Incorporation of a Village Into a City

Michigan Municipal League Seminar - March 18, 2011

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ADVANTAGES OF BEING A CITY

CITYHOOD

1. Allows residents to deal with only one government instead of two.

2. Permits you to modernize and customize your form of government by writing your own charter.

3. Gives you the opportunity to adopt own ordinances rather than being constrained by the General Law Village Act.
CITYHOOD

4. Establishes certain control over assessment because there will be one assessor, appointed by you, and a Board of Review appointed by you. Lack of agriculture property fattens bottom line.

5. Assures that state collected, locally shared taxes are returned to the City, and used by the City as you determine.

6. Eliminates dual taxation. City residents do not pay township taxes.
CITYHOOD

7. Eliminates confusion over authority of township and county to enforce their ordinances over residents of city, i.e. planning and zoning.

8. Eliminates potential duplication of services.

9. Permits financial flexibility and latitude to accommodate needs of city residents.
CITYHOOD

10. State and county cannot override a home rule city as they might a general law village and the home rule city designation bears greater authority in Lansing.

11. Simplifies voter registration.

12. All elections are conducted in a single voting space. A city maintains its own voter registration records.
CITYHOOD

13. Provides comfort in the collection of own taxes and the school, county and state taxes which the city can charge an administration fee of 1%.

14. City can spend all its tax revenues on its own projects.

15. Sharing of township assets.
CITYHOOD

16. Joint contractual relationships (fire authority) can stay in place.

17. You get to chose the form of government you want: strong mayor; strong mayor with an appointed manager; weak mayor/council; council/city manager.

18. City can adopt income tax, or levy up to 20 mills.
POTENTIAL DISADVANTAGES

Some of the disadvantages may be:

1. A city assessor has to be compensated solely by the city.

2. A Board of Review appointed by the city presupposes city residents want to volunteer and serve.

3. Collection of taxes includes taxes for county and schools (intermediate and public). This may entail more time and expense.
(disadvantages continued)

4. Holding city, school, county, state and national elections will require additional manpower and expense.

5. May require withdrawal from joint authorities with township for police, fire, water, sewage disposal, planning or zoning. Depends upon negotiations with township.

6. May end up with a cemetery.
7. Must endure the political pain and cost of the process.

8. Division of Assets
Requirements

Population: MCL 117.7 requires “not less than 2,000 inhabitants and not less than 500 inhabitants per square mile.” Douglas had 1,214, Caseville 888, and Sebewaing 1974. Villages incorporating as fifth class cities only need 750 inhabitants.
Home Rule Cities Act mandates the following

- Election of Mayor and legislative body.
- Election or appointment of Clerk, Treasurer, Assessor, Board of Review.
- Determination of partisan or non-partisan status of elected officials.
- Election procedures.
- The election process.
- Taxation powers and procedures.
• Annual appropriation of money for municipal purposes.
• Provide for public peace, health and safety.
• Levy collection and return of state, county and school taxes.
• Adoption, amendment, repeal and publication of local ordinances.
• Adoption of uniform system of accounting.
• Keeping of public records.
VILLAGES THAT ENCOMPASS THE ENTIRE TOWNSHIP

If all the territory of an organized Township is included within the boundaries of a village or villages, the village or villages, without boundary change, may be incorporated as a city by:

1. Resolution of the village council calling for a referendum or incorporation.
2. Resolution may include an election of charter commissioners.
3. Election is held at next regularly scheduled election within 90 days.
4. If approved, results are filed with County Clerk, Office of Great Seal.

Example: Village of Lake Angelus
STEP ONE:

Establish a committee or task force of residents to conduct a survey, hold public forums, attend service clubs and other community groups to discuss the possibility of incorporating into a city. The committee will file a report with their recommendations and finds with the Village Board and can file the petition before the Boundary Commission.
STEP ONE AND ONE-HALF

Hire a consulting firm to provide a study on the pros and cons of incorporating as a city. Village of Baldwin did one in 2004. Lake Orion in 1993 (Plante Moran).

*These two studies and other reference material are on the thumbdrive you received at check-in.
STEP TWO:

Have a surveyor or engineer to create a certified boundary survey (legal description) of the proposed village boundary and a map to attach to the petition.

- This boundary can be the existing village boundary or the proposed expanded village boundary.

- The engineer has to start with the official boundary description of the village on file with the Office of the Great Seal.

- The engineer has to justify any differences with MDOT engineer prior to filing.
The Boundary Commission has a checklist it uses in reviewing the legal sufficiency of this map, drawing or survey. Pursuant to Rule 25 and 27 of the SBC, the survey must include all of the following:

- A north arrow;
- Clearly identified boundary of existing boundary and the proposed boundary that is marked and identified;
- Minimum size as stated above;
- It shall be of sufficient scale and clarity as to be unambiguous to a layman with the inclusion or exclusion of his or her property and the relationship to the proposed boundaries;
- Identify streets and roads by name;
- All section lines must be identified;
- Identify all adjacent local governments by name;
- Identify all major geographic features;
- Identify local landmarks such as Meijers, water towers, lakes, streams, etc.;
- Identify the section numbers, township and range number and legal description or call around the perimeter of the boundary of the petitioned territory.
**STEP THREE:**

Prepare a draft petition on the form provided by the State Boundary Commission on their website.

- Attach the boundary map or survey of the area proposed to be incorporated into a village. The recap can be no larger than 14” x 18”. It must show the existing streets and topographical features on it. If it is larger than the existing village boundary, the expanded areas should be readily marked.

- Include a legal description of the boundaries of the proposed new city.

- A petition signed by 1% of the qualified electors residing in the proposed incorporated territory.

- (The map has to be attached to the petition when circulated)
STEP FOUR:

Have someone experienced in incorporations of cities review the petitions before (1) The petition is circulated for registered electors of the Village to sign and send; (2) before the application is submitted to the State Boundary Commission.

The State Boundary Commission used to pre-review all applications upon request, per R.123.43 they would give themselves 4 weeks to complete the review. The last one I did took 9 weeks and came back with a note that they were not going to pre-review applications anymore.
**INSTRUCTIONS ON REVERSE SIDE**

**COUNTY/LOCAL PROPOSAL PETITION**

We, the undersigned qualified and registered electors, residents in the Village in the County of , State of Michigan, respectively petition for:

**WARNING-A PERSON WHO KNOWINGLY SIGNS THIS PETITION MORE THAN ONCE, SIGNS A NAME OTHER THAN HIS OR HER OWN, SIGNS WHEN NOT A QUALIFIED AND REGISTERED ELECTOR, OR SETS OPPOSITE HIS OR HER SIGNATURE ON A PETITION, A DATE OTHER THAN THE ACTUAL DATE THE SIGNATURE WAS AFFIXED, IS VIOLATING THE PROVISIONS OF THE MICHIGAN ELECTION LAW.**

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**CERTIFICATE OF CIRCULATOR**

The undersigned circulator of the above petition asserts that he or she is qualified to circulate this petition and that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a qualified registered elector of the City, Township or Village listed in the heading of the petition, and the circulator was qualified to sign the petition.

**WARNING-A CIRCULATOR KNOWINGLY MAKING A FALSE STATEMENT IN THE ABOVE CERTIFICATE, A PERSON NOT A CIRCULATOR WHO SIGNS AS A CIRCULATOR, OR A PERSON WHO SIGNS A NAME OTHER THAN HIS OR HER OWN AS CIRCULATOR IS GUILTY OF A MISDEMEANOR.**

**SIGNATURE OF CIRCULATOR**

(City, Township or Village Where Registered)

Complete Residential Address (Street and Number or Rural Route) (Zip Code) 18854864

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STEP FIVE:

CIRCULATE the petition for signatures of at least 1% of the qualified electors residing in the village or area to be incorporated. (no less than 100 signatures are required) If any of the village consists of subdivisions, there must be 1% of the population of each recorded subdivision.
STEP SIX

Once petitions are signed, prepare a draft City Incorporation Petition on the form (BCC 165) provided by the State Boundary Commission on their website. (www.michigan.gov), Department of Labor and Economic Growth, Boundary Commission)

The petition has to have a Certification by Village Clerk of the number of residents living within proposed area of incorporation.
STEP SEVEN:

DRAFTING PETITION FOR FILING PETITION WITH STATE BOUNDARY COMMISSION

Mail
Department of Energy, Labor & Economic Growth
Office of Policy and Legislative Affairs
Bureau of Construction Codes
State Boundary Commission
P.O. Box 30704
Lansing, MI 48909
www.michigan.gov/bcc

In Person
Bureau of Construction Codes
Office of Land Survey & Remonumentation
State Boundary Commission
6546 Mercantile Way, Ste. 3
Lansing, MI 48911
CITY INCORPORATION PETITION

Part I

A map or drawing, supplied by the petitioner, clearly showing the territory proposed to be annexed, and prepared in such a way that its minimum size is 8 1/2” x 13” with a maximum size of 14” x 18.”

This drawing should be done by a certified surveyor.
Petition for Incorporation:

This is a pre-printed statement to be signed by the qualified electors from the village, township and county in area to be incorporated. Should be members of committee.
CITY INCORPORATION PETITION

Part IIa

Contact Information:

This requires contact information for the Petitioner, village, the township the territory is located in, and the county clerk.
CITY INCORPORATION PETITION

Part III

**Legal Description:**

A legal description of the territory to be annexed that matches exactly the legal description as it appears on the survey used for Part I.
CITY INCORPORATION PETITION

Part IV

Copies of the petitions that were circulated, signed by 1% of registered electors in the village or township and certified by circulator.
CITY INCORPORATION PETITION

Part V

Reasons for Filing Petition:

All forms of petitions require the petitioner to discuss the reasons why they feel the territory proposed to be incorporated should become part of the city. This recitation should touch on all of the 18 criteria that are required by statute to be discussed.
Reason For Incorporating

1. We would have a more streamline form of government allowing the residents to deal with one instead of two governmental entities.

2. There would be a reduction of the tax burden for current village residents by eliminating their responsibility of township taxes.

3. A single assessor appointed by and answerable to the city would perform all assessing services. The Board of Review would be appointed by the city.
Reason For Incorporating

4. A new City Charter would be tailored to the current and future needs of the community.

5. Voter registration lists, currently managed by the two townships, would become easier to manage and likely more accurate through the city clerk.

6. Vote would be centralized eliminating the current confusion about where to vote for the various elections.
Reason For Incorporating

7. Incorporation as a city provides more financial flexibility and latitude in budget development which meets the communities needs.

8. The village currently provides all essential services such as police, fire, water, sewage disposal and road maintenance.

9. Currently village residents who live in townships pay for a road tax, none of which is allocated for improvements within the village portion of the township.
Reason For Incorporating

10. Village residents pay for fire protection through not only village tax but as part of the township tax. This occurs because the township contracts with the village to provide this protection for the non-village township residents but uses the township resources to pay for the charge.

11. Joint contracts, such as fire protection and sewer services, are still allowable under the Home Rule City form of government.
Reason For Incorporating

12. The elimination of the duplication of services would be significant. Incorporation would allow city residents to have one Mayor, as opposed to a Village President and a Township Supervisor, one clerk, instead of two, one City council as opposed to a Village council and a Township Board. Maintenance of one City Hall as opposed to a Township Hall and a Village Hall. There would be a general streamlining of governmental services.
State Boundary Commission

Criteria for Annexation, Incorporation, and Consolidation
(1968 PA 191, Section 9 – MCL 123.1009)
1. Population
2. Population density
3. Land area
4. Land uses
5. Assessed valuation
6. Topography
7. Natural boundaries and drainage basins

8. The past and probable future urban growth, including population increase and business, commercial and industrial development in the area

9. Comparative data for the annexing/ incorporating/ consolidating municipality, and the remaining portion of the unit from which the area will be detached/ attached shall be considered

10. Need for organized community services
11. The present cost and adequacy of governmental services in the area to be annexed/incorporated/consolidated

12. The probable future needs for services

13. The practicability of supplying such services in the area to be annexed

14. The probable effect of the proposed annexation/incorporation/consolidation and of alternative courses of action on the cost and adequacy of services in the area to be annexed/incorporated/consolidated and on the remaining portion of the unit from which the area will be detached
15. The probable increase in taxes in the area to be annexed/incorporated/consolidated in relation to the benefits expected to accrue from annexation/incorporation/consolidation.

16. The financial ability of the annexing/incorporating/consolidating municipality to maintain urban type services in the area.

17. The general effect upon the entire community of the proposed action.

18. The relationship of the proposed action to any established city, village, township, county or regional land use plan.
Part VI

Map Showing Relationship of Township to the Village
STEP EIGHT:

File the petition with the Executive Secretary of the State Boundary Commission.
STEP NINE:

The State Boundary Commission reviews the petition/application for conformance to Act 279 and the rules and regulations of the SBC and, after a legal sufficiency hearing held in Lansing, either:

(1) Rejects the petition for non-conformance with the Act and SBC rules or determines the Petition contains incorrect content or statements (i.e. legal description does not conform to survey or to description in the Office of the Great Seal), and returns the petition to the village with reasons for such rejection; or

(2) Declares the petition legally sufficient and sets a public hearing on the petition to incorporate.
STEP TEN:

After proper notification of the village township and village clerks, the SBC holds a public hearing no less than 60 nor more than 220 days after the filing of the petition.

Petitioners are given twenty (20) minutes to make a presentation addressing the 18 criteria for incorporation and the reasons for the filing of the petition.

The village is given twenty (20) minutes to make a presentation, if different than petitioner.

Township is given twenty (20) minutes to respond.

Each participant is given ten (10) minutes to rebut or add things to their presentation.

Hearing is opened to public.

SBC commissioners are permitted to ask questions.
STEP ELEVEN:

During the 30 days immediately following a public hearing, the SBC can receive additional, supplemental or reply information from the village or township that could have been presented at the public hearing. The SBC allows each party ten (10) additional days to respond to any additional information provided during that 30 day period by the other parties after SBC sends copies to them.
STEP TWELVE:

The SBC will hold an adjudicative hearing to make findings of fact and conclusions after considering all of the information submitted by the parties and hearing the recommendations of its staff. It can:

(1) Deny the petition for incorporation;
(2) Approve the petition;
(3) Revise the boundaries set forth in the petition giving reasons for revisions and approval.
STEP THIRTEEN:

The decision of the SBC is sent to the Director of the Department of Consumer and Industry Services. The Director generally follows the recommendation of the SBC, but they have reversed said recommendation in the past.
STEP FOURTEEN:

If within 45 days of the approval of incorporation by the Director of the Department of Consumer and Industry Services, a valid petition is filed asking for an election on the proposed incorporation (signed by 20% of the registered electors of the area proposed to be incorporated), the SBC will order such an election.
STEP FIFTEEN:

If the voters approve the proposed incorporation or should no referendum petition be filed:

(1) The SBC orders the election of (5) or (9) charter commissioners at the next general election or calls for a special election within 90 days.

(2) Directs the clerk to immediately issue public notice of the pending election of charter commissioners and when the last day for filing nominating petitions will be along with the number of signatures required.
STEP SIXTEEN:

A candidate for Charter Commission must be an elector in the territory proposed to be incorporated.

A candidate must file a petition signed by 20 qualified voters.

The petition must be filed 7 weeks prior to the date of the election.
STEP SEVENTEEN:

Once the board of canvassers certifies the election, the SBC serves notice on the winning (5) or (9) candidates to meet within 10 days to choose officers and establish its own rules.

The Charter Commission:

(1) Drafts a proposed charter.

(2) Sends it to the governor for approval.

(3) Governor approves it and returns it to be voted on.

(4) Governor rejects and sends it back with suggestions on how to fix it.

(5) If charter is rejected 3 times, or if no charter is adopted within 3 years, the Charter Commission terminates and dissolves by law.
STEP EIGHTEEN:

If the Governor approves the text of the charter, the Village Clerk:

(1) publishes the proposed charter in a newspaper;

(2) keeps it on file at least 60 days before the election;

(3) schedules the election.
STEP NINETEEN

If the election rejects the charter, the Charter Commission may reconvene and determine to either give up or revise and resubmit it to the electorate. It can be resubmitted 3 times.

Generally, clerks used to schedule the election of elected officials the same time the charter is voted on. The SBC now prefers separate election be held.
STEP TWENTY

If Charter is approved:

Clerk files a copy with SBC.

Clerk secures certificates from State Board of Commissioners on the tabulation of votes.

Clerk files Charter with County and Secretary of State with an initiatory petition attached.

Cross fingers that no call for resubmission of Charter for election is submitted.
NO MORE STEPS

THE VILLAGE IS NOW A:

• HOME RULE VILLAGE

• HOME RULE CITY
Thank you for your time.

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