

# STATE OF NEW YORK

5793--A

2019-2020 Regular Sessions

## IN SENATE

May 15, 2019

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the village law, in relation to the requirements for village incorporation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph b of subdivision 1 of section 2-202 of the village law is amended by adding two new subparagraphs 7 and 8 to read as follows:

(7) An allegation that such proposed incorporation is in the overall public interest of each of the following: (i) the territory petitioning to be incorporated, (ii) any remaining area of the town or towns in which such territory is located, and (iii) any school district, fire district, fire protection district, or town improvement district located wholly or partly within such territory.

(8) An allegation that such proposed incorporation is consistent with and would not substantially impair the achievement of the goals and objectives set forth in the adopted comprehensive or master plan enacted by the town or towns located within the territory pursuant to section two hundred seventy-two-a of the town law.

§ 2. Section 2-204 of the village law, as amended by section 25 of part X of chapter 62 of the laws of 2003, is amended to read as follows:

§ 2-204 Notice of hearing. Within twenty days after the filing of such petition or copies thereof, each supervisor with whom same were filed shall cause to be posted in five public places in that part of such territory located in his or her town, and also to be posted in at least five public places in the remaining territory of such town, including other incorporated villages also located in such town, and also to be published at least twice in the newspaper or newspapers designated

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 pursuant to subdivision eleven of section sixty-four of the town law, a  
2 joint notice of all such supervisors: that a petition for the incorpo-  
3 ration of the village of (naming it) has been received; that at a place  
4 in such territory and on a day, not less than twenty nor more than thir-  
5 ty days after the date of the posting and first publication of such  
6 notice, which date and place shall be specified therein, a hearing will  
7 be had upon such petition; that such petition will be available for  
8 public inspection in the office of each town clerk until the date of  
9 such hearing; that the purpose of the hearing is to consider the legal  
10 sufficiency of the petition; that objections to the legal sufficiency of  
11 the petition must be in writing and signed by one or more of the resi-  
12 dents of such town; and that any group of persons having one or more  
13 objections in common may make designation in writing and signed by them  
14 of at least one but no more than three persons giving the full names and  
15 addresses on whom and at which addresses all papers required to be  
16 served in connection with the proceeding for incorporation shall be  
17 served. A majority of such designees must reside in such town or towns.  
18 In the absence of any other suitable place, such hearing shall be held  
19 in a school building, if any, located in such territory. If such terri-  
20 tory is located in more than one town the hearing shall be noticed and  
21 publicized as a joint hearing of all such towns. For the purposes of  
22 this section, in the event that the town maintains a website, one of the  
23 posting requirements required by this section may be fulfilled by post-  
24 ing such information on the town's website.

25 § 3. Paragraph g of subdivision 1 of section 2-206 of the village law  
26 is amended to read as follows:

27 g. That such petition does not contain the required allegations as set  
28 forth in subparagraphs seven and eight of paragraph b of subdivision one  
29 of section 2-202 of this article, or if the allegations are included in  
30 such petition, that such allegations are not supported by available  
31 evidence; or

32 h. That the petition in any other specified respect does not conform  
33 to the requirements of this article.

34 § 4. Section 2-208 of the village law is amended to read as follows:

35 § 2-208 Decision as to legal sufficiency of petition. 1. Within ten  
36 days after such hearing is concluded the supervisor or supervisors  
37 jointly shall determine whether the petition complies with the require-  
38 ments of this article and jointly shall make and sign a decision accord-  
39 ingly. If such supervisors cannot agree, the decision shall be deemed to  
40 be adverse to the petition. If the decision be adverse to the petition,  
41 the decision shall contain a brief statement of the reasons on which the  
42 adverse decision is based or the reasons on which the supervisor or  
43 supervisors deciding adversely to the petition were unable to join in a  
44 unanimous decision sustaining the petition. Provided, however, if the  
45 adverse decision is predicated on an 'overall interest' determination  
46 pursuant to subparagraph seven of paragraph b of subdivision one of  
47 section 2-202 of this article, the decision must contain a detailed  
48 explanation that includes, but is not limited to, how such incorporation  
49 would substantially impair such town's comprehensive or master plan,  
50 established pursuant to section two hundred seventy-two-a of the town  
51 law, or enacted zoning laws established by such town or towns located  
52 within the territory.

53 2. The original of the decision, copies of the notice of the hearing  
54 together with affidavits of posting and publishing same, the written  
55 objections and the minutes of proceedings taken on the hearing including  
56 signed testimony shall be filed by such supervisor or supervisors within

1 fifteen days after the hearing is concluded, with the town clerk of the  
2 same town in which the original copy of the petition was filed. Dupli-  
3 cate copies of the said papers shall be filed with the town clerks of  
4 all other towns in which any part of such territory is located.

5 3. If no proceeding be instituted to review such decision within thir-  
6 ty days after such filing of the original copy thereof, the decision  
7 shall be final and conclusive. In the event that the decision is adverse  
8 to the petition, a new proceeding for incorporation may be commenced  
9 immediately; provided, however, in the event an adverse decision is  
10 based on an 'overall interest' determination pursuant to subparagraph  
11 seven of paragraph b of subdivision one of section 2-202 of this arti-  
12 cle, the decision shall not be final and conclusive until ratified by  
13 residents qualified to vote for town offices of a town in which all or  
14 part of such territory of the proposed village is located consistent  
15 with subdivision two of section 2-212 of this article.

16 § 5. Section 2-212 of the village law is amended by adding a new  
17 subdivision 2 to read as follows:

18 2. A determination pursuant to subparagraph seven of paragraph b of  
19 subdivision one of section 2-202 of this article shall be submitted to  
20 the residents qualified to vote for town offices of a town in which all  
21 or part of such territory of the proposed village is located at either  
22 the following town-wide election, or general election, whichever is  
23 sooner. In the event no town-wide or general election is scheduled to  
24 take place within one hundred twenty days from the date of the adverse  
25 decision, the town shall schedule an election to decide the incorpo-  
26 ration of the proposed village within one hundred twenty days from the  
27 date of the adverse decision.

28 § 6. Section 2-214 of the village law, as amended by section 26 of  
29 part X of chapter 62 of the laws of 2003, is amended to read as follows:

30 § 2-214 Notice of election. Within ten days after the right to an  
31 election is complete the town clerk of each town in which any portion of  
32 such territory is located shall cause to be posted in five public places  
33 in that part of such territory located in such town, and for elections  
34 held pursuant to subdivision two of section 2-212 of this article, also  
35 posted in at least five public places in the remaining territory of such  
36 town, including any other incorporated villages located in such town,  
37 and also to be published at least twice in the newspaper or newspapers  
38 designated pursuant to subdivision eleven of section sixty-four of the  
39 town law, a joint notice by the clerks of all such towns that at a  
40 convenient place in such territory, between the hours of [~~twelve o'clock~~  
41 ~~noon~~] six o'clock in the morning and nine o'clock in the evening and on  
42 a day not less than twenty nor more than thirty days after the date of  
43 the posting and first publication, which date and place or places shall  
44 be specified therein, an election will be held to determine whether the  
45 proposed village of (naming it) shall be incorporated. There shall be  
46 at least one polling location for each ten thousand qualified voters.  
47 Such election shall not be held on a day of a town election or of a  
48 general election in a town in which any part of such territory is  
49 located, unless such election is held pursuant to subdivision two of  
50 section 2-212 of this article. For the purposes of this section, in the  
51 event that the town maintains a website, one of the posting requirements  
52 required by this section may be fulfilled by posting such information on  
53 the town's website.

54 § 7. Section 2-216 of the village law is amended to read as follows:

55 § 2-216 Qualification of voters. Each resident in such territory  
56 qualified to vote for town officers may vote at such election; provided,

1 however, that for elections held pursuant to subdivision two of section  
2 2-212 of this article, all residents qualified to vote for town offices  
3 in a town in which all or part of such territory of the proposed village  
4 is located may vote.

5 § 8. Subdivisions 1 and 3 of section 2-218 of the village law, subdivi-  
6 vision 3 as amended by section 27 of part X of chapter 62 of the laws of  
7 2003, are amended to read as follows:

8 1. Preparation. It shall be the duty of the clerk of each town in  
9 which a portion of such ~~territory~~ territory is located to make and file  
10 in his or her office, at least ten days before such election an accurate  
11 list of voters, alphabetically arranged, who are qualified to vote at  
12 such election. Such list shall be copied from the registration poll  
13 records for the last preceding general election, and shall be modified  
14 in accordance with whatever information the town clerk may have or  
15 receive from the board of elections.

16 3. Notice of availability of list for inspection and additions. Within  
17 ten days after the right to an election is complete the town clerk of  
18 each town in which any portion of such territory is located shall cause  
19 to be posted in five public places in that part of such territory  
20 located in such town, and for elections held pursuant to subdivision two  
21 of section 2-212 of this article, also be posted in at least five public  
22 places in the remaining territory of such town, including other incorpo-  
23 rated villages also located in such town, and also to be published at  
24 least twice in the newspaper or newspapers designated pursuant to subdivi-  
25 sion eleven of section sixty-four of the town law, a notice: that a  
26 registration list of voters qualified to vote at such election will be  
27 available for inspection in his or her office between the hours of  
28 twelve o'clock noon and nine o'clock in the evening on a day specified  
29 therein which day shall not be on a Sunday and shall be at least three  
30 days prior to such election; that at said time and place said list will  
31 be available for inspection by the public; and also that at said time  
32 and place persons claiming to be qualified to vote at such election  
33 whose names are not on such list may, upon presentation of proper  
34 proofs, have their names added thereto. For the purposes of this  
35 section, in the event that the town maintains a website, one of the  
36 posting requirements required by this subdivision may be fulfilled by  
37 posting such information on the town's website.

38 § 9. Section 2-226 of the village law is amended to read as follows:

39 § 2-226 Notice of proceeding for review of election. A person insti-  
40 tuting a proceeding under section 2-224 of this article shall serve a  
41 copy of the verified petition on which same is to be heard on each town  
42 clerk with whom the original or a copy of the certificate of election  
43 was filed and also upon each person designated in the petition for  
44 incorporation, or designated in written objections to said petition, to  
45 receive service of papers in connection with the proceeding for incorpo-  
46 ration. In addition the person instituting such proceedings shall cause  
47 copies of such petition to be posted in five conspicuous places in such  
48 territory, and for elections held pursuant to subdivision two of section  
49 2-212 of this article, also be posted in at least five conspicuous  
50 public places in the remaining territory of such town, including other  
51 incorporated villages also located in such town.

52 § 10. This act shall take effect immediately and shall apply to all  
53 petitions to form a new village for which a decision as to legal suffi-  
54 ciency has not yet been made. A petition to form a new village that has  
55 been submitted prior to the effective date of this act shall be amended  
56 by the filers of said petition to include the required allegations as

1 set forth in subparagraphs 7 and 8 of paragraph b of subdivision 1 of  
2 section 2-202 of the village law, as added by section one of this act,  
3 prior to the review of the legal sufficiency of the petition by the town  
4 supervisor or supervisors of the town or towns in which the proposed  
5 village is located.