

## Reference Packet

MML Member  
Resource Services  
Division

# Incorporation as a City

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March 2005

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**NOTE:** If requested, Boundary Commission staff will conduct a preliminary review of petition documents before they are filed with the Commission. After filing a petition, additions or amendments cannot be made and a preliminary review often alerts petitioners to omissions or errors that could cause the Commission to reject a petition as legally insufficient. Please allow a minimum of three weeks for a preliminary review.

# Section 1

## State Boundary Commission Information

Section 1 of the State Boundary Commission Information Act, 1994, provides for the establishment of a State Boundary Commission to inquire into and report on any matter referred to it by the Government.

The Commission shall consist of a Chairman and not more than six other members, to be appointed by the Government.

The Commission shall have the powers of a civil court in relation to the taking of evidence and the examination of witnesses.

The Commission shall have the power to call for and examine any document or paper in the possession or control of any person.

The Commission shall have the power to require any person to attend before it and give evidence.

The Commission shall have the power to require any person to produce any document or paper in his possession or control.

The Commission shall have the power to require any person to give any information or answer any question.

The Commission shall have the power to require any person to attend before it and give evidence.

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## Commissioners

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**Kenneth VerBurg, Chairperson**  
**Ingham County - Term Expires 11/15/05**

**Lloyd Walker**  
**Montcalm County - Term Expires 11/15/03**

**Jeffrey Ishbia**  
**Oakland County - Term Expires 11/15/04**

**State Boundary Commission Address:**

Michigan Department of Labor & Economic Growth  
Office of Policy and Legislative Affairs  
State Boundary Commission  
611 W. Ottawa  
Ottawa Building, 4th Fl.  
P.O. Box 30004  
Lansing, MI 48909  
(517) 241-4580

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**State Boundary Commission**

611 W. Ottawa St.  
Ottawa Building, 4<sup>th</sup> fl  
P. O. Box 30004  
Lansing, MI 48909

Tel: 517-241-4580

Fax: 517-241-9822

Christine Holmes, Manager

## **Section 2**

### **Timeline for Incorporation**



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
LANSING

DAVID C. HOLLISTER  
DIRECTOR

**STATE BOUNDARY COMMISSION**

**TIMELINE FOR INCORPORATION**

<b>ACTION</b>	<b>TIME</b>
<b>PART I. OBTAINING APPROVAL FOR INCORPORATION</b>	
1. Preparation Activities: task force comprised of residents, survey, public forums	
2. Prepare draft petition	
3. Pre-review of draft petition by State Boundary Commission (optional)	Approximately 4 weeks
4. Circulate petition for signatures	
5. File petition with State Boundary Commission	
6. Boundary Commission legal sufficiency meeting	Approximately 90 days filing
7. Public Hearing conducted by Boundary Commission	Approximately 45 days after legal sufficiency meeting
8. Period to submit additional material to docket	Ends 30 days after public hearing.
9. Rebuttal period (docket open 7 days for final responses)	Approximately 60-90 days after public hearing
10. Boundary Commission Adjudication	Approximately 30 days after rebuttal period
11. Boundary Commission adopts Findings	Approximately 30 days after adjudication
12. Director of Department of Labor & Economic Growth Issues Order	Approximately 2-4 weeks

**IF THE ORDER DOES NOT APPROVE THE INCORPORATION THE PROCESS ENDS.**

**IF THE ORDER APPROVES THE INCORPORATION AND A REFERENDUM PETITION IS FILED, THEN GO TO PART II.**

**IF THE ORDER APPROVES THE INCORPORATION AND A REFERENDUM PETITION IS NOT FILED, THEN GO TO PART III.**

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## **PART II. REFERENDUM**

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- |  |   |
|--|---|
| 1. Pre-review of referendum petition by Boundary Commission (optional)   | Approximately 1-2 weeks                                     |
| 2. Circulate referendum petition for signatures                          |   |
| 3. File referendum petition  | Within 45 days after the Order is mailed.                   |
| 4. Boundary Commission rules on legal sufficiency of referendum petition | Approximately 2 months after of filing                      |
| 5. Referendum  | Date set by Boundary Commission, usually within 90-120 days |

**IF THE INCORPORATION IS APPROVED BY REFERENDUM, THEN A CHARTER MUST BE ADOPTED WITHIN 2 YEARS OF THE DATE THE APPROVAL ORDER BECOMES EFFECTIVE.**

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## **PART III. ADOPTION OF CHARTER (Does not involve the State Boundary Commission)**

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1. Charter Commission candidates file nominating petitions.
2. Election of 9 charter commissioners
3. Write draft charter  
Charter Commission must meet within 10 days of election, frame draft within 90 days
4. Charter review by governor's office.
5. Referendum on charter
6. If charter does not pass repeat steps 3, 4, and 5.
7. If charter is approved, the effective date of the new city is the date stated in the charter.

**IF A CHARTER IS NOT ADOPTED WITHIN 2 YEARS, THE INCORPORATION PROCESS ENDS.**

**Section 3**  
**Criteria for Incorporation**  
**State Boundary Commission**



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
LANSING

DAVID C. HOLLISTER  
DIRECTOR

## STATE BOUNDARY COMMISSION

### CRITERIA FOR ANNEXATION, INCORPORATION, & CONSOLIDATION (From Section 9 of State Boundary Commission Act)

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 municipality, and the remaining portion of the unit from which the area will be detached shall be considered.
10. Need for organized community services.
11. The present cost and adequacy of governmental services in the area to be annexed.
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 and of alternative courses of action on the cost and adequacy of services in the area to be annexed 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 in relation to the benefits expected to accrue from annexation.
16. The financial ability of the annexing 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.

**Section 4**  
**Conditions for Incorporation**  
**State Boundary Commission**

STATE BOUNDARY COMMISSION

CONDITIONS FOR INCORPORATION

CITIES (OTHER THAN 5th CLASS):

- A. The minimum population for incorporation is 2000 and an average population of 500 per square mile. (117.7)

5th CLASS CITIES:

- B. Any incorporated village may incorporate as a city of the fifth class if:

- (1) The territory to be incorporated has a population of more than 750, and less than 2000. (117.7)
- (2) If the territory to be incorporated lies within more than one township in the same county with population of more than 600, and less than 2000. (117.7)
- (3) An incorporated village which is also a county seat may incorporate as a city without respect to the size of its population. (117.7)

Any unincorporated territory may incorporate as a city of the fifth class if:

- (4) The territory contains a population of more than 750 and less than 2000 and an average of not less than 500 per square mile. (117.7)

Note 1 - Whenever in the process of incorporating a fifth class city and adopting a charter, it is disclosed by an official census that the population exceeds 2000, then all proceedings theretofore taken shall be deemed to be for a home rule city. (117.7)

Note 2 - An official census is the last preceding Federal census unless a later special census is ordered by the Boundary Commission.

VOIE ON INCORPORATION:

- C. Only the residents of the territory to be incorporated shall vote on the question of incorporation. (117.9)

DETERMINING POPULATION OF AFFECTED TERRITORY:

- D. Determined by the last preceding U.S. census. (117.6)
- E. No census of the territory affected by any proposed incorporation as provided

STATE BOUNDARY COMMISSION

in Section 6 of Act 279 of the Public Acts of 1909, as amended, shall be taken unless specifically ordered by the commission. (Sec. 7, 191)

THE PETITIONS AND ATTACHMENTS:

- F. If all the affected territory is in one county: ~~(117.6)~~ 123,1007
- (1) Petitions must be signed by not less than 5% of the population who are qualified electors and freeholders residing within the affected territory.
  - (2) No less than 100 signatures.
  - (3) No less than 10 of the signatures shall be obtained from each city, village or township to be affected.
- G. If the affected territory is in more than one county: (117.6 and 117.11)
- (1) Petitions must be signed by not less than 5% of the population who are qualified electors and freeholders residing within the affected territory.
  - (2) No less than 100 signatures.
  - (3) No less than 25 of the signatures shall be obtained from each city, village or township to be affected.

STATE BOUNDARY COMMISSION

PROCEDURE

Petitioners

1. Accurately describe in the petition the boundaries of the proposed city. (117.7)
2. Represent in the petition that the territory meets the population conditions for incorporation. (117.7)
3. Attach a map or drawing to petition clearly showing the territory to be incorporated. (117.6)

Circulator of Petition

4. Shows map or drawing to each person before obtaining their signature on the petition. (117.6)

Petitioners

5. Attach an affidavit signed by one or more petitioners. (117.6 and 117.11)

STATE BOUNDARY COMMISSION  
118 W. ALLEGAN  
P.O. BOX 6000  
LANSING, MI 48909

6. Address the petition to the ~~Boundary Commission, Treasury Building, Lansing, Michigan 48922~~. (Sec. 7, 191)

7. File the petition with the Executive Secretary of the Commission. (Sec. 7, 191)

Boundary Commission

8. Reviews the petition for conformance to Act 279 and to the rules and regulations of the commission and:  
(Sec. 8, 191)

(a) Rejects the petition for:

(1) Nonconformance with the Act and the Commission's rules.

(2) Containing incorrect statements.

(b) Returns the petition to the petitioners, together with their reasons and certificate of rejection, or

(c) Declares the petition legally sufficient and orders a public hearing on the petition.

9. Notifies the clerks of the affected municipalities of the public hearing

STATE BOUNDARY COMMISSION

by certified mail at least 30 days before the date. (Sec. 8, 191)

Note - Also notifies county clerk(s) at the same time.

10. Gives notice of the public hearing at least 7 days before the date by publication in a newspaper of general circulation in the area. (Sec. 8, 191)
11. Holds a public hearing on the petition. (Sec. 8, 191)
  - (a) Not less than 60 nor more than 220 days after the filing.
  - (b) At some convenient place in the area proposed to be incorporated.
12. Considers the reasonableness of the proposed incorporation after considering the criteria established in Section 9. (Sec. 8, 191)
13. Determines whether to: (Sec. 10, 191)
  - (a) Deny the proposed incorporation.
  - (b) Approve the petition.
  - (c) Revise the boundaries of the area proposed for incorporation.
14. Adopts a resolution to: (Sec. 10, 191)
  - (a) Deny the petition, giving its reasons for the denial, or
  - (b) Approve the petition, giving its reasons for the approval, or
  - (c) Revise the boundaries set forth in the petition and approve, giving its reasons for revisions and approval.
15. Sends a certified copy of its denial order to the petitioner and to each affected county, city, village or township clerk. [Sec. 10(2), 191]

STATE BOUNDARY COMMISSION

16. Notifies the petitioner and each affected county, city, village or township clerk of its approval order and date. [Sec. 10(3), 191]

Note 1 - The commission'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.

Note 2 - The following steps #17 through #22 could apply should residents wish to file a referendum petition.

Voters of the area approved  
for incorporation

17. Circulate a petition asking for a referendum on the incorporation question. [Sec. 10(3), 191]

Note - This petition must be signed by at least 5% of the registered electors residing in the area approved for incorporation by the commission.

Referendum petitioners

18. File the referendum petition with the commission within 45 days of the commission's approval order. [Sec. 10(3), 191]

19. Verifies the validity of the referendum petition. [Sec. 10(4), 191]

20. Instructs the Executive Secretary to consult with the affected clerks to determine a possible referendum election date.

21. Orders an election to be held in the area approved for incorporation. [Sec. 10(4), 191]

22. Specifies a date after the election on which the commission's approval order shall become final if the proposal is approved by the voters. [Sec. 10(4), 191]

Boundary Commission

STATE BOUNDARY COMMISSION

Executive Secretary

Boundary Commission

Executive Secretary

Each charter commission candidate

Note - Should the voters approve the proposed incorporation or should no referendum petition be filed, the following steps would apply.

23. 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. [Sec. 10(5), 191]

24. Orders the election of the 9 charter commissioners at the next general election if it occurs not less than 40 days or more than 90 days after issuance of the order. [Sec. 10(3), Sec. 10(5), 191] [(117.8)]

Note - Although (117.8) states 40 days this would be impossible since charter commission candidates must file their nominating petitions a minimum of 49 days prior to election day.

25. Orders a special election for the election of 9 charter commissioners if a general election is not to be held within 90 days. (117.8)

26. Directs the clerk of each affected municipality to immediately issue public notice of:

- (a) The election of a charter commission.
- (b) The qualifications for charter commissioners.
- (c) The last day for filing nominating petitions for the office.
- (d) Number of signatures required.
- (e) Where to obtain nominating petition forms.

27. Files a petition with the county clerk on or before 4 P.M., EST, of the same

STATE BOUNDARY COMMISSION

day of the week, 7 weeks prior to the day of the election. (OAG No. 1165, Biennial Report 49-50, p. 516; MSA 6.551)

Note 1 - A candidate must be an elector of the territory proposed to be incorporated. (117.15)

Note 2 - The nominating petition must be signed by 20 qualified electors residing in the territory proposed to be incorporated. (117.15)

Executive Secretary

County Clerk

Each village and township clerk

Electors

Election Inspectors

28. Requests the county clerk to have ballots printed in accordance with the Boundary Commission's prescribed form. (117.15)
29. Prepares the ballot for charter commissioners and places at the head of the ballot the statement, "candidates for members of the charter commission." (117.15)
30. Arranges for the election of the charter commissioners. (117.10)
31. Gives notice of the date and purpose of the election, as follows: (117.10)
  - (a) Publishes in 1 or more newspapers published within the district at least once each week for 4 weeks before the election.
  - (b) Posts like notice in at least 10 public places in the district not less than 10 days before the election.
32. Vote for charter commissioners. (Sec. 10; 191)
33. Make returns to the local clerk(s) who then take the returns to the county clerk the day after the election. (MSA 6.1809)

STATE BOUNDARY COMMISSION

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." (C.L. 168.809, MSA 6.1809)

34. Make returns to county clerk where the greater part of the proposed city is located if in more than 1 county. (117.12)

Village, township or county  
board of canvassers

35. Canvasses the vote for charter commissioners on the first Thursday following the election. (117.12)

Note - Public Act No. 65 of 1968 [MSA 6.1020(1)] established a 4 member board of canvassers in every city and township having more than 5 precincts, in each county with less than 1 million population, notwithstanding any statutory or charter provisions or any other rule or law to the contrary.

36. Certifies the election of the 9 persons receiving the highest vote to the successful candidates and the Boundary Commission. (117.15)

Boundary Commission

37. Serves notice on charter commission to convene within 10 days.

Charter Commission

38. Convenes within 10 days after the election and takes the constitutional oath of office. (117.15)

39. Certifies to the Boundary Commission that the first meeting has taken place.

40. Chooses its own officers. (117.15)

41. Establishes the rules for its proceedings. (117.15)

Note 1 - The charter commission has the power to fill vacancies in its membership.

Note 2 - Five or more of its members shall constitute a quorum.

42. Keeps a journal and when requested by a member enters roll call votes in the journal. (117.15)

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 is directory only. (OAG No. 2367, 1955, Vol. 1, p. 776; OAG Biennial Reports, 1914, p. 70)

43. Drafts a proposed charter.

44. Sends the proposed charter to the Governor for his approval. (117.22)

45. Reviews and approves the proposed charter, signs it and returns it to the charter commission, (117.22), OR

46. Returns the proposed charter to the charter commission with a statement of his objections. (117.22)

Note - Steps 47 and 48 would apply only when the Governor has expressed objections to the proposed charter.

47. Spreads the reasons for the Governor's objections upon its records. (117.22)

48. Reconsiders the charter in the light of the Governor's objections. (117.22)

Governor

Charter Commission

STATE BOUNDARY COMMISSION

49. Provides the manner of nominating the candidates for the first elective officers provided for in the proposed charter. (117.15)

Note - Steps 49 through 55 should be set forth and provided for in the schedule portion of the proposed charter.

50. Fixes the date of the first city election and referendum on the proposed charter. (117.15)

Note 1 - The charter commission provides all other things that are necessary for the conducting of the election of the first elective officers of the proposed city.

Note 2 - This election is held in conjunction with the referendum on the proposed charter.

51. Publishes the proposed charter at least once in 1 or more newspapers published in the proposed city, not less than 2 weeks nor more than 4 weeks preceding the election. (117.15)

- (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.

52. Posts 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)

53. Provides 1 or more polling places for the election and posts notices of their location in at least 10 public places not less than 10 days prior to the election. (117.15)

STATE BOUNDARY COMMISSION

54. Appoints the election inspectors:  
(117.15)

Note - Election procedures should follow the requirements of state election laws.

55. Submits the prepared charter to the electors of the affected territory for their approval or rejection.  
(117.22)

Electors

56. Approve or disapprove the proposed charter. (117.22)

Note - The territory constituting the proposed new city remains under the control and management of the respective villages and townships from which it was taken until a charter has been adopted and officers have been elected and qualified. (117.17)

Election Inspectors

57. Make returns to the local clerk(s).  
(MSA 6.1809)

Local Clerk(s)

58. Take the returns to the county clerk the day after the election.  
(MSA 6.1809)

Note - See note under step 33.

Village, township or county board of canvassers

59. Canvasses the vote for and against the charter. [MSA 6.1030(1)]

Note - See note under step 35.

NOTE: FOLLOW STEPS 60 THROUGH 64 ONLY IF CHARTER IS APPROVED

Charter Commission

60. Files a copy of the approved charter with the Boundary Commission.

Charter Commission and Boundary Commission

61. Secure certificates from the boards of canvassers showing: (117.13)

- (a) The total number of votes cast if a referendum election on the question of incorporation was held, including the votes cast for and against the question.

STATE BOUNDARY COMMISSION

- (b) The votes received by each charter commission candidate.
- (c) The votes for and against the charter.
- (d) The votes for all candidates for the new city's first elective officers.

62. Attach to the initiatory petition every resolution, affidavit or certificate necessarily following the petition, including the certificates of step 61. (117.13)

63. 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)

64. Each record the copies of the petition and its attachments in a book to be kept for that purpose. (117.13)

Note 1 - Either of such records or certified copies shall be prima facie evidence of the incorporation. Upon filing, the charter becomes law unless a later date is set in the charter.

Note 2 - Should the proposed charter be rejected, the person receiving the most votes for mayor, serves as a de facto officer until a mayor is elected and qualified pursuant to a charter approved by the electors. In such event, steps 65 through 67 may be taken.

65. Reconvenes the charter commission if no petition is filed for election of a new charter commission. (117.16)

66. Revises the proposed charter for resubmission to the electors. (117.16)

County Clerk(s) and Secretary  
of State

De Facto Officer

Charter Commission

STATE BOUNDARY COMMISSION

67. Resubmits the proposed charter to the electors. (117.16)

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 2 years following the date the commission's order becomes final, or if within the 2 year period the charter commission does not reconvene within 90 days after the defeat of the first proposed charter, the incorporation proceedings are ended. [Sec. 10(6), 191]

Qualified Electors

68. 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)

Note - Must be filed within 10 days of the canvass of the vote on the charter.

De Facto Officer

69. Certifies upon the petition that it contains the required number of signatures. (117.17)

70. Files the petition with the Boundary Commission. (117.17)

Boundary Commission

71. Gives notice of the filing of the petition in the same manner as upon the filing of the original incorporation petition. (117.17)

72. Orders the election of a new charter commission in the same manner as the first charter commission. (117.17)

Electors of the affected territory

73. Repeat the procedures of electing a charter commission, drafting a charter and voting on the proposed charter. (117.17)

**Section 5**  
**General Rules**  
**State Boundary Commission**

## **Jurisdiction of Commission**

### **State Boundary Commission Not Involved In:**

P.A. 425 Conditional Land Transfer Agreements (exceptions may apply)

Charter

Annexation of Land from Township to Township

Detachment of Land from a City

Annexation of Land from Township into a Village

Annexation of Land from Township into a City as allowed under the Home Rule Cities Act  
by:

-unilateral resolution of City

-mutual resolution of City and Township

### **State Boundary Commission Action Required For:**

Annexation of Land from Township into a City

Petitioned by City resolution

Petitioned by owners of at least 75% of the land

Petitioned by at least 20% of the registered voters residing on the land

Petitioned by at least 1% of the population in the affected township or city

Petition to Incorporate a New Home Rule Village

Petition to Incorporate a New Home Rule City

Petition to Consolidate with a City into a New Home Rule City



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
LANSING

DAVID C. HOLLISTER  
DIRECTOR

## STATE BOUNDARY COMMISSION

### LEGAL SUFFICIENCY CHECKLIST (Based on State Boundary Commission Rules 25, 26 and 27)

#### **PART I** (Perimeter map or drawing)

- shall **clearly identify graphically the territory** proposed to be incorporated, consolidated or annexed;
- shall be of **sufficient scale and clarity**;
- minimum size: 8 1/2" x 13"; maximum size: 14" x 18"**;
- shall be **substantially accurate and consistent with the legal description [PART III]** of the territory proposed to be incorporated, consolidated or annexed;
- shall be **unambiguous to a layperson** regarding:
  - (a) **inclusion or exclusion** of his/her own property;
  - (b) **identifiable roads**;
  - (c) **section lines**;
  - (d) **existing local government boundaries**;
  - (e) **major geographic features**.

#### **PART III**

- shall **clearly identify by an accurate written description** the boundaries of the territory proposed to be incorporated, consolidated or annexed;
- shall be **substantially accurate and consistent with the perimeter map or drawing [PART I]** of territory proposed to be incorporated, consolidated or annexed.

**PARTS II through VI**

--shall be prepared on forms furnished by the Commission [or an accurate facsimile of current forms];

--Petition forms are available either by contacting the State Boundary Commission Office or on the web at: [http://www.michigan.gov/documents/cis\\_opla\\_checklis\\_35833\\_7.pdf](http://www.michigan.gov/documents/cis_opla_checklis_35833_7.pdf).

**PART VII** (Map)

--shall clearly identify the relationship of the area proposed for incorporation, consolidation or annexation to the balance of the involved and adjacent units of government;

--may be of any size petitioner chooses;

--this map is not a factor in determining legal sufficiency of petition.

**ANNEXATION PETITIONS**

*BY FIRM, CORPORATION OR OTHER FORMAL ORGANIZATION*

Include copies of documents necessary to show petitioner was authorized to file, such as:

- resolutions;
- meeting minutes;
- correspondence;
- transmittal letters.

Document the following:

- officer or other agent was **authorized** to initiate a petition on behalf of an organization;
- governing body of the **organization was fully informed**;
- governing body **approved** the annexation petition.

## **ANNEXATION RESOLUTION BY CITY**

Include copies of documents necessary to show petitioner was authorized to file, such as:

- resolutions;
- meeting minutes;
- correspondence;
- transmittal letters.

Document the following:

- officer or other agent was **authorized** to initiate a petition on behalf of city;
- governing body of the **city was fully informed**;
- governing body **approved** the annexation resolution.

## **ANNEXATION RESOLUTION INITIATED BY CITY PLANNING COMMISSION OR A BOARD OR COMMISSION OTHER THAN THE CITY COUNCIL**

Include copies of documents necessary to show petitioner was authorized to file, such as:

- resolutions;
- meeting minutes;
- correspondence;
- transmittal letters.

Document the following:

- officer or other agent was **authorized** to initiate a petition on behalf of board or commission city;
- governing body of the **board or commission was fully informed**;
- governing body **approved** the annexation resolution;
- **city council was fully informed**;
- **city council approved** the annexation resolution.

## **CONSOLIDATION PETITIONS**

(Per State Boundary Commission Act, MCL 123.1012)

### **PETITION SIGNERS:**

- a. Each signer must be a registered elector in one of the affected municipalities.
- b. Signatures may be collected in 1 or more of the affected municipalities.
- c. Signatures must equal at least 5% of the total population of the affected municipalities.

### **MUNICIPALITIES THAT MAY CONSOLIDATE:**

- a. Combinations of cities, villages and townships.
- b. At least one of the municipalities in any consolidation must be an incorporated city.
- c. No township may be consolidated with other municipalities unless every village incorporated within its territorial boundaries is included in the consolidation.

### **TWO YEAR MORATORIUM:**

The Commission must reject a consolidation petition if consolidation of the identical municipalities has been voted on within the 2 years immediately preceding the filing of the later petition, unless the prior petition included 1 or more municipalities that are not included in the later petition.

### **SUFFICIENCY REVIEW & PROCESS:**

Process as a petition proposing to incorporate a new city.

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## **NOTE**

If recorded documents are **referenced** in documents that are part of any petition or resolution **but not included** in the petition, then Commission staff may request copies, prior to the commission's meeting on legal sufficiency, in order to determine the accuracy of the petition, map/drawing or legal description.

Upon filing, petitions will stand or fall on content (except as noted above).

No modifications, corrections, deletions, or additions are permitted after filing.



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DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

STATE BOUNDARY COMMISSION

GENERAL RULES

(By authority conferred on the state members of the state boundary commission by section 4 of Act No. 191 of the Public Acts of 1968, as amended, being S123.1004 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 123.1 Definitions; A to I.

Rule 1. (1) The terms defined in the act have the same meaning when used in these rules.

(2) "Act" means Act No. 191 of the Public Acts of 1968, as amended, being SS123.1001 to 123.1020 of the Michigan Compiled Laws.

(3) "Active petition" means an annexation petition or resolution, or incorporation or consolidation petition that is first in line at the time of its filing, or becomes first in line by the removal of a prior blocking petition or court action.

(4) "City incorporation" means the formation of a new city from unincorporated territory; 1 or more villages and contiguous unincorporated territory or an incorporated village without change of boundaries.

(5) "Consolidation" means the formation of a new city from 1 city, 1 village and unincorporated territory; or 1 city and 1 village; or 2 or more cities; or 2 or more cities and unincorporated territory; or 2 or more cities and 1 village; or 2 or more cities and 1 village and unincorporated territory; or 2 or more cities and 2 or more villages; or 2 or more cities, 2 or more villages and unincorporated territory; or 1 city and unincorporated territory.

(6) "Home rule city act" means Act No. 279 of the Public Acts of 1909, as amended, being SS117.1 to 117.38 of the Michigan Compiled Laws.

(7) "Home rule village act" means Act No. 278 of the Public Acts of 1909, as amended, being SS78.1 to 78.28 of the Michigan Compiled Laws.

(8) "Inactive petition" means an annexation petition or resolution or incorporation or consolidation petition that must wait in line because of an earlier filed petition describing the same area in part or whole or a petition blocked by legal action.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.3 Definitions; P.

Rule 3. (1) "Person" means an individual, partnership, corporation, association, municipality, or the state.

(2) "Petitioner" means a person who has signed, or circulated and verified, a petition for annexation, incorporation or consolidation or who has voted on and passed an annexation resolution as described in sections 7 and 12 of the act and subsections (2) and (7) of section 9 of the home rule city act and who has filed such petition or resolution with the commission.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

## R 123.4 Definitions; V.

Rule 4. "Village incorporation" means the formation of a new village from unincorporated territory.

History: 1954 ACS 81 Eff. Oct. 22, 1974; 1979 AC.

## R 123.5 Scope and construction of rules.

Rule 5. These rules govern practice and procedure in all matters before the commission and shall be liberally construed to assure a just, economical and expeditious determination of the issues presented in accordance with the purposes of the act.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

## R 123.6 Determining if population is over 100.

Rule 6. (1) Where an annexation petition or resolution is first in line upon its filing and can be acted upon, then the filing date population of 100 or less, or over 100 in the area to be annexed shall be determined as soon as practicable after the filing by 1 of the following methods:

(a) By joint agreement of the involved township board and city council and their certification to the commission of the count.

(b) By submission of either the township board or the city council, or both, of a certified list of the names and addresses of all residents in the area proposed to be annexed on the date of the petition was filed. If both legislative bodies file lists, the commission shall examine the list and using the guidance of applicable statutes, attorney general opinions or court decisions make a final population determination. If only 1 legislative body files a resident list, the commission shall supply a copy of the filed list to the nonfiling board and grant 30 days for that board to file written challenges to any names contained in the filed list. Upon the filing of a written challenge the commission shall examine the challenge and using the guidance of applicable statutes, attorney general opinions or court decisions the commission shall make a final population determination. If the commission receives only 1 filed certified resident list and that list receives no challenge, it shall stand as the determined population and the commission shall so certify.

(c) By a door-to-door canvas and interviews with the people within the area proposed to be annexed.

(d) By the method described in subrule (2).

(2) Where an annexation petition or resolution has waited in line, the filing date population of 100 or less, or over 100 in the area to be annexed shall be determined as follows:

(a) Residential structures within the area to be annexed shall be counted and classified as single-family homes, mobile homes and multiple dwellings including duplex, triplex, apartments and condominiums. The total number of dwelling units shall be determined according to this classification and where necessary records are available, adjusting the count for addition or subtraction of dwelling units since the filing date.

(b) The average number of residents per dwelling unit factor by type of structure where available, or the average number of residents per dwelling unit for the municipality in which the area to be annexed is located or the county in which it is situated, derived in each instance from the last federal decennial or special census, shall be obtained. The commission shall use the factor that can be derived from the smallest political subdivision in which the area to be annexed is located to determine the population as of the date of filing.

(c) The number and type of dwelling units shall be multiplied by the average number of residents factor for that type of dwelling unit and the resultant populations for type of dwelling unit shall be added together to obtain total population.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

PART 2. PREPARATION, FILING, AND PROCESSING PETITIONS

R 123.21 Filings.

Rule 21. (1) An incorporation or consolidation petition or annexation petition or resolution shall be filed with the secretary at his office in Lansing. A statement signed by at least 1 signer of the petition or resolution designating the name and address of a natural person to receive notices on behalf of all signers shall accompany the filing or shall be filed separately within 10 business days from the filing. Notice served by the commission or any other person on the designated natural person shall be deemed notice to all signers of the petition or voters on the resolution. Notice to an affected city, village, township or county shall be through its clerk. Upon the filing of a petition or resolution, the secretary shall make a notation as to the date and time of filing. Receipt of a petition is not an acknowledgement that the petition is proper or sufficient.

(2) Other items permitted or required to be filed with the commission shall be tendered in a legible reproducible form and deposited with or mailed to the secretary at his office in Lansing. He shall receive them only during business hours.

(3) A person may request, in writing, that the secretary notify him in writing when a document has been filed in a specific pending matter and the secretary shall send the notice at the earliest practicable time after the filing of the item.

(4) A person may inspect the commission's file regarding a specific pending matter at the secretary's office in Lansing during regular business hours and at his own expense may cause the contents of the file to be duplicated. A person other than the commissioners or staff may not remove an original or sole copy of any item from the file. A duplicate copy may be removed under such conditions as the secretary imposes for not to exceed 24 hours for the purposes of duplication.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.22 Pleadings.

Rule 22. In addition to petitions required by sections 7 and 12 of the act, and petitions and resolutions required by subsections (2) and (7) of section 9 of the home rule city act, objections to the form or substance of a petition or resolution, answers to such objections, a memorandum brief on issues of fact or law and such other pleadings as the commission by its order shall allow may be filed.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.23 Determination of days to public hearing.

Rule 23. (1) For purposes of determining the minimum 60 days and maximum 220 days from filing of an active petition or resolution to the holding of the public hearing, the filing day shall not be counted.

(2) The 60- and 220-day public hearing requirement shall not apply to inactive petitions until such time that they may become active petitions.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.24 Rejected petitions or resolutions.

Rule 24. (1) The commission shall reject an annexation petition or resolution for territory which includes all or any part of the territory which was described in any annexation petition or resolution filed within

the preceding 2 years and which was denied by the commission or was defeated in an election.

(2) The commission shall reject a consolidation petition if a proposition to consolidate the identical municipalities has been voted on within the 2 years immediately preceding the filing of the later petition.

(3) Upon such determination, the secretary shall return the petition or resolution to the petitioner and certify the reasons for its rejection.

(4) The 2-year period shall start on the day the prior annexation petition or resolution was filed.

(5) The 2-year period shall not apply to annexation petitions or resolutions that are rejected by the commission for not being legally sufficient.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.25 Petitions, general.

Rule 25. (1) Part I of incorporation or consolidation petitions or annexation petitions or resolutions shall consist of a map or drawing clearly showing the territory proposed to be incorporated, consolidated or annexed and be constructed by the petitioner in such a way that its minimum size is 8 1/2" x 13" with a maximum size of 14" x 18". Parts II through VI shall be prepared on forms furnished by the commission. Part VII shall contain a map showing the relationship of the area proposed for incorporation, consolidation or annexation to the balance of the involved and adjacent units of government which may be of a size that the petitioner chooses and which shall not be considered by the commission in its determination of legal sufficiency. For the purpose of determining legal sufficiency, a perimeter map or drawing and legal description shall be part of the petition and shall be substantially accurate and consistent with each other.

(2) In a petition submitted to the public for signature, the map or drawing accompanying the signature sheets shall be of sufficient scale and clarity as to be unambiguous to a layman with respect to the inclusion or exclusion of his own property and the relationship of the petitioned area to identifiable roads, section lines, existing local government boundaries and major geographic features. Upon discovery of a disparity between various public or private records as to land ownership or the location of local government boundaries, the disparity shall be brought to the attention of the commission, the petitioners and the affected units of government prior to the commission's meeting on the legal sufficiency of the petition.

(3) Where maps, drawings, plats, deeds, surveys, legal descriptions, or other documents that are part of the petition or resolution contain reference to additional recorded data or documents that are found to be necessary to determine the accuracy of the petition, map, drawing, or legal description, and copies of these recorded documents are not a part of the petition, the secretary may request the petitioner to supply copies of these documents to the commission by a date specified by the secretary, which date shall be prior to the commission's meeting on the legal sufficiency of the petition.

(4) An annexation petition by a firm, corporation, or other formal organization and an annexation resolution shall contain copies of resolutions, meetings minutes, correspondence, transmittal letters, or other documents that are necessary to show that the petitioner was authorized to file. Where a city planning commission or a board of commission other than the city council initiates annexations, the petition shall contain copies of all documents necessary to show that the city council was fully informed before approving the annexation resolution. Similarly, for other organizations for which an officer or other authorized agent initiates a petition, it shall be documented that the proper governing body of that organization was fully informed before approving the annexation petition.

(5) Upon filing, each petition shall stand or fall on its own content. Modifications, corrections, deletions or additions to a petition shall not be made except those authorized in subrule (3) and R 123.27.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.26 Forms.

Rule 26. A petition, and survey certification which may be required by commission order pursuant to R 123.27, shall be prepared on a size paper and in accordance with forms furnished by the commission. A petition and certificate shall contain only the matters prescribed by the forms and such additional information as the commission deems necessary. A petition shall not be considered unless it is prepared on the proper commission form. Blank petition forms shall be furnished by the commission.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.27 Boundary identification.

Rule 27. (1) A petition for incorporation, consolidation, or annexation or an annexation resolution shall identify graphically and by an accurate written description the boundaries of the land that are proposed to be incorporated, consolidated, or annexed.

(2) The commission may order that all or part of the boundaries of the area be certified by a registered land surveyor.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

PART 4. PREHEARING PROCEDURES

R 123.41 Forms.

Rule 41. The documents required by R 123.42 and R 123.46 to R 123.49 shall be completed only on forms prescribed and furnished by the commission. In addition to the contents of the documents prescribed by those rules, the documents shall contain such additional information as the commission deems necessary and reasonable.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.42 Annexation, consolidation, and incorporation; criteria information.

Rule 42. Upon the declaration of legal sufficiency of an annexation petition or resolution or a consolidation or incorporation petition, the petitioner and the involved units of government shall be instructed to complete and return within 30 days of mailing a criteria information evaluation questionnaire which shall be provided by the commission.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.43 Prehearing conference.

Rule 43. (1) Upon filing the form required by R 123.42, the commission may hold a prehearing conference to which the petitioners, representatives from involved units of government, affected or interested state and federal agencies, affected planning commissions, other interested organizations and persons may attend and which may include, among other topics:

(a) Examination and discussion of the information shown to be available on the criteria information evaluation questionnaire.

(b) Determination if any additional information not listed on the

questionnaire is available.

- (c) Determination of what criteria information needs to be developed.
- (d) Adoption of a resolution which shall:
  - (i) Specify additional information that is required to be developed.
  - (ii) Specify dates the information shall be available.
  - (iii) Specify who shall provide the information.
  - (iv) Specify who shall pay the cost of providing the information.
- (2) Within 10 days after adoption of the resolution provided for in subrule (1), the commission shall notify by mail the persons originally notified of the prehearing conference or attending the prehearing conference and include a copy of the resolution and the completed and filed criteria information evaluation questionnaire.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.44 Criteria information; methods of gathering.

Rule 44. After declaring the sufficiency of a petition or resolution, the commission may obtain the criteria data or information prescribed in section 9 of the act in the following manner:

(a) By directing the secretary to send written questions or requests for specific information to the petitioner, involved units of government, affected or interested state and federal agencies, affected planning commissions or other interested persons or governmental units to filed in writing with the commission by a specified date prior to the public hearing date.

(b) By directing its staff, departmental employees or other personnel to gather the data or information it deems necessary which shall be available to the commission at a specified date prior to the public hearing date. In addition, the commission may direct that the raw data or information be analyzed, organized, condensed, summarized and presented to the commission in a compacted form. All raw data shall be maintained as part of the commission's file.

(c) By contracting with outside consultants to perform the functions of subdivision (b).

(d) By using the method described in R 123.43.

(e) By using all or any combination of these methods.

History: 1954 ACS. 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.45 Petitions filed with county clerk or secretary of state; notice to commission.

Rule 45. (1) Within 10 days after the filing of an annexation petition or resolution a county clerk or the secretary of state shall complete and transmit to the commission and involved units of government a notice of filing of request for local government boundary change.

(2) Within 30 days after reviewing the notice required by subrule (1), the commission shall complete and transmit to the county clerk or secretary of state a commission reply to the notice.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.46 Petitions and resolutions filed with commission; notice.

Rule 46. (1) Within 10 days after the filing of an incorporation or consolidation petition or annexation petition or resolution, the commission shall complete and transmit to the involved local governmental clerk, the affected county clerk or the secretary of state a notice of petition filing with the commission.

(2) Within 30 days after receiving the notice required by subrule (1), a clerk or secretary of state shall complete and transmit to the commission a response.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.47 Notice of final action.

Rule 47. (1) Upon the completion of all its actions on an active city or village annexation petition or resolution, a city or village council or township board shall notify the commission by mail.

(2) Upon the completion of all action on an active incorporation or consolidation petition or a home rule city annexation petition or resolution under the jurisdiction of the commission, the commission shall notify the clerks of the involved local governments, the county clerk and secretary of state by mail that action on the petition is closed.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

#### PART 5. COMMISSION SESSIONS

R 123.51 Adjudicative sessions; call; attendance; presiding officer.

Rule 51. (1) When necessary the chairman shall call an adjudicative session, which may be an executive session, in Lansing or such other place as he designates, for the purpose of transacting any business described in R 123.52 under the conditions prescribed in R 123.53 and R 123.54. Where possible, the sessions shall be attended by all state members serving and by the county members appointed to sit on the commission.

(2) A quorum consists of at least 3 members, at least 2 of whom are state members. Regardless of the number of commissioners present, at least 3 concurring votes are required to take any final adjudicative action.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.52 Business.

Rule 52. At an adjudicative session, the commission shall take 1 or more of the following actions:

(a) Pass on the propriety, sufficiency, and legality of a petition or resolution before its call for a public hearing.

(b) Order the date, place, and time for a public hearing.

(c) After the public hearing, and a supplemental hearing, if any, basing its decision on the evidence received at the hearings, take any appropriate action authorized by the act.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.53 Votes.

Rule 53. At an adjudicative session a concurring vote of at least 3 commissioners is required to take final action. The votes of each commissioner shall be noted in the commission's record. The chairman is a voting member of the commission on all matters. A member may abstain from voting on any matter.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.54 Record and finality of action.

Rule 54. A record shall be made of all proceedings at an adjudicative session. Commission action shall be regarded as final for all purposes other than judicial review when a vote has been recorded to reject, deny, approve, or approve with adjusted boundaries, although the commission's findings of fact and order may not have been reduced to written form and

approved. Effective dates of the preceding action may be determined at the adoption of the written findings of fact and order. For purposes of judicial review, commission action is final when the written findings of fact and order are signed by the chairman.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.55 Administrative sessions.

Rule 55. (1) When necessary the chairman shall call the other state members into an administrative session, which may be an executive session, in Lansing or such other place as he designates.

(2) At an administrative session the state members may take any action, other than action required to be taken at an adjudicative session, necessary or desirable to administer the act and to effectuate its purposes and which has been included in the chairman's call and such other business as not less than a majority of the state commissioners present and voting desire to take up.

(3) At an administrative session the vote of 2 state members is required to take a final action, except that if the commission has under consideration the hiring of staff personnel or retaining outside consultants, the unanimous vote of all state members is required.

(4) At the direction of the chairman, 1 or more state members may meet in a special session for the purposes of conducting administrative business of the commission not requiring a vote.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

PART 6. COMMISSION HEARINGS

R 123.61 Place; notices; adjournment.

Rule 61. (1) A public hearing shall be held in a public place located in the territory to be included within a proposed municipal boundary adjustment. Notice shall be given as prescribed in section 8 of the act.

(2) If the municipal boundary adjustment is an annexation matter, the public hearing may be held in or reasonably near the area proposed to be annexed.

(3) At the same time as the clerks of the involved units of government are notified of a public hearing, the commission shall notify the petitioners and the county clerks of the involved counties by certified mail at least 30 days before the date of the hearing.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.62 Commissioners present; presiding officers; scope.

Rule 62. (1) A public hearing as required by section 8 of the act, whenever possible, shall be attended by all state members and the 2 county members. A member not in attendance at a public hearing shall review the public hearing record and so signify to the chairman to be eligible to vote at subsequent adjudicative sessions. The chairman or his designee shall preside.

(2) At a public hearing the commission shall receive testimony concerning the reasonableness of the proposed incorporation or consolidation petition or annexation petition or resolution based upon the criteria listed in section 9 of the act, and only the presentation of evidence in oral or exhibit form or comment on or analysis of evidence shall be germane and part of the record. A person may present evidence or make a statement about the effect of the proposed action upon his personal interest or preference.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

## R 123.63 Witnesses.

Rule 63. (1) An interested party may speak directly, may be represented by counsel and may present 1 or more spokesmen and supporting witnesses necessary to present relevant testimony if the presentation is limited to a reasonable time at the discretion of the chair.

(2) A person shall not present evidence or argument or otherwise attempt to address the commission unless he has been recognized by the chairman and sworn if giving testimony himself. Upon recognition, the chairman may state the amount of time allotted to the person recognized.

(3) A person may ask to be heard at a public hearing without having filed prior notice of appearance.

(4) The commission on its own motion or in response to the request of a participant, when it determines that waiver or modification of the literal terms of this rule is necessary for a just disposition of a pending matter or to avoid hardship, may make such waiver or modification of such terms as it deems necessary or appropriate to effectuate the purpose of the act.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

## R 123.64 Evidence; general provisions.

Rule 64. (1) The commission shall follow the rules of evidence applicable to civil proceedings so far as is practicable, but may admit and give value to other evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The commission shall give effect to rules of privilege recognized by law and may exclude incompetent, immaterial and unduly repetitious evidence.

(2) Evidence, including records and documents in possession of the commission prior to the public hearing, shall be offered and made a part of the record in the proceedings. Except as otherwise provided by law and these rules, the commission shall consider no other factual information or evidence in the determination of the case. Documentary evidence may be received by the commission in the form of copies or excerpts or by incorporation by reference.

(3) At a public hearing a person may cross-examine witnesses and submit rebuttal evidence. Commission members may also question witnesses.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

## R 123.65 Evidence; form.

Rule 65. (1) The commission may receive evidence in oral or exhibit form.

(2) When it is deemed necessary or desirable the commission may direct that testimony to be given on direct examination shall be reduced to exhibit form and be offered by and served on all persons requesting the information and on the commission staff. The commission shall allow a reasonable time for preparation of the exhibit.

(3) Notwithstanding any provisions of this rule to the contrary, a person may have a witness on his behalf present his direct testimony orally before the commission. A witness or authorized officer of a firm whose testimony is submitted in exhibit form shall be made personally available by the party of record offering his testimony for cross-examination upon request by a party of record or the commission staff. If the witness is not so made available by the party of record offering his testimony, his testimony shall not be received in evidence.

(4) Testimony received in evidence in exhibit form shall be made a part of the record, copied into or fully described in the record. The commission shall accord the evidence the same weight and sufficiency as testimony received through oral examination. This rule does not prevent a witness' reading of prepared direct testimony.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.66 Judicial notice.

Rule 66. The commission may take notice of judicially cognizable facts and of a general, technical or scientific nature within its specialized knowledge. The commission shall give notice either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed and shall afford any person the opportunity to contest the facts so noticed. The commission may use its experience, technical competence, and general and specialized knowledge in the evaluation of the evidence presented. This rule does not permit the commission to take notice of evidence contrary to any statute or other law.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.67 Participation by commission staff.

Rule 67. The commission staff may appear in a public hearing and through its witnesses present testimony as to the results of its investigations, field studies, inspection and other technical investigations and studies. The commission staff may file briefs, make statements of positions or otherwise make recommendations on the record which it believes proper and lawful, based on the evidence presented. Commission staff presentations may include direct or documentary testimony by consultants employed by the commission or members of other governmental agencies either specific to the pending petition or providing relevant background information. Presentations under this rule are subject to cross-examination.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.68 Additional evidence.

Rule 68. (1) During the 30 days immediately following a public hearing the commission may receive additional or supplemental public hearing evidence including exhibits, written comments, statements, arguments, briefs, replies or any other evidence that properly could have been presented at the public hearing, including information derived from the specialized knowledge of the commission or its staff. Where practicable such information shall be in a format suitable for reproduction.

(2) A person wishing to be notified of the filing of additional evidence shall notify the commission in writing. The commission shall keep a list of the interested parties and notify each person on the list of all filings.

(3) The various interested parties shall make arrangements for the examination or review of any material so filed.

(4) If any material is filed on the twenty-sixth through thirtieth day after the public hearing, all parties shall have 7 days from the mailing of notice of the filing to answer it.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.69 Supplemental hearings.

Rule 69. Subsequent to any public hearing required by law, the commission on its own motion may hold a supplemental hearing at its offices in Lansing or any other appropriate place for the taking of additional evidence or for the hearing of additional argument relative to the reasonableness of a pending consolidation or incorporation petition or annexation petition or resolution or for consideration of adjusting the boundaries from those contained in the petition. R 123.62 to R 123.68 apply to supplemental hearings.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

PART 7. POSTHEARING PROCEDURES

R 123.71 Disposition resolution.

Rule 71. (1) After a public hearing, the commission at an adjudicative session shall make findings of fact and conclusions after considering the criteria in section 9 of the act and by resolution shall dispose of the petition in 1 of the following ways:

- (a) Denial of the petition or resolution.
- (b) Approval of the petition or resolution as submitted.
- (c) Revision of the boundaries as set forth in the petition and approval of the petition or resolution with the revised boundaries.

(2) Where the commission is considering adjusting the boundaries either inward or outward from those proposed in the petition or resolution, the commission may hold a supplemental hearing as provided in R 123.69.

(3) Where the area approved for annexation contains a population of 100 or less, the resolution shall contain the effective date of the annexation.

(4) Where the area approved for annexation contains a population of more than 100, the resolution may contain a tentative date for the annexation to become effective. This date shall become the effective date if a valid election request petition is not filed.

(5) Where the area is approved for consolidation or incorporation, the resolution becomes effective 45 days after the date of the resolution unless within that 45 days a valid election request petition is filed.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.72 Election petition; resolution.

Rule 72. (1) If within 30 days of the approval order for an annexation containing a population of more than 100 or within 45 days of the approval order for a consolidation or incorporation a valid petition is filed asking for an election on the proposed annexation, consolidation or incorporation, the commission shall dispose of the request by adopting a resolution stating their intent to place the question on the ballot at some future date, or setting the date of the special election.

(2) If an annexation election is held and each area voting on the question approves by a majority vote, the commission shall adopt a resolution setting the effective date of the annexation.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.73 Registered electors; certification.

Rule 73. (1) Upon the filing of an annexation initiatory petition signed by 20% of the registered electors of the area proposed to be annexed, the township clerk shall certify to the commission the number of registered electors in the area proposed to be annexed on the date the initiatory petition was filed.

(2) Upon the filing of a petition asking for an election on annexation questions the city or township clerk, or both, whichever is appropriate, shall certify to the commission the number of registered voters in the area to be annexed, the remainder of the township and the annexing city whichever is appropriate on the filing date of the petition.

(3) Upon the filing of a petition asking for an election on a consolidation or incorporation question, the city, village, or township clerk, any or all whichever is appropriate, shall certify to the commission the number of registered voters in the area to be consolidated or incorporated on the filing date of the petition.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.74 Lists of consolidation charter commission candidates.

Rule 74. Within 5 days after the deadline for filing nominating petitions for candidates for consolidation charter commissioners, the village, township, or city clerks shall transmit to the county clerk a certified list of charter commission candidates.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

R 123.75 Notice to charter commissioners.

Rule 75. Immediately after being notified of the canvass of a vote for charter commissioners, the commission shall notify the elected charter commissioners by registered mail that they shall meet within 10 days and furnish a certificate to be completed and returned by the charter commission certifying that it has met within the required 10 days.

History: 1954 ACS 81, Eff. Oct. 22, 1974; 1979 AC.

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**Section 6**  
**Open Meeting Rules**  
**State Boundary Commission**

OPEN MEETINGS RULES

Open Meetings Rule 1 - Definitions

(1) "Administrative session" means a session as authorized and conducted in the manner specified in boundary commission rule 123.55 (1), (2), (3).

(2) "Adjudicative session" means a session as authorized and conducted in the manner specified in boundary commission rule 123.51 and 123.54.

(3) "Convening of hearing or session" means the process of roll call, review of the record to the extent necessary, adoption of necessary motions or resolutions and the explanation of how the hearing or session will be conducted.

(4) "Formal presentation" means the presentation of information, testimony, statements, briefs, exhibits, witnesses or arguments which relate to the criteria of section 9 of P.A. 191 of 1968.

(5) "Hearing formal period" means the 90 minute time period immediately following the convening of the hearing or supplemental hearing, during which principal parties make formal presentation to the commission.

(6) "Hearing public period" means that time period during which the commission receives information, testimony, statements, briefs, exhibits or arguments which relate to the criteria of section 9 of P.A. 191 of 1968 from members of the public who wish to be heard.

(7) "Principal parties" means the petitioner, if such is a property owner, or owners, or a group of registered voters or committee, and governmental units having territory described or included in a proposed annexation, consolidation or incorporation.

(8) "Public hearing" means a hearing as authorized in section 8 of Public Act 191 of 1968, dealing with annexation, consolidation or incorporation matters and conducted under boundary commission rules 123.61 to 123.68.

(9) "Supplemental public hearing" means a hearing as authorized and conducted in the manner specified by boundary commission rule 123.69.

Open Meetings - Rule 2

(1) Following the convening of a hearing or supplemental hearing, the commission shall reserve the next 90 minutes for the formal presentations of principal parties. This is done in the interest of providing early public access to the commission.

(2) The commission shall divide the 90 minutes equally amongst the principal parties. Principal parties may use less than their allotted time, and if such is the case, the public period of the hearing may be started before the expiration of the 90 minutes. In no case, however, shall the principal parties exceed their allotted time. If principal parties have not completed their presentations at the end of their allotted time, they may conclude their presentations after the public period of the hearing has been concluded.

(3) The commission may ask questions of principal parties during the 90 minute formal period.

Open Meetings - Rule 3

(1) During the course of an adjudicative session, a public hearing or a supplemental public hearing, the commission may place a restriction upon the time available for an individual to address the commission, if the commission determines that the statement, information, testimony, arguments, viewpoints, etc., are the same as those previously heard at that adjudicative session, public hearing or supplemental hearing, is repetitious and does not add to the record except to indicate the number of persons attending who share the same information, knowledge, viewpoint or argument.

(2) In those instances where the commission finds such repetition as described in subsection (1) of this rule, it may poll the attendees to determine how many wish to make like statements and divide or assign time limits so that each person has an equal opportunity to address the commission.

(3) In circumstances where a series of hearings or supplemental hearings are scheduled during the same day or evening the commission may place a time restriction on the public period of the hearing and equally divide the available time amongst those wishing to be heard.

Open Meetings - Rule 4

(1) During a public hearing or supplemental hearing, each person wishing to address the commission shall come forward and print his name and address on a paper provided by the commission for this purpose.

(2) Upon the completion of the sign-in, as described in subsection (1) of this rule, each person shall state his name and address and shall be sworn by a member of the commission.

(3) Notwithstanding subsections (1) and (2) of this rule a person may address the commission without stating his name and address and without being sworn, but the statements made under such conditions shall not be part of the record of the hearing and shall not be considered by the commission during adjudication of the matter.

Open Meetings - Rule 5

(1) At adjudicative sessions on legal sufficiencies, the commission, after ascertaining the number of attendees, shall announce as part of the convening of the session, the period during which members of the public may address the commission.

(2) The commission may request that the attendees designate whether they intend to be involved in the presentation and discussion of the legal sufficiency of the documents before the commission, or whether they wish to address the commission, or are only present as observers.

Open Meetings - Rule 6

(1) At an adjudicative session called to make a final determination on a matter before the commission, or to approve findings of fact and orders, the session shall be divided into three portions which are:

- (a) The convening of the session and review of the record of the matter to be adjudicated or the proposed findings of fact and order.
- (b) A public portion at which any person or legal entity or agency may be heard directly or through its representative for a period of up to 5 minutes each. It shall be at the discretion of the chair to determine whether the time for each individual presentation should be extended.
- (c) A deliberative discussion not open to public participation leading to a vote.

Open Meetings - Rule 7

(1) The Executive Director (Secretary) of the commission is designated as the person responsible to prepare and post meeting and hearing notices at the commission offices, 116 West Allegan, Lansing, Michigan and at the North Ottawa Towers located on Ottawa Street between Pine and Baker Streets, Lansing, Michigan. The commission designates 517/373-3234 as the phone number to be used on meeting and hearing notices.

(2) Such notices shall be posted a minimum of 18 hours prior to the commission meeting or hearing.

(3) In the absence or incapacity of the Executive Director (Secretary), the Criteria Analyst is designated to post the meeting notices, as described in subsection (1) of this rule.

(4) In the event of the absence or incapacity of the Executive Director (Secretary) and the Criteria Analyst, the secretary is hereby designated as the person to post the notices as of subsection (1) of this rule.

**Open Meetings - Rule 8**

(1) Proposed minutes and approved minutes shall be available at the commission's offices, 116 West Allegan, Lansing, Michigan.

(2) The commission shall charge \$.50 a page copying cost for such minutes.

**Section 7**  
**General Instructions for Preparation of a City**  
**Incorporation Petition to be filed with the**  
**State Boundary Commission**

State of Michigan  
Department of Labor & Economic Growth  
Office of Policy & Legislative Affairs  
State Boundary Commission

**GENERAL INSTRUCTIONS FOR THE PREPARATION OF A  
CITY INCORPORATION PETITION  
TO BE FILED WITH THE STATE BOUNDARY COMMISSION**

A CITY INCORPORATION PETITION IS COMPOSED OF THE FOLLOWING PARTS AND FORMS:

- PART I..... A map or drawing for the area proposed to be annexed, prepared by the petitioner in such a way that the minimum map size is 8 ½" by 13", with a maximum map size of 14" by 18". The map or drawing is supplied by the petitioner. Label this map PART I. Review State Boundary Commission Administrative Rules No. 25 and 27 regarding the content of this map.
- PART II.....
- PART II(a).....
- PART III..... Review State Boundary Commission Administrative Rules No. 25 and 27 regarding the content of this description.
- PART IV..... Petition Form No. 2010-2002 – Can be obtain from the State Boundary Commission or the Secretary of State (size 8 ½ x 14).
- PART V.....
- PART VI..... A map prepared on paper supplied by petitioner, showing the relationship of the area proposed for annexation to the balance of the involved and adjacent units of government. The map may be of a size the petitioner chooses and shall not be evaluated by the Commission in its determination of legal sufficiency. Label this map PART VI.

This petition form is issued under authority of Public Act 191 of 1968, as amended. Completion of this form is voluntary but failure to do so may result in a denial of your application.

The completed petition should be filed with the Boundary Commission Office in Lansing. This may be done in person between the hours of 8:00 a.m. - 5:00 p.m., or by mail, at the following address:

State Boundary Commission  
Office of Policy & Legislative Affairs  
Michigan Department of Labor & Economic Growth  
611 W. Ottawa Street  
P.O. Box 30004  
Lansing, MI 48909

In compliance with the American Disabilities Act, the Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability or political beliefs. If you need assistance with reading, writing, hearing, etc., you may make your needs known to this agency.

# PETITION FOR CITY INCORPORATION

## PART II

To the State Boundary Commission:

We, the undersigned qualified electors who are freeholders of \_\_\_\_\_ township(s) in \_\_\_\_\_ county(s) and the territory affected and/or described herein (in PART III), do petition that the question of incorporation of the proposed City of \_\_\_\_\_ as a home rule city be considered by your commission in accordance with the provisions of Act 279 of the Public Acts of 1909, as amended, and the provisions of Act 191 of the Public Acts of 1968, as amended.

It is not necessary to sign and notarize this form. The phrase, "WE, the undersigned..." refers to petition signers in PART IV.

# PETITION FOR CITY INCORPORATION

## PART IIa

As petitioner, it is your responsibility to furnish the State Boundary Commission the names, addresses and telephone numbers of persons and governmental bodies that will be noticed for Commission meetings and hearings. The importance of accurate and most current information cannot be overemphasized. Processing of this petition may be delayed if inaccuracies cause improper notice.

1.

Name of Petitioner:
Mailing Address:
Telephone Number: (     )                      Fax: (     )

2.

Name of Village:
Name of Village Clerk:
Mailing Address:
Telephone Number: (     )                      Fax: (     )

3.

Name of Township:
Name of Township Clerk:
Mailing Address:
Telephone Number: (     )                      Fax: (     )

4.

Name of County:
Name of County Clerk:
Mailing Address:
Telephone Number: (     )                      Fax: (     )

5. If the petition should involve more than one township, county and/or village, place additional township, county and/or village information on separate sheet and attach to this form.

# PETITION FOR CITY INCORPORATION

## PART III

The proposed city of \_\_\_\_\_ is described as follows:

# PETITION FOR CITY INCORPORATION

## PART V

We further represent that the incorporation proposed in this petition is necessary or desirable at this time for the following reason(s):

**INSTRUCTIONS ON REVERSE SIDE**

**COUNTY/LOCAL PROPOSAL PETITION**

Yes, the undersigned qualified and registered electors, residents in the  City  Township  Village of }  
 (CHECK ONE)

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.**

	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					MONTH	DAY	YEAR
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							

**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 elector 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.**

Michigan Election Resources - Form No. 2010 - 2002 Revision - Approved by State Director of Elections

**CIRCULATOR -- DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.**

(Signature of Circulator) \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (Date)

(Printed Name of Circulator)

(City, Township or Village Where Registered)

Complete Residence Address (Street and Number or Rural Route)

(Zip Code)

## NOTICE

This form is in compliance with Michigan election law, MCL 168.488. Before using this form, it is strongly advised that you review the provisions of Michigan law which grant you the right to place your proposal on the ballot through a petitioning process to determine if any additional petition formatting requirements are specified. If additional requirements are specified under the governing statutes, this form cannot be used.

## READ BEFORE CIRCULATING PETITION

The validity of signatures placed on this petition may be affected if the following is not observed.

**Complete the heading of the petition before circulating it.**

- Enter the city, township, or village and county where the petition will be circulated. Indicate whether the jurisdiction listed is a "city", "township" or "village." Do not list more than one city, township or village. (Note: If a county proposal, the petition must be circulated on a city/township basis; this sheet cannot be circulated countywide.)
- Enter an appropriate description of your proposal.

**Make sure that all signers properly complete the petition.**

- Each signer must be registered to vote in the city, township or village listed in the heading.
- Each signer must sign and print his or her first and last name.<sup>1</sup>
- Each signer must enter his or her full address. A rural route number is acceptable. A post office box is not acceptable.
- Each signer must enter his or her Zip Code.<sup>2</sup>
- Each signer must date his or her signature with the month, day and year.

**Complete the circulator's certificate after circulating the petition.**

- Sign and print your full name and enter the month, day and year.<sup>1</sup> Signatures on the petition which are dated after the date on the circulator's certificate are invalid.
- Enter the name of the city, township or village where you are registered.
- Enter your full address. A rural route number is acceptable. A post office box is not acceptable.
- Enter your Zip Code.<sup>2</sup>

**Circulate the petition properly.**

- Do not fail to question signers on their jurisdiction of registration.
- Do not complete the heading of the petition after signatures have been affixed on the petition.
- Do not leave the petition unattended.

<sup>1</sup> The failure of the circulator or an elector who signs the petition to print his or her name or to print his or her name in the proper location does not affect the validity of the circulator's or signer's signature. However, a printed name located in the space designated for printed names does not constitute the signature of the circulator or elector.

<sup>2</sup> The failure of the circulator or an elector who signs the petition to enter a Zip Code or to enter his or her correct Zip Code does not affect the validity of the circulator's or signer's signature.



**Section 8**  
**State Boundary Commission Act**

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=mcl-Act-191-of-1968&queryid=328513&highlight=>

**Section 9**  
**Home Rule City Act**

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=mcl-Act-279-of-1909&queryid=9553964&highlight=home%20rule%20city%20act>