VILLAGE INCORPORATION IN NEW YORK STATE:

LEGISLATIVE OPTIONS FOR REFORM



PACE UNIVERSITY
Elisabeth Haub School of Law

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Elisabeth Haub School of Law JD Candidates:
Carly Hopkins, **Hailey Pedicano**, and **Mia Petrucci**

Jessica A. Bacher
Executive Director, Land Use Law Center

Vicky Gannon
Head of Collection Services/Reference Librarian, Elisabeth Haub School of Law at Pace University

Deborah L. Heller
Assistant Dean of the Law Library, Elisabeth Haub School of Law at Pace University

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Horace E. Anderson Jr.
Dean, Elisabeth Haub School of Law at Pace University

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UNIVERSITY
Elisabeth Haub School of Law

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EXECUTIVE SUMMARY

This report presents options for legislative reform of the village incorporation process in New York State. The authors examined the incorporation procedures and requirements set forth in Article 2 of the Village Law and compared them with other states' laws and New York law on annexation and dissolution. Case studies and other literature on village incorporation were reviewed to better understand the reasons that motivate people to petition to incorporate. Bill research analysis further illuminated the rationale behind prior, unsuccessful efforts at legislative reform of the village incorporation process.

A 2020 Rockefeller Institute study served as the report's research foundation. Written by Lisa K. Parshall and entitled *Is It Time For New York State to Revise Its Village Incorporation Laws? A Background Report on Village Incorporation in New York State*, New York, and most other states, were identified as minimal review states, with the incorporation process limited to population and territory criteria; petition and referendum requirements; and boundary specifications. Mid-level review states' procedures also included some examination of fiscal and service capacity. Finally, substantive review states required procedures focused on assessing the proposed village's ability to deliver and finance services, as well as the proposed entity's impact on surrounding governments.

To drill down more deeply, the research then concentrated on the substantive and mid-level review states. The authors analyzed each step of the incorporation process in those states and developed a comparative matrix with New York law. For each state, the matrix presents the minimum population; population density and geographic requirements; petition signature requirements; property ownership requirements; state, municipal, or judicial review authority and criteria; fiscal

and operational study requirements; and referendum and voting requirements, highlighting the similarities and differences between the states.

This report also examines New York's municipal annexation and dissolution procedures and identifies the internal consistency of New York's approach to municipal formation, alteration, and dissolution. Another comparative matrix sets forth the required elements of annexation, dissolution, and village incorporation and highlights significant differences between those three procedures.

Research analysis culminated in the following findings:

1) A neutral State entity should preside over the incorporation review process.
2) Village incorporation decision-making should be based upon proper data and analysis.
3) New York's minimum population requirement is inadequate to ensure village viability.
4) New York's petition signature requirements are insufficient, outdated, and unreflective of the interests of those impacted by the proposed incorporation.

Based upon these findings, the authors developed options for legislative reform as follows:

1) Establish a State Commission on Village Incorporation.
2) Require State preparation and funding of feasibility and impact studies.
3) Increase the minimum population requirement and add a population density requirement.
4) Eliminate property ownership as an independent basis for petitioning for village incorporation.
5) Increase the percentage of petition signatures required and require a percentage of signatures from town residents.

BACKGROUND

Since 1874, New York State villages have been formed through local initiative pursuant to the New York Village Law.[1] During the nineteenth and twentieth centuries, a large number of villages were incorporated in New York State, with more than 160 villages formed from 1900 to 1940.[2] However, between 1940 and 2012, only 27 new villages were created, while 26 villages dissolved.[3] Today, there are 534 villages in New York State, with an average village population size of approximately 3,613 .[4] Roughly eight percent of villages have over ten thousand residents, whereas thirty-three percent have less than 1,000.[5]

A report published by the Office of the New York State Comptroller notes that villages were initially created to provide additional or missing services for more populous sections of towns.[6] However, suburbanization may have influenced changes in the law that have enabled provision of those services without village creation (often through "special districts").[7] Today, police, water, sewer, sanitation, and fire protection services are provided routinely throughout towns, making village incorporation often no longer necessary for these purposes.[8] Instead, village incorporation is more typically pursued for political reasons. "The impetus for most recent village incorporations has not

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[1] *New York State Conference of Mayors and Municipal Officials*, NYCOM DIRECTORY OF CITY & VILL. OFFS. (2005), https://video.dos.ny.gov/lg/handbook/html/village_government.html.
[2] *Id.*
[3] *Id.*
[4] *See State of New York Incorporated Places*, NY CENSUS, https://tigerweb.geo.census.gov/tigerwebmain/Files/bas22/tigerweb_bas22_incplace_2020_tab20_ny.html; *See also*, OFF. OF THE N.Y. STATE COMPTROLLER, *Local Government 2020 Census Interactive Dashboard*, (Last accessed March 27, 2023) http://wwe1.osc.state.ny.us/localgov/2020-census-interactive-dashboard.htm
[5] *Id.*
[6] *Outdated Municipal Structures Cities, Towns and Villages – 18th Century Designations for 21st Century Communities*, OFF. OF THE N.Y. STATE COMPTROLLER, at 3 (2006), https://www.osc.state.ny.us/files/local-government/publications/pdf/munistructures.pdf.
[7] *See id.; see also Town Special Districts in New York*, OFF. OF THE N.Y. STATE COMPTROLLER (2007) ("A special district is a geographic area within a town established to address specific needs of the property owners within that district, utilizing charges and, in some cases, user fees paid by taxpayers within the district to finance these services.").
[8] *See Outdated Municipal Structures Cities, Towns and Villages – 18th Century Designations for 21st Century Communities*, OFF. OF THE N.Y. STATE COMPTROLLER, at 3 (2006), https://www.osc.state.ny.us/files/local-government/publications/pdf/munistructures.pdf.

been the need for new services, but the desire of disaffected residents of a particular area to take control of land use regulation and other services from a town board."[9]

In 2019, the New N.Y. Government Reorganization and Citizen Empowerment Act was enacted, streamlining the process for village dissolution and consolidation.[10] This change in the law prompted questions as to whether New York State should update the village incorporation process, as well.[11]

METHODOLOGY

This report analyzes New York State Village Incorporation Law (Village Law, Article 2) through its comparison to other states' village incorporation laws (see Comparative State Matrix, Appendix A). After reviewing multiple resources (see Annotated Bibliography, Appendix B), the states chosen for comparative analysis were based on the Rockefeller Report entitled, *Is It Time For New York State to Revise Its Village Incorporation Laws? A Background Report on Village Incorporation in New York State New York* ("Rockefeller Report").[12] That report "highlights several recent village incorporation controversies, reviews the history of village incorporation patterns and procedures, and compares the incorporation provisions of New York relative to those of other states . . . ."[13] Ultimately, the Rockefeller Report concludes that New York State should modernize the municipal incorporation process using other states as potential models.[14]

The states in the Rockefeller Report were divided into categories based on level of procedures required to incorporate a village. These categories include minimal review states, mid-level review

[9] *Id.*
[10] LISA K. PARSHALL, IS IT TIME FOR NEW YORK STATE TO REVISE ITS VILLAGE INCORPORATION LAWS? A Background Report on Village Incorporation in New York State. New York 3 (Rockefeller Inst. of Gov. 2020), https://rockinst.org/wp-content/uploads/2020/02/1-28-20-Village-Incorporation-Report.pdf.
[11] *See id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*

states, and substantive review states. Minimal review states are those with fewer required incorporation procedures, whose review is limited to population and territory requirements, petition and referendum requirements, and boundary specifications.[15] New York is considered a minimal review state. Mid-level review states require the same technical review as minimal review states but also require some examination of fiscal capacity and services. Mid-level review states further require an external body to evaluate the proposed incorporation; however, these bodies cannot block or approve the proposed incorporation.[16] Substantive review states include states with village incorporation provisions that dictate review of the "merits of the proposed incorporation in terms of fiscal and service capacity and its impact on the region or adjacent municipalities."[17] Substantive review states also designate an external review entity with the authority to recommend or deny the petition.[18]

Research focused on the following states: Florida, North Carolina, Michigan, Ohio, West Virginia, and Wisconsin (substantive review states), and Illinois,[19] New Mexico, and Maryland (mid-level review states). For each selected state, the analysis examined its entire incorporation process from petition to referendum and any required criteria and studies (see Comparative State Matrix, Appendix A). For each state, the Comparative State Matrix details the minimum required population; population density and geographic requirements; petition signature requirements; property ownership requirements; state, municipal, or judicial review authority and criteria; fiscal and operational study requirements; and referendum and voting requirements. This matrix also highlights similarities and differences between the states.

[15] *Id.* at 29.
[16] *Id.* at 32.
[17] *Id.* at 36.
[18] *Id.*
[19] Note that Illinois was not included in the final matrix as it was determined that Illinois' technical standards were too lengthy and complex to include in the matrix and that the other mid-level states already reflected similar merit review.

Additionally, this report examines New York's municipal annexation and dissolution procedures and analyzes the internal consistency of New York's approach to municipal formation, alteration, and dissolution. A New York State Matrix ("NYS Matrix"), comparing the village incorporation, annexation, and dissolution standards within New York State, is attached as Appendix C. The NYS Matrix highlights significant differences between those three procedures by comparing petition signature requirements; population and territorial requirements; required fiscal and operational studies; petition review criteria and authority; and referendum and voting requirements.

To understand the rationale underlying previous attempts to amend the village incorporation process, the authors researched unenacted bills that proposed amendments to New York's village incorporation law and prepared the Significant Bill Proposals Matrix presented in Appendix D. To better understand the rationale behind recent attempts, the authors also examined New York village case studies, including the Rockefeller Report's review of a handful of specific villages and the reasoning for their incorporation. Additional village incorporations were examined, drawing from village websites, news stories, and other resources to understand justifications for incorporation petitions (see Case Study Examples, Appendix E). Major themes included wanting to (1) preserve the character of the area,[20] (2) exercise more control over environmental decisions,[21] (3) exert more control over local taxes,[22] and (4) rely on their own government for services.[23]

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[20] Joseph Berger, *Growing Pains for a Rural Hasidic Enclave*, N.Y. TIMES, (Jan. 13, 1997), https://www.nytimes.com/1997/01/13/nyregion/growing-pains-for-a-rural-hasidic-enclave.html?sec=&spon=&pagewanted=all; Ronald Sullivan, *Rockland County Village Accused of Bias in Zoning*, N.Y. TIMES, (Dec. 18, 1991), https://www.nytimes.com/1991/12/18/nyregion/rockland-county-village-accused-of-bias-in-zoning.html.

[21] *Area History*, WESTHAMPTON BEACH HIST. SOC'Y, https://whbhistorical.org/area-history/ (last visited Mar. 24, 2023); *VEN Handbook: History of the Village of East Nassau*, VILLAGE OF E. NASSAU, https://villageeastnassau.digitaltowpath.org:10128/content/Generic/View/19 (last visited Mar. 24, 2023).

[22] David McKay Wilson, *It's Round 2 in Edgemont Village Incorporation bid with Submission of new Petition*, LOHUD (May 31, 2019), https://www.lohud.com/story/money/personal-finance/taxes/david-mckay-wilson/2019/05/31/edgemont-ny-village-incorporation-drive-resumes-petition-filing/1287752001/; *Why Incorporate?*, THE VILL. OF EAST QUOGUE, https://eqvillageexploratorycommittee.com (last visited Mar. 24, 2023).

[23] *Incorporation*, VILLAGE OF HASTINGS-ON-HUDSON, NY, https://www.hastingsgov.org/about/pages/incorporation (last visited Mar. 24, 2023).

FINDINGS

Research and analysis of village incorporation law and case studies produced several informative findings. Described further below, these findings highlight the importance of a neutral state entity that can manage the incorporation review process, data analysis, a sufficient population requirement for village incorporation, and enhanced petition signature requirements.

A. A Neutral State Entity Should Preside Over the Village Incorporation Review Process.

In New York, the petition review process for village incorporation is overseen by the supervisor(s) of the town(s) in which the proposed incorporated area is situated.[24] Given that the incorporation is likely to have a significant impact on the remainder of the town(s), the supervisor(s) has a vested interest in the outcome, which could affect his or her impartiality.

In marked contrast, most of the other states either (1) require a neutral petition review authority made up of representatives from a state or regional government to oversee the process or (2) confer exclusive review jurisdiction on the judiciary (see Comparative State Matrix, Appendix A). Florida's review authority is the Florida Legislature.[25] North Carolina's review authority is the Municipal Incorporations Subcommittee of the Joint State Legislative Committee on Local Government.[26] The subcommittee is made up of six representatives: three from the state Senate and three from the state House of Representatives.[27] Ohio's review authority is the Board of County Commissioners.[28] Michigan's review authorities are (1) the County Board of Commissioners, which determines the petition's compliance with Michigan's Home Rule Village Act, (2) the State Boundary Commission, with three members appointed by Michigan's Governor with legislative consent, and

[24] N.Y. VILLAGE § 2-202–2-210.
[25] FLA. STAT. § 165.041.
[26] N.C. GEN. STAT. § 120-158.
[27] *Id.*
[28] OHIO REV. CODE ANN. §§ 707.03–.08.

(3) the County Probate Judge, who has the power to approve or deny the incorporation petition.[29] West Virginia's review authority is the County Court.[30] Wisconsin's review authorities are (1) the Circuit Court, which determines statutory compliance, and (2) the Incorporation Review Board, which is part of the State Department of Administration and members of which include the Secretary of Administration, or their designee, and representatives appointed by the various Wisconsin municipal leagues.[31] Wisconsin's Incorporation Review Board is tasked with preparing a determination for the Circuit Court.[32] New Mexico's review authority is the Municipal Incorporation Review Team, which includes state and county government representatives.[33] Maryland's review authority is the County Council.[34]

As explained further below, village incorporation review authorities require reliable data and analysis to inform the decision-making process,[35] so adequate funding and staffing for the reviewing entity is required. New York State law prohibits town supervisors from expending public funds to support or oppose a proposed village incorporation.[36] A neutral New York State entity would not be so constrained and would have access to State agency personnel and funding from the New York State Legislature.

B. Decision-making for Village Incorporation Should Rely on Proper Studies and Analysis.

New York's approach to village incorporation limits the process to technical compliance with population and geographical requirements without substantive review of proposed operations and finances. This approach is inconsistent with the State's procedures for village dissolution and

[29] MICH. COMP. LAWS §§ 78.4, 123.1002, 123.1005, 123.1007.
[30] W. VA. CODE § 8-2-3.
[31] WIS. STAT. §§ 66.0205, 15.105(23).
[32] WIS. STAT. § 66.0203(9)(d).
[33] N.M. STAT. ANN. § 3-2-1(D)-(E).
[34] MD. CODE. ANN., LOCAL GOV'T § 4-205.
[35] *See* discussion *infra* "Findings" Section (B).
[36] State law prohibits local governments from using public funds to "disseminate propaganda in favor or against any issue or candidate." Stern v. Kramarsky, 84 Misc. 2d 447, 452 (N.Y. Sup. Ct. 1975)(clarifying that the town's only role is to verify that the petition's signatures and accompanying map of the village's boundaries meet state requirements, pointing to the state Constitution, as well as town and village law as the source of this decision).

annexation. To dissolve a village in New York, the village government must prepare a dissolution plan that addresses several elements, including (1) fiscal impacts, (2) delivery of services, and (3) effect on the tax base of residents in the existing village and surrounding town.[37] For annexation in New York, a joint public hearing is held by local governments to determine the validity of the petition and whether the proposed annexation is in the overall public interest of (1) the territory proposed to be annexed, (2) the local government(s) to which the territory is proposed to be annexed, (3) the remaining area of the local government(s) in which the territory is located, and (4) enumerated districts situated within the territory proposed to be annexed.[38]

In contrast to New York's village incorporation approach, several substantive and mid-level review states require a critical additional prerequisite to incorporation: objective fiscal and operational studies that inform the decision-making process through an assessment of the proposed incorporation's feasibility and its potential impacts upon other municipal bodies and the surrounding population (see Comparative State Matrix, Appendix A). North Carolina requires that a village incorporation petition set forth certain basic services to be provided and the means of funding those services.[39] West Virginia requires plans for all major municipal services (i.e., police, fire, solid waste, sewer and water), as well as statements showing how the proposed incorporation will affect the municipality's finances and services.[40] New Mexico requires a municipal service and revenue plan in addition to a geospatial and population study.[41] Maryland requires analysis of the fiscal effect of incorporation on residents within and in the vicinity of the proposed municipality; the services proposed to be provided; and the impact of the proposed incorporation on property tax rates.[42]

[37] N.Y. GEN. MUN. § 774(2).
[38] N.Y. GEN. MUN. § 705(1)(e).
[39] N.C. GEN. STAT. § 120-163.
[40] W. VA. CODE § 8-2-1(a)(5)(A)-(C).
[41] N.M. STAT. ANN. § 3-2-1(B)(2)-(3).
[42] MD. CODE. ANN., LOCAL GOV'T § 4-206.

In addition to a fiscal analysis of tax revenue and services for the proposed municipality, Wisconsin requires a public interest evaluation taking regional considerations into account.[43] Wisconsin's Incorporation Review Board must consider whether the proposed incorporation has impacts on the remainder of the town and ensure there will not be substantial adverse impacts on the greater metropolitan area.[44] Such impacts can be in addition to financial concerns.[45] When conducting these impact studies, the Incorporation Review Board must make an express finding that the proposed incorporation "will not substantially hinder the solution of governmental problems affecting the metropolitan community."[46]

C. New York's Minimum Population Requirement Is Inadequate to Ensure Village Viability.

To incorporate a village, New York currently requires a territory to have at least 500 regular inhabitants (see Comparative State Matrix, Appendix A). This population threshold requirement seems too low to support a separate government entity with taxing and bonding power, and it is well below the average population size of a village in New York.[47] To date, multiple proposed bills introduced in the New York State Legislature have suggested increasing the minimum population requirement to 2,000 or more to incorporate a village (see Significant Bill Proposals Matrix, Appendix D). Increasing the population requirement would ensure that a separate system of services is necessary to adequately support a localized population.

For comparative purposes, the minimum population required to pursue village incorporation in Wisconsin is 2,500 for a metropolitan village (see Comparative State Matrix, Appendix A). In the

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[43] WIS. STAT. § 66.0207(9)(2)(a)–(b).
[44] WIS. STAT. § 66.0207(9)(2)(c)–(d); *see, e.g*, TOWN OF GREENVILLE, SUBMITTAL IN SUPPORT OF THE INCORPORATION OF THE VILLAGE OF GREENVILLE, WI (Jan. 2020), https://cms3.revize.com/revize/greenvillewi/document_center/Incorporation%20Review%20Committee/Submittal_Maps_Exhibits/Resubmittal/Resubmittal%20in%20Support%20of%20the%20Incorporation%20of%20the%20Village%20of%20Greenville%201.20.2019.pdf.
[45] WIS. STAT. § 66.0207(9)(2)(c).
[46] WIS. STAT. § 66.0207(9)(2)(d).
[47] The average population size of a village is approximately 3,613, more than four times as much as the minimum population requirement. *See State of New York Incorporated Places*, NY CENSUS, https://tigerweb.geo.census.gov/tigerwebmain/Files/bas22/tigerweb_bas22_incplace_2020_tab20_ny.html

State of Florida, the minimum population to incorporate a village is 1,500 persons within a county that has less than 75,000 people and 5,000 persons in a county that has more than 75,000 people.[48] Notably, New York and Florida do not dramatically differ in population size, having approximately 19 million people and 22 million people, respectively.[49]

Additionally, more than half of the states reviewed for this report require a minimum population density for village incorporation (see Comparative State Matrix, Appendix A). In New Mexico, the proposed territory must contain a population density of no less than one person per acre;[50] for Ohio, the proposed territory must contain a population of at least 800 people per square mile;[51] in the State of Michigan, the territory must contain at least 150 inhabitants and an average of not less than 100 inhabitants per square mile;[52] the minimum size for incorporation in Wisconsin is 150 persons within an area of one-half square mile;[53] and in West Virginia, a proposed territory must have an average of not less than 500 inhabitants per square mile.[54] Some states that do not require a minimum population density instead link minimum population to the total population of the territory's county (see Comparative State Matrix, Appendix A).[55]

This contrasts with the State of New York, which currently has no population density requirement. Instead, in New York, it is sufficient if a territory has at least 500 regular inhabitants. Questions about the viability of such a small entity, and the appropriateness of conferring taxing and bonding authority upon it, suggest that New York should consider raising the minimum population requirement and imposing a population density requirement.

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[48] FLA. STAT. § 165.061.
[49] *See* U.S. CENSUS BUREAU, *Quick Facts*, (Last visited, March 13, 2023, 9:17 PM), https://www.census.gov/quickfacts/fact/table/FL,NY/HSG445221.
[50] N.M. STAT. ANN. § 3-2-1(B).
[51] OHIO REV. CODE ANN. § 707.02.
[52] MICH. COMP. LAWS § 78.3.
[53] WIS. STAT. § 66.0205.
[54] W. VA. CODE § 8-2-1.
[55] *See, e.g.*, FLA. STAT. § 165.061.

D. New York's Petition Signature Requirements are Insufficient, Outdated and Do Not Represent the Interests of Those Impacted by a Proposed Incorporation.

Under New York law, the petition requirement for village incorporation can be satisfied by either obtaining signatures from 20 percent of residents qualified to vote or by collecting the signatures of those owning 50 percent in assessed valuation of real property in the proposed area.[56] The property ownership qualification could empower large property owners to exercise disproportionate influence in the petition process and is otherwise generally inconsistent with prior New York voting reforms.[57]

States reviewed are divided in their approach. Some retain a freeholder signature requirement, while others do not (see Comparative State Matrix, Appendix A).

Eliminating property ownership as a basis for petitioning for village incorporation, and raising the signature threshold above 20 percent, would ensure that the petition signatures reflect a broad local desire to incorporate. Past New York legislative bills have proposed raising the required percentage to 51 percent of residents before a petition could move forward (see Significant Bill Proposals Matrix, Appendix D).

Greater involvement in the process for town residents outside the area of proposed incorporation should also be considered. Requiring a certain percentage of petition signatures to be obtained from residents of the relevant town(s) would recognize the interests of the town-outside residents in the incorporation process and ensure their participation. Other states have used different mechanisms to include the inhabitants of adjacent municipalities. For example, the State of Illinois

[56] N.Y. VILLAGE § 2-202 (a).
[57] *See* Pierce v. Vill. of Ossining, 292 F. Supp. 113 (S.D.N.Y. 1968) (holding that a provision in New York Village Law that voter at a village election on a proposition must be owner of property in the village was unconstitutional).

involves the residents of the current town or neighboring territory by making them eligible to participate in the final incorporation vote.[58]

OPTIONS FOR LEGISLATIVE REFORM

Using these findings, the authors developed five options for legislative reform, which are described in detail below. These include (1) establishing a State Commission on Village Incorporation, (2) requiring State preparation and funding of feasibility and impact studies, (3) increasing the minimum population requirement and adding a population density requirement, (4) eliminating property ownership as an independent basis for petitioning for village incorporation, and (5) increasing the percentage of petition signatures required and including a percentage of signatures from town residents. For each option presented, this report describes the option, explains its rationale, and presents relevant statutory language to be amended.

A. Establish a State Commission on Village Incorporation.

i. **Option**. New York State could amend Village Incorporation Law to create a State Commission on Village Incorporation. The Commission would be tasked with (1) considering the validity of the petition, (2) completing the recommended feasibility and impact studies detailed in Option B below, (3) holding a public hearing, (4) making a final decision about the legal sufficiency, feasibility, and impact of the petition and proposed incorporation, and (5) authorizing the required referendum if the necessary findings in support of incorporation are made. The Commission could be made up of the State Comptroller, Attorney General, and Secretary of State, or high-level appointees within those offices.

[58] ILL. COMP. STAT. ANN. § 5/2-3(15).

ii. **Rationale for Reform**. Creating a State commission would confer authority on a neutral group of experts to evaluate the operational and financial feasibility and external impacts of the proposed incorporation, rather than a town supervisor who has a significant interest in the outcome.

iii. **Relevant Statutory Language**. Currently, the law authorizes town supervisors to evaluate petitions: "1. Within ten days after such hearing is concluded the supervisor or supervisors jointly shall determine whether the petition complies with the requirements of this article and jointly shall make and sign a decision accordingly." [59]

B. Require State Preparation and Funding of Feasibility and Impact Studies.

i. **Option**. After receiving a petition, the proposed commission could complete two studies, a feasibility study and an impact study, which the state should fund. The feasibility study should determine the proposed village's ability to provide basic services to its population in a cost-effective manner and could evaluate the municipal services the proposed village would provide, the proposed village's fiscal capacity to provide these services, and/or alternatives to village incorporation.[60] Some states specify a certain number of municipal services that the proposed village must provide (see Comparative State Matrix, Appendix A). The impact study should evaluate fiscal and operational impacts on the surrounding town and overall metropolitan community. Evaluated impacts could include fiscal impacts, service impacts, political impacts, and/or environmental and land use impacts.[61]

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[59] N.Y. VILLAGE § 2-208 (emphasis added).
[60] *See, e.g.*, BJM CONSULTING, INC., VILLAGE OF INDIANTOWN INCORPORATION FEASIBILITY STUDY (Feb. 2017), https://www.indiantownfl.gov/sites/default/files/fileattachments/village_manager/page/2111/final-indian-town-feasibility-report-february-2016.pdf.
[61] *See, e.g.*, TOWN OF GREENVILLE, SUBMITTAL IN SUPPORT OF THE INCORPORATION OF THE VILLAGE OF GREENVILLE, WI (Jan. 20, 2020), https://cms3.revize.com/revize/greenvillewi/document_center/Incorporation%20Review%20Committee/Submittal_Maps_Exhibits/Resubmittal/Resubmittal%20in%20Support%20of%20the%20Incorporation%20of%20the%20Village%20of%20Greenville%201.20.2019.pdf.

ii. **Rationale for Reform**. This additional requirement would rectify an internal inconsistency between New York's incorporation, dissolution, and annexation procedures. In the case of dissolution, the village government must prepare a dissolution plan that addresses several elements, including fiscal impacts, delivery of services, and effect on the tax base of the existing town's residents.[62] In the case of annexation, local governments hold a joint public hearing to determine the petition's validity and whether the proposed annexation is in the overall public interest of (1) the territory proposed to be annexed, (2) the local government(s) to which the territory is proposed to be annexed, (3) the remaining area belonging to the local government(s) in which the territory is located, and (4) enumerated districts situated within the territory proposed to be annexed.[63] To be consistent with this framework, a similar evaluation should be required before village incorporation.

The parochial reasons motivating people to petition to incorporate also support the addition of such studies (see Case Study Examples, Appendix E). In multiple cases, petitioners indicated that issues such as wanting to (1) preserve the character of the area, (2) exercise more control over environmental decisions, (3) exert more control over local taxes, and (4) rely on their own government for services, informed their decision to incorporate.[64] By requiring both a feasibility and an impact study, the overall fiscal and operational effects of incorporation become the primary metric for approving village incorporation.

iii. **Relevant Statutory Language**. None.

[62] N.Y. GEN. MUN. § 774.
[63] N.Y. GEN. MUN. § 705.
[64] *Id.*

C. Increase the Minimum Population Requirement and Add a Population Density Requirement.

i. **Option**. New York state could increase the minimum population requirement to 2,000 inhabitants and/or incorporate a population density of 500 inhabitants per square mile.

ii. **Rationale for Reform**. A requirement of only 500 inhabitants is well below the average population size of a village in New York.[65] Moreover, as noted previously, multiple legislative bill proposals on village incorporation that were introduced to the New York Assembly suggested increasing the minimum population requirement to 2,000 or more (see Significant Bill Proposals Matrix, Appendix D). Additionally, New York law on village incorporation stands in contrast to most other states, which require a minimum population density (see Comparative State Matrix, Appendix A). A population density requirement would ensure that a separate system of services is adequately supporting a localized population. The current requirement seems too low a threshold to create a separate government entity that has taxing and bonding power and the authority to duplicate services and institutions currently provided by the constituent town(s) for the same populace. Increasing the minimum population requirement to 2,000 and including a population density requirement of 500 persons per square mile will better reflect conditions where village incorporation is needed.

iii. **Relevant Statutory Language**. The law currently requires: "1. A territory containing a population of at least five hundred persons who are regular inhabitants thereof, as hereinafter defined, may be incorporated as a village under this chapter provided such

[65] The average population size of a village is 3,613, more than four times as much as the minimum population requirement. *See State of New York Incorporated Places*, NY CENSUS, https://tigerweb.geo.census.gov/tigerwebmain/Files/bas22/tigerweb_bas22_incplace_2020_tab20_ny.html.

territory does not include a part of a city or village and further provided the limits of such territory . . . ."[66]

D. Eliminate Property Ownership as an Independent Basis for Petitioning for Village Incorporation.

i. **Option**. New York State could eliminate property ownership as a basis for petitioning for village incorporation.

ii. **Rationale for Reform**. Repealing the property ownership requirement would help align village incorporation law with other areas of New York law that have eliminated property ownership as a qualifying criterion. It would also protect against the exercise of disproportionate influence by a small group of large property owners and ensure that petition signatures reflect a broad local desire to incorporate.

A previously proposed bill suggested eliminating the property basis and explained how it would be consistent with New York law.[67] Specifically, the proposed bill would strike the property ownership requirement in section 2-202(a)(2) to be "consistent with voting reforms enacted in New York State since the enactment of the village incorporation law in 1964 . . . ."[68] The property ownership requirement seems to be a relic of the past when property ownership was included in New York voting requirements.

[66] N.Y. VILLAGE § 2-200.
[67] *See* Assemb. A.9939, 2019-20 Leg., Reg. Sess. (N.Y. 2019); Assemb. A.2553B, 2021-22 Leg., Reg. Sess. (N.Y. 2021). Note that other bills also proposed eliminating property ownership and just did not provide this specific justification to align with New York law.
[68] *Id.*

iii. **Relevant Statutory Language**. Currently the law states, "a. Either one or both of the following two groups of persons may petition for such incorporation: (1) At least twenty per cent of the residents of such territory qualified to vote for town officers in a town in which all or part of such territory is located. (2) The owners of more than fifty percent in assessed valuation of the real property in such territory assessed upon the last completed assessment roll of the town in which such territory is located."[69]

E. Increase Percentage of Petition Signatures Required and Include a Percentage of Signatures from Town Residents.

i. **Option**. New York could raise the number of petition signatures needed to petition for village incorporation and require signatures from residents of the town(s) in which the proposed incorporated area lies. Past New York legislative bills have suggested raising the required percentage of residents who must sign the petition to 51 percent before a petition could move forward (see Significant Bill Proposals Matrix, Appendix D). New York could further alter the petition provisions by explicitly requiring a percentage of signatures to come from town residents outside the proposed area to be incorporated.[70] For example, the provision could require that at least 5 percent, or more, of the required signatories reside in the town(s) outside the proposed village.

ii. **Rationale for Reform**. Raising the signature requirement for village incorporation from 20 percent of residents to a higher percentage would require a broader base of support before the village incorporation process could be commenced. Further altering these petition requirements to include residents from the town(s) in which the proposed incorporated area lies would help address those residents' interests and any impacts incorporation may have on them. Extending the petition signature requirement beyond

[69] N.Y. VILLAGE § 2-202 (a).
[70] *See* discussion *supra* "Findings" Section (D).

the boundaries of the proposed village would ensure notice to and the involvement of those living in the broader affected area in the incorporation process.

iii. **Relevant Statutory Language**. The current law states that, "a. Either one or both of the following two groups of persons may petition for such incorporation: (1) At least twenty per cent of the residents of such territory qualified to vote for town officers in a town in which all or part of such territory is located . . . ."[71]

[71] N.Y. VILLAGE § 2-202 (a).

APPENDIX A – COMPARATIVE STATE MATRIX

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	**Michigan**	**North Carolina**	**Ohio**	**West Virginia**	**Wisconsin**	**Maryland**	**New Mexico**	**New York**[72]
Minimum Population / Population Density Requirements	In cnty. 75k or less ≥ 1500 inhabitants. Cnty. more than 75k ≥ 5000 inhabitants. Fla. Stat. § 165.061.	Inhabitants ≥ 150 & an avg. of ≥ 100 inhabitants per sq. mi. Mich. Comp. Laws § 78.3.	Proposed mun. must have a permanent pop. of ≥ 100 & a pop. density (either permanent or seasonal) of ≥ 250 pers./sq. mi. N.C. Gen. Stat. § 120-167.	Pers./sq. mi. ≥ 800. Ohio Rev. Code Ann. § 707.02.	More than 1 sq. mi. ≥ avg. 500 inhabitants or freeholders/ sq. mi.; less than 1 sq. mi ≥ 100 inhabitants or freeholders. W. Va. Code § 8-2-1.	Varies according to size of inc. area: isolated vill. - residents ≥ 150; metro. vill. - residents ≥ 2500 & density ≥ 500 in any 1 sq. mi. Wis. Stat. § 66.0205.	Residents ≥ 300. Md. Code Ann., Local Gov't § 4-203.	Pers. ≥ 150 & (a) density≥ 1 pers./acre except for class B cnty. with specific characteristics.[73] N.M. Stat. Ann. § 3-2-2.	Min. 500 pers. N.Y. Vill. Law § 2-200.
Minimum / Maximum Geographical Size	No min./max. size.	No min./max. size.	No min./max. size specified. Other limits are imposed based on proximity to other mun. Notwithstanding these limitations,	Min. 2 sq. mi. & assessed value to gen. prop. taxation of $3500+/capita. Ohio Rev. Code Ann. § 707.02.	No min./max. size.	Smallest potential area depends on size of area to be inc.: isolated vill. - 1/2 sq. mi.; metro. vill. - 2 sq. mi.; near 1st, 2nd, 3rd	No min./max. size.	No min./max. size; cannot be within boundary of another mun. N.M. Stat. Ann. § 3-2-2.	Max. 5 sq. mi. or coterminous with the entire boundaries of a town or coterminous with parts or entirety of the boundaries

[72] When filing petition, must deposit $6000 with the town supervisor(s) to pay costs. N.Y. Vill. Law § 2-202.
[73] Or, area includes a resort with 50k+ visitors/year & single-family residences ≥ 150. N.M. Stat. Ann. § 3-2-2.

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	Michigan	North Carolina	Ohio	West Virginia	Wisconsin	Maryland	New Mexico	New York[72]
Minimum / Maximum Geographical Size Cont'd			the Gen. Assembly may incorporate a mun. by an act adopted by vote of 3/5 of all the members of each house. N.C. Const. art. VII, § 1.			class city - 4 sq. mi. for vill. Wis. Stat. § 66.0205.			of certain districts. N.Y. Vill. Law § 2-200.
Petition Signature Requirements	No.	Qualified electors who reside in areas to be affected ≥ 1% of the pop. of the territory affected or at least 100 pers. Mich. Comp. Laws § 78.2.	Petition must be signed by 15% of the registered voters of the area proposed to be inc., but ≥ 25 registered voters of that area. N.C. Gen. Stat. § 120-163.	51% electors based on total number of votes cast within the territory for governor at the preceding gen. election. Ohio Rev. Code Ann. § 707.07.	30%+ freeholders of the territory. W. Va. Code § 8-2-2.	Vill. of 300+ pers. - 50+ pers. who are electors & freeholders. Otherwise, 25+ electors & freeholders in the territory. Wis. Stat. § 66.0203.	Registered voters who are residents of the area proposed ≥ 25% or registered voters ≥ 20% plus owners of 25% ≥ assessed valuation of real prop. in area proposed. Md. Code Ann., Local Gov't § 4-204.	Qualified electors ≥ 200 who have resided in the proposed inc. territory 6+ months or owners of ≥ 60% real estate in the territory not delinquent on prop. tax. N.M. Stat. Ann. § 3-2-1.	Min. 20% residents in territory to be inc. qualified to vote for town officers and/or owners of more than 50% of the assessed valuation of real prop. in the territory (special rules if territory in more than one town). N.Y. Vill. Law § 2-202.

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	**Michigan**	**North Carolina**	**Ohio**	**West Virginia**	**Wisconsin**	**Maryland**	**New Mexico**	**New York[72]**
Incorporation Review Requirements: Plans / Studies	Feasibility study incl. map, reasons for change, land use/zoning designations, present land use characteristics, proposed dev. & when it may start, public agencies in current boundaries, current servs. and costs, proposed servs. and costs, fiscal capacity & organizational plan with tax bases and tax revenues, and 5-year operational plan, evidence that	a) Pop. including density, land area & land uses, assessed valuation, topography & the past and probable future urban growth for both residential and com. purposes; b) need for cmty. servs., including probable increase in taxes in the area to be inc. in relation to the expected benefits of incorporation & fin. ability of inc. mun. to maintain servs.; c)	Area to be inc. must submit a name for the mun. & map, a list of proposed servs. to be provided, names of 3 pers. to serve as interim governing bd., proposed charter, pop. estimate, assessed valuation, degree of dev., pop. density, recommendations for form of gov. and manner of election. Petition must state that proposed entity will have a	None mentioned, but petition must include an accurate map, statement by cnty. auditor regarding total assessed valuation of area, statement by Sec. of State that proposed name is not already being used by a mun. corp. in the state. Ohio Rev. Code Ann. § 707.02.	Map by prof. eng'r including present and proposed boundaries, proposed extension of water mains & sewer outfalls if operated by mun., plans for mun. servs. (incl. police, fire, solid waste, water and sewer, street maint.), impact on rural fire dep't and fire protection and fire ins. rates, impact on proposed mun. fins. and servs.	Incorporation Bd. must apply standards: territory reasonably homogenous & compact; isolated mun. have reasonably developed cmty. ctr. with stores, churches, post off., and telecomm. exch. Additionally, it must be in the pub. int. as determined by the Bd. upon consideration of whether tax revenue would sufficiently defray costs of gov't servs. at a	No specifics about rep., but Org. Comm. also needs to submit a proposed mun. charter including statements regarding likely fiscal effect of incorporation on residents within & in the vicinity of the proposed mun. & cnty; expected servs. to be provided; and impact of inc. on prop. tax rates. Md. Code Ann., Local Gov't § 4-206.	Include accurate map/plat showing boundaries; mun. servs. & revenue plan with proposed servs. & revenue to pay for servs. (must provide min. 3/11 servs.); UNM geospatial & pop. stud. grp. data with pop. density. N.M. Stat. Ann. § 3-2-1.	None.

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	**Michigan**	**North Carolina**	**Ohio**	**West Virginia**	**Wisconsin**	**Maryland**	**New Mexico**	**New York[72]**
Incorporation Review Requirements: Plans / Studies *Continued*	requirements for incorporation met, data to support incorporation, and any alts. Fla. Stat. § 165.041.	gen. effect upon the entire cmty. of the proposed action & the relationship of the action to any established mun. or reg'l land use plan. Mich. Comp. Laws § 123.1009.	budget ordinance with an ad valorem tax levy of at least 5 cents per $100 valuation on all taxable prop. & a statement that the proposed mun. will be able to offer 4 of the following servs. no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police prot.; (ii) fire prot.; (iii) solid waste collection or disposal; (iv) water distrib.; (v) st. maint.;		W. Va. Code § 8-2-1 and § 8-2-2. Creation of a new mun. is prohibited if the area to be inc. is within close proximity to an existing mun. that is capable of more effectively and efficiently providing servs. to the area or it is not in the best ints. of the cnty. as a whole. W. Va. Code § 8-2-1.	local tax rate that favorably compares to the tax rate in a similar area with similar servs.; level of servs. needed compared to the level offered by the proposed mun. and the level available from a contiguous mun.; impact on the remainder of the town from which the territory is to be inc.; and the impact of future rendering of gov't serv. inside the			

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	Michigan	North Carolina	Ohio	West Virginia	Wisconsin	Maryland	New Mexico	New York[72]
Incorporation Review Requirements: Plans / Studies *Continued*			(vi) st. constr. or right-of-way acquisition; (vii) st. lighting; and (viii) zoning. N.C. Gen. Stat. § 120-163. The Mun. Incorporations Subcomm. may not make a positive recommendation unless the area to be inc. submits a plan for providing a reasonable level of mun. servs. based on the proposed servs. stated in the petition and the Subcomm. prepares a			territory proposed and elsewhere within the metro. cmty. There must be an express finding that the proposed incorporation will not substantially hinder the solution of gov't probs. affecting the metro. cmty. Wis. Stat. § 66.0207.			

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	Michigan	North Carolina	Ohio	West Virginia	Wisconsin	Maryland	New Mexico	New York[72]
Incorporation Review Requirements: Plans / Studies *Continued*			recommendation rep. indicating the impact on other muns. & cnty. of diversion of already levied local taxes or State-shared revenues. N.C. Gen. Stat. § 120-169.1. Also, the Mun. Incorporations Subcomm. may not make a positive recommendation unless 40% of the area is developed for residential, com., indust., inst., or gov't uses, or is						

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	**Michigan**	**North Carolina**	**Ohio**	**West Virginia**	**Wisconsin**	**Maryland**	**New Mexico**	**New York[72]**
Incorporation Review Requirements: Plans / Studies *Continued*			dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants. N.C. Gen. Stat. § 120-168.						
Governmental Review Authority	Fla. Legislature adopts a charter for incorporation of a mun. through a special act. Fla. Stat. § 165.041.	State Boundary Comm'n Mich. Comp. Laws § 123.1007 within the Dept. of Licensing and Regulatory Affairs. E.R.O. 1996-2. This state comm'n consists of 3 members appointed	Petitions are submitted to the Joint Legislative Comm. on Local Gov't, Mun. Inc. Subcomm. The Subcomm. includes 6 members - 3 Senators appointed by the Pres. Pro Tempore of the Senate	Bd. of Cnty. Comm'r (3 members elected every four years; cnty. gov't) holds hearings & enters an order allowing incorporation if requirements met. Ohio Rev. Code Ann. §§ 707.03-.08.	Cnty. Ct. holds hearing to determine if requirements of § 8-2-1 & § 8-2-2 are met & if not, dismisses the petition. W. Va. Code § 8-2-3. The Cnty. Comm'n has reasonable discretion to determine the exact	Cir. Ct. conducts hearing to determine if standards of § 66.0205 are met & then refers to Incorporation Rev. Bd., which is part of the State Dep't of Admin. & includes the Sec. of Admin. or	Cnty. Comm'r/Cnty. Council verify petition's validity & receive the rep. from Org. Comm. Md. Code. Ann., Local Gov't § 4-205. Org. Comm. = grp. of individuals from the org. cmty.	Mun. Incorporation Rev. Team convened by Dep't Fin. & Admin. (state) includes: dir. of local gov't div./designee; Sec. Tax. & Revenue/designee; Rep. of Cnty. chosen by Bd. of Cnty.	Town Supervisor(s) of the town(s) in which the proposed area to be inc. lies. N.Y. Vill. Law §§ 2-202 - 2-210.

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	Michigan	North Carolina	Ohio	West Virginia	Wisconsin	Maryland	New Mexico	New York[72]
Governmental Review Authority ***Continued***		by the governor with advice & consent of the senate. Mich. Comp. Laws § 123.1002. Presiding prob. judge in each cnty. shall appoint 2 pers. & 2 alternates for those pers. residing in that cnty. to serve on the comm'n when the comm'n considers mun. boundary adjustments for territory lying within his or her cnty., additional conditions described at Mich. Comp. Laws §	and 3 House members appointed by the Speaker of the House of Representatives (at least one from each chamber must have been a local elected official in the past). N.C. Gen. Stat. § 120-158. The petition must be verified by the cnty. bd. of elections. The petition must contain a statement from the Local Gov't Comm'n regarding the proposed mun.		area to be included, or excluded in the new mun., considering the topography, benefits of incorporation, amount of uninhabited land required for parks & recreational use & normal growth & dev., and the present & future uses so as to prevent hardships & inequalities. W. Va. Code § 8-2-1. The Cnty. Comm'n is elected by the voters of the cnty. W.V. Const. art. IX § 10.	his designee, 2 members appointed by the Wis. Towns Ass'n, 1 member appointed by the League of Wis. Mun. & 1 member appointed by the Wis. All. of Cities. Wis. Stat. § 15.105(23). Incorporation Rev. Bd. schedules a hearing if requested & prepares findings & determination for the Cir. Ct., which then issues the appropriate ord. Wis. Stat. § 66.0203.	(residents of uninc. area) working with the Cnty. Comm'r/Cnty. Council on the inc. after the petition is verified. Md. Code Ann., Local Gov't § 4-201.	Comm'r; Rep. N.M. Mun. League who is advisory. N.M. Stat. Ann. § 3-2-1. Bd. of Cnty. Comm'r determines if conditions for incorporation met based on petition, attachments & Mun. Incorporation Rev. Team rep. N.M. Stat. § 3-2-5. The Bd. of Cnty. Comm'r includes 3 or 5 qualified electors who are elected according to the law. N.M. Stat. § 4-38-2.	

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	Michigan	North Carolina	Ohio	West Virginia	Wisconsin	Maryland	New Mexico	New York[72]
Governmental Review Authority ***Continued***		123.1005. Cnty. Bd. of Comm'r determines if the petition complies with the requirements of the Home Rule Vill. Act. Mich. Comp. Laws § 78.4. The State Boundary Comm'n denial of an incorporation is final immediately. Mich. Comp. Laws § 123.1010.	prospects for fin. viability & effective fiscal mgmt. N.C. Gen. Stat. § 120-163. Local gov't comm'n consists of the State Treasurer, State Auditor, Sec. of State & Sec. of Revenue serving ex officio, plus 5 members appointed to 4-year terms - 3 appointed by Governor (one must be or have been the mayor or a member of the local governing bd. of a city and one						

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	Michigan	North Carolina	Ohio	West Virginia	Wisconsin	Maryland	New Mexico	New York[72]
Governmental Review Authority *Continued*			shall be or have been a member of a cnty. bd. of comm'r), 1 by Gen. Assembly upon the recommend ation of the Pres. Pro Tempore in accordance with statute & 1 by the Gen. Assembly upon the recommend ation of the Speaker of the House in accordance with statute. N.C. Gen. Stat. § 159-3.						
Voting Approval Needed	No.	Majority of the electorate voting on the question. Mich. Comp. Laws § 123.1010.	Incorporatio n by Act of the Gen. Assembly; however, if fewer than 50% of the registered voters	None for a vill.	Majority of the legal votes cast on the question. W. Va. Code § 8-2-7.	Majority. Wis. Stat. § 60.0211.	Majority of those who voted. Md. Code Ann., Local Gov't § 4-209.	Majority. N.M. Stat. Ann. § 3-2-7.	Yes. N.Y. Vill. Law § 2-222.

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	Michigan	North Carolina	Ohio	West Virginia	Wisconsin	Maryland	New Mexico	New York[72]
Voting Approval Needed			signed the petition, the Comm'n may recommend that the act of incorporation be submitted to a referendum. N.C. Gen. Stat. § 120-172.						
Eligible Voters	No.	Electors residing within the proposed territory. Mich. Comp. Laws § 78.11.	Eligible voters are defined for purposes of the petition as registered voters of the area to be inc. N.C. Gen. Stat. § 120-163. Eligible voters are not defined for purposes of the referendum except that if the petition	None for a vill.	Qualified electors of the territory sought to be inc. W. Va. Code § 8-2-6.	Electors residing in the proposed area. Wis. Stat. § 60.0211.	Registered voters of the proposed inc. area. Md. Code Ann., Local Gov't § 4-209.	Residents who are registered voters. N.M. Stat. Ann. § 3-2-6.	Residents of the territory to be inc. qualified to vote for town officers. N.Y. Vill. Law § 2-216.

	Substantive Review States						Mid Level Review States		Minimal Review State
	Florida	Michigan	North Carolina	Ohio	West Virginia	Wisconsin	Maryland	New Mexico	New York[72]
Eligible Voters			contained the signatures of 50% of registered voters the Comm'n shall not recommend a referendum. N.C. Gen. Stat. Ann. § 120-172.						
Judicial Review Available	Yes. Fla. Stat. § 165.081.	Final decisions of the State Boundary Comm'n are subject to jud. rev. Mich. Comp. Laws § 123.1018.	Yes. City of Asheville v. State, 794 S.E.2d 759 (N.C. 2016).	Yes. Ohio Rev. Code Ann. § 707.11.	Yes. W. Va. Code § 8-2-8.	Yes. Wis. Stat. § 66.0209.	No.	Yes. N.M. Stat. Ann. § 3-2-9.	Yes. N.Y. Vill. Law § 2-224.

APPENDIX B – ANNOTATED BIBLIOGRAPHY

LISA K. PARSHALL, ROCKEFELLER INST. OF GOV'T, IS IT TIME FOR NEW YORK STATE TO REVISE ITS VILLAGE INCORPORATION LAWS? A BACKGROUND REPORT ON VILLAGE INCORPORATION IN NEW YORK STATE (Jan. 2020), https://rockinst.org/wp-content/uploads/2020/02/1-28-20-Village-Incorporation-Report.pdf.

This report provides an analysis of the state of village incorporation law in New York State in four parts. First, the report provides case studies of select recent village incorporation controversies (discussed in case studies above). Second, the report looks at the history of village incorporation and procedures in New York State. Third, the report looks at the patterns and practices of 15 other states, which include incorporated villages as a form of municipal government, and groups the states by the level of review provided: Minimal Review States, Mid-Level States, and Substantive Review States. The report reviews recent legislative proposals, some of which have been enacted, most of which have not, and concluded that "As the legislature continues to grapple with incorporation controversies, it may be time to look to other states for prospective models of legislative guidance."

Div. of Loc. Gov't & Econ. Dev., Off. of the N.Y. State Comptroller, *Outdated Municipal Structures Cities, Towns and Villages – 18th Century Designations for 21st Century Communities*, LOC. GOV'T ISSUES IN FOCUS, OCTOBER 2006, at 1, https://www.osc.state.ny.us/files/local-government/publications/pdf/munistructures.pdf

A research analysis discussing municipal structures of New York, and whether they are outdated given today's environment. The report uses cluster analysis to sort cities, towns, and villages into new groups that could serve as an alternative to the current municipal class distinctions that may no longer indicate a community's characteristics. In re-organizing New York municipalities, the authors look at three

variable types: structural, demographic, and financial and used these datapoints to organize New York's current municipalities into major urban centers, smaller urban centers (upstate and downstate), suburbs, and rural. In the discussion of villages specifically, the authors note the historical basis and progression of villages. Particularly, that villages were initially created from more densely populated sections of a town to provide additional or needed services. However, the author notes that suburbanization has led to changes in law allowing provision of those services without the creation of a village, often achieved using "special districts." Today, regular services such as police, water, sewer, sanitation, and fire protection are provided routinely throughout towns, no longer necessitating the need for incorporation of a village. "The impetus for most recent village incorporations has not been the need for new services, but the desire of disaffected residents of a particular area to take control of land use regulation and other services from a town board." In the reorganization of municipal classifications, villages were placed mostly in the "Small Urban Center" category due to their higher density and small land area.

Pengju Zhang & Marc Holzer, *Do Small Local Governments Fare Well? A Survey of Villages in New York*, 50 AM. REV. PUB. ADMIN. 77 (2020), https://journals.sagepub.com/doi/epub/10.1177/0275074019864184

This article analyzes the primary issues within villages in New York through a survey completed by 232 out of 542 village governments contacted by the researchers. The survey included 45 questions covering government structure, demographic and economic changes, sources of and responses to fiscal pressure, property tax caps, dissolution, and data about the person completing the survey for the village. Some general data about villages was gleaned through the 2000 census. As of the 2000

census, about 88% of villages in New York existed within a single underlying town. The survey asked if there was any service duplication between the village and its underlying town and almost 29% answered yes; furthermore, 60% of respondents believed that their village residents bear a higher tax burden than those who live outside of a village within the boundaries of the town. A supermajority of respondents felt that state mandates and the state property tax cap contribute to the fiscal pressure felt by villages. This was followed closely by aging infrastructure. To respond to these and other fiscal pressures, most respondents (approx. 88%) have adjusted their service delivery by cooperating with the underlying town(s). As for civic engagement, village officials were asked how much they think they can trust their village citizens to be responsible participants; the majority (55%) chose "about half the time," "sometimes," or "never." When asked if their village has considered dissolution, 24% answered yes and 73% answered no. Interestingly, 55% of respondents believed that dissolution was not fair to residents of the town who are not village residents.

Gerald Benjamin, *At-Large Elections in N.Y.S. Cities, Towns, Villages, and School Districts and the Challenge of Growing Population Diversity*, 5 ALB. GOV'T L. REV. 733 (2012), https://www.albanygovernmentlawreview.org/article/23893-at-large-elections-in-n-y-s-cities-towns-villages-and-school-districts-and-the-challenge-of-growing-population-diversity

The article focuses on the practice of at-large elections in New York State and their discriminatory effect. New York Law has prescribed at-large elections since the first law authorizing incorporation of villages back in 1847. Even though Village Law was recodified in 1897 to abolish existing districts and allowing for villages of 5,000 or more to recreate wards, through a referendum, only 4 of 555 villages have done so.

As one of four case studies, the author discusses the Village of Port Chester, where the failure of candidates of Hispanic background to ever win an election in the village or mostly coterminous school district despite comprising 46.2% of the population, led to a voting rights challenge of the at-large system. In response to the lawsuit, the Village Board of Trustees passed a resolution in December 2006 stating the problem was not discrimination, but apathy of the Hispanic community. However, the minority group was a larger proportion of the village population in Port Chester than in other previously litigated cases in New York, and there were six, not five, village board positions (in addition to the mayor), all of which helped lead the judge to conclude that the preconditions for a challenge under the Voting Rights Act were met. The judge ruled for the plaintiffs and ordered the village to propose remedial plans for voting. As an alternative to dividing the village into separate wards, in 2009, the village opted to establish a cumulative voting system, which was approved by the court. In the first election after the decision, when the entire board was up for election, voters approved a more diverse board. The new board did launch a failed appeal of the previous decision.

Kathryn T. Rice et al., *Why New Cities Form: An Examination into Municipal Incorporation in the United States 1950-2010*, 29 J. PLAN. LIT. 140 (2014), https://journals.sagepub.com/doi/pdf/10.1177/0885412213512331

The article discusses some of the theories behind municipal incorporation, such as spatial considerations brought on by population growth and suburbanization; provision of services including schools; political control and agency; financial security; issues regarding race, income, and equity. The authors searched newspapers for stories about municipal incorporations between 1997 and 2007 to

analyze the rhetoric used at the time. Out of 161 cities that were newly incorporated municipalities during this period, they found stories on 79 of these and identified twenty-two different factors including annexation, growth/control of land, rural identity, services, revenue control, dissatisfaction with the county, eligibility for government funding, environmental laws, lower property taxes, increased property value, water supply, tourism, and more. The factor with the most influence on new municipal incorporations was annexation, specifically the ability to defend against it, followed closely by growth control or land use, namely, to gain control of zoning and to fight what were characterized as "undesirable growth/land use proposals." The authors formed a typology of theories to explain municipal incorporation during the period from 1950-2010: 1) spatially driven municipalities that focus on growth control/land use, ordinance code design, environmental concerns/laws, and maintaining rural characteristics of the area; 2) politically driven municipalities focusing on annexation, dissatisfaction with the county, political power, state law and control; 3) economic or fiscally driven municipalities focusing on lower property taxes, water supply, increased property value, and possibly tourism; 4) service driven municipalities; 5) sociologically driven municipalities that focus on race/culture/ethnicity and historic preservation; and 6) cluster-driven municipalities that are influenced by other newly incorporated municipalities.

DIV. OF LOC. GOV'T SERVS., N.Y. STATE, DEP'T OF STATE, *Village Government*, *in* LOCAL GOVERNMENT HANDBOOK (7th ed., 2023), https://dos.ny.gov/system/files/documents/2023/01/localgovernmenthandbook_2023_0.pdf

This section of the LOCAL GOVERNMENT HANDBOOK provides an overview of village law in New York State, along with a list of villages incorporated since 1940, and a list of village dissolutions, the earliest of which date from 1900.

APPENDIX C – NEW YORK STATE MATRIX

New York Standards	Petition Signature Requirements	Population and Territorial Conditions	Required Studies	Petition Review/ Approval Authority	Referendum Requirement/ Majority Approval	Eligible Voters	Judicial Review
Village Incorporation	Min. 20% residents in the territory to be inc. qualified to vote for town officers and/or owners of more than 50% of the assessed value of all prop. within the territory proposed to be inc. (special rules if territory in more than one town). N.Y. Vill. Law § 2-202.	Min 500 regular inhabitants max 5 sq. mi. or coterminous with the entire boundaries of a town or coterminous with parts or the entirety of the boundaries of certain dists. N.Y. Vill. Law § 2-200.	None	Town Supervisor(s) of the town(s) in which the proposed area to be inc. lies. N.Y. Vill. Law §§ 2-202 – 210.	Yes. N.Y. Vill. Law § 2-222.	Residents of territory to be inc. qualified to vote for town officers. N.Y. Vill. Law § 2-216.	Yes. N.Y. Vill. Law § 2-224.
Annexation	For petition: Min. 20% residents of the area proposed to be annexed qualified to vote for officers of city or town, or vill.; or owners of more than 50% in assessed value of prop. in the proposed annexed area. N.Y. Gen. Mun. Law § 703. For resol.: governing	No min./max. specified.	Joint pub. hearing held by affected loc. gov't to determine validity of petition and whether the proposed annexation is in the overall pub. int. of i) the territory to be annexed; ii) loc. gov't(s) to which the territory is proposed to be annexed; iii) the remaining area of	Governing Bd. where the proposed area to be annexed is presently situated and would be situated if annexation is approved. N.Y. Gen. Mun. Law § 705.	Yes. N.Y. Gen. Mun. Law § 713.	Pers. residing in territory proposed to be annexed or residing outside the territory proposed, but on a parcel of land where a portion of the parcel is in the territory proposed to be annexed and qualified to vote for officers of the city, town, or vill. in which the	Yes – Sup. Ct. App. Div. N.Y. Gen. Mun. Law § 712.

	bd. of two or more mun. whose territory will be affected by the proposed annexation. N.Y. Gen. Mun. Law § 704.		the loc. gov't(s) in which such territory is situated; and iv) enumerated dists. situated wholly or partly within the territory proposed to be annexed. N.Y. Gen. Mun. Law § 705.			territory is situated. N.Y. Gen. Mun. Law § 713.	
Dissolution	Initiation through electors: lesser of 10% of electors or 5000 electors in the loc. entity to be dissolved. If there are 500 or fewer electors in the entity, then a min. 20% of the electors must sign. N.Y. Gen. Mun. Law § 779. Or, commenced by Vill. Bd. Resol. without filing a petition N.Y. Gen. Mun. Law § 773.	None specified.	Dissolution plan addressing 14 factors including a fiscal estimate of the costs of dissolution; any plan for the transfer or elimination of pub. emps.; the entity's assets, liabs. and bonded indebtedness and the terms for their disposition; and the manner and means for furnishing of mun. servs. to residents of the entity following dissolution.[74] N.Y. Gen. Mun. Law § 774.	Vill. Bd. N.Y. Gen. Mun. Law § 774, 776, 777, 782.	Yes. N.Y. Gen. Mun. Law § 781.	Electors of the loc. gov't entity to be dissolved. N.Y. Gen. Mun. Law § 780.	Yes –Sup. Ct. N.Y. Gen. Mun. Law § 786.

[74] The Disposition Plan is prepared prior to referendum if dissolution is initiated by Vill. Bd. resol. In a petition-initiated dissolution, the Dissolution Plan is prepared after the referendum but whether such plan shall take effect is subject to a further permissive referendum.

APPENDIX D – SIGNIFICANT BILL PROPOSALS MATRIX

Bill and Relevant Legislative History	Major Proposals in the Bill	Last Action on most Recent Version
2017-18: A02871/S01855; 2015-16: A06915; 2013-14: A04794; 2011-12: A07048/S06053; 2009-10: A01017; 2007-08: A01067; 2005-06: A0709; 2003-04: A09339	Add a requirement for a feasibility study before a petition for incorporation could be circulated under Section 2-202. Secondly, the bill would instruct the Town Supervisor to consider the overall pub. int. in the petition rev. Lastly, the bill would clarify the pop. requirements for determining what territory may be inc. into a vill.	Referred to Loc. Gov't Comm. 01/03/2018
2019-20: A07997/S05793-A	Require that the petition contain an allegation that the proposed incorporation is in the overall pub. int. and is consistent with and would not substantially impair achievement of the comprehensive or master plan enacted by the town(s). Additionally, the bill would amend and clarify the process of holding an election on the petition.	Referred to Loc. Gov't Comm. 01/08/2020
2021-22: A02553B/S01657-B; 2019-20: A09939/S07375-A	Proposes the following main changes: 1) Increase the pop. requirement from 500 to 2,500 in order to incorporate a village. A02553B/S01657-B requires a territory containing pop. of ≥10,000 in a suburban town pursuant to N.Y. Town Law Article 3A with a pop. ≥ 75,000 or a pop. of 2,500 for all other towns. 2) Eliminate the prop. ownership requirement as a basis for petitioning eligibility for vill. incorporation. 3) At least 20% of residents qualified to vote for town officers sign the petition. 4) Require a fin. impact statement with the petition. 5) Establish the criteria that the state comptroller must utilize in determining the fin. feasibility of vill. incorporation. 6) In A09939/S07375-A, in order to make a favorable decision on the fin. feasibility, the state comptroller must make a finding that the overall pub. int. shall be served by the incorporation of the territory into a vill.	A02553B Referred to Ways and Means Comm. 01/05/2022; S07375-A Referred to Loc. Gov't Comm. 1/05/2022
2021-22: A04157 2019-20: A06776	Expand the min. pop. from 500 to 2,000 regular inhabitants, repeal the prop. requirement for voting, and require at least 51% of residents of the territory who are qualified to vote for town officers in a town in which all or part of such territory is located to sign the petition for incorporation. Additionally, the bills would expand those who could vote in the election to the residents who are qualified to vote for town officials of any town or towns in which the territory seeking approval to become a vill. is located.	Referred to Loc. Gov't Comm. 01/05/2022

APPENDIX E – CASE STUDY EXAMPLES

Mastic Beach (Suffolk County)

LISA K. PARSHALL, ROCKEFELLER INST. OF GOV'T, IS IT TIME FOR NEW YORK STATE TO REVISE ITS VILLAGE INCORPORATION LAWS? A BACKGROUND REPORT ON VILLAGE INCORPORATION IN NEW YORK STATE 4-6 (Jan. 2020), https://rockinst.org/wp-content/uploads/2020/02/1-28-20-Village-Incorporation-Report.pdf.

"Mastic Beach has long struggled with code enforcement and environmental challenges, including water quality and flooding risks. Arguing that the community's issues were not being adequately addressed by the town, incorporation advocates campaigned to establish a separate village government, arguing that it would afford its residents greater control over issues of local concern, improve services, and better protect existing property values without any significant increase in local property taxes.... In November 2016, the residents of Mastic Beach voted to dissolve their village incorporation... making it the largest village to dissolve under the Empowerment Act's provisions to date."

Joseph Berger, *A Hamlet's Eyesores Prompt a Revolt*, N.Y. TIMES (Mar. 28, 2010), https://www.nytimes.com/2010/03/28/nyregion/28mastic.html

This article helps demonstrate some of the arguments that were made both for and against incorporation as a separate village within the Town of Brookhaven. Organizers prepared a petition with 27% of Mastic Beach's registered voters. One of the leaders of the push for village incorporation, Paul Breschard who was a lifelong resident, wanted to ensure that buildings would be kept in good repair and not crumbling or burnt out. "A village judge who lives here and drives by every day would

not be that tolerant . . .. A village code enforcer wouldn't wait until a complaint comes in." Opponents of incorporation believed that proponents underestimated the costs to taxpayers of incorporation as a separate village. Proponents claimed that the costs were low because the village would only focus on enforcement of the building code and other services like fire, police, garbage, etc. would remain the responsibility of the Town of Brookhaven.

Village of Tuxedo (Orange County)

LISA K. PARSHALL, ROCKEFELLER INST. OF GOV'T, IS IT TIME FOR NEW YORK STATE TO REVISE ITS VILLAGE INCORPORATION LAWS? A BACKGROUND REPORT ON VILLAGE INCORPORATION IN NEW YORK STATE 8-9 (Jan. 2020), https://rockinst.org/wp-content/uploads/2020/02/1-28-20-Village-Incorporation-Report.pdf.

"On July 16, 2019, residents in the town of Tuxedo (Orange County) voted to incorporate the new village of Tuxedo.... [B]ecause New York law does not allow the incorporation of a village inside the boundaries of an already existing village, the new consolidated town-village of Tuxedo will effectively *preclude any other village from being incorporated in the territory of the town*, including any new village that might be formed from any future development of an area of the town known as Tuxedo Farms — a long-stalled and contested proposal for a multi-phased planned commuter-community that was to eventually to include some 1,200 new homes.... The creation and consolidation of the village of Tuxedo was a preemptive measure that will prevent the incorporation of any future breakaway village, ensuring that the consolidated town-village government (now with additional acquired authority under village law) retains control over zoning and land use regulations if and when further

residential development projects advance. The underlying concern of many residents was that rapid expansion and influx of new residents will change the rurality of the town, create environmental and quality of life effects, and will shift existing political power."

Howard Protter & Marissa Weiss, *Frequently Asked Questions ("FAQ") Regarding the Proposed Combined Petition for Incorporation and Consolidation*, TOWN OF TUXEDO 2-3 (June. 26, 2019), https://www.tuxedogov.org/sites/g/files/vyhlif5996/f/uploads/frequently_asked_questions.pdf.

"There are two main reasons to sign this Petition, or vote yes for each referendum question. The first two have to do with the difference between the powers villages and towns were given by state statute. Unfortunately, towns have fewer powers than villages in two important arenas. First, villages are able to prevent pipelines from traveling through their borders. By creating a town-village, the Town of Tuxedo will be able to combat the increasing development pressure from pipelines in the area. Second, the creation of a town-village will prevent any other villages from incorporating within the Town's borders. This has the added benefit of preventing future financial burdens to the Town and its taxpayers by avoiding the threat of multiple unconsolidated municipal governments existing within the Town. Multiple unconsolidated governments can create additional expenses for residents, as overlapping municipal governments in turn create overlapping taxes for the provision of redundant residential services.... To summarize, the Petition's approval will generally allow the Town to exercise the above increased powers of a village while continuing to operate as a town."

Village of East Quogue (Suffolk County)

LISA K. PARSHALL, ROCKEFELLER INST. OF GOV'T, IS IT TIME FOR NEW YORK STATE TO REVISE ITS VILLAGE INCORPORATION LAWS? A BACKGROUND REPORT ON VILLAGE INCORPORATION IN NEW YORK STATE 10-11 (Jan. 2020), https://rockinst.org/wp-content/uploads/2020/02/1-28-20-Village-Incorporation-Report.pdf.

"Underlying the active incorporation efforts, there is growing dissatisfaction of East Quogue residents with the Town of Southhampton's [sic] handling of development and land use issues, including a multiyear controversy over the proposed development and zoning changes for a 591-acre proposed golf community project that was originally to be known as the 'Hills at Hampton.' Fearing potential negative environmental impacts of the development, a coalition of concerned residents had filed suit against the initial approvals granted by the town zoning board, setting off a complex and prolonged litigation battle.... Hoping to exercise their own voice in these ongoing development and land-use decisions, residents of the hamlet of East Quogue petitioned to incorporate as a village.... Incorporating as a village ostensibly would have given residents in the 4.5 square miles of East Quogue direct authority in matters its residents perceive as having been mismanaged by town representatives, including the controversial Hills at Hampton/ Lewis Road project.... This sort of 'skinny incorporation,' was intended to give village residents greater control over zoning and land-use decisions while minimizing the associated costs of operating a separate village government....On October 17, 2019, the residents voted 889-642 against incorporation."

Why Incorporate?, THE VILLAGE OF EAST QUOGUE, https://eqvillageexploratorycommittee.com/ (last visited Mar. 24, 2023).

Reasons to incorporate include: "[1] keep taxes low for the long term. Protect East Quogue from over development and increased density; [2] protect your families, your homes and your community by having a legal standing and local representation; [3] enjoy local control by East Quogue, non-partisan, unpaid elected officials who are not career politicians who live outside of East Quogue; [4] put the focus on issues important to the community and address them quickly, like the Damascus Dump water quality issue and the need for access to public water for everyone in the community; [5] keep localized revenues, like building permits, utilities, mortgage tax and sales taxes in the community to improve services; [6] East Quogue, with only about 8%of the Town of Southampton-wide vote for Supervisor and Board members, lives under the authority of a partisan, distant government we do not elect; [7] the unincorporated area, and not the villages, pays the majority of Town taxes yet the villages have the same vote in Town elections. This provides advantages to incumbents who cater to political agendas versus those who would focus on East Quogue and other unincorporated hamlets; and [8] the result is a Town government that can ignore East Quogue's priorities without repercussions. This has a negative impact on East Quogue's infrastructure, quality of life, taxes, and ultimately, property values."

The Proposed Village of Edgemont (Westchester County)

LISA K. PARSHALL, ROCKEFELLER INST. OF GOV'T, IS IT TIME FOR NEW YORK STATE TO REVISE ITS VILLAGE INCORPORATION LAWS? A BACKGROUND REPORT ON VILLAGE INCORPORATION IN NEW YORK STATE 12-13 (Jan. 2020), https://rockinst.org/wp-content/uploads/2020/02/1-28-20-Village-Incorporation-Report.pdf.

Two petitions for incorporation were rejected by the town due to boundary disputes.

"For the residents supporting the proposed village, the issue is one of self-determination and choice. Supporters understand that the creation of a new village will likely raise their property taxes. Their pursuit of municipal independence is not about lowering taxes but about preserving quality services, protecting their own property values, retaining localized control over zoning and development decisions, and securing dedicated representation for Edgemont's residents (who comprise only 17 percent of the town's population) through the creation of a separate village government."

David McKay Wilson, *Tax Watch: Greenburgh Supervisor Wants Tax-Funded Study to Show New Village's Impact. Is that Legal? State Comptroller's Opinion Says Towns Cannot Spend Public Funds on a Study of Village Incorporation*, LOHUD (Feb. 16, 2023), https://www.lohud.com/story/money/personal-finance/taxes/tax-watch/2023/02/16/edgemont-incorporation-feiner-study-state-law/69899312007/.

The Edgemont Incorporation Committee is currently circulating the third petition for incorporation of Edgemont. If successful, Edgemont will become the seventh village in the Town of Greenburgh. The Town Supervisor opposes incorporation of Edgemont and has proposed a town-funded study of possible outcomes of incorporation. The Supervisor would then share the results of the study with Greenburgh's Legislative Representatives in the hope that the New York State Legislature would change the law and allow all the residents of the Town of

Greenburgh to vote on a referendum for incorporation. "State Legislators, meanwhile, have shown scant interest in [the Supervisor's] proposal . . .."

Why is Incorporation the Answer for Edgemont? EDGEMONT 2023, http://edgemont2023.org/voting-in-greenburgh (last visited Mar. 24, 2023).

The Edgemont Incorporation Committee has a current website where they advocate for incorporation of Edgemont.

It's Round 2 in Edgemont Village Incorporation bid with Submission of new Petition, LOHUD (May 31, 2019), https://www.lohud.com/story/money/personal-finance/taxes/david-mckay-wilson/2019/05/31/edgemont-ny-village-incorporation-drive-resumes-petition-filing/1287752001/.

Kiryas Joel and the Town of Palm Tree (Orange County)

LISA K. PARSHALL, ROCKEFELLER INST. OF GOV'T, IS IT TIME FOR NEW YORK STATE TO REVISE ITS VILLAGE INCORPORATION LAWS? A BACKGROUND REPORT ON VILLAGE INCORPORATION IN NEW YORK STATE 14-16 (Jan. 2020), https://rockinst.org/wp-content/uploads/2020/02/1-28-20-Village-Incorporation-Report.pdf.

In the 1970s, practitioners of a strict form of Judaism purchased land on which to construct a small housing development in the rural town of Monroe in 1974. By 1976, the Satmar community had grown from 100 to 500 residents. The town negotiated with the community for the incorporation of the Village of Kiryas Joel in 1977. The village's boundaries were narrowly drawn to encompass the footprint of the Hasidic residents.

Incorporation of Village with Ban on Multifamily Development Didn't Violate Jewish Community's Rights, HOUSING AND DEV. REP., CURRENT DEVS., at 37 Sept. 27, 2010,

https://1.next.westlaw.com/Document/Ie52340a8c85211df9b8c850332338889/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)

Summary of the decision in *Berkovitz v. Vill. of S. Blooming Grove*, No. 09 CIV 0291 CM, 2010 WL 3528884, at *1 (S.D.N.Y. Sept. 3, 2010) arguing that the correct cause of action was improper zoning regulations, and not the incorporation process itself.

Village of Kaser (Rockland County)

Joseph Berger, *Growing Pains for a Rural Hasidic Enclave*, N.Y. TIMES (Jan. 13, 1997), https://www.nytimes.com/1997/01/13/nyregion/growing-pains-for-a-rural-hasidic-enclave.html?sec=&spon=&pagewanted=all.

Members of Viznitz, a Hasidic denomination, established the village in order to build denser housing.

Village of Hastings-on-Hudson (Westchester County)

Incorporation, VILLAGE OF HASTINGS-ON-HUDSON, NY, https://www.hastingsgov.org/about/pages/incorporation (last visited Mar. 24, 2023).

The Hastings Historical Society notes the changing public sentiment during the years in between 1875 and 1879 when Hastings-on-Hudson, located in the Town of Greenburgh, was incorporated through a local initiative under Village Law. They cite a newspaper from that time: "Hastings looks for progress and increased prosperity by incorporation,' wrote a reporter, 'which means better streets, increased value of real estate, and higher taxes.'"

Village of East Nassau (Rensselaer County)

VEN Handbook: History of the Village of East Nassau, VILLAGE OF E. NASSAU, https://villageeastnassau.digitaltowpath.org:10128/content/Generic/View/19 (last visited Mar. 24, 2023).

"The reason for the incorporation was this: the Lane mining company was threatening to level Snake Hill (aka Snake Mountain) for greywacke, a valuable stone for use in construction, fill, and road surfacing. The Town of Nassau did not at the time prohibit such mining, and so, after much research, many meetings, and a public referendum, the Village of East Nassau formed as a separate entity in order to protect its rural character and an important scenic feature of its landscape, and it prohibited commercial mining within its boundaries."

Village of West Hampton Dunes (Suffolk County)

Area History, WESTHAMPTON BEACH HIST. SOC'Y, https://whbhistorical.org/area-history/ (last visited Mar. 24, 2023).

"Incorporation of this area was an attempt – a successful one – to have more control over its very existence. The area was practically obliterated in the Hurricane of 1938, and again in 1991 by the Halloween Nor'easter (also known as the Perfect Storm) and once again in another Nor'easter in 1992. Each of those storms took a heavy toll on the beaches on this western end of Dune Road, leaving very little barrier beach – meaning very scanty protection for inland areas across Moriches Bay as well. What these homeowners were looking for and ultimately got, was a say in how the U.S. Army Corp of Engineers handled revitalizing the barrier beach."

Village of Airmont (Rockland County)

Ronald Sullivan, *Rockland County Village Accused of Bias in Zoning*, N.Y. TIMES (Dec. 18, 1991), https://www.nytimes.com/1991/12/18/nyregion/rockland-county-village-accused-of-bias-in-zoning.html.

The founders of the town said that they intended for "strong zoning" to preserve the character of the community. The DOJ filed suit against Airmont claiming that Airmont created a zoning plan that intended to exclude Orthodox Jews from living in the village and "that other individuals acting at the behest of the defendants have engaged in a pattern of harassment against Orthodox Jews in the village."

Joseph Berger, *Growing Pains for a Rural Hasidic Enclave*, N.Y. TIMES (Jan. 13, 1997), https://www.nytimes.com/1997/01/13/nyregion/growing-pains-for-a-rural-hasidic-enclave.html?sec=&spon=&pagewanted=all.

Discusses several villages in Rockland County, including Airmont.

For Immediate Release, U.S. Atty's Off., S.D.N.Y., Village Of Airmont Ordered To Cease Enforcement Of Zoning Code That Discriminates Against Orthodox Jewish Residents And To Restore Right To Home Worship: Airmont Agrees to Entry of Consent Order After U.S. Attorney Files Suit and Introduces Evidence That Zoning Code Violates Federal Law (Mar. 15, 2021), https://www.justice.gov/usao-sdny/pr/village-airmont-ordered-cease-enforcement-zoning-code-discriminates-against-orthodox

This press release describes a Consent Order of Preliminary Injunction mandating that the Village of Airmont "…immediately cease enforcement of zoning code provisions enacted in 2018 that discriminate against Orthodox Jewish residents in violation of the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), as alleged in a lawsuit brought by the United States…."

Village of Pine Valley (Suffolk County)

Glenn R. Williams, Letters to the Long Island Editor, *Incorporation Blues in Pine Valley*, N.Y. TIMES (Apr. 23, 1989), https://www.nytimes.com/1989/04/23/nyregion/l-incorporation-blues-in-pine-valley-294989.html.

In 1987, residents of what would become Pine Valley voted to incorporate their area in order to gain home rule and authority over local zoning of the community, as they were unhappy with the way their area was being governed by the Town of Southampton; many locals felt that Southampton neglected the area. They also believed that by incorporating, they would have more control over local taxes, which many residents felt were too high when under Southampton's control.

Sarah Lyall, *Pine Valley, L.I., Fades into Pine Valley, R.I.P.*, N.Y. TIMES (Apr. 23, 1989), https://www.nytimes.com/1990/03/24/nyregion/pine-valley-li-fades-into-pine-valley-rip.html

Village of Pine Valley was dissolved in 1991 due to several reasons including high taxes.

Village Dissolution and the Village of Lake George (Warren County)

Jana DeCamilla, *To Dissolve or Not to Dissolve: The Village Speaks*, THE POST STAR (Jul. 9, 2022), https://poststar.com/news/local/to-dissolve-or-not-to-dissolve-the-village-speaks/article_cac10d3e-fd5a-11ec-8717-9726abeb514d.html

After filing a petition to dissolve, the Village Board hired a group to prepare a study on the benefit and consequences of dissolving the village which had been in existence since 1903. The group predicted that the Town would receive $500,000 in state funds if the dissolution took place, with 70% of that allocated to lower the town tax levy.

Wendy Liberatore, *Village of Lake George Voters Say 'No' to Dissolution*, TIMES UNION (Sept. 13, 2022), https://www.timesunion.com/news/article/Village-of-Lake-George-voters-say-no-to-17440060.php

With a turnout of 48% of the voters, the Village rejected dissolution by a vote of 269 to 59 in September 2022.