

General Law or

Charter

Township?



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General Law or Charter Township?

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Introduction

The Charter Township Act, Public Act 359 of 1947, is an example of progressive legislation affecting Michigan townships. The Michigan Legislature recognized that there are townships which provide additional services and need additional laws to provide for better administration of township affairs. Since its passage in 1947, there have been several amendments to the act to meet the changing needs of townships.

A general law township having a minimum population of 2,000 inhabitants is authorized to adopt the Charter Township Act and incorporate as a charter township. A township is not authorized to develop its own charter; the Charter Township Act is the charter of the township. The act's provisions are uniform for all Michigan townships, and they cannot be altered by a particular township.

Charter townships and general law townships are similar in organizational structure and powers except for specific differences provided for in the Charter Township Act. In particular, the act grants charter townships additional flexibility in their organizational structure, boundary protection against annexation and enhances the unit's general tax authority.

Should your township incorporate as a charter township? The decision belongs to your township alone. To help you make an informed decision, the following information spells out some differences and similarities between a charter township and a general law township.

Organizational Structure

In a charter township, all legislative authority and powers are vested in a seven-member township board comprised of a supervisor, clerk, treasurer and four trustees. A quorum of four members must be present at a meeting to conduct business.

Organizational changes in the act affect the offices of the supervisor and trustee. There are no substantive changes in the duties of the township clerk and treasurer if a township incorporates under the act.

The Supervisor and Superintendent

In general law and charter townships, the supervisor is an officer of the township board and has an equal voice and vote in township board proceedings. In a general law township, the township board retains most of the administrative authority. The Charter Township Act grants a charter township supervisor more authority over the day-to-day operations of the township.

The township board of a charter township is authorized to hire a superintendent. (MCL 42.11) If the township board appoints a superintendent, the board may delegate any or all of the following statutory duties to that official:

- ❑ Oversee enforcement of township ordinances and laws;
- ❑ Manage public improvement projects; oversee construction, repair, maintenance lighting and cleaning of township property, including streets, sidewalks, bridges and sewers;
- ❑ Manage construction, repair, maintenance of sidewalks, streets, bridges, sewers, pavements of all public buildings and other township property;
- ❑ Oversee operation of township utilities and maintenance of township property, tools and appliances;
- ❑ Oversee terms and conditions of township contracts;
- ❑ Attend township board meetings and take part in discussions, but without the right to vote;
- ❑ Serve as ex-officio member of all township board committees;
- ❑ Prepare and administer the annual budget under township board direction and apprise the township board of the township's financial status;
- ❑ Make recommendations to the township board as necessary;
- ❑ Administer all township departments;
- ❑ Serve as the purchasing agent for the township or delegate this responsibility to some other officer or employee;
- ❑ Conduct authorized sales of township personal property;
- ❑ Serve as personnel director or delegate this duty to some other officer or employee, and
- ❑ Perform any other duties delegated to him/her which are not assigned to some other official. (MCL 42.10)

If these duties are not delegated to the superintendent, they become the responsibility of the township supervisor. In effect, this provides additional authority to a charter township supervisor beyond that accorded a supervisor of a general law township.

If a board appoints a superintendent, he or she serves at the pleasure of the township board. State law provides that the township board determines the superintendent's salary, and the appointee must become a township resident within 90 (calendar) days of assuming the position, unless the board waives the requirement by resolution adopted by 2/3 of the members of the board. The act also provides that the appointee must be selected on the basis of training and ability without regard to political or religious preferences. (MCL 42.11)

If a township has not appointed a township superintendent under MCL 42.10, the township board may employ a township manager to perform duties lawfully delegated to the manager by the township board. The duties may include those that are delegated by law to another township official if written consent has been granted by that official. (MCL 42.10a)

State law does not specify the duties of a township manager. MTA's position is that a township board may delegate to a manager any or all of the same duties as listed in MCL 42.10, but the supervisor would have to give written consent to diminishing the statutory duties of the supervisor's office.

Trustees

A charter township board must have four trustees. If a township becomes chartered with only two trustees, the additional two trustees must be elected at the first general election held following incorporation.

The duties of a charter township trustee are identical to those of a general law township trustee. He or she possesses an equal voice and vote in township affairs. The trustee is responsible for attending township board meetings and takes part in all decisions.

Trustees are the "pure" legislators on the board and should have an understanding of all aspects of township board affairs.

Other Officials

What about hiring other township officials? There is no difference in the ability of a general law township or a charter township to hire the necessary personnel to properly and efficiently operate the township. The act enables a township board, by resolution, to establish additional offices to administer township affairs, such as a public works administrator or personnel director, or combine any administrative offices, so long as it does not conflict with state law. The newly created offices cannot replace, abolish or diminish the statutory duties of the clerk's or treasurer's office. (MCL 42.9)

Annexation Protection

The Charter Township Act grants enhanced protection from annexation to townships that provide police and fire protection, water and sewer services, and other services. In the 1970s, many general law townships incorporated as charter townships because of the annexation protection offered by the act.

If a township became chartered prior to June 16, 1978, the township is generally protected from annexation.

A charter township that incorporated after June 15, 1978, is generally protected from annexation to any adjacent city or village if it meets certain statutory criteria:

- ❑ State equalized valuation of at least \$25 million;
- ❑ Minimum population density of 150 persons per square mile (not including any incorporated village);
- ❑ Provides fire and police protection, solid waste disposal, and water and/or sewer services by contract or some other method;
- ❑ Has a comprehensive zoning ordinance or master plan. (MCL 42.34)

Michigan Supreme Court decisions indicate a township must provide more than minimum service to obtain greater protection from annexation.

However, the exemption from annexation is not complete immunity. Although the authority of the State Boundary Commission over charter township land is lessened by the act, the commission may order a portion(s) of the township to be annexed to straighten boundaries and avoid instances in which portions of a township are completely surrounded by the annexing city. Township territory can also be annexed if the action is initiated by the citizens themselves.

Financial Matters

Fiscal Year

A charter township may adopt one of two fiscal years: January 1 to December 31 or April 1 to March 31. This differs from general law townships, which can choose either April 1 to March 31 or July 1 to June 30. An annual audit is required.

Budget

Each township official prepares a department budget and delivers it to the supervisor or superintendent on or before 150 days prior to the fiscal year commencement. The supervisor or superintendent must submit a complete itemized budget to the township board no later than 120 days prior to the beginning of the fiscal year. (MCL 42.24)

The township board must hold a budget public hearing at a township board meeting before adopting the budget. The notice of the budget public hearing must be published in a newspaper of general circulation in the township at least 7 days prior to the meeting at which the hearing will be conducted. If a township operates on a calendar-year budget cycle, the budget public hearing must be held no later than December 15, and the budget must be adopted no later than December 31. (MCL 42.27)

Prior to the new fiscal year, the township board must pass a resolution adopting the budget (general appropriations act) for the new fiscal year, make an appropriation of the money needed for township purposes, and provide for a levy of taxes upon real and personal property.

The supervisor or superintendent must prepare quarterly reports that disclose estimated and actual expenditures and revenues to date. (MCL 42.29)

Within 60 days after a township becomes chartered, the board must pass a resolution adopting an interim budget until the next fiscal year. (MCL 42.27)

Taxing Authority

Charter township taxes are not subject to allocation or to the same constitutional tax limitations as general law township taxes. Article IX, Section 6 of the Michigan Constitution, which imposes the 15- and 18-mill tax limitations on real and personal property taxes, specifically exempts charter township taxes from those limitations:

"The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds approved by the electors or other evidences of indebtedness approved by the electors or for the payment of assessments or contract obligations in anticipation of which bonds are issued approved by the electors, which taxes may be imposed without limitation as to rate or amount; or, subject to the provisions of Section 25 through 34 of this article, to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law." (Article IX, Section 6, Michigan Constitution of 1963)

Note that the Charter Township Act does not refer to charter township property tax rate limits in "mills." Instead, MCL 42.27 requires the township board, in adopting its budget for the next fiscal year, to provide for a levy of taxes upon real and personal property that cannot exceed 1/2 of 1% of the assessed valuation of all real and personal property subject to taxation in the balance of the township. This is often referred to as "5-mill charter millage."

MCL 42.27 also authorizes the electors of a charter township to vote to increase the township's total tax levy, not to exceed a total of 1% of the assessed valuation of all real and personal property in the township, not counting debt obligation or other property taxes exempt from tax limitations by law. This charter township total tax limitation is commonly known as the "10-mill limit."

In both cases, a charter township's total tax limitation is determined as a percentage of the assessed valuation of all real and personal property in the township (excluding debt), and not strictly as 5 or 10 mills. But this article will follow the common usage of 5 or 10 mills.

Charter millage

Charter townships are also different from general law townships in that their "general operating" millage is not allocated, but set by the township board. The levy of charter millage is based on the charter township's adopted or amended budget and is determined at or following the budget public hearing. It cannot exceed the authorized charter millage.

All charter townships may levy up to 10 mills (*see above*), determined on assessed value (not counting debt service millage). The Charter Township Act does not require a charter township to levy any or all of the additional mills available to it under the Act. (MCL 42.27) All charter township millages are subject to Headlee rollback.

There are two schools of thought on when a charter township must go to the voters for millage approval.

MCL 42.27 authorizes a charter township board to annually provide for a levy of taxes upon real and personal property that cannot exceed 5 mills (*see above*). The township board may choose to automatically levy up to the first 5 mills ("charter millage") without additional voter approval, and without limit in the number of years. The township may then levy up to five additional mills (for a maximum of 10 mills), but only by voter approval and limited to 20 years. (MCL 42.27)

Following the 1978 Headlee Amendment, Attorney General Opinion 6285 of 1985 stated: "[C]harter townships incorporated after December 23, 1978, the effective date [the Headlee Amendment], by final resolution of the township board and without an approving vote of the township's electors, are prohibited from levying millage at a charter township rate higher than the township's previously authorized millage limitation as a general law township."

Based on AGO 6285, MTA Legal Counsel have taken a "conservative" approach to avoid exposing a township to the risk of litigation and advised that a charter township that incorporated after 1978 by board resolution (not election) has the authority to levy only the total authorized millage rate it had as a general law township when it incorporated (subject to rollbacks) for its authorized charter millage. The township can levy additional mills only by voter approval, up to the maximum 10 mills.

However, it needs to be noted that the Charter Act does not specifically require this restriction, and other municipal attorneys have questioned the reasoning in Attorney General Opinion 6285. (Note that Attorney General opinions are not binding on townships.)

Since that opinion, the Michigan Supreme Court has held, in the case of *American Axle and Manufacturing, Inc. v Hamtramck*, 461 Mich 352, p.357 (2000), "that the Headlee exemption of taxes authorized by law when the section was ratified permits the levying of previously authorized taxes even where they were not being levied at the time Headlee was ratified and

even though the circumstances making the tax or rate applicable did not exist before that date."

The *American Axle* opinion calls into question the continued validity of restricting a charter township that incorporated by resolution to a charter millage levy of less than 5 mills (i.e. original allocated rolled back millage). A charter township board that incorporated by resolution after 1978 that is considering exercising the automatic authority to levy should consult with its attorney for specific legal guidance.

Extra-Voted Millage

When a charter township goes to the voters for approval of additional millage, over and above the authorized charter millage, the township must identify a purpose in the ballot language—it may be for general charter township millage or a specific purpose (which will restrict that millage to that purpose).

Borrowing Powers

The act limits a charter township's borrowing ability to a total outstanding net indebtedness of not more than 10 percent of its assessed value with certain specified exceptions. A charter township must have prior voter approval to issue bonds except for special assessment bonds, bonds issued for the township portion of local improvements, and specific statutory bonds which do not require voter approval. (MCL 42.14a)

A charter township that does not levy the full mills available to it shows bond purchasers that the township has surplus taxing authority. Consequently, the township could have greater ability to borrow at a reduced interest rate (within the 10 percent limit) than a general law township.

Compensation

Setting Salaries

How are compensation levels set in a charter township? Salary levels can be set in one of two ways: 1) by township board resolution subject to citizen referendum or 2) by a compensation commission established by ordinance. (MCL 42.6a)

If a general law or charter township does not conduct an annual meeting and does not have a compensation commission, the township board shall, by resolution, set the salaries of township board members. The board's resolution to increase a salary is subject to referendum if a citizen petition is filed with the township clerk. (MCL 41.95(3))

If a compensation commission is established, the township board cannot set the salary for any of the four township offices (supervisor, clerk, treasurer, trustee). Note that this is the salary established for the statutory duties of the office, and does not include compensation for additional, non-statutory duties, benefits, expense reimbursements or meeting stipends (per diem or per meeting payments).

Trustees

The act provides that "A trustee may receive, in addition to other emoluments provided by law for his service to the township, a sum per meeting of the township board meetings actually attended by him, as established by the township board to be paid upon authorization of the board." (MCL 42.6) MTA interprets this provision to allow a trustee to be paid on a per diem or per meeting basis for attending township board meetings, in addition to an annual salary. The act specifically prohibits a supervisor, clerk or treasurer from receiving additional compensation for attending township board meetings.

Decreases in Salary

The Charter Township Act provides that the salary of an elected township official cannot be decreased during the official's term of office unless the responsibilities and requirements of that office are diminished and the official consents in writing to the salary reduction. (MCL 42.6a)

If the township hires a superintendent, the township board may designate all or some of the supervisor's statutory duties of MCL 42.10 to the superintendent without written consent of the supervisor. If the board designates any of the statutory duties of MCL 42.10 to a manager who is not a superintendent, then the supervisor must consent in writing to diminishing the statutory duties of the supervisor's office under MCL 42.10. In either case, the board cannot reduce the salary of the supervisor's office, for the statutory duties of the supervisor's office, without the written consent of the supervisor. (MCL 42.6a)

Township Board Meetings

A general law township board is required to meet once every three months and at additional times as necessary. The township board of a charter township is required to meet at least once a month. Each member of a charter township is required to vote, if present, on any issues presented to the board, unless the official is excused by the unanimous consent of board members who are present. (MCL 42.7)

There is one exception to this requirement. A charter township board member may abstain from voting without the other board members' consent when voting to fill a vacancy on the charter township board and the board member abstaining states that he or she desires to be appointed to fill that vacancy. (MCL 42.7)

Board Authority

Acquiring and Disposing of Township Property

A charter township board is authorized to purchase, sell or long-term lease real or personal property without authorization from the inhabitants (MCL 42.14). Under Public Act 16 of 1992, a general law township board, by resolution, has the same authority (MCL 41.2).

Police and Fire Departments

Both general law townships and charter townships may have police or fire departments. In a charter township, the officers are appointed by the supervisor or superintendent--if that authority has been delegated by the township board--with the approval of the township board. (MCLs 42.12 and 42.13) In a general law township, the township board appoints police and fire officers.

Ordinance Authority

Charter townships are authorized to adopt ordinances to protect the health, safety and general welfare of township inhabitants and property. Ordinances in effect when a general law township incorporates as a charter township remain in effect unless they are repealed or amended. (MCL 42.19)

A charter township can operate in essentially the same manner as a general law township without any additional costs, with the exception of adopting ordinances. State law requires additional publication of an ordinance before and after it is adopted. A charter township is authorized to adopt any state law as an ordinance by reference. In general law townships, only certain ordinances, such as the Uniform Traffic Code, may be adopted by reference.

Public Improvements

Public improvements are managed in the same manner in both charter townships and general law townships. Both general law and charter townships can create special assessment districts and issue special assessment bonds to finance authorized improvements (MCL 42.31).

Citizen Expectations

Another significant difference for charter townships, not found in any law book, is that citizens may have increased expectations for services when a township incorporates as a charter township. Because a charter township is often viewed as an "urbanized" form of township government, citizens may expect additional and improved services beyond that which the township currently provides.

Annual Meeting of the Electors

Charter townships are not required to conduct an annual meeting of the electors unless a majority of the township board determines to do so by resolution.

Conclusion

Should your township become a charter township? It is a value judgment which can only be determined by your township. It is a complicated issue. We recommend that township board officials and citizens familiarize themselves with the facets and implications of the Charter Township Act to make an informed decision.

Under the Campaign Finance Act (MCL 169.201, *et seq*), the township board cannot use general fund monies to campaign for or against becoming a charter township. It is permissible to provide information, such as a newsletter article, that is unbiased and provides both pros and cons of becoming a charter township. (MCL 169.257)

The Michigan Townships Association is available to offer advice and sample forms that a township may adapt to meet its particular needs. In addition, your township should contact legal counsel experienced in township law to assist you throughout the process

How to Become a Charter Township

A township, having a population of 2,000 or more inhabitants according to the most recent regular or special federal or state census of the inhabitants of the township may incorporate as a charter township.

Election

The original process for incorporating as a charter township is the ballot proposition method described in MCL 42.2 and 42.3. This may occur at any time. The ballot proposition may be initiated by the township board or by petition signed by a number of electors of the township which shall not be less than 10% of the total vote cast for supervisor in the township at the last election in which a supervisor was elected.

Per Attorney General Opinion 7038 of 1999, the township is legally incorporated on the date “a copy of the petition or resolution initiating the move to become a charter township, together with the notice of the election at which such question was submitted to the electors of the township, the ballot upon which such question was submitted, and a certificate of the board of canvassers showing that the purposes of such petition or resolution have been approved by a majority of the electors of the township voting thereon, which certificate shall also give the number of votes cast on such proposition and the number cast for and against the same” is filed with the Secretary of State. (“From the date of such filing, the township shall be duly and legally incorporated as a charter township.”)

Other options following Census notification

In 1976, PA 90 of 1976 added MCL 42.3a, which requires the Office of the Great Seal to notify all townships with a minimum population of 2,000 (excluding the population of any incorporated village) that they are eligible to incorporate as a charter township. This must be done after each federal, state or special census. MCL 42.3a also requires the clerk of an eligible township to publish notice of eligibility twice in a newspaper of general circulation within the township.

MCL 42.3a also added the following options for a township board:

- a. Adopt a resolution opposing incorporation,
- b. Adopt a resolution of intent to incorporate, wait at least 60 (calendar) days, and then—if no valid petition of disagreement is submitted--adopt a second resolution actually incorporating as a charter township. Because the resolution is not required to be filed with the Secretary of State, the township becomes a charter township upon the adoption of the incorporation resolution (AGO 7038 of 1999).

If a valid petition of disagreement (signed by not less than 10% of the number of electors of the township voting for township supervisor at the last election in which a supervisor was elected) is timely submitted, the clerk shall put the referendum proposition on the ballot at the next general or special election.

If the referendum on the resolution to incorporate results in a defeat of the incorporation, then the township cannot incorporate by board resolution until the next decennial notice from the Office of the Great Seal, but may incorporate by ballot proposition as provided in MCLs 42.2 and 42.3.

- c. Adopt a resolution to put the proposition to incorporate on a ballot at the next regular or general election, or
- d. (*Implied*) Do nothing.

Regardless of what the township board chooses to do, the township clerk must publish the notice of eligibility and right to referendum in a newspaper of general circulation in the township within 15 (calendar) days of notification by the Office of the Great Seal. A second notice must be published seven (calendar) days after the first notice.

The options under MCL 42.3a are triggered by the decennial notice from the Office of the Great Seal, and that notice must be followed by the two notices in the newspaper of the options available to the township and the electors. But the option to incorporate by resolution (with the right of referendum based on a petition of disagreement), is available at any time during the subsequent decade, and MTA Legal Counsel have opined that the two newspaper notices are not specifically required to be repeated, although it may be prudent to do so, if a long time has passed since the publication triggered by the Office of the Great Seal notice.

The two types of citizen petitions, under MCL 42.2 and 42.3a, have the same signature requirements, and differ only in that the petition of disagreement (MCL 42.3a(2)(b)) is available to the electors only if the township board adopts a resolution of intent to incorporate, while a petition to place the proposition of incorporation on the ballot is available at any time.

Ballot question

The ballot language is the language required by MCL 42.2, regardless of whether the question is placed on the ballot under MCL 42.2 or 42.3a:

“Shall the township of _____ incorporate as a charter township which shall be a municipal corporation subject to the provisions of Act No. 359 of the Public Acts of 1947, as amended, which act shall constitute the charter of such municipal corporation?”

The proposition to incorporate must be submitted on or before August 30 if the question is to be put on the ballot at a general election (November of even-numbered years) or at least 60 (calendar) days in advance of a special election (MCL 42.3). However, note that the Michigan Election Law states that, for elections in which state officers are to be elected, ballot proposals must be certified to the local or county clerk at least 70 (calendar) days before the election. Townships must use the Election Law filing deadline of 70 (calendar) days for elections at which state officers are to be elected (MCL 168.646a)

If the voters approve the ballot proposal, the township clerk files a copy of the initiating petition or township board resolution and other specified documents with the county clerk and the Office of the Great Seal (Secretary of State).

Can a charter township disincorporate?

A charter township may disincorporate (return to general law status) by the same specific method used to initially incorporate. An election to disincorporate cannot be held until four years after the charter township first incorporated, and no more than every four years after that. (MCL 42.2)

Notice of Eligibility to Incorporate

MCL 42.3a(3) sets forth duties of the township clerk following receipt of notification from the Office of the Great Seal at the Secretary of State.

The township clerk of any township notified must prepare a notice of *Eligibility to Incorporate and Right of Referendum* for publication in a newspaper of general circulation within the township. The notice must be published twice—the first time within 15 days following receipt of notification from the Office of the Great Seal, and the second time 7 days after the first notice.

The requirement to publish applies regardless of whether the township board intends to take any of the options available under MCL 42.3a.

NOTICE OF ELIGIBILITY TO INCORPORATE AS A CHARTER TOWNSHIP AND RIGHT TO REFERENDUM

Official certification has been received from the Michigan Secretary of State that the township of _____ has a population of 2,000 or more, making it eligible to incorporate as a charter township. The township board may choose to exercise options concerning incorporation as a charter township under the provisions of the Charter Township Act, Public Act 359 of 1947, as amended (MCL 42.3a):

1. Adopt by majority vote a resolution opposed to incorporation as a charter township.
2. Adopt by majority vote a resolution of intent to approve incorporation as a charter township by resolution. At least 60 days after the adoption of the resolution of intent, the township board may adopt the resolution to incorporate as a charter township.
3. Adopt by majority vote a resolution to place before the electorate at the next regular or special township election the question of incorporation as a charter township.

The township board may also choose to take no action.

If Option 2 is adopted by the township board, the citizens of the township have the right to file a “Right to Referendum Petition.” This petition must be filed before the final adoption of the resolution to incorporate as a charter township.

The petition must follow, in general form, the nominating petition form as prescribed in the Michigan Election Law (MCL 168.488), and the heading must indicate “Disagreement of Intent to Incorporate as a Charter Township.” The petition must be signed by not less than 10% of the number of electors of the township voting for township supervisor at the last election in which a supervisor was elected.

If the petition is successful, the question of incorporation will be placed on the ballot at the next general or special township election.

(Option 1)

Resolution of Intent Opposing Incorporation as a Charter Township
_____ Township
_____ County, Michigan

WHEREAS, the Township Clerk has been notified by the Secretary of State of the State of Michigan that _____ Township has a population of 2,000 or more inhabitants, excluding the population of any incorporated village, and notice of that notification was duly published in the _____ (*identify newspaper*)____, a newspaper of general circulation in the township, as required by law, and

WHEREAS, under the provisions of MCL 42.3a, the Township is eligible to be incorporated as a charter township by resolution of the Township Board, and

WHEREAS, after notification is received by the clerk, the township board may adopt, by a majority vote, a resolution opposed to incorporation, and

WHEREAS, the Township Board does not desire to incorporate as a charter township,

NOW, THEREFORE, in consideration of the foregoing, **IT IS HEREBY RESOLVED** that the Township Board does hereby declare its intent to not incorporate _____ Township as a charter township.

Motion was made by _____, seconded by _____, to adopt the foregoing resolution.

Upon roll call vote, the following voted "Yes":

Upon roll call vote, the following voted "No":

The chair declared the motion carried and the resolution duly adopted.

Township Clerk

CERTIFICATE

The undersigned, being the duly elected and acting Clerk of the Township of _____ hereby certifies that the foregoing resolution was duly adopted at a regular meeting of the Township Board at which a quorum was present on the _____ day of _____, 20__, and that the members voted thereon as hereinbefore set forth.

Township Clerk

(Option 2—First Resolution, Subject to Petition of Disagreement Calling for Referendum)

Resolution of Intent to Become a Charter Township

_____ Township
_____ County, Michigan

WHEREAS, the Township Clerk has been notified by the Secretary of State of the State of Michigan that _____ Township has a population of 2,000 or more inhabitants, excluding the population of any incorporated village, and notice of that notification was duly published in the ____ (*identify newspaper*) ____, a newspaper of general circulation in the township, as required by law, and

WHEREAS, under the provisions of MCL 42.3a, the Township is eligible to be incorporated as a charter township by resolution of the Township Board stating its intent to so incorporate, and a second, subsequent resolution of said Township Board incorporating the township as a charter township, adopted at least 60 days after the adoption of the first resolution of intent, and

WHEREAS, if no petition of disagreement calling for referendum on the question of such incorporation is received by the Township Clerk signed by not less than 10 percent of the number of electors of the township voting for Township Supervisor at the last election, said township shall be incorporated as a charter township on the date of the second resolution.

NOW, THEREFORE, in consideration of the foregoing, **IT IS HEREBY RESOLVED** that the Township Board does hereby declare its intent to incorporate _____ Township as a charter township by resolution to be adopted not less than 60 days from the date hereof, unless a petition of disagreement with this resolution of intent to so incorporate is filed with the Township Clerk prior to the passage of the final resolution.

Motion was made by _____, seconded by _____, to adopt the foregoing resolution.

Upon roll call vote, the following voted "Yes":

Upon roll call vote, the following voted "No":

The chair declared the motion carried and the resolution duly adopted.

Township Clerk

CERTIFICATE

The undersigned, being the duly elected and acting Clerk of the Township of _____ hereby certifies that the foregoing resolution was duly adopted at a regular meeting of the Township Board at which a quorum was present on the ____ day of _____, 20__, and that the members voted thereon as hereinbefore set forth.

Township Clerk

(Option 2—Second Resolution, to be adopted at least 60 days after adopting Resolution of Intent)

**Resolution Incorporating as the
Charter Township of _____**

WHEREAS, the _____ Township Board on the ___ day of _____, 20___, by motion duly made, seconded and passed, adopted the Resolution of Intent to Incorporate _____ Township, _____ County, Michigan, as the Charter Township of _____, under Public Act 359 of 1947, as amended; and

WHEREAS, notice of adoption of said resolution was published in the ___ (*identify newspaper*) ___, a newspaper of general circulation in the township, as required by law, the ___ day of _____, 20___, and again on the ___ day of _____, 20___, and considerable publicity has been given this matter; and

WHEREAS, more than sixty (60) days have elapsed since adoption of said resolution and no Petition of Disagreement to the Intent to Incorporate as Charter Township has been filed as in said Act provided;

NOW THEREFORE, BE IT RESOLVED that the Township of _____, _____ County, Michigan, being qualified, having completed all necessary action preliminary thereto, hereby does INCORPORATE AS THE CHARTER TOWNSHIP OF _____, _____ COUNTY, MICHIGAN, a municipal corporation pursuant to PA 359 of 1947, as amended, which act shall constitute the charter of this charter township.

BE IT FURTHER RESOLVED, that the CHARTER TOWNSHIP OF _____, _____ COUNTY, MICHIGAN, shall, as provided by law, succeed to and be vested with all of the property, real and personal, money, rights, credits and causes of action belonging to _____ Township as it formerly existed, and all debts and liabilities of _____ Township and all taxes and assessments levied and uncollected as of the date of this Resolution of Incorporation shall stand until discharged or collected.

BE IT FURTHER RESOLVED, that the Clerk is hereby directed to file certified copies of this resolution with the Secretary of State for the State of Michigan, and with the Clerk for _____ County.

BE IT FURTHER RESOLVED, that this resolution shall take effect as of this date.

Motion was made by _____, seconded by _____, to adopt the foregoing resolution.

Upon roll call vote, the following voted "Yes":

Upon roll call vote, the following voted "No":

The chair declared the motion carried and the resolution duly adopted.

Township Clerk

CERTIFICATE

The undersigned, being the duly elected and acting Clerk of the Township of _____ hereby certifies that the foregoing resolution was duly adopted at a regular meeting of the Township Board at which a quorum was present on the ___ day of _____, 20___, and that the members voted thereon as hereinbefore set forth.

Township Clerk

(Option 3)

Resolution of Intent to Place the Question of Incorporation as a Charter Township on the Ballot at the ___(Month, day, year)___ (Regular or Special) Election _____ Township, _____ County, Michigan

WHEREAS, the Township Clerk has been notified by the Secretary of State of the State of Michigan that _____ Township has a population of 2,000 or more inhabitants, excluding the population of any incorporated village, notice of which notification was duly published in the ___(identify newspaper)___, a newspaper of general circulation in the township, as required by law, and

WHEREAS, under the provisions of MCL 42.3a, the Township is eligible to be incorporated as a charter township by resolution of the Township Board placing the question of incorporation on the ballot at the next regular or special township election, and

WHEREAS, the Township Board desires to place the question of incorporation before the electorate,

NOW, THEREFORE, in consideration of the foregoing, **IT IS HEREBY RESOLVED** that the Township Board does hereby declare its intent to place the question of incorporation as a Charter Township on the ballot at the ___(Month, day, year)___ (Regular or Special) Election.

BE IT FURTHER RESOLVED, that the Township Clerk shall prepare a ballot for the submission of such proposition at such election in accordance with the general election laws of the state and setting forth the proposition as follows:

Shall the Township of _____ incorporate as a charter township which shall be a municipal corporation subject to the provisions of Act No. 359 of the Public Acts of 1947, as amended, which act shall constitute the charter of such municipal corporation?

Motion was made by _____, seconded by _____, to adopt the foregoing resolution.

Upon roll call vote, the following voted "Yes":

Upon roll call vote, the following voted "No":

The chair declared the motion carried and the resolution duly adopted.

Township Clerk

CERTIFICATE

The undersigned, being the duly elected and acting Clerk of the Township of _____ hereby certifies that the foregoing resolution was duly adopted at a regular meeting of the Township Board at which a quorum was present on the ___ day of _____, 20___, and that the members voted thereon as hereinbefore set forth.

Township Clerk

When a Petition for Referendum is Submitted

MCL 42.3a(4) sets forth duties of the township clerk if petitions for referendum are submitted as follows:

1. Upon receiving a petition seeking referendum on the charter township question, the township clerk must check the petition signatures against the registered electors' signatures.
2. If the petition contains the proper number of valid signatures, the clerk must make all provisions for submitting the question of incorporation as a charter township to the registered electors of the township.
3. The question must be placed on the ballot at the next regular or special township election which allows the clerk the necessary time to provide for an orderly conduct of the election.
4. If a special election is contemplated for the purpose of submitting the question, the proposed date must be presented to the county scheduling committee for approval.
5. The wording on the ballot shall read as follows:

Shall the township of _____ incorporate as a charter township which shall be a municipal corporation subject to the provisions of Act No. 359 of the Public Acts of 1947, as amended, which act shall constitute the charter of such municipal corporation?

Yes _____ No _____

Filing Documents with the Office of the Great Seal and Registration Section, Michigan Department of State

1. If the township board adopts a resolution opposed to incorporation as a charter township, a copy of the resolution should be filed for informational purposes.
2. If the township board adopts a resolution of intent to approve incorporation as a charter township, and NO petitions of disagreement are filed, the following documents may be filed (informational only—Attorney General Opinion 7038 of 1999):
 - [a] Affidavit of publication of required notices;
 - [b] Resolution of Intent;
 - [c] Certificate of township clerk that no petitions were filed within the 60 day period;
 - [d] Resolution approving incorporation.
3. If the township board adopts a resolution of intent to approve incorporation as a charter township, petitions of disagreement ARE filed, an election is held, and the proposition is approved, the following documents must be filed:
 - [a] Affidavit of publication of required notices;
 - [b] Resolution of Intent;
 - [c] Certificate of township clerk that petitions were filed within the 60 day period and date set for election;
 - [d] Copy of ballot;
 - [e] Board of Canvassers certificate showing total votes cast and number of votes cast for and against incorporation as a charter township;
4. If the township board adopts a resolution to place the question of incorporation as a charter township before the electorate, an election is held, and the proposition is approved, the following documents must be filed:
 - [a] Affidavit of publication of required notices;
 - [b] Resolution of township board,
 - [c] Copy of ballot;
 - [d] Board of Canvassers certificate showing total votes cast and number of votes cast for and against incorporation as a charter township.
5. If the proposition to incorporate as a charter township is defeated at an election held under 3 or 4 above, the township clerk may file just a copy of the Board of Canvassers certificate showing the proposition did not pass.

Office of the Great Seal, Michigan Department of State

Mailing Address:

7064 Crouner Drive
Lansing, MI 48918-1750

Walk-in Address:

Richard H. Austin Building
1st Floor
430 W. Allegan
Lansing, MI 48933
(888) 767-6424 (Main Office)
(517) 241-1820 (Facsimile)