

# STATE OF NEW YORK

4436

2021-2022 Regular Sessions

## IN ASSEMBLY

February 4, 2021

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Local Governments

AN ACT to amend the village law, in relation to providing a procedure for village incorporation in a suburban town

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

1 Section 1. The village law is amended by adding a new article 2-A to  
2 read as follows:

### ARTICLE 2-A

#### INCORPORATION IN SUBURBAN TOWNS

##### Section 2-260 Applicability.

2-262 Population and area requirements.

2-264 Community impact statement.

2-266 Hearing on the community impact statement.

2-268 Canvass of election.

10 § 2-260 Applicability. 1. Notwithstanding article two of this chapter,  
11 a town that adopts or has adopted the provisions of article three-A of  
12 the town law may by resolution of its town board adopt the provisions of  
13 this article for the incorporation of a new village.

14 2. Except as set forth in this article, the provisions of article two  
15 of this chapter shall be applicable.

16 3. In any town where the town board has adopted this article, a new  
17 village may be incorporated only after:

18 a. it is determined that there is a right to election pursuant to  
19 section 2-212 of this chapter; and

20 b. the town board has held a hearing on the community impact statement  
21 and scheduled a referendum pursuant to section 2-266 of this article;  
22 and

23 c. the question of incorporation has been approved by voters in a  
24 referendum pursuant to section 2-268 of this article.

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

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1 4. Notwithstanding the provisions of article two of this chapter,  
2 where the territory proposed for incorporation is located in more than  
3 one town and one or more towns, but not all affected towns, adopt this  
4 article, the scheduling of the referendum on the question of incorpo-  
5 ration shall be determined by the provisions of this article and no  
6 other provisions of this article shall apply to affected towns that have  
7 not adopted the provisions of article three-A of the town law and the  
8 provisions of this article.

9 § 2-262 Population and area requirements. A territory may be incorpo-  
10 rated as a village under this article providing that:

11 1. the territory meets the conditions set forth in section 2-200 of  
12 this chapter; or

13 2. the territory to be incorporated does not include a part of a city  
14 or village and its limits are coterminous with the entire boundaries of  
15 the territory of the town outside of the incorporated villages.

16 § 2-264 Community impact statement. 1. A three-part community impact  
17 statement shall be prepared and filed with the town clerk of each town  
18 in which the territory proposed for incorporation is located.

19 2. The community impact statement shall be written in plain language  
20 in a concise manner capable of being read and understood by the public.

21 3. Within thirty days after it is determined that there is a right to  
22 election pursuant to section 2-212 of this chapter, Part A of the commu-  
23 nity impact statement shall be prepared and filed on behalf of the peti-  
24 tioners which shall each include the information described in paragraphs  
25 a, b, c, d, e, f and g of subdivision six of this section.

26 4. Within sixty days after it is determined that there is a right to  
27 election pursuant to section 2-212 of this chapter, the supervisor of  
28 each affected town shall prepare and file with the supervisor's town  
29 clerk Part B of the community impact statement which shall include the  
30 information described in paragraphs h, i, j, k, l, m, n, o, p and q of  
31 subdivision six of this section.

32 5. Within thirty days after the completion of its hearing as set forth  
33 in section 2-266 of this article, the town board of each affected town  
34 shall prepare and file with its town clerk Part C of the community  
35 impact statement which shall include the information described in para-  
36 graphs a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, p and q of subdivi-  
37 sion six of this section and cause a copy to be displayed and readily  
38 accessible to the public as the town board deems appropriate.

39 6. The community impact statement shall include the following items  
40 and any other items which the filers of each part thereof deem appropri-  
41 ate:

42 a. a proposed five year operating budget for the territory to be  
43 incorporated;

44 b. a proposed five year capital budget for the territory to be incor-  
45 porated;

46 c. a description of the services that would be provided by the  
47 proposed village;

48 d. a description of any deficiency in services provided by the town  
49 and the manner in which the incorporation would remedy the deficiency;

50 e. the estimated real property tax impact for a five year period on  
51 the territory to be incorporated;

52 f. the population, demographic, socio-economic and environmental  
53 impacts on the territory to be incorporated;

54 g. the impact of the anticipated land use and infrastructure needs  
55 within the territory to be incorporated;

1 h. a proposed five year operating budget for the area of the town  
2 remaining unincorporated;

3 i. a proposed five year capital budget for the area of the town  
4 remaining unincorporated;

5 j. a description of any change of services for the area of the town  
6 remaining unincorporated which change is resultant from the incorpo-  
7 ration;

8 k. the estimated real property tax impact for a five year period on  
9 the area of the town remaining unincorporated;

10 l. the population, demographic, socio-economic and environmental  
11 impact on the area of the town remaining unincorporated;

12 m. the impact of anticipated land use and infrastructure needs within  
13 the area of the town remaining unincorporated;

14 n. a description of the share of any liability or indebtedness, bonded  
15 or otherwise, incurred by the town on account of projects within the  
16 territory proposed to be incorporated;

17 o. a description of the share of any liability or indebtedness, bonded  
18 or otherwise, incurred by any special district on account of projects  
19 within the territory proposed to be incorporated;

20 p. a description of the proportionate share of any liability or  
21 indebtedness bonded or otherwise, incurred by the town; and

22 q. a description of the proportionate share of any liability or  
23 indebtedness, bonded or otherwise, incurred by any special district.

24 § 2-266 Hearing on the community impact statement. 1. Within eighty  
25 days after it is determined that there is a right to election pursuant  
26 to section 2-212 of this chapter, the town board of each town in which  
27 the territory proposed for incorporation is located shall cause a notice  
28 to be posted: (i) on the town website, (ii) in five public places in the  
29 town in the territory proposed to be incorporated, and (iii) in five  
30 public places in the territory outside of the villages in the town and  
31 outside the territory proposed to be incorporated. In addition, the town  
32 board shall cause a copy of the notice to be published at least twice in  
33 the newspaper or newspapers designated pursuant to subdivision eleven of  
34 section sixty-four of the town law.

35 2. The notice shall state: that a petition for the incorporation of  
36 the village of (name of village) has been received; that a community  
37 impact statement has been prepared; that at town hall or such other  
38 place in the town as the town board determines on a specified date and  
39 time, not less than twenty nor more than thirty days after the date of  
40 the posting and first publication of such notice, a hearing will be had  
41 upon the consideration of the community impact of the proposed incorpo-  
42 ration; and, that such petition and community impact statement will be  
43 available for public inspection in the office of the town clerk until  
44 the date of such hearing.

45 3. The town board of each affected town shall hold a hearing on the  
46 community impact of the proposed incorporation as specified in the  
47 notice.

48 4. Within thirty days after the completion of its hearing, each town  
49 board:

50 a. shall issue a report on its findings with respect to paragraphs a,  
51 b, c, d, e, f, g, h, i, j, k, l, m, n, o, p and q of subdivision six of  
52 section 2-264 of this article and any other matters the town board deems  
53 relevant;

54 b. file the report with its town clerk which shall constitute Part C  
55 of the community impact statement; and

1 c. shall cause a copy of the complete community impact statement to be  
2 posted on the town website and to be displayed and readily accessible to  
3 the public in any ways that the town board deems appropriate.

4 5. Simultaneously with issuing its report, the town board of each  
5 affected town shall enact a resolution calling for a referendum on the  
6 question of incorporation to be held within thirty days.

7 6. Where more than one town is affected, the town boards shall cooper-  
8 ate, coordinate and set the same date for the referendum on the question  
9 of incorporation.

10 § 2-268 Canvass of election. No incorporation shall take effect except  
11 upon the affirmative vote on the question of incorporation by both (i)  
12 the majority vote of those residents who qualify to vote for town offi-  
13 cers in the territory proposed for incorporation, and (ii) the majority  
14 vote of those residents who qualify to vote for town officers in the  
15 town outside of the existing villages and outside the territory proposed  
16 for incorporation. Where more than one town is affected, the affirmative  
17 vote of residents outside of the territory proposed to be incorporated  
18 must be an affirmative vote of each town canvassed separately. If such a  
19 majority vote does not result in each separate group of voters, the  
20 referendum shall fail and incorporation shall not take effect.

21 § 2. Transition; pending petitions for village incorporation. 1. If a  
22 petition for the incorporation of a village has been filed and deter-  
23 mined legally sufficient prior to the effective date of this act in a  
24 town which adopts or has adopted the provisions of article 3-A of the  
25 town law and an election to determine the question of incorporation has  
26 not been held:

27 a. no election to determine the question of incorporation may been  
28 held until 45 days after the effective date of this act and, if the town  
29 board adopts the provisions of article 2-A of the village law, not until  
30 after the town board has held a hearing on the community impact and  
31 scheduled a referendum pursuant to section 2-266 of the village law; and

32 b. such town board may adopt the provisions of article 2-A of the town  
33 law within 30 days after the effective date of this act; and

34 c. within thirty days after the town board adopts article 2-A of the  
35 village law, Part A of the community impact statement described in  
36 section 2-264 of the village law shall be filed with the town clerk on  
37 behalf of the petitioners; and within sixty days after the town board  
38 adopts article 2-A of the village law, the town supervisor shall file  
39 Part B of the community impact statement described in section 2-264 of  
40 the village law.

41 2. Except as set forth in this section, the provisions of article 2 of  
42 the village law shall be applicable to any such petition for incorpo-  
43 ration.

44 § 3. This act shall take effect immediately.