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BUREAU OF CONSTRUCTION CODES
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STATE BOUNDARY COMMISSION

PROCEDURE FOR CONSOLIDATION

NOTE: Under Executive Order 1996-2, the Director of the Department of Licensing and Regulatory Affairs makes the final decision on whether to approve or deny a consolidation petition or a referendum petition. Therefore, in the following procedure, all references to a decision by the State Boundary Commission to approve or deny petitions or deny the petition for being legally insufficient should be interpreted to mean a recommendation of approval or denial to the Director of the Department of Licensing and Regulatory Affairs.

NOTE: The following procedure is intended as a guideline only and must be read and followed in conjunction with the State Boundary Commission Act and Administrative Rules and the Home Rule City Act. Petitioners are encouraged to seek professional assistance (i.e. legal counsel, Professional Surveyor, etc.), as deemed appropriate by the petitioner.

NOTE: In the following procedure, unless it is otherwise noted, the annotations refer to:

- Example 1:* [117.6] refers to Section 6 of the *Home Rule City Act* (Public Act 279 of 1909, as amended).
- Example 2:* [123.1007] refers to Section 7 of the *State Boundary Commission Act* (Public Act 191 of 1968, as amended).
- Example 3:* [R123.25] refers to Rule 25 of the State Boundary Commission Administrative Rules.
- Example 4:* [168.809] refers to Section 809 of the *Michigan Election Law* (Public Act 116 of 1954, as amended)
- Example 5:* [OAG] refers to a numbered Opinion of the Michigan Attorney General.

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Petitioners:	<ol style="list-style-type: none"> 1. Accurately describe in the petition the boundaries of the area proposed to be consolidated and shall contain the names of the municipalities to be consolidated. [117.7 & 123.1012(3)] 2. Represent in the petition that the territory meets the population conditions for consolidation. [117.7] 3. Attach a map or drawing to the petition clearly showing the territory to be consolidated. [117.6]
Circulator of Petition or Proponent of Resolution:	<ol style="list-style-type: none"> 4. Shows map or drawing to each person before obtaining his or her signature on the petition. [117.6]
Petitioners:	<ol style="list-style-type: none"> 5. Attach an affidavit signed by one or more of the petitioners. [117.6 and 117.11] 6. Address the petition to the State Boundary Commission. [123.1012(1); R123.21(1) and 117.9 (2)] 7. File the petition with the Manager of the Commission. [123.1012(1) and 117.9 (2)]
<p>NOTE: At this point, county members are appointed to the Commission by the chief probate judge of the county where the land described in the petition is located (if applicable). [123.1005]</p>	
Boundary Commission:	<ol style="list-style-type: none"> 8. Sends notice of a petition being filed within 10 days of filing to affected local and county clerks. [R.123.46(1)] 9. Reviews the petition for conformance to Acts 191, 279 and to the rules and regulations of the Commission and: [123.1012(4) and 117.9 (2)] <ol style="list-style-type: none"> a. Rejects the petition as being legally insufficient for: <ol style="list-style-type: none"> 1) Nonconformance with the Acts and the Commission’s rules. 2) Containing incorrect statements. <p>AND</p>

	<p>3) Returns the petition to the petitioners, together with the reasons and certificate of rejection,</p> <p>OR</p> <p>b. Approves the petition as being legally sufficient and schedules a public hearing on the petition.</p> <p>10. Notifies the clerks of the affected municipalities and the county clerk of the hearing by certified mail at least 30 days before the date of the public hearing. [123.1008 (4)]</p> <p>11. Gives notice of hearing at least 7 days before the date of the public hearing by publication in a newspaper of general circulation in the area. [123.1008 (4)]</p> <p>12. Holds a public hearing on the petition. [123.1008(3)]</p> <p>a. Not less than 60 or more than 220 days after the filing.</p> <p>b. At a convenient place in or reasonably near the area proposed to be consolidated.</p>
Citizens and Officials:	13. Present evidence and testimony to the Commission. [R123.62(2)]
Boundary Commission:	14. Mails copies of, or a listing of, materials received at the public hearing and in the 30 days following the public hearing to the designated parties for the petitioner, city and township(s). [R123.68]
Designated Parties for the Petitioner, City and Township(s)	15. Submit information rebutting the material during a 7-day period designated by the Manager of the Boundary Commission. [R123.68(4)]
Boundary Commission:	16. Mails copies of, or a listing of, materials received during the 7-day period

	<p>designated in Step 15 to the designated parties for the Petitioner, City and Township(s). [R123.68]</p> <p>17. Considers the reasonableness of the proposed consolidation, based on criteria established in Sec. 9 of the State Boundary Commission Act. [123.1008]</p> <p>18. Determines whether to recommend that the Director: [123.1012a and R123.71]</p> <ul style="list-style-type: none"> a. Deny the proposed consolidation. b. Approve the consolidation. c. Approve the consolidation with a revised area. <p>19. Adopts a resolution and order to recommend that the Director: [123.1012a and R123.71(1)]</p> <ul style="list-style-type: none"> a. Deny the petition giving reasons for the denial, or b. Approve the petition, giving its reasons for the approval, or c. Approve the petition or resolution with a revised area, giving its reasons for the revisions and approval. <p>20. Sets the effective date of an approved consolidation petition and includes it in the order referenced in Step 19. [123.1012a]</p> <p>21. If denied, sends a certified copy of its denial order to the petitioner and each affected county, city, village or township clerk [123.1012a (2)]</p> <p>22. If approved, sends a certified copy of its approval order to each affected county, city, village or township clerk and to the Secretary of State. [123.1012a (3)]</p>
<p>Voters in the Area Approved for Consolidation May:</p>	<p>23. Circulate a petition asking for a referendum on the consolidation question. [123.1012a (3)]</p>

<p>NOTE: This petition must be signed by at least 5% of the registered electors residing in the area approved for consolidation by the Commission. [123.1012a (3)]</p>		
Referendum Petitioners:		<p>24. File the referendum petition with the commission within 45 days of the Commission's approval order. [123.1012a (3)]</p>
Boundary Commission:		<p>25. Verifies the validity of the referendum petition. [123.1012a (3)]</p> <p>26. Instructs the Boundary Commission Staff to consult with the affected clerks to determine a possible referendum election date.</p> <p>27. Orders a referendum election to be held in the area approved for consolidation [123.1012a (3)]</p> <p>28. Specifies a date after the referendum election on which the Commission's approval order shall become final if the proposal is approved by the voters. [123.1012a (3) & (5)]</p>
<p>NOTE: Should a referendum petition be filed, in order to be adopted, the referendum proposition to consolidate shall receive an affirmative majority vote in each municipality affected voting separately. Should the referendum voters approve of the proposed consolidation or should no referendum petition be filed, the following steps would apply, otherwise the proceedings on the consolidation proposal shall terminate. [123.1012a (4)]</p>		
		<p>29. Sends a certified copy of the Commission's approval order to the petitioner and the clerk of each affected county, city, village or township and to the Secretary of State. [123.1012a(3)]</p> <p>30. Determines the number of charter commissioners to represent each municipality proposed for consolidation, in proportion to the municipalities population. [123.1013 (1)]</p>

		31. Orders the election of the 9 charter commissioners, in accordance with Michigan Election Law, OR the governing bodies of the municipalities may appoint their charter commissioners. [186.1 et. seq.]; [123.1012a (5)]; [123.1013(1) & (2)], [117.15]
NOTE: If the charter commissioners are appointed, skip steps 32-42.		
		32. If the Charter Commission is to be elected, directs the clerk of each affected municipality to immediately issue public notice of: <ul style="list-style-type: none"> a. The last day for filing nominating petition for the office. b. Number of signatures required. c. Where to obtain nominating petition forms.
Each Charter Commission Candidate:		33. Files a nominating petition with the county clerk. (OAG No. 1165, Biennial Report 49-50, p. 516)
NOTE 1: A candidate must be an elector of the territory proposed to be consolidated each having a residence of at least 2 years in the municipality from which he or she is to be elected immediately before the election. [123.1013(1)]		
NOTE 2: The nominating petition must be signed by 20 qualified electors residing in the territory proposed to be incorporated. [117.15]		
Boundary Commission:		34. Requests the county clerk to have ballots printed in accordance with the Boundary Commission's prescribed form. [117.15]
County Clerk:		35. Prepares the ballot for charter commissioners and places at the head of the ballot the statement, "Candidates for the members of the charter commission". [117.15]
Each Village and Township Clerk:		36. Arranges for the election of the charter commissioners. [123.1012a (5)] 37. Gives notice of the date and purpose of the

<p>Electors:</p>		<p>election, as follows: [117.10]</p> <ul style="list-style-type: none"> a. Publishes in 1 or more newspapers published within the district at least once a week for 4 weeks before the election. b. Posts like notice in a least 10 public places in the district not less than 10 days before election. <p>38. Vote for charter commissioners. [123.1013(1) and 117.15]</p>
<p>Election Inspectors:</p>		<p>39. Make returns to the local clerk(s) who then take the returns to the county clerk the day after the election. [168.809]</p>
<p>NOTE: In local elections to be canvassed by the board of county canvassers which are not held in conjunction with a county or state election, the election inspectors shall deliver both sealed envelopes to the local clerk who shall deliver them to the county clerk prior to 11 A.M. on the day following the election. [168.809]</p>		
		<p>40. Make returns to county clerk where the greater part of the proposed city is located if in more than 1 county. [117.12]</p>
<p>Village, Township or County Board of Canvassers:</p>		<p>41. Canvasses the vote for charter commissioners on the first Thursday following the election. [117.12]</p>
		<p>42. Certifies the election of the 9 persons receiving the highest vote to the successful candidates and the Boundary Commission. [117.15(2)]</p>
<p>Boundary Commission:</p>		<p>43. Serves notice on the charter commission to convene within 10 days. [123.15]; [R123.75]</p>
<p>Charter Commission:</p>		<p>44. Convenes within 10 days after the election and takes the constitutional oath of office. [117.15]</p> <p>45. Certifies to the Boundary Commission that the first meeting has taken place.</p>

		[R123.75] 46. Chooses its own officers. [117. 15(3)] 47. Establishes the rules for its proceedings. [117.15(3)] 48. All business shall be conducted at a public meeting, in compliance with 1976 PA 267. (117.15)(3))
NOTE 1: The charter commission has the power to fill vacancies in its membership. [117.15(2)]		
NOTE 2: Five or more of its members shall constitute a quorum. [117.15(2)]		
		49. Keeps a journal and when requested by a member enters roll call votes in the journal. [117.15(3)]
NOTE: Although [117.15] provides that the charter commission shall frame a charter within 90 days after taking the oath of office, this is not deemed to be a mandatory limit, but it directory only. [OAG No. 2367, 1955, Vol. 1, p. 776; OAG Biennial Reports, 1914, p. 70]		
		50. Drafts a proposed charter. 51. Sends the proposed charter to the Governor for his approval. [117.22]
Governor:		52. Reviews and approves the proposed charter, signs it and returns it to the charter commission, [117.22], or 53. Returns the proposed charter to the charter commission with a statement of his objections. [117.22]
NOTE: Steps 54 and 55 would apply only when the Governor has expressed objections to the proposed charter.		
Charter Commission:		54. Spreads the reasons for the Governor's objections upon its records. [117.22] 55. Reconsiders the charter in the light of the Governor's objections. [117.22]
NOTE: Steps 56 through 61 should be set forth and provided for in the schedule portion of the proposed charter.		
		56. Provides the manner of nominating the candidates for the first elective officers

	<p>provided for in the proposed charter. [117.15]</p> <p>57. Fixes the date of the first city election and referendum on the proposed charter. [117.15]</p>
<p>NOTE 1: The charter commission provides all other things that are necessary for the conduction of the election of the first elective officers of the proposed city. [117.15]</p>	
<p>NOTE 2: This election is held in conjunction with the referendum on the proposed charter.</p>	
	<p>58. Publishes the proposed charter at least once in 1 or more newspapers published in the proposed city, not less than 2 weeks or more than 4 weeks preceding the election. [117.15]</p> <ul style="list-style-type: none"> a. Includes a notice of the election and that on the date fixed the question of adopting the proposed charter will be voted on. b. Assures that the elective officers provided for in the charter will be elected on the same date. <p>59. Posts like notices of the election in at least 10 public places within the proposed city, not less than 10 days prior to the election. [117.15]</p> <p>60. Provides 1 or more polling places for the election and gives notice of their location in same manner as the election of the charter commission. [117.15]</p> <p>61. Appoints the election inspectors. [117.15]</p>
<p>NOTE: Election procedures should follow the requirements of the state election laws.</p>	
	<p>62. Submits the prepared charter to the electors of the affected territory for their approval or rejection. [117.15, 117.22 & 117.23]; [123.1015]</p>
Electors:	<p>63. Approve or disapprove the proposed charter. [117. 23]; [123.1014 & 123.1015]</p> <p>64. Make returns to the local clerk(s). [168.809]</p>

Local Clerks:		65. Take the returns to the county clerk the day after the election. [168.809]
NOTE: See note under step 39.		
Village, Township or County Board of Canvassers:		66. Canvasses the vote for and against the charter. [117.13]
<p>NOTE: See note under step 39.</p> <p>NOTE: THE CHARTER MUST BE ADOPTED BY A MAJORITY OF THE ELECTORS OF EACH MUNICIPALITY PROPOSED FOR CONSOLIDATION VOTING SEPARATELY. [123.1015]</p>		
<u>FOLLOW STEPS 67 THROUGH 71 ONLY IF CHARTER IS APPROVED</u>		
Charter Commission:		67. Files a copy of the approved charter with the Boundary Commission.
Charter Commission and Boundary Commission:		<p>68. Secure certificates from the boards of canvassers showing: [117.13]</p> <ul style="list-style-type: none"> a. The total number of vote's case if a referendum election on the question of consolidation was held, including the votes cast for and against the question. b. The votes for and against the charter c. The votes for all candidates for the new city's first elective officers. <p>69. Attach to the initiatory petition every resolution, affidavit or certificate necessarily following the petition, including the certificates of step 68. [117.13]</p> <p>70. File the initiatory petition and its attachments along with 2 copies of the charter with the county clerk or clerks and the Secretary of State. [117.13 and 117.24]</p>
County Clerk(s) and Secretary of State:		71. Each records the copies of the petition and

		its attachments in a book to be kept for that purpose. [117. 13]
<p>NOTE 1: Either of such records or certified copies shall be prima facie evidence of the consolidation. Upon filing, the charter becomes law unless a later date is set in the charter. [117.13]; [123.1015]</p>		
<p>NOTE 2: Should the proposed charter be rejected, the person receiving the most votes for mayor, serves as de facto officer until a mayor is elected and qualified pursuant to a charter approved by the electors. [117.16] In such event, steps 72 through 75 may be taken.</p>		
De Facto Officer:		72. Reconvenes the charter commission if no petition is filed for election of a new charter commission. [117.16]; [123.1017(2)]
Charter Commission:		73. Revises the proposed charter for resubmission to the electors. [117.16]; [123.1017(2)]
Charter Commission:		74. Resubmits the proposed charter to the electors. [117.16]; [123.1017(2)]
<p>NOTE: If, on submission of a second charter, a favorable vote is not obtained, the incorporation proceedings shall be ended. If a charter has not been adopted within a period of 3 years following the date the commission's order becomes final, or if within the 3 year period the charter commission does not reconvene within 90 days after the defeat of the first proposed charter, the incorporation proceedings shall end. [123.1017(3) & (4)]</p>		
Qualified Electors:		75. May petition the de facto mayor for an election to select a new charter commission, by filing the signatures of 300 qualified electors. [117.17]
<p>NOTE: Must be filed within 10 days of the canvass of the vote on the charter.</p>		
De Facto Officer:		76. Certifies upon the petition that it contains the required number of signatures. [117.17] 77. Files the petition with the Boundary Commission. [117.17]

Boundary Commission:		<p>78. Gives notice of the filing of the petition in the same manner as upon the filing of the original consolidation petition. [117.17]</p> <p>79. Orders the election of a new charter commission in the same manner as the first charter commission.</p>
Electors of the Affected Territory: KO 5/12		<p>80. Repeat the procedures of electing a charter commission, drafting a charter and voting on the proposed charter. [117.17]</p>