



# HOME RULE VILLAGE INCORPORATION PROCEDURE

State Boundary Commission  
Office of Land Survey and Remonumentation  
Bureau of Construction Codes

The Director of the Department of Licensing and Regulatory Affairs (“LARA”) makes the final decision on whether to approve or deny an incorporation petition. In the following procedure, all references to a “decision” by the State Boundary Commission (“SBC”) to approve or deny incorporation petitions should be interpreted to mean a “recommendation of approval or denial” to the LARA Director (“Director”).

The State Boundary Commission Act, 1968 PA 191, takes precedence over the Home Rule Village Act, 1909 PA 278, regarding filing and processing incorporation petitions, effective dates of department orders, ordering elections, and time periods for charter adoption. [117.9(1)]

Petitioners are encouraged to seek professional assistance, i.e., legal counsel, Professional Surveyor, etc., as deemed appropriate by the petitioner.

Unless otherwise noted, annotations in the following procedure refer to:

Example 1: [78.4] refers to the specific section of the Michigan Compiled Law.

- The State Boundary Commission Act, 1968 PA 191 is found at MCL 123.1001-1020
- The Home Rule Village Act, 1909 PA 278 is found at MCL 78.1-28
- The Michigan Election Law Act, 1954 PA 116 is found at MCL 168.1-992
- The Summer Resort and Park Associations Act, 1897 PA 230 is found at MCL 455.1-24

Example 2: [ERO 1996-2] refers to Executive Reorganization Order 1996-2.

Example 3: [OAG 1165] refers to the Office of Attorney General Opinion number 1165.

## **Definitions**

Qualified electors - Persons eligible to register to vote in the area, which must be:

- At least 18 years old [US Constitution: Amendment 26, Section 1]
- Residents for at least 30 days [168.10(1); 168.11]
- U.S. citizens [State Constitution: Article 2, Section 1]

Only the electors residing within the territory proposed to be incorporated shall vote in the incorporation election, but any qualified elector in the affected cities, villages, or townships may sign a petition.

## **Procedure**

### **Petitioner(s)**

1. Prepare a petition that meets the following criteria:

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- a. Obtain petition forms from the Michigan Department of State – Bureau of Elections, Richard H. Austin Building – First Floor, 430 West Allegan Street, Lansing, MI 48918, or by calling 517-373-2540.
- b. [78.3] A written description of the proposed boundaries of the village. It is encouraged to have a map accompany the petition for easier reference.
- c. [78.3] A written statement that the described territory contains not less than 150 inhabitants and an average of not less than 100 inhabitants per square mile.

### **Petition Circulator**

2. [78.2] Show the description and map, and obtain signatures by qualified electors residing in the villages or townships to be affected with:
  - a. At least 1% of the population (U.S. Census) and no less than 100 people of the affected territory must sign.
  - b. If there are any plats in the district proposed for incorporation recorded at the county register of deeds' office, the petition initiating the incorporation must be signed qualified electors in each subdivision and in the unsubdivided portion of the district to a number not less than 1% of the population of each subdivision or unsubdivided portion, determined as of the date on which the first petition signature is obtained.
  - c. If a summer resort association, it may petition for incorporation as a home rule village if it:
    - i. Has been incorporated under [455.1-24]
    - ii. Has existed for 2 consecutive years under this act; and,
    - iii. Has at least 30 legal voters residing within such territory.
3. Complete the Certificate of Circulator portion on each petition form.

### **Petitioner(s)**

4. Prepare a cover letter to the State Boundary Commission providing the following information:
  - a. Reasons for the proposed action.
  - b. A discussion of how the proposed incorporation satisfies the criteria in [123.1009].
  - c. Names and contact information – including email addresses – for the Petitioner, Designated legal counsel, Township Clerk, County Clerk and other primary stakeholders
5. [123.1007 (3)] File the petition signature sheets, the description and maps shown to the signatories, and the cover letter with the State Boundary Commission. Scanned images can be emailed to the Office of Land Survey and Remonumentation (“OLSR”) at [bccolsr@michigan.gov](mailto:bccolsr@michigan.gov), and the original petition signature sheets delivered or sent to:

In Person:  
 State Boundary Commission  
 Office of Land Survey and Remonumentation  
 Bureau of Construction Codes/LARA  
 611 West Ottawa Street  
 Lansing, MI 48909

Mail to:  
 State Boundary Commission  
 Office of Land Survey and Remonumentation  
 Bureau of Construction Codes/LARA  
 P.O. Box 30254  
 Lansing, MI 48909

**OLSR**

6. Upon receipt, the petition is assigned a number and placed on the next available agenda. A notice will be sent to affected township and county clerks within 10 days of filing with the date and location of the SBC meeting. Any legal counsel identified by the petitioner, township and county clerks will also be included on the email. A link to a questionnaire will be provided to the effected parties to be completed and returned within 10 days.
7. [123.1008(3)] The township clerk will be contacted to supply at least three possible public hearing dates and locations for consideration by the SBC within a specific timeframe.
  - a. The public hearing is held not less than 60 nor more than 220 days after the date the petition was filed with the SBC
  - b. The public hearing is held at a convenient location in the area proposed to be incorporated

**Boundary Commission Legal Sufficiency Meeting**

8. Review the petition for conformance to [78.1-28] and to [123.1001-1020] and either:
  - a. Declare the petition legally sufficient and order a public hearing on the petition
    - i. Set the date for the public hearing, and
    - ii. Order the opening of the public comment period to be closed at the conclusion of the public hearing; or
  - b. Reject the petition for nonconformance with the Acts and/or containing incorrect statements or descriptions.
    - i. Return the petition to the petitioners, including reasons for rejection and a certificate of rejection.

**OLSR**

12. [123.1005] Notify the County Chief Probate Judge requesting the appointment of four members (two members and two alternates) to the SBC from the county where the proposed incorporation is to take place.
  - a. One member and one alternate must reside in a township.
  - b. One member and one alternate must reside in a city.
13. [123.1008(4)] Notify the clerks of each affected county and township and any identified counsel of the hearing by certified mail at least 30 days before the date of the public hearing.
14. [123.1008(4)] Publish the public hearing notice at least 7 days before the date of the hearing in a newspaper of general circulation in the local area proposed for incorporation.
15. Begin collecting written comments received from the conclusion of the legal sufficiency meeting until the close of the public hearing.
16. [123.1008(3)] Hold a public hearing on the petition and receive evidence and comments from citizens and other interested parties.

17. Within 7 days of the conclusion of the public hearing, all written correspondence is scanned and provided to the stakeholders listed in the cover letter. The stakeholders have 30 days to respond in writing. At the end of the 30 days, all correspondence and stakeholder comments are provided to the commissioners for their review.

### **SBC Recommendation Meeting**

18. [123.1009] Consider the reasonableness of the proposed incorporation, based on the criteria established in Section 9 of the State Boundary Commission Act.
19. [123.1010(1); ERO 1996-2] Recommend that the Director do one of the following:
- a. Deny the petition, giving reasons for denial
  - b. Approve the petition, giving reasons for approval
  - c. Revise the boundaries set forth in the petition and approve, giving reasons for the revisions and approval

### **OLSR**

11. After the Recommendation meeting, the OLSR will:
- a. Assemble a cover memo and Final Order reflecting the outcome of the SBC and including the description of the land to be annexed to the city.
  - b. Assemble a document listing the summary of procedure, findings and conclusions. It will include:
    - 1) A timeline of what was done and when;
    - 2) A summary of the findings discussed at the Recommendations meeting;
    - 3) A summary of the conclusions made by the SBC at the meeting;
    - 4) The description of the property included in the annexation, matching what was provided in the original petition;
    - 5) The map provided in the original petition;
    - 6) The questionnaires completed by the city and the township; and
    - 7) A draft copy of the Recommendation meeting minutes.
  - c. Forward the cover memo, SBC Recommended Final Order and the procedure, findings and conclusions to the Director for consideration.

### **LARA Director**

18. [123.1010(1); ERO 1996-2] The Director will sign the final order to:
- a. Approve the petition, or
    - i. [123.1010(3)] The Director's approval order is final 45 days after the date of the order unless a proper petition requesting a referendum is filed with the Commission within this 45-day period.
  - b. Deny the petition, or
  - c. Revise the boundaries in the petition and then approve petition with revised boundaries.

### **OLSR**

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19. [123.1010(2)] Send certified copy of Director's final order to the petitioner and each affected county, township or village clerk and any identified counsel.

**If residents attempt to file a referendum petition, follow steps #20 through #26. Continue with step #27 if no referendum petition is filed within 45 days after LARA approval.**

### **Referendum Petitioners**

20. [123.1010(3)] Voters may circulate a petition requesting a referendum on continuing the incorporation question. The referendum petition must be signed by at least 5% of the registered electors residing in the area approved for incorporation by the Director. The signature collection and petition construction is the same as outlined in steps 1-4 of this procedure.
21. [123.1010(3)] The referendum petition must be filed with the SBC as outlined in step 5 of this procedure within 45 days of the Director's approval order.

### **OLSR**

22. Provide notice as outlined in step 6 of this procedure.
23. [123.1010(4)] The county clerk will be contacted to supply at least three possible referendum election dates and locations for consideration by the SBC within a specific timeframe.

### **SBC Referendum Validity Meeting**

24. [123.1010(4); 78.4] Verify the validity of the referendum petition.
- a. If found to be valid, the SBC will recommend to the Director to order a referendum on the question of incorporation and set the date.
  - b. If found invalid, transmit reasons for rejection to the Director.

### **LARA Director**

25. [123.1010(4)] Orders the referendum question to be added to the ballot or denies the referendum based on specific reasons. If denied, go to step 26.

### **OLSR**

26. [123.1010(5)] Send a certified copy of the Director's order to the petitioner and the clerk of each affected county, city, village, or township and to the Secretary of State.

### **Each County, Township or Village Clerk**

27. [78.6; 78.11] The clerk of each affected municipality is to arrange for the election of the charter commissioners and immediately issue public notice of:
- a. The election of a 5-person charter commission.

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- b. The qualification for charter commissioners.
- c. The last day for filing nominating petitions for the office.
- d. Number of signatures required for nomination.
- e. Where to obtain nominating petition forms.
- f. If directed by the Director, add the question of referendum.

Only the County Clerk will prepare the ballot.

28. [78.6] Give notice of the date and purpose of the election, as follows:
- a. Publish in 1 or more newspapers published within the district at least once each week for 4 weeks before the election.
  - b. Post a similar notice in at least 10 public places in the district not less than 10 days before the election.

### **Charter Commission Candidates**

29. File a petition with the county clerk on or before 4 P.M., EST, of the same day of the week, 7 weeks prior to the day of the election [OAG No. 1165, Biennial Report 49-50, p. 516]
- a. A candidate must be an elector of the territory proposed to be incorporated. [78.11]
  - b. The petition must be signed by 20 qualified electors residing in the territory proposed to be incorporated. [78.11]

### **Electors**

30. [78.11] Vote for charter commissioners and, if ordered, for referendum on incorporation.

### **Election Inspectors**

31. [168.809; 78.11] Take returns to the local clerk, who then take the returns to the county clerk the day after the election. If the proposed village is in more than one county, make returns to the county clerk where the greater part of the village is located.

### **Village, Township or County Board of Canvassers**

32. [78.8] Canvass the vote for charter commissioners on the first Thursday following the election.
33. [78.11] Certify the election of the 5 persons receiving the highest vote to the SBC.

### **Charter Commission**

34. [78.11] Convene within 10 days after the election.
- a. Commissioners shall:
    - i. Take the constitutional oath of office.
    - ii. Choose its own officers.
    - iii. Establish the rules for its proceedings:
      - 1. The charter commission has the power to fill vacancies in its membership
      - 2. Three or more of its members shall constitute a quorum

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- iv. Keep a journal and when requested by a member enters roll call votes in the journal. Although [78.11] provides that the charter commission shall frame a charter within 60 days of convening, this is not deemed to be a mandatory limit but is directory only. [OAG No. 2367, 1955, Vol. 1, p. 776; OAG Biennial Reports, 1914, p. 70].
- v. Draft a proposed charter that:
  - 1. Provides the manner of nominating the candidates for the first elective officers.
  - 2. Fixes the date of the first village election.
  - 3. Provide all other things necessary for making nominations and holding elections.
- b. [78.18] The County Prosecuting Attorney advises the charter commission as to whether proposed charters conform to the laws and State Constitution and gives such other information as they may require.
- c. [78.18] Transmit the proposed charter to the Governor.

### **Governor**

- 35. [78.18] Either approves the proposed charter and returns it to the charter commission, or returns it with a statement of objections.

### **Charter Commission**

- 36. [78.18] If the Governor does not sign, record and spread the reasons for objections and any information or recommendations. Then:
  - a. Reconsider the charter, and
  - b. Submit the charter to the voters if 2/3 of the members agree to the charter.
- 37. [78.11] Tasks required to prepare for the village election:
  - a. Publish the proposed charter at least once in 1 or more newspapers published in the proposed village or in the same adjoining county, not less than 2 weeks and not more than 4 weeks preceding the election.
    - i. Include a notice of the election and that on the date fixed the question of adopting the proposed charter will be voted on.
    - ii. Assure that the elective officers provided for in the charter will be elected on the same date.
  - b. Post notices of the election in at least 10 public places within the proposed village, not less than 2 weeks prior to the election.
  - c. Provide 1 or more polling places for the election and posts notices of their location in at least 10 public places not less than 2 weeks prior to the election.
  - d. Appoint the election inspectors. [168.809] Election procedures shall follow the requirements of state election laws.
  - e. Submit the prepared charter to the electors of the affected territory for their approval or rejection.

### **Electors**

38. [78.13] Approve or disapprove the proposed charter. The territory constituting the proposed new village remains under the control and management of the township(s) from which it was taken, and the authority of the officers of such township(s) continues until a charter of the proposed village is adopted and officers have been elected and qualified as provided in the charter.

### **Election Inspectors**

39. [168.809] Take returns to the local clerk(s).

### **Local clerk(s)**

40. [168.809] Take returns to the county clerk the day after the election (see also step 30 above).

### **County or Township Board of Canvassers**

41. [78.9] Canvass the vote for and against the charter.

### **IF CHARTER IS APPROVED, FOLLOW STEPS 42 - 44. IF REJECTED, MOVE TO STEP 45.**

### **Charter Commission**

42. [78.9] Secure certificates from the boards of canvassers showing:
- a. The total number of votes cast.
  - b. The votes for and against the charter.
43. [78.9] Attach to the initial petition every resolution, affidavit or certificate following the approved petition.
44. [78.9; 78.20] File the initial petition and its attachments along with 2 copies of the charter with the county clerk or clerks and the Secretary of State.
- a. Upon the filing of these documents the village shall be duly and legally incorporated under and by the name designated in the petition.
  - b. [78.11] When incorporation has been accomplished the new village shall reimburse the county for the printing of ballots.

### **County Clerk(s) and Secretary of State**

45. [78.9] Each record the copies of the petition and its attachments in a book to be kept for that purpose. Either of such records or certified copies shall be prima facie evidence of the incorporation.

**[78.12] If the proposed charter is rejected, the person receiving the most votes for president serves as a de facto officer until a president is elected and qualified pursuant to a charter approved by the electors. In such instance, steps 46 and 47 may be taken.**

### **De Facto Officer**

46. [78.12; 78.13] A petition for the selection of a new charter commission can be filed within 10 days after the election with the de facto officer. After 10 days, if no petition is filed, the Charter Commission is required to reconvene and revise the proposed charter within 60 days for resubmission to the electors. If a petition is filed, the de facto officer will:
- a. Certify upon the petition that it contains the signatures of 100 electors
  - b. [123.1007 (3)] File the petition with the Boundary Commission
  - c. Return to step 22. The Boundary Commission will give notice of the filing of the petition by passing a resolution calling for the election of 5 charter commissioners.
47. [123.1010 (6)] Return to step 36 for the vote on a second new charter. If a favorable vote is not obtained upon submission of a second charter, the incorporation proceedings shall be ended. If a charter has not been adopted within a period of 3 years following the date the director'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 are ended.

**ALL ELECTION PROCEDURES MUST FOLLOW MICHIGAN ELECTION LAW.**