fund, 5 mills for the street fund and 1 mill for cemetery purposes. The Home Rule City Act provides for the establishment of a tax rate limitation in the charter up to a maximum of 20 mills for all purposes to be allocated at the discretion of local officials.

Michigan villages and cities may also levy three mills for garbage collection and disposal services. (See 1917 PA 298, as amended, MCL 123.261)

### **Modern financial and personnel provisions**

A home rule charter for a city will normally provide for the installation of adequate procedures and controls to enable the local unit to operate in an efficient, businesslike manner. As a matter of fact, in recent years, many of the techniques of private business have been profitably adapted to governmental use. For instance, a modern system of budgeting and budget control is almost always required, providing that a city government operate within the limits of an annual budget. Most modern city home rule charters in Michigan provide for centralized purchasing, which gives the city the advantage of low-cost buying by pooling the needs of all the various city departments and purchasing them in lots. Controls on purchasing and contracting and the requirement of an annual independent audit of all municipal accounts are among the financial provisions which are generally included to protect the citizens and taxpayers against misuse of public funds and public property.

Provision for the adoption of a merit system or a system of civil service is often included in new city charters. Such a provision means that appointments, promotions and removal of city employees must be based on performance of duties without reference to matters which have nothing to do with the ability of the employee or the character of the work.

Many of the criticisms directed to the General Law Village Act for lack of modern financial and personnel provisions were addressed in the 1998 amendments.

### **Up-to-date organization**

Equally important to securing additional powers and more

flexibility in administration is the opportunity for local citizens to determine their own city government organization. Within the framework of a minimum of mandatory requirements laid down in the Home Rule City Act, a charter commission is free to determine the type of governmental organization best suited to the needs and desires of that particular community.

It is not the purpose of this article to discuss at length the available forms of government or to urge the adoption of a particular form. Rather, it is our purpose to point out some of the options available to the charter commission.

The charter commission will want to study the principal organizational forms used here in Michigan – the weak mayor form, the strong mayor form and the council-manager form. The members of the charter commission will want to examine the strengths and weaknesses of these forms, and some of the variations which have been used.

One option for local government organization which the charter commission might wish to consider is the adoption of the “short ballot” principle for the election of policy-making officials. With this approach, the authority for policy formulation is centered in a small governing body of elected officials. This body of officials, designated as either council members or commissioners and usually composed of five, seven or nine mem-

bers, which may include the mayor, is directly responsible to the will of the electorate. In this way, the citizens can have no doubt as to where the responsibility lies for the determination of municipal policies.

Responsibility for day-to-day administrative matters would be placed either in an elected chief executive, such as a mayor, or in an appointed city manager or administrator. Other administrative officers would be appointed on the basis of their qualifications for the job. Consequently, the selection of personnel for technical and managerial positions would be through the evaluation of an applicant’s qualifications and experience by proficient and responsible public administrators rather than through the outcome of popular elections. Also the number of administrative officials employed could be based upon the specific needs of the city, not the inflexible requirements of a general statute. In general law villages, the clerk, treasurer, and assessor must be elected. In home rule cities these officers are generally appointed, and to a large extent the distribution of duties and functions between such officers is within the discretion of the charter commission.

The charter commission will also want to give consideration to election methods. Partisan elections are no longer required in general law villages. Home rule permits greater flexibility. In

Michigan the trend in modern charters has been toward non-partisan elections.

NOTE: Home rule village status may be of particular interest to areas or villages of less than 750 population, the minimum population to achieve city status (except that any county seat village may reincorporate without regard to population requirements, and villages lying in more than one township need a population of only 600 for reincorporation as a city).

It is possible to become a home rule village (assuming certain minimal population standards, a favorable order by the State Boundary Commission, an incorporation petition and a favorable vote of the electorate approving a village charter). Although a home rule village can have its own flexible charter and flexible taxing authority similar to that of a home rule city, all villages remain a part of the township and all village property assessments must be identical to those of the township. ♦

This article is a revision of the MML Municipal Report, Impact of Changing from a Village to a City. For more information on incorporating as a city, please contact the MML Resource Center at 800-653-2483 or [info@mml.org](mailto:info@mml.org).

Sue Jeffers is associate general counsel for the Michigan Municipal League. You may contact Sue at 734-669-6306 or [sjeffers@mml.org](mailto:sjeffers@mml.org).