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Village Dissolution

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Village Dissolution

Why would a Village do this?

- Major issues with utility updates
- Apathy
- Unrealistic demands of citizens



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Village Dissolution

What happens to the Village taxpayers if the Village dissolves into another local government?

The Village taxpayers would become a taxpayer of the new local government under which the Village dissolved.

- Take on tax rates of local government
- Follow ordinances in effect of the local government
- Receive services under the local government



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Ohio Revised Code Sections that apply

- ORC 703.20 - Surrender of corporate power by Villages
- ORC 703.21 - Rights and Liabilities not Affected by Surrender of Corporate Power



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What are the steps to surrender corporate power by Villages from ORC 703.20?



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Village Dissolution

- A petition to place the issue of surrendering of corporate powers on the ballot.
 - must contain forty percent of the electors (*This is determined by the number voting at the last municipal election. The County Board of Elections can provide number of signatures needed.*)
- Once signatures have been obtained, the petition is presented to the Council of the Village.
 - Highly recommend that the petition have more than the required forty percent in case some names are not valid



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- Council will verify the signatures as to whether they are registered voters and if there is a sufficient number with Board of Elections.
- Once it is verified that the petition is in order, Council passes ordinance/resolution placing the issue of surrendering corporate power on ballot.
 - Verify filing deadlines with the Board of Elections
 - Recommend village solicitor (legal counsel) prepare ordinance and talk with Board of Elections for language



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- The ordinance/resolution approved is then delivered to the County Board of Elections to be placed on the ballot.
- Prior to the election, it is recommended that a public **information** meeting to be held to inform voters of issues surrounding the surrendering of corporate powers.
 - Recommended speakers: Village Mayor, President of Council, representative of the entity the Dissolving Village will become part of, County Commissioner, County Auditor (talk about tax rates), County Prosecutor/Atty Gen Office (legal issues and agreements)



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- If voters approve the surrendering of corporate powers, the Clerk shall certify the results to the Secretary of State and County Recorder. Corporate powers shall cease on that date.



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The Village has officially surrendered corporate power. Now what happens?



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Village Dissolution

- There needs to be an orderly transition of services, assets, liabilities and related financial activity to the appropriate government entities.
 - The Village can look at the process after the official vote or the groundwork for agreements can be started before the petition to place it on the ballot.
- All assets must be safeguarded during the transition period. Maintenance and repair of assets must be done.
 - This includes roads, cemeteries, water/sewer operations.
 - Insurance and utilities paid
 - Meters read for water/sewer



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Village Dissolution

- During transition period, the Clerk maintains the Village's position until all financial matters are addressed and the final audit is released.
- Typically, the transition period consist of a series of meetings with State, County, Township, Law Director (legal counsel) and other elected officials.
 - The meetings may be facilitated by the Auditor of State's Office and are for the purpose of identifying and solving issues relating to the transfer of services and financial activities.



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- A final audit must be performed. It must cover up to the last check made out to the entity absorbing the Dissolved Village.
 - You will need to work with AOS for timing.



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THE OHIO AUDITOR OF STATE'S OFFICE

A CITIZEN'S GUIDE TO PETITIONING



Government Mergers

The recent passage of House Bill 153 of the 129th General Assembly (State Operating Budget) streamlined the process that may be used for local communities to merge together to form a single, lower cost government. Specially, the new law shortened the time required for cities, villages and townships to merge, and for the first time, the new law allows (1) cities and villages to merge into a neighboring township or (2) townships to merge with other townships. These merger processes can be initiated either by a petition of the people living in those communities or by the local legislative authorities.

With the challenge of the fiscal realities in Ohio, the merging of villages, townships, and other political subdivisions may provide local governments with the opportunity to come together to provide better, more efficient services within their communities. It may also give these communities a competitive edge in retaining and attracting business.

This informational sheet is written to guide citizens in the process for initiating a merger through a petition.

The Ohio Petition Process

Ohio's elections are governed by Ohio Revised Code (O.R.C.) Title 35 and petitions are governed in more depth by O.R.C. § 523.02 (townships only), and §§ 731.28 – 731.40 (township, village and city mergers). With a goal of merging two or more local governments, a petition drive needs to be coordinated so that all the communities proposing to merge are working together on the petition. A successful petition drive will put the question of merger on ballot for these communities' voting citizens to decide the matter.

Initial Steps

- In Ohio, petitions must contain a full and correct copy of the title and text of the proposed initiative measure. Each and every signer of the petition must be an elector of one of the affected local governments.
- Before circulating the petition the certified copy of the petition must be filed with the township fiscal officer, city auditor, or the village clerk. A "certified copy" means a copy containing a written statement attesting it is a true and exact reproduction of the original proposed initiative measure.
- The petitioners may designate a committee of at least three to be in charge of the filing of the petition.

Gathering the Signatures

- The petition must have the signatures of at least ten percent (10%) of the number of electors who voted for the governor at the most recent general election for the office of governor in the political subdivision. You may obtain this information by contacting your local board of elections.

- The signatures collected for the petition should include the person's name, street address or rural route number, and the date of the signature.
- Each person can only sign a petition once.
- Each petition needs to include a circulator statement. This is a signed statement by the circulator made under penalty of election falsification that the circulator witnessed each signature, and all signers were qualified to sign and are true signatures to the best knowledge. The statement also includes the number of signatures on the petition.

Filing

- The petition is filed with the township fiscal officer, city auditor, or village clerk who after ten (10) days transmits a certified copy of the text of the proposed measure to the board of elections. The fiscal officer, auditor, or clerk must transmit the petition to the board together with a certified copy of the proposed measure. The board must examine all signatures on the petition to determine the number of electors of the political subdivision who signed the petition. The board must return the petition to the fiscal officer, auditor, or clerk within ten (10) days together with a statement attesting to the number of such electors who signed the petition.
- The board must submit such a proposed measure for the approval or rejection of the electors of the political subdivision at the next general election occurring subsequent to ninety (90) days after the fiscal officer, auditor, or clerk certifies the sufficiency and validity of the petition to the board of elections.

NOTE: THIS CITIZEN'S GUIDE IS NOT LEGAL ADVICE, AND SHOULD BE USED FOR INFORMATIONAL PURPOSES ONLY. INDIVIDUALS AND GROUPS SHOULD WORK DIRECTLY WITH THEIR LOCAL BOARDS OF ELECTION WITH ANY QUESTIONS OR LEGAL ISSUES PERTAINING TO THE PETITION PROCESS.

NOTE: THIS IS NOT AN OFFICIAL PETITION THIS IS ONLY A SAMPLE – PETITIONS MUST BE OBTAINED FROM THE BOARDS OF ELECTION IN THE RESPECTIVE COUNTIES OF THE COMMUNITIES YOU ARE PROPOSING TO MERGE.

**PETITION
FOR MERGER BETWEEN _____ AND _____**

NOTICE

Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

To the legislative authorities of _____ and _____:

We the undersigned electors of _____ and _____ respectively propose to the electors of _____ and _____ for their approval or rejection at the next general election, which will be provided for by legislative authorities of _____ and _____ that _____ and _____ merge as a political subdivision.

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

Committee of not less than three petitioners	address

Signatures on this petition must be written in ink.

	SIGNATURE	STREET AND NO. OR R.F.D <small>(must use address on file with board of elections)</small>	CITY OR TOWN	DATE OF SIGNING
1.				
2.				
3.				
4.				
5.				
6.				
7.				

Circulator Statement

I, _____, declare under penalty of election falsification, that I am a qualified elector of the State of Ohio, and I reside at the address appearing below my signature, that I am the circulator of the foregoing petition containing ____ signatures; that I witnessed the affixing of every signature; that all signers were, to the best of my knowledge and belief, qualified to sign; and that every signature is, to the best of my knowledge and belief, the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to 3501.382 of the Revised Code.

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

(Signature of Circulator)

(Street and Number or Rural Route)

(City and Zip Code)

Requirements for Municipal/Township Streamlined Mergers

Overview

House Bill 153 of the 129th General Assembly added a new process for local governments seeking to merge together to form a single lower cost government. This process applies to cities or municipalities proposing to merge with or into townships. It also applies to cities or villages proposing to merge with other cities and villages. This process is a more streamlined version of an older method, which required the formation of a “Commission” to study the feasibility of a merger. Both methods are still allowed and each local government should choose which method would best suit their needs. The newer, streamlined approach allows communities to cut through the red tape faster and allows a less cumbersome process.

For the new streamlined process, the legislative authorities of each local government wanting to merge must pass a resolution or ordinance proposing a merger by a two-thirds vote. No election of a commission to study and statement of conditions for merger is required.

After passing the proposal, the legislative authorities of the local governments proposing to merge have one hundred twenty (120) days to enter into a merger agreement specifying the conditions. Each local government must pass the conditions by a simple majority vote of their respective legislative authorities.

At the minimum, the proposed merger agreement must include:

- The names of local governments participating in the merger;
- The territorial boundaries of the merged entity;
- The date the merger will take effect;
- A procedure for the transition; and
- A transition plan and schedule.

The legislative authorities will submit the question of whether a merger should be approved to the citizens of each affected local government. If the merger is approved by a majority of those voting in each local government, the merger will take effect immediately upon certification of the vote.

It is important to note that if the charter of a municipal corporation proposed for merger under this process conflicts with the outlined procedures, the charter’s processes and procedures for merger take precedence. Also, please note, this process does not apply to mergers with county governments.

Any political subdivision wanting to explore the possibility of the new streamlined merger process should consult legal counsel to ensure that all necessary issues are addressed.

**DRAFT RESOLUTION
MERGER**

A RESOLUTION OF THE (Local Government Legislative Authority) **OF** (Local Government) **OHIO, ADOPTING A POSITION IN FAVOR OF A MERGER WITH** (Local Government) **AND PLACING SUCH ADOPTION ON THE BALLOT AT THE NEXT GENERAL ELECTION FOR THE ELECTORS OF** (Local Government) **TO DECIDE ON THE POSITION IN EITHER FAVOR OR AGAINST AND TO ENCOURAGE THE ADOPTION BY THE ELECTORS FOR FAVOR OF THE PROPOSED MERGER.**

WHEREAS, the (LOCAL GOVERNMENT LEGISLATIVE AUTHORITY) and the (LOCAL GOVERNMENT LEGISLATIVE AUTHORITY) are responsible for the establishment of policies and procedures for their respective political subdivisions, and responsible for safety and welfare of their citizens; and

WHEREAS, the (LOCAL GOVERNMENT) and (LOCAL GOVERNMENT) along with other local governments across the state and country are confronting budgetary shortfalls and reduced federal, state and local revenue streams; and

WHEREAS, substantial significant long-term solutions must be provided for local governments to continue to provide, efficient, effective and quality services for residents of our community; and

WHEREAS, (LOCAL GOVERNMENT) and (LOCAL GOVERNMENT), have come together and made the necessary studies and preparation for the merging of these local governments in order to continue to serve and provide the citizens of (LOCAL GOVERNMENT) and (LOCAL GOVERNMENT) with quality services; and

WHEREAS, in 2011 the Ohio General Assembly adopted House Bill 153, the state operating budget which, among other things, established new processes for political subdivisions to merge with one another;

WHEREAS, that Revised Code section (DEPENDS ON ENTITIES INVOLVED) provides that the legislative authority of a political subdivision can initiate the question of merger on a the ballot by a majority vote;

WHEREAS, (LOCAL GOVERNMENT) Ohio, and (LOCAL GOVERNMENT) Ohio, two political subdivisions in the State of Ohio, would like to merge into one political subdivision under the laws of Ohio and assume all rights and responsibilities that come with such a merger;

WHEREAS, the (LEGISLATIVE AUTHORITY) of (LOCAL GOVERNMENT) Ohio desires by the adoption of this Resolution to place the question of merger on the ballot at the next general election, to be decided upon by the citizens and electorate of (LOCAL GOVERNMENT);

WHEREAS, the (LEGISLATIVE AUTHORITY) of (LOCAL GOVERNMENT) Ohio strongly desires that the electorate of (LOCAL GOVERNMENT) votes in favor of such a merger between (LOCAL GOVERNMENT) and (LOCAL GOVERNMENT) at the next general election;

NOW, THEREFORE, BE IT RESOLVED BY THE (LEGISLATIVE AUTHORITY) of (LOCAL GOVERNMENT) that by a vote of (YEAS) to (NAYS), the question of merger will be placed upon the ballot of the next general election to be decided upon by the electorate of (LOCAL GOVERNMENT).

PASSED AND APPROVED by_____

Requirements for Township-to-Township Mergers

Overview

Each board of township trustees of the townships proposing to merge must adopt a joint resolution approved by a majority of the members of each board. This resolution must propose to place the question before each of the township's voters at the next regular election.

If the merger is approved by a majority of voting citizens, then township trustees for each township proposing to merger must enter into a merger agreement that contains the specific terms and conditions of the merger. The townships must do this within 120 days after approval of the merger by the electors.

This web site includes a sample merger agreement, which includes the requirements found in Ohio Rev. Code § 523.04. That statute provides that, at a minimum, a merger agreement should contain the terms referenced in the sample agreement. This is not an exhaustive list of potential terms. There could be other necessary terms/conditions, depending on the particular situation of each merging township.

Townships seeking to merge should consult legal counsel to ensure that all necessary terms are incorporated in the merger agreement.

The merger agreement and a copy of the joint resolution shall be filed with the township fiscal officer of the new township. The merger agreement will become effective on this date of filing.

In the event that the townships to be merged fail to enter into a merger agreement within 120 days following approval of the merger by electors, the statutory default rules of Ohio Rev. Code § 523.06 will govern. Additionally, in the event that the townships to be merged enter into a merger agreement, but fail to incorporate all of the required terms/conditions provided for in Ohio Rev. Code 523.04, the default provisions will apply to the extent not provided for in the merger agreement. This web site also includes a list of the statutory default rules.

SAMPLE MERGER AGREEMENT

This Merger Agreement (hereinafter “the Agreement”) was entered into between and among XXX TOWNSHIP, OHIO COUNTY and XXX TOWNSHIP, OHIO COUNTY effective this 15th day of December, 2011. XXX TOWNSHIP, OHIO COUNTY and XXX TOWNSHIP, OHIO COUNTY are referred to collectively as “the Parties or the Townships.”

ARTICLE I – LEGAL AUTHORITY

Pursuant to Ohio Rev. Code §§ 523.01 - 523.07, the territory of one or more townships may be merged with that of a contiguous township to create a new township. The Parties, in this pursuit, submitted the issue of merger to the electors of each respective Township. The electors of both Townships approved the merger on [Date]. Accordingly, the Parties desire to enter into this Agreement pursuant to Ohio Rev. Code § 523.04.

ARTICLE II – NAME OF NEW TOWNSHIP

The new township approved by the electors of both the Townships shall henceforth be known as “XXX Township.”

ARTICLE III – TOWNSHIP OFFICES

Principal township offices for XXX Township will be _____ [or, alternatively, this provision may provide for the manner in which the location will be selected].

ARTICLE IV – TOWNSHIP OPERATIONS AND ORGANIZATION

[This provision should provide for:

- Government operations and organization of new township;
- A plan for electing officers at the next general election that is held not later than 90 days after the merger agreement is finalized.]

ARTICLE V – TOWNSHIP SERVICES, FUNCTIONS AND RESPONSIBILITIES

[This provision should provide for the efficient and timely transfer of specific services, functions, and responsibilities from each township and its respective offices to the new township.]

ARTICLE VI – ASSETS

[This provision should identify and state the disposition of any township assets and property for each township.]

ARTICLE VII – DEBT

[This provision shall provide for liquidation of any existing indebtedness for each township.]

ARTICLE VIII – ENFORCEMENT OF TOWNSHIP RESOLUTIONS

[This provision shall provide for a plan for the common administration and enforcement of resolutions of the township merged, to be enforced uniformly within the new township.]

ARTICLE IX – ZONING

[This provision shall specify whether there will be any zoning changes as a result of the merger.]

ARTICLE X – SPECIAL PURPOSE DISTRICTS

[This provision shall provide a plan to conform the boundaries of an existing special purpose district within the new township, to dissolve the special purpose district, or to absorb the special purpose district into the new township.]

ARTICLE XI – EFFECTIVE DATE

This Agreement shall become effective on the date of execution and filing with the fiscal officer of the new township.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature of each member of the XXX TOWNSHIP and XXX TOWNSHIP trustees.

TRUSTEE

TRUSTEE

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TRUSTEE

TOWNSHIP TO TOWNSHIP MERGER AGREEMENTS

DEFAULT TERMS

A. All members of each board of township trustees must serve as board members of the new township. At the first general election held for township officers occurring not less than 90 days after a merger is approved, the electors of the new township must elect three township trustees with staggered terms of office. The first terms following the election must be modified to an even number of years not to exceed four to allow subsequent elections for the office to be held in the same year as other township officers.

B. The township fiscal officer of the largest township, by population, is the township fiscal officer for the new township. At the first general election for township officers occurring not less than 90 days after the merger, the electors must elect a township fiscal officer, whose first term of office must be modified to an even number of years not to exceed four to allow subsequent elections for that office to be held in the same year as other township fiscal officers.

C. Voted property tax levies remain in effect for the parcels of real property to which they applied prior to the merger, and the merger does not affect the proceeds of a tax levy pledged for the retirement of any debt obligation. Upon expiration of a property tax levy, the levy may only be replaced or renewed by vote of the electors in the manner provided by law, to apply to real property within the boundaries of the new township. If the millage levied inside the ten-mill limitation of each township merged is different, the board of township trustees of the new township must immediately equalize the millage for the entire new township.

D. For purposes of the retirement of all debt obligations of each township merged, the township fiscal officer must continue to track parcels of real property and the tax revenue generated on those parcels by the tax districts that were in place prior to the merger, and must provide that information on an annual basis to the board of township trustees of the new township. Debt obligations that existed at the time of the merger are to be retired from the revenue generated from the parcels of real property that made up the township that incurred the debt before the merger.

E. (1) With respect to any agreement entered into under Chapter 4117 of the Revised Code that covers any of the employees of the townships merged, the State Employment Relations Board, within 120 days after the date the merger is approved, must designate the appropriate bargaining units for the employees of the new township in accordance with section 4117.06 of the Revised Code. Notwithstanding the recognition procedures prescribed in 4117.05 and division (A) of the section 4117.07 of the Revised Code, the Board must conduct a representation election with respect to each bargaining unit

designated in accordance with divisions (B) and (C) of section 4117.07 of the Revised Code. If an exclusive representative is selected through this election, the exclusive representative must negotiate and enter into an agreement with the new township in accordance with Chapter 4117 of the Revised Code. Until the parties reach an agreement, any agreement in effect on the date of the merger applies to the employees that were in the bargaining unit that is covered by the agreement. An agreement in existence on the date of the merger is terminated on the effective date of an agreement negotiated with the new township.

- (2) If an exclusive representative is not selected, any agreement in effect on the date of the merger applies to the employees that were in the bargaining unit that is covered by the agreement and expires on its terms.
- (3) Each agreement entered into under Chapter 4117 of the Revised Code on or after September 29, 2011, applying to a new township, must contain a provision regarding the designation of an exclusive representative and bargaining units for the new township.
- (4) In addition to the laws listed in division (A) of section 4117.10 of the Revised Code that prevail over conflicting agreements between employee organizations and public employers, this provision of the merger agreement prevails over any conflicting provisions of agreements between employee organizations and public employers that are entered into on or after September 29, 2011, pursuant to Chapter 4117 of the Revised Code

F. (1) If the boundaries of the new township are not coextensive with a special purpose district, the new township shall remain in the existing special purpose district as a successor to the original township, unless the special purpose district is dissolved. The board of township trustees of the new township may place a question on the ballot at the next general election held after the merger to conform the boundaries, dissolve the special purpose district, or absorb the special purpose district in to the new township on the terms specified in the resolution that places the question on the ballot for approval of the electors of the new township.

- (2) "Special purpose district" means any geographic or political jurisdiction that is created under law by a township merged.