

Code of Maryland
Local Government Article
Title 4, Subtitle 2
Municipal Incorporation

§4–201. Definitions

- (a) In this subtitle the following words have the meanings indicated.
- (b) “County liaison” means a county official, or the designee of the county official, who coordinates communication between the organizing committee and the county.
- (c) “Organizing committee” means the group of individuals from the organizing community that works with the county commissioners or county council on the proposed municipal incorporation after a petition for incorporation is verified.
- (d) “Organizing community” means individuals residing in an unincorporated area who are interested in forming a municipality.

§4–202. Application

This subtitle governs municipal incorporation.

§4–203. Minimum Population Requirement

An area proposed to be incorporated shall contain at least 300 residents before the organizing community may proceed under this subtitle.

§4–204. Petition to Incorporate

- (a) A proposal to incorporate an area as a municipality is initiated when a valid petition is presented to the county commissioners or county council of a county by:
 - (1) at least 25% of the registered voters who are residents of the area proposed to be incorporated; or
 - (2) at least 20% of the registered voters who are residents of the area proposed to be incorporated, together with the owners of at least 25% of the assessed valuation of the real property of the area proposed to be incorporated.
- (b) The Office of the Attorney General shall:
 - (1) create a standard petition form for use by an organizing community;and
 - (2) provide the board of elections of each county with the form for distribution to an organizing community.
- (c) A petition presented under subsection (a) of this section shall:
 - (1) express the interest of the subscribing individuals in the incorporation of the area;
 - (2) contain a detailed description of the boundaries of the area proposed to be incorporated, including a survey of courses and distances or general landmarks and place names;
 - (3) state the name of the new municipality, which may not be the same as a name used by a municipality or county in the State; and

(4) state the names of the individuals who will initially represent the organizing community on the organizing committee.

(d) The organizing community shall obtain the minimum number of valid signatures required under subsection (a) of this section within 18 months after the organizing community receives the standard petition form from the county board of elections.

(e) Each person signing the petition shall indicate on the petition:

(1) the person's name and residence address; and

(2) if the petition is intended to be presented under subsection (a)(2) of this section and the person signing the petition owns real property in the area proposed to be incorporated, the location and assessed valuation of the property.

(f) Within 60 days after receiving a petition, the county commissioners or county council shall:

(1) verify that each person who signed the petition:

(i) resides in the area proposed to be incorporated;

(ii) is registered to vote in the elections of that county; and

(iii) if applicable, owns real property within the area proposed to be incorporated;

(2) verify that the petition meets the requirements of this section; and

(3) appoint a county liaison if the petition meets the requirements of this section.

(g) A petition, when received, becomes the property of the county commissioners or county council and may not be used to initiate another incorporation.

(h) A proposal to incorporate a municipality and to adopt a municipal charter may not be rescinded after the formal submission of the proposal in a manner other than that of a formal charter repeal as provided in §§ 4–313 and 4–314 of this title.

§4–205. Organizing Committee Report

(a) (1) Within 90 days after the county commissioners or county council has verified that a petition presented under § 4–204 of this subtitle is valid, the organizing committee shall:

(i) actively seek information and input from the county;

(ii) hold a public meeting to collect testimony on the proposed incorporation; and

(iii) provide the county commissioners or county council with a report on issues related to the proposed incorporation.

(2) During the 90–day period, the county shall cooperate fully with the organizing committee.

(b) The organizing committee shall:

(1) notify the county liaison of all meetings and deliberations of the organizing committee; and

(2) give the county liaison full opportunity to participate in all meetings and deliberations of the organizing committee.

(c) Within 45 days after receiving the report required under subsection (a)(1)(iii) of this section, the county commissioners or county council or its designee may review

the report and provide comments to the organizing committee on issues relating to the proposed incorporation.

§4–206. Municipal Charter Submittal

(a) The organizing committee shall present to the county commissioners or county council a proposed municipal charter:

(1) within 45 days after receiving the comments submitted to the organizing committee under § 4–205(c) of this subtitle; or

(2) if the county commissioners or county council has not submitted comments, within 90 days after the report is submitted by the organizing committee under § 4–205(a)(1)(iii) of this subtitle.

(b) The organizing committee shall submit statements with the proposed municipal charter describing:

(1) the likely fiscal effect of the proposed incorporation on residents of the proposed municipality, residents in the vicinity of the proposed municipality, and the county;

(2) the services that the proposed municipality is expected to provide; and

(3) the impact that the proposed incorporation is expected to have on property tax rates.

§4–207. Request for Referendum

(a) (1) If the county commissioners or county council approves the referendum request, between 40 and 60 days after it receives the proposed municipal charter, the county commissioners or county council shall specify, by resolution, the day and hours for a vote on the proposed incorporation by the voters of the area to be incorporated.

(2) The resolution shall include the exact text of the proposed municipal charter as submitted by the organizing committee.

(b) (1) If the county commissioners or county council rejects the referendum request, the county commissioners or county council shall:

(i) provide in writing and make available to the public within a reasonable time the reasons for the rejection; and

(ii) establish reasonable procedures by which the county commissioners or county council shall reconsider a referendum request, including an opportunity for a public hearing with sufficient advance public notice.

(2) After the hearing and reconsideration process is completed, the county commissioners or county council, by resolution, shall affirm the rejection or approve the referendum request.

§4–208. Public Notice of Referendum

(a) The county commissioners or county council shall notify the voters of the area proposed to be incorporated by posting and publication of the proposal to incorporate, including a fair summary of the proposed municipal charter.

(b) For at least 4 weeks immediately before the referendum, the county commissioners or county council shall make available an exact copy of the proposed municipal charter for public inspection at its office.

(c) The county commissioners or county council shall publish notice of the referendum, together with a fair summary of the proposed municipal charter, in a newspaper of general circulation in the area proposed to be incorporated at least once a week during the 4 weeks immediately before the referendum.

(d) On the day of the referendum, the county commissioners or county council shall make available an exact copy of the proposed municipal charter for public inspection at each place for voting on the referendum.

§4–209. Referendum Conduct and Results

(a) Except as expressly or necessarily modified by this subtitle, a referendum shall be conducted generally according to the procedures and practices for regular countywide elections.

(b) (1) On the day and during the hours specified for the referendum, the question of incorporation under the proposed municipal charter shall be submitted to the registered voters of the area proposed to be incorporated.

(2) The county board of elections shall arrange for and conduct the referendum.

(3) The wording specified by the county commissioners or county council in the resolution authorizing a referendum on the question of the proposed incorporation shall be placed on the ballots used at the referendum.

(c) Promptly after the canvass is complete, the county board of elections shall certify the results to the county commissioners or county council.

(d) Within 10 days after receiving a certification of the vote on the referendum from the county board of elections:

(1) if a majority of those who voted on the question voted in favor of incorporation under the proposed municipal charter:

(i) the county commissioners or county council publicly shall so proclaim; and

(ii) on the 30th day after the public proclamation, the area proposed to be incorporated shall become a municipality operating under the municipal charter; or

(2) if less than a majority of those who voted on the question voted in favor of incorporation under the proposed municipal charter:

(i) the county commissioners or county council publicly shall so proclaim; and

(ii) the proclamation shall state that the proposed incorporation is not approved.

§4–210. Election of Municipal Governing Body

(a) An election of officers for a proposed municipality shall be conducted at the same time and place as the referendum on the question of incorporation and is subject to the same procedures and practices.

(b) An individual may not be initially nominated or elected to a municipal office unless the individual qualifies under the requirements specified for that office in the proposed municipal charter.

(c) (1) A candidate for an elected office of a proposed municipality shall be nominated by a certificate of nomination filed by the candidate with the county board of elections.

(2) The certificate of nomination shall include:

- (i) the name and residence address of the candidate; and
- (ii) the office that the candidate seeks.

(d) After certificates of nomination by candidates for municipal office are filed, the county board of elections shall prepare ballots to allow the registered voters of the area proposed to be incorporated to vote on the candidates who are nominated under this section.

§4–211. Election Results

(a) Casting a vote against the proposed incorporation does not prevent the voter from voting for a candidate for a municipal office.

(b) The county board of elections shall:

- (1) tally the votes cast for candidates to a municipal office; and
- (2) certify the results to the county commissioners or county council.

(c) If less than a majority of those who voted on the question voted in favor of incorporation under the proposed municipal charter, the votes cast for candidates for a municipal office are void.

§4–212. Proclamation of Election Results

(a) The county commissioners or county council publicly shall proclaim that a candidate who received a plurality of the votes cast for an office has been elected to that office.

(b) A candidate proclaimed by the county commissioners or county council to have been elected to an office shall become an officer of the municipality when the municipal charter takes effect.

(c) (1) If no individual is nominated for a municipal office, a candidate elected to an office is unable to assume the office, or for any other reason no candidate is elected to fill an office, the county commissioners or county council shall appoint a resident of the municipality to the office.

(2) When appointed to an office as provided in paragraph (1) of this subsection, a resident shall hold the office as if elected.

§4–213. Responsibility for Payment of Costs of Referendum and Election

(a) Subject to subsection (b) of this section, the county commissioners or county council shall pay for:

- (1) the referendum;
- (2) the original election of officers required under § 4–210 of this

subtitle; and

(3) the reasonable costs of third party consultants hired by the county commissioners or county council to analyze issues related to the proposed incorporation.

(b) If the referendum results in incorporation, the municipality shall repay the expenses specified in subsection (a) of this section to the county within 1 year after the incorporation takes effect.

(c) After 1 year from the effective date of the incorporation, the county commissioners or county council may withhold any payment due to the municipality to satisfy any unpaid expense specified in subsection (a) of this section.

§4–214. Conveyance of Charter to the Department of Legislative Services

(a) When the public proclamation under § 4–209(d) of this subtitle is made, the county commissioners or county council shall send the information concerning the municipal charter to the Department of Legislative Services, as provided in § 4–109 of this title.

(b) The municipal charter is subject to the requirements of §§ 4–310 and 4–311 of this title, including the printing and indexing in the laws enacted by the General Assembly.

(c) The exact text of the municipal charter, including any amendments, shall be included in any edition or codification of the municipal charter.

§4–215. Local Income Tax Distribution

If a referendum held under this subtitle results in the creation of a new municipality, the local income tax payments authorized under § 2–607 of the Tax – General Article shall be distributed to the municipality as follows, unless the county commissioners or county council agrees to an accelerated payment schedule:

(1) in the first full fiscal year after the municipal incorporation takes effect, one–third of the distribution otherwise required under § 2–607 of the Tax – General Article;

(2) in the second fiscal year after the municipal incorporation takes effect, two–thirds of the distribution otherwise required under § 2–607 of the Tax – General Article; and

(3) in the third fiscal year after the municipal incorporation takes effect and each subsequent fiscal year, all of the distribution required under § 2–607 of the Tax – General Article.

§4–216. Exercise of Planning and Zoning Authority

(a) A new municipality that is eligible to assume planning and zoning authority and the county commissioners or county council shall cooperate in developing the first comprehensive land use plan of the municipality.

(b) Unless the county commissioners or county council expressly approves otherwise, the initial zoning designations used by the municipality shall comply with §§ 4–104(e) and 4–516 of this title, including the 5–year zoning classification restriction.