

Organization of City and Village Government in Michigan

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This report examines the organization of city and village government in Michigan, forms of government, and the development of local home rule.

Systems of Government for Michigan Municipalities, by the late Arthur W. Bromage, Professor Emeritus of Political Science, University of Michigan, explains the various structural forms of government available to cities and villages.

Caution should be taken in using statistical information in this report. Incorporation and form of government changes number upward to a dozen a year. The statistical information, therefore, is accurate as of January 2021.

Systems of Government for Michigan Municipalities¹

The present status of cities and villages in Michigan is the result of historical tradition, of the home rule provisions of the Constitutions of 1908 and 1963, of the home rule acts of 1909, and the initiative of individual communities. During the nineteenth century, the State Legislature recognized the need to incorporate by special acts the densely settled communities within the basic pattern of counties and townships. The system of local government written into Michigan's 1908 and 1963 Constitutions recognized the continuing existence of counties and townships, with the voluntary incorporation of the more densely settled areas as cities and villages. An innovation in the 1908 Constitution was a provision for city and village home rule charters—a change which was to have many repercussions.

Villages

The basic difference between a city and a village is that whenever and wherever an area is incorporated as a village, it stays within the township. The villagers participate in township affairs and pay township taxes in addition to having their own village government. Incorporation as a city, however, removes an area from township government. City dwellers participate in county elections and pay county taxes, as do villagers, but are removed from township units.

Villages in Michigan are organized primarily to establish local regulatory ordinances and to provide local services such as fire and police protection, public works, and utilities. Certain of the local duties required by the state are not demanded of the village but are performed by the embracing township including assessing property; collecting taxes for counties and school districts; and administering local, county, state, and national elections.

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¹ Article by the late Arthur W. Bromage, Professor Emeritus of Political Science, the University of Michigan. Revised by the League's general counsel William L. Steude in 1994. Updated May 2005.

Most of the villages (208 of 253) are still governed under the general village law. Charters for villages are the exception, although any village may adopt a home rule document under 1909 PA 278, as amended, which is a companion to the 1909 Home Rule City Act (1909 PA 279). No special act villages exist, because the General Law Village Act of 1895 brought all then existing villages under its provisions. General law villages may make amendments to their basic law by Home Rule Village Act procedures. Such amendments, however, may not extend to a change in the form of government.

Cities

A city, being withdrawn from the township, must provide the basic, state-required duties as well as its own services. In addition to being responsible for assessing property and collecting taxes for county and school purposes, the city is also solely responsible for registration of voters and conduct of all elections within its boundaries.

The greater independence of the city, in maintaining local regulations and functions and state-imposed duties in one integrated unit, accounts for the creation of many small cities in Michigan during recent decades. The trend has also developed in villages to seek incorporation as cities whereby they achieve a separation of jurisdiction from the township.²

In January 2021, Michigan had 280 incorporated cities and 253 incorporated villages—a total of 533 municipalities. Of this total number, 320 had adopted home rule charters.

In 1895, adoption of the Fourth Class City Act created two types of cities: 1) fourth class cities (3,000 to 10,000 population), and 2) “special charter” cities (all cities not falling in the 3,000-10,000 population range). Over the course of a century, all but one of the “special charter” cities (Mackinac Island) has reincorporated as a home rule city.

The Michigan Legislature altered fourth class cities by enacting 1976 PA 334 (see also OAG 5525, 7/13/1979). This legislation designated all fourth class cities as home rule cities—however, they are governed by the Fourth Class City Act, not a tailor-made charter written by an elected charter commission. Currently, four cities continue to be governed by the Fourth Class City Act.

Standards of Incorporation

For incorporation of a home rule village, a population of 150 is the minimum, but there must be a minimum density of 100 to the square mile. There is no statutory requirement that a village must become a city when it experiences a rapid growth in population. Once incorporated, villages may seek reincorporation as fifth class home rule cities, providing their population is between 750 and 2,000. Alternatively, they may seek reincorporation as home rule cities if their population exceeds 2,000 with a density of 500 per square mile. For many years the Home Rule City Act required 2,000 population and density of 500 per square mile for city incorporation. A 1931 amendment permitted fifth class city incorporation at 750 to 2,000 population with the same 500 per square mile density, but authorized villages within this range to reincorporate as cities regardless of density.

There is no basic difference between a fifth class home rule city and a home rule city, except the population differential and the statutory requirements that fifth class home rule cities hold their elections on an at-large basis. If all the territory of an organized township is included within the boundaries of a village or villages, the village or villages, without boundary changes, may be incorporated as a city or cities as provided in 1982 PA 457.

Unincorporated territory may be incorporated as a fifth class home rule city provided the population ranges from 750 to 2,000 and there is a density of 500 persons per square mile. The same density rule applies to the incorporation of territory as a home rule city if the area has a population of more than 2,000. There are no other methods of city incorporation today. A new city must be incorporated under the Home Rule City Act.

State Boundary Commission

Under 1968 PA 191, the State Boundary Commission must approve all petitions for city and village incorporation. The Boundary Commission is composed of three members appointed by the Governor. When the Commission sits in any county, the three members are joined by two county representatives (one from a township and one from a city), appointed by the probate judge.

In reviewing petitions for incorporation, the Boundary Commission is guided by certain statutory criteria: population; density; land area and uses; valuation; topography and drainage basins; urban growth factors; and business, commercial and industrial development. Additional factors are the need for governmental services; present status of services in the area to be incorporated; future needs; practica-

² Michigan Municipal League, Municipal Report, *Impact of Changing From a Village to a City* (Michigan Municipal League, 1994, 2003, 2019 Revised)

bility of supplying such services by incorporation; probable effect on the local governmental units remaining; relation of tax increases to benefits; and the financial capability of the proposed municipality (city or village). In other words, Boundary Commission review centers on the feasibility of the proposed city or village.

After review on the basis of criteria, the Boundary Commission may deny or affirm the petition. (Affirmative action may include some revision of the proposed boundaries on the Commission's initiative.) Once the Boundary Commission has issued an order approving incorporation, a petition may be filed for a referendum on the proposal. The referendum permits the voters to accept or reject the incorporation. If incorporation is approved by the voters, the incorporation may be finally accomplished only through the existing process of drafting and adopting a city or village charter.³

Home Rule

Home rule generally refers to the authority of a city or village under a state's constitution and laws to draft and adopt a charter for its own government. This contrasts with legislative establishment of local charters by special act, which result in mandated charters from the state capitol. Home rule frees cities and villages to devise forms of government and exercise powers of local self-government under locally prepared charters adopted by local referendum.

Constitutional home rule is self-executing in some states and not so in others. Non-self-executing home rule, which Michigan wrote into its 1908 Constitution, leaves it up to the state Legislature to implement the home rule powers. Michigan's Legislature did this by enacting the Home Rule City Act and the Home Rule Village Act, both of 1909.

In turning to home rule when it did, Michigan became the seventh state to join in a movement which now includes 37 states. It was more than a national trend which motivated the Michigan Constitutional Convention early in this century. Under the special act system of the nineteenth century, Michigan cities were, according to one observer writing

closer to the time, "afflicted by their charters with an assortment of governmental antiquities."⁴

The Legislature, under Article VII (Sections 21-22) of the 1963 Michigan Constitution, must provide for the incorporation of cities and villages by general law. Such general laws of incorporation must limit their rate of taxation and restrict their borrowing of money and their contracting of debt. The voters of each city and village have power to frame, adopt and amend charters in accordance with these general laws. Through regularly constituted authority, namely their established representative government, they may pass laws and ordinances pertaining to municipal concerns subject to the Constitution and general laws.

By January 2021, 275 cities and 45 villages had adopted home rule charters. The total of 320 charters so adopted makes Michigan one of the leading home rule states in the nation.

Charters

The Michigan Municipal League, versed in the needs of cities and villages, renders informational assistance through its inquiry service which includes a charter database. This one-of-a-kind database includes information from all 275 home rule city charters on key concepts such as number on council, how the mayor is selected, terms of office of council, how vacancies are filled, fiscal year, etc. A few Michigan attorneys have become specialists in drafting charters. The quality of city and village charters has improved steadily. No longer is it necessary for elected charter commissioners to search for "model" charters elsewhere, since many good charters exist in Michigan itself.⁵

With some exceptions, Michigan charters have been influenced by nationwide trends in municipal practices such as the short ballot, the small council, election of council members-at-large, nonpartisan nominations, and election of councilmembers. Chief executives of either the appointed kind (a manager) or the elected type (a mayor) are favored. Localities have shown their ingenuity in searching for what is most appropriate to their needs. No longer is the Legislature burdened with enacting individual char-

³ 1970 PA 219 provides that all annexation proposals, as well as proposed incorporations and consolidations, also come before the State Boundary Commission. For further information, contact the State Boundary Commission at 116 W Allegan, Lansing MI 48933.

⁴ Robert T. Crane, *Municipal Home Rule in Michigan*, Proceedings of the Fourth Annual Convention of the Illinois Municipal League (Urbana, 1917), pp.62-65.

⁵ For Michigan, classification as a home rule state, see Arthur W. Bromage, "The Home Rule Puzzle," *National Municipal Review* XLVI, pp118-123, 130 (March, 1957).

ters. The responsibility lies with locally elected charter commissioners, subject to legal review by the Governor under statutory requirements. Since charters must be adopted only by local referendum, the voters themselves make the final determination about the design of their government.

In the process of charter drafting and in the local referendum, civic energies have been released. Charter commissioners, elected by their fellow citizens, have shown themselves progressive yet careful when carrying out their trust.

Form of Government: Cities

Michigan cities have used all major forms of government: weak mayor and council, strong mayor and council, commission, and council-manager. During the nineteenth century, special act charters were frequently of the weak mayor-council plan, as was the Fourth Class City Act of 1895. This form of government was exemplified by an elected mayor with limited administrative authority, election of councilmembers on a ward system, partisan elections, elected administrative officials and administrative boards to supervise city departmental operations.

By January 2021, 275 Michigan cities had home rule charters drafted by locally elected charter commissions and adopted by local referendum.

Form of Government: Villages

General Law Villages

Of the 253 villages in Michigan, 45 have home rule charters and 208 are governed under the General Law Village Act (1895 Act 3). The general law village, the most common by far, has the typical weak mayor-council form of government. The chief executive, known as a president, comes closest in formal powers to a weak mayor. The president serves as a member of the council and as its presiding officer. With the consent of the council, the president appoints a street administrator and such other officers as the council may establish. Comprising the council itself are six trustees in addition to the president. Three trustees are elected annually to serve for two-year terms, and a president is elected annually. Another option is for three trustees to be elected every biennial election with a term of four years, or the election of all six trustees every biennial election with a term of two years. Other directly elected officers are the clerk and treasurer (unless changed to appointed positions by ordinance). In 2013, the Legislature changed the state election laws so that all General Law Village elections are administered by township clerks.

1998 Revisions to the GLV Act

The General Law Village Act (GLV) which has governed villages since 1895, was significantly revised in 1998. The GLV Act is still the statutory charter for 208 villages. The new Act is basically a rewrite of language rather than an expansion of authority. The Act explicitly confirms the power of a village to amend the GLV Act locally as provided by the Home Rule Village Act. The most significant changes to the Act are that by ordinance. A village council may:

1. change from an elected to an appointed clerk, or treasurer, or both; and
2. reduce the number of trustees from six to four.

An ordinance making any such change in the council's size, or appointment of elected administrative officials, requires a two-thirds vote of the council. The amendment is effective 45 days after its adoption, subject to a referendum if a petition is signed by 10 percent of the registered voters within that 45-day period. The council's authority to make such changes by ordinance, subject to the referendum, parallels the council's existing authority to provide for a village manager by ordinance, subject to referendum.

Home Rule Villages

The Home Rule Village Act requires that every village so incorporated provide for the election of a president, clerk, and legislative body, and for the election or appointment of such other officers and boards as may be essential. However, the president need not be directly elected by the people but may be elected by the village council.