

Voluntary Municipal Disincorporation:

**Creative Solutions
for Counties of the
Second Class**

By Aaron Lauer





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Letter from Co-chairs

Municipal governments have a far more profound effect on the quality of our daily lives than any other level of government. Through the delivery of essential public services, municipal governments give us a unique sense of place and community. Municipal governments shape the character of our neighborhoods, they provide gathering places in parks and libraries, and they deliver the public services that ensure our families’ safety and health. This is why we call the municipalities in which we live “home.”

However, these are difficult times for municipalities. Municipal governments are being asked to deal with more and increasingly complex challenges at a time when local revenue sources are stagnant or declining. As a result, municipalities are finding it more challenging to deliver basic municipal services. What is needed is a new paradigm that brings greater resources, efficiencies, professional expertise, and government responsiveness to municipalities.

One mechanism that would enable communities to meet these needs is disincorporation. Disincorporation is a process by which an incorporated municipality voluntarily terminates and transfers its governance to the county in which it is located. Traditionally, disincorporation has not been allowed in Pennsylvania, but under recent revisions to Act 47, a small subset municipalities now has access to this strategy.

In the summer of 2016, the University of Pittsburgh Institute of Politics called upon us to lend our expertise and leadership, as former Allegheny County Executives, to co-chair the Voluntary

Municipal Disincorporation Task Force. The Voluntary Municipal Disincorporation Task Force was composed of elected officials, state government officials with an expertise in local government affairs, local government practitioners, academics, and business leaders. The group convened regularly over nine months to deliberate on issues surrounding municipal disincorporation. The result of the task force’s effort is a clear and concise roadmap for municipal disincorporation. The proposal defines not only the criteria for determining when disincorporation is an appropriate strategy but also the steps for implementation. It is the consensus of the committee that, given the myriad challenges facing Allegheny County municipalities, it makes sense to expand eligibility for disincorporation to allow more communities, beyond municipalities in Act 47, access to this valuable mechanism.

Many Allegheny County municipalities are well governed and flourish. As a county, we should take pride in their successes. But for those municipalities that, for a variety of reasons, need our assistance, we as a county must be willing to offer a hand. The region will only prosper when all citizens receive the municipal public services they need and desire. Disincorporation is a viable strategy for Allegheny County communities to reach this goal.

James C. Roddey
*Former County Executive
Allegheny County*

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Creating Robust Communities

Local government greatly shapes the communities in which we live, work, and play. Communities are influenced, both positively and negatively, by the nature and types of services that local governments deliver. Municipalities must balance an affordable tax base with the costs associated with robust municipal services. This balance, however, has been made more difficult by shrinking tax bases and state funding cuts that have impacted the ability of municipalities to offer high-quality municipal services. Recognizing this need, the Allegheny County Executive requested the Institute of Politics' assistance in examining voluntary municipal disincorporation. This tool allows municipalities to voluntarily dissolve into the county in which it is located. Following municipal dissolution, the county provides municipal services to the unincorporated area in exchange for a tax and/or fee.

Disincorporation does not currently exist in Pennsylvania, except under the newly revised Act 47 legislation pertaining to distressed municipalities. However, it is an available tool in 38 states, including the neighboring states of Maryland, New York, Ohio, and West Virginia. The proposed framework for voluntary disincorporation, which is based on many of the procedures and structures Pennsylvania has already developed for municipalities under Act 47, extends the option to disincorporate to all municipalities in counties of the second class (Allegheny County).

Voluntary municipal disincorporation offers a unique tool for municipalities in the region to increase their efficiency and effectiveness in the delivery of municipal services.

Disincorporation does not impact school districts, volunteer fire departments, and municipal authorities, as only the municipal government dissolves.

By stretching revenue with economies of scale and removing administrative redundancies, the county can deliver efficient and effective services to individuals, families, and businesses in former municipalities.

What Is Disincorporation?

Disincorporation is the process by which an incorporated municipality ceases to exist and its territory reverts to the county or state in which it is located. Following disincorporation, the county or state provides municipal services, including police, public works, and tax collection, to the territory of the formerly incorporated municipality. Disincorporation is used widely across the country to reduce municipal fragmentation, manage significant population loss, and improve municipal service delivery and efficiency.

Although disincorporation is typically a voluntary process, some states have established criteria for municipal operation and force involuntary disincorporation for municipalities failing to meet those criteria. Typically, states initiate involuntary disincorporation because a municipality does not meet state statutory thresholds for governing board activity, service delivery, or population level. In such instances, either the county or state initiates disincorporation. For example, municipalities in Georgia can be involuntarily disincorporated if they do not provide a basic level of municipal services, hold at least bimonthly municipal meetings, and hold regular municipal elections.¹

¹ Ga. Code Ann. § 36-30-7.1

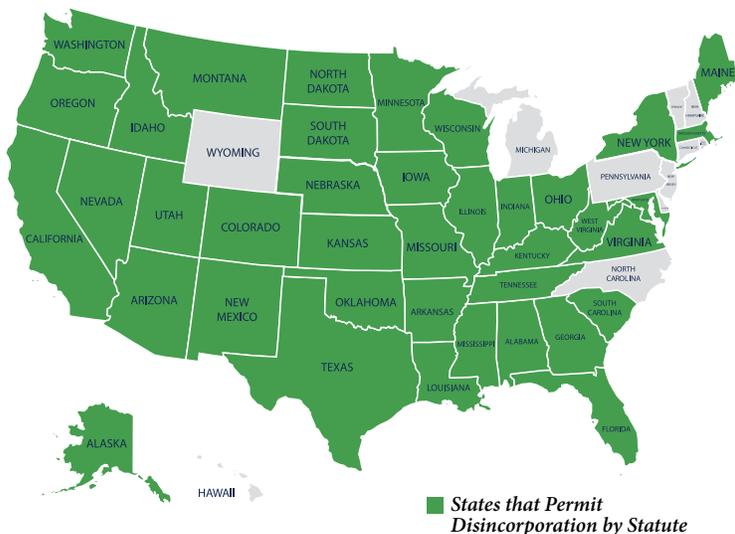


Disincorporation has become an increasingly common tool used by municipal governments to address issues within their community.

Disincorporation across the Country

Municipal disincorporation is an option available to municipalities across the country and has been used since 1857.² 38 states have statutes that allow for disincorporation, including the neighboring states of Maryland, New York, Ohio, and West Virginia. Of those 38 states, 24 also provide a process for involuntary disincorporation of municipalities. The appendix contains a full list of state disincorporation statutes.

Disincorporation has become an increasingly common tool used by municipal governments to address issues within their community. From 1857 to 2010, 508 municipalities across the country have disincorporated.³ Since 2000, more than 130 municipalities have disincorporated across the country.⁴ More municipalities used or contemplated the use of disincorporation between 2000 and 2010 than in the 30 years prior (1970 to 2000).⁵ Municipalities have used this tool or contemplated its use in all 38 states where it is available.⁶



Disincorporation Eligibility

Most states do not place restrictions on which municipalities can disincorporate. However, 11 states limit disincorporation to municipalities with small populations. Population thresholds for disincorporation range from 1,000 to 10,000 residents. States with thresholds include: Alabama (1,100), Arkansas (2,500), Kansas (2,000), Louisiana (2,500), Mississippi (1,000), Nebraska (800), New York (5,000), Ohio (5,000), South Dakota (1,000), West Virginia (10,000), and Wisconsin (1,000).

Although many states require the municipality to work with the government that will be providing services to the newly unincorporated territory, the receiving government does not have the power to prevent disincorporation from occurring.

Procedures for Disincorporation

Initiation

Of the 38 states that allow disincorporation, 35 allow residents to initiate disincorporation through a petition. The states that do not allow petitions to initiate disincorporation are Florida, Mississippi, and Virginia. Those states initiate disincorporation through action by the municipal governing board. In most states that allow for initiation by petition, a portion of qualified or registered voters in the municipality must sign petitions to initiate the disincorporation process. However, some states require a unique subset of residents to initiate a disincorporation petition. For example, Louisiana requires the petition to be signed by property taxpayers. The number of signatures required varies widely among states. For instance, Indiana requires 2 percent of qualified voters to sign, whereas Alabama requires 75 percent of qualified voters. Typically, states require either 50 percent participation (11 states) or 25 percent participation (7 states).

Referenda

Nearly all states that allow disincorporation approve it through a local voter referendum (32 states). However, the percentage of voters required for approval varies widely, e.g., 50 percent (21 states), 66 percent (7 states), 60 percent (2 states), and 50 percent with at least 20 percent of registered voters participating (2 states).

² Anderson, Michelle Wilde, Dissolving Cities (March 19, 2012). Yale Law Journal, Vol. 121, Appendix A, 2012.

³ Anderson, Michelle Wilde, Dissolving Cities (March 19, 2012). Yale Law Journal, Vol. 121, Appendix A, 2012.

⁴ Anderson, Michelle Wilde, Dissolving Cities (March 19, 2012). Yale Law Journal, Vol. 121, p. 1366, 2012.

⁵ Anderson, Michelle Wilde, Dissolving Cities (March 19, 2012). Yale Law Journal, Vol. 121, p. 1366, 2012.

⁶ Anderson, Michelle Wilde, Dissolving Cities (March 19, 2012). Yale Law Journal, Vol. 121, Appendices A, B, and C, 2012.



County and State Involvement

Twenty-six states that allow disincorporation have county involvement in the disincorporation process. The remaining states have involvement from neighboring municipalities, the state, or county courts. In nearly all states, the assets and debts of a disincorporated municipality are given to the county in which the municipality is located. Typically, the receiving government can then sell municipal assets to pay off the former municipality's debt. However, a minority of states require municipalities to pay off debts before being approved for disincorporation. Fifteen states allow the jurisdiction that receives the disincorporated municipality to levy a temporary tax to pay off any debt incurred by the former municipality. Ordinarily, this tax must be levied on property, except in Louisiana, where the parish is allowed to levy any tax "the governing authority of the municipality could have legally levied."⁷ The main sources of revenue for Louisiana municipalities are property and sales taxes. Louisiana does not allow its municipalities to levy income taxes.

Governance of Unincorporated Areas

Following a disincorporation, county and sometimes state officials provide governance and administration for unincorporated areas. This means that county governing boards and state legislatures provide the elected representation for the unincorporated areas. In either case, the controlling government provides municipal services to the unincorporated area and assesses taxes or fees on them to cover the costs of those services. Typically, the taxes levied are on property and/or earned income. In Louisiana, the county is able to levy all taxes that the disincorporating municipality could have levied in order to resolve any debts.⁸

Disincorporation in Pennsylvania

Although widespread disincorporation does not exist in Pennsylvania, recent changes to the Municipal Financial Recovery Act (Act 47) allow municipalities to disincorporate as a remedy to their financial distress. Under the 2014 amendments to Act 47, municipalities can operate as distressed under the Act 47 program for only five years.⁹ However, if a municipality is still distressed at the end of that period, it has four options: a declaration that the municipality no longer distressed; disincorporation; a determination of fiscal emergency; or a one-time, three-year extension of Act 47 status.¹⁰

During the disincorporation process, a state-appointed administrator develops an essential services plan that outlines the future operations, including tax collection and services delivery, of the former municipality following disincorporation.¹¹ After disincorporation, the administrator manages the day-to-day operations of the unincorporated area.¹² An advisory committee, composed of two residential property owners and one business owner from the former municipality, provides advice to the administrator on issues facing residents of the former municipality.¹³ Although the administrator is able to create assessments on property owners in the former municipality to cover the cost of service delivery, he or she is not able to levy or collect taxes.¹⁴ An unincorporated area can merge with another municipality or incorporate following the procedures outlined in the Pennsylvania Municipal Consolidation or Merger Act.¹⁵ All assets and debts of the former municipality are transferred to the newly merged or incorporated municipality.¹⁶

⁷ La. Stat. Ann. § 33:264 (2015)

⁸ La. Stat. Ann. § 33:264 (2015)

⁹ Act 199 of 2014 § 254

¹⁰ Act 199 of 2014 § 255

¹¹ Act 199 of 2014 § 436

¹² Act 199 of 2014 § 441

¹³ Act 199 of 2014 § 442

¹⁴ Act 199 of 2014 § 436 and 443

¹⁵ Act 199 of 2014 § 447

¹⁶ Act 199 of 2014 § 447



Recommended Task Force Disincorporation Plan

The disincorporation plan developed by the Voluntary Municipal Disincorporation Task Force is based on Pennsylvania's recently enacted Act 199 (2014) and amendments to Act 47. Act 199 allows for financially distressed municipalities under Act 47 to disincorporate and outlines a process for them to do so with assistance from the Commonwealth.

Eligibility Requirements

Under the plan, voluntary municipal disincorporation would be open to all municipalities in counties of the second class, regardless of geographic size, population, or finances. The absence of eligibility criteria would allow municipalities with a variety of needs to use disincorporation.

How to Disincorporate a Municipality

Initiating a Disincorporation

The disincorporation process can be initiated through an ordinance of the governing body of the municipality. An ordinance must be filed with the county board of elections 180 days before the next general election. After the successful filing of an ordinance with the county board of elections, the governing body of the municipality must hold public hearings to discuss disincorporation with the residents of the municipality. These public hearings shall commence no later than 150 days before the general election and before the finalization of the essential services plan.

During the period between the initiation of disincorporation and the referendum, officials from the disincorporating municipality and county are responsible for educating municipal residents on potential tax and service delivery consequences of disincorporation. Although the exact tax and fee rates are determined by the essential services plan, residents should understand the basic parameters for how it will be determined. Additionally, residents should know the services they can expect to receive as an unincorporated area.

How to Disincorporate a Municipality *(CONTINUED)*

Approval of Disincorporation

After successfully initiating disincorporation, the municipality places a referendum, in keeping with the Pennsylvania Election Code,¹⁷ on the next general election ballot so that voters can approve or deny the disincorporation plan developed by the municipality and the county. More specific requirements governing the disincorporation referendum will need to be part of the enabling legislation. The referendum must be approved by a majority of those voting in the disincorporating municipality. Following a successful referendum or ordinance, the municipality is disincorporated. Municipalities that have disapproved of a disincorporation referendum cannot vote again on the issue of disincorporation for five years.

Transition to Unincorporated Area

Within 30 days of the certification of the disincorporation vote, the county executive will appoint a five-member advisory committee for the unincorporated area to include the following.

- The county councilmember whose district holds the unincorporated area
- An individual selected by the county council
- Two resident property owners from the unincorporated area
- A resident of the unincorporated area who owns a business in the unincorporated area

The two resident property owners and the business owner will be selected by the county executive from two lists of candidates developed by the unincorporated area's outgoing municipal board. As their final act, the outgoing municipal board will nominate five candidates for the two resident property owner slots on the advisory committee. The county executive will select two advisory board members from that list. Similarly, the outgoing municipal board will nominate three candidates for the business owner position, and the county executive will select one. After nominating members for the advisory committee, the governing board of the disincorporating municipality will be dissolved.

The committee will advise the county manager on the development of the essential services plan. If a vacancy occurs on the advisory committee during the development of the essential services plan, the remaining members of the committee will fill the vacant seat(s). If the committee is

unable to select a new appointee(s) or there are three or more vacancies to fill, the county executive will appoint new committee members. The advisory committee will be dismissed once the essential services plan has been adopted.

The county manager will manage the day-to-day operations of the disincorporating municipality and will have the power to take any actions necessary for the disincorporation and operation of the disincorporating municipality. The county manager will work with the advisory board and county officials to develop the essential services plan.

Essential Services Plan

Within 18 months of a successful disincorporation referendum, the administrator and advisory committee—with the assistance of the county—will develop an essential services plan. The plan will provide for the following.

- The delivery of vital and necessary municipal services
- Payment of short- and long-term debt obligations
- Maintenance of assets and accounts receivable
- The collection of taxes and fees
- A plan for the liquidation of the dissolved municipality

Before the essential services plan can be finalized, the county manager should present the plan and invite public comment from the residents of the disincorporating municipality. The essential services plan is finalized by the approval of the governing board of the county in which the unincorporated area is located.

The County's Role in a Newly Unincorporated Area

Following a successful disincorporation, the municipality will become an entity of the county in which it is located. The county has a duty to administer and provide services to the unincorporated area. The county may exercise any powers and perform any function in the governing and administration of the unincorporated area not denied by the Constitution of Pennsylvania, by statute, or by the county's home rule charter. All assets and liabilities of the former municipality are transferred to the county in which it is located. Liabilities, even though they are held by the county, are still the responsibility of the former municipality. Any debt that exists at the time of a municipality's disincorporation will be paid through a tax assessed by the county on the former municipality. Once the debt has been resolved, the tax will no longer be in effect.

¹⁷ Pennsylvania Election Code

Delivery of Services

The county will provide municipal services for the unincorporated area. These services potentially include, but are not limited to the following.

- Animal control
- Building inspection
- Emergency medical services
- Road maintenance
- Government administration
- Park maintenance
- Public safety
- Planning and zoning
- Recreation programming
- Sanitary sewers
- Solid waste collection and disposal
- Storm sewers
- Tax collection

Intergovernmental Cooperation Agreements

In order for the county to be able to provide municipal services to unincorporated areas on an efficient and affordable basis, the county will offer those municipal services to all municipalities within the county on a contractual basis through intergovernmental cooperation agreements. By broadly offering these contractual services, the county can build economies of scale to help offset the cost of delivery of services to unincorporated areas; reduce the costs of municipal service delivery infrastructure, such as facilities to house public safety and public works; and provide transitional opportunities for municipalities that may want to disincorporate later.

Funding Liabilities and Municipal Services

Payment of Liabilities

Debts incurred by an unincorporated area before disincorporation will remain the responsibility of the residents of the newly unincorporated area and shall be paid from their existing revenues. Such debts will not be the responsibility of the county nor other incorporated areas in the county. If possible, municipalities interested in disincorporation should pay off their debts prior to disincorporating. If there is existing indebtedness at the time of disincorporation, the county shall ensure that taxes on property and Act 511 tax revenues are sufficient to pay off the former municipality's debt. Taxes will be assessed within the former borders of the municipality.

Payment for Municipal Services

Unincorporated areas are responsible for paying the costs associated with the municipal services they receive. The county will levy taxes and fees against an unincorporated area within a county in order to pay for the county's delivery of municipal services within that area. The tax will be assessed on property and Act 511 taxes. The county will also be able to collect fees for the services that it delivers to the unincorporated area. The tax rate shall be sufficient to pay for the municipal service delivery to the unincorporated area.

Governance

Upon disincorporating, the elected and administrative governance of the former municipality will cease to exist. The county will supply these governance functions to the unincorporated area. Unincorporated areas will receive their local elected representation from the county council. The county manager and the county administrative staff will oversee day-to-day administration of unincorporated areas of the county.

Authorities and volunteer fire departments will continue to operate within the unincorporated area. The county will fulfill the role that the former municipality served with respect to the municipality's authorities and volunteer fire departments, including the appointment of governing board members. Representatives from the unincorporated area should be on the boards, when appropriate, to ensure that the interests of the unincorporated area are represented in municipal service delivery.





Voluntary Municipal Disincorporation Task Force Membership

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University of Pittsburgh Graduate School of Public and International Affairs*

The Honorable Mike Fisher

*U.S. Federal Judge
Court of Appeals, Third District*

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**co-chair*





Alabama

Ala. Code § 11-41-20 to -28 (2015)

Procedure Initiated:

Three-fourths of the qualified voters residing within any municipality having a population of 1,100 inhabitants or fewer may, in writing, petition to the probate judge of the county in which the municipality is situated for dissolution of the municipality.

Disincorporation Approved:

Upon the filing of a dissolution petition, the probate judge sets a hearing and provides 30 days' notice of hearing. The probate judge hears the dissolution petition and evidence. If, as a result of the hearing, the probate judge decides that three-fourths of the qualified voters of the municipality are in favor of the dissolution, the judge makes a decree officially dissolving the municipality.

Process of Community Disincorporation:

Any municipal property of a dissolved municipality becomes the property of the county in which the municipality was located. If the municipality owes any debts, municipal property is sold by the county commission and applied pro rata to the payment of the debt.

Alternative Method of Disincorporation:

If a municipality with a population of 1,100 inhabitants or fewer fails to: (1) elect a mayor or other chief executive officer for more than one year after the time for that position's election; (2) levy and collect city or town taxes, arrange to receive moneys, or accept services in lieu of those taxes for more than three successive years; or (3) maintain its streets and roads in proper condition, the municipality forfeits its municipal charter.

The county commission or any five qualified voters of the county in which a municipality is situated may file with the probate judge of the county a petition in writing based on one or more of the grounds in the preceding paragraph. The judge hears the petition after giving 30 days' notice.

If it appears that one of the grounds of forfeiture exists, the probate judge declares the municipality's charter forfeited and the municipality is dissolved. Any citizen of the town or person filing the petition may appeal to the circuit court.



Alaska

Alaska Stat. § 29.06.450 to 530 (2015)

Procedure Initiated:

A petition must be signed by at least 25 percent of the legal voters of a municipality in its last regular election.

Disincorporation Approved:

If a majority of voters approve the referendum, the community is considered dissolved.

Process of Community Disincorporation:

The borough (in Alaska a borough is the equivalent to a county) must consent to assuming the city’s rights, power, duties, assets, and liabilities through the consent of the majority of borough voters. To dissolve, a municipality must be free of debt, or, if it is in debt, each of its creditors must be satisfied with a proposed method of repayment.

Alternative Method of Disincorporation:

n/a



Arizona

Ariz. Rev. Stat. § 9-102 and -132 (2015)

Procedure Initiated:

A petition must be signed by at least two-thirds of the qualified voters of a municipality in its last regular election.

Disincorporation Approved:

Upon receiving the petition, the supervisors of the county can:

- Wind up the affairs of the municipality, sell and convey its property, pay the debts of the municipality, and deposit the surplus in the county treasury for the benefit of the municipality.
- Call for an election on the issue and ratify the election’s outcome.

Process of Community Disincorporation:

The supervisors or Superior Court appoints a trustee who is responsible for finalizing all of the municipality’s outstanding affairs and obligations, including the dispersion of property and development of a debt-payment schedule. The trustee levies a tax on all taxable property in the former municipality to pay the indebtedness or obligations of the municipality (§ 9-102).

Alternative Method of Disincorporation:

A court of competent jurisdiction can declare incorporation of a city or town rescinded or null and void for any reason. The superior court in the county in which the city or town is situated may appoint a trustee to wind up the affairs of the municipality, including paying the debts of the city or town. Any net proceeds remaining are spent for the benefit of the inhabitants of the disincorporated area.



Arkansas

Ark. Code § 14-39-101 to -111 (2015)

Procedure Initiated:

Upon petition by the prosecuting attorney of the county, the county court may make and enter an order revoking any charter of an incorporated town (<499 residents) or city of the second class (500 to 2,499 residents) upon a finding that the town or city should no longer be in existence.

Disincorporation Approved:

If the county court revokes the charter of any incorporated town or city of the second class, the court order is sent to the secretary of state and Arkansas History Commission.

Process of Community Disincorporation:

The county where the municipality was located takes control of all assets and property of the former municipality. A receiver and back-tax collector are appointed to settle the affairs of the former municipality.

Alternative Method of Disincorporation:

If an incorporated town or city of the second class has not conducted business in at least five years, its charter is revoked by order of the county court of the county in which it is located.



California

Cal. Gov. Code § 56751 and § 57400 to 57426 (2015)

Procedure Initiated:

There are two ways to propose disincorporation of a California city—either by petitioning the area Local Agency Formation Commission (LAFCO) or by filing a resolution of application adopted by any “affected local agency,” which would include the city itself; the county; or any special district, including a portion of the city. More than 25 percent of the city’s registered voters must sign the petition for disincorporation.

Disincorporation Approved:

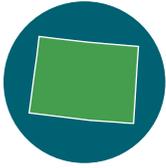
Once the LAFCO has initiated proceedings, it must hold a public hearing and accept or reject the proposed disincorporation. After the LAFCO endorses the disincorporation proposal, it must be supported by a majority of voters.

Process of Community Disincorporation:

All property and assets are conveyed to the county, and they are used to pay off any liabilities and debts. If assets do not cover the debt, the county supervisors can levy a tax on property within the former municipality to eliminate the indebtedness (§ 57422). Any surplus remaining is transferred to school districts or community colleges or used for the improvement of roads within the former municipality.

Alternative Method of Disincorporation:

n/a



Colorado

Colo. Rev. Stat. § 31-3-101 to 31-3-202 (2015)

Procedure Initiated:

A petition signed by at least 25 percent of the registered electors of a municipality must be filed with the district court of the county where the municipality exists.

Disincorporation Approved:

Upon verification of the petition, the court notifies the electors of the municipality of a vote at the next regular election, which determines whether or not to discontinue the incorporation of the municipality. At least two-thirds of the electorate must vote to discontinue incorporation.

Process of Community Disincorporation:

After an affirmative vote of the electorate, the governing body of the municipality ensures that all of the debts of the municipality are paid. All municipal documents or records are deposited with the county clerk and recorder for safekeeping. The county clerk and recorder must then certify the discontinuance of incorporation with the secretary of state and provide notice within the county of the discontinuance.

Alternative Method of Disincorporation:

If a municipality has failed to hold elections or operate any government for a period of five years, the county attorney may ask the secretary of state to determine the town abandoned and discontinue its incorporation. If the secretary of state determines that the town is abandoned, the county clerk and recorder of the county in which the abandoned municipality is located must provide notice of its discontinuance within the county and maintain any of the municipality's documents for safekeeping.



Florida

Fla. Stat. § 165.051 and 165.061 (2015)

Procedure Initiated:

The legislature or governing body of the municipality can initiate municipal dissolution procedures.

Disincorporation Approved:

The charter of any existing municipality may be revoked and the municipal corporation dissolved by either: (a) a special act of the legislature or (b) an ordinance of the governing body of the municipality, approved by a vote of the qualified voters.

Process of Community Disincorporation:

The dissolution of a municipality must meet the following conditions: (a) the municipality to be dissolved must not be substantially surrounded by other municipalities, (b) the county or another municipality must be demonstrably able to provide necessary services to the municipal area proposed for dissolution, and (c) an equitable arrangement must be made in relation to bonded indebtedness and vested rights of employees of the municipality to be dissolved.

Alternative Method of Disincorporation:

n/a



Georgia

Ga. Code Ann. § 36-30-7 and -7.1 (2015)

Procedure Initiated:

A majority of registered voters of a municipality can petition the superior court of the county if the municipality has not functioned in 10 years.

Disincorporation Approved:

The judge of the superior court may receive the surrendered corporate charter and declare the municipal corporation to be dissolved.

Process of Community Disincorporation:

All assets and obligations of the municipality are assigned to the county in which the municipality is located. The assets of the county deemed to be unnecessary are sold to pay for any indebtedness of the municipality.

Alternative Method of Disincorporation:

If a municipality fails to meet any of the minimum standards for an active municipality, the state can revoke its charter. The standards include providing municipal services and holding regular public meetings and elections.



Idaho

Idaho Code Ann. § 50-2201 to -2214 (2015)

Procedure Initiated:

A petition must be signed by half of the qualified electors of the municipality who voted in the last general municipal election.

Disincorporation Approved:

If two-thirds of the voters are in favor, the county disincorporates the municipality.

Process of Community Disincorporation:

The county clerk assesses the financial status of the disincorporated community and places all money into a special fund, including tax revenue. The county commissioners use the special fund to pay for any municipal indebtedness. Any surplus funds are transferred to the school district in the former municipality.

Alternative Method of Disincorporation:

If a municipality has no elected council for a period of two years, petitions for disincorporation are filed before the county commission, which can then initiate a referendum.





Illinois

65 Ill. Comp. Stat. § 5/7-6-1 to -8 (2015)

Procedure Initiated:

A petition must be signed by a majority of electors who voted in the preceding general municipal election requesting consideration that the municipality dissolve its incorporation.

Disincorporation Approved:

If a majority of the votes approve the dissolution, the municipality is dissolved.

Process of Community Disincorporation:

The elected officials of the former municipality are responsible for closing the community's affairs. They may levy and collect taxes on property for the purposes of paying the debts and obligations of the municipality (§ 5/7-6-4). All surplus funds are paid to the school district.

Alternative Method of Disincorporation:

If a municipality has fewer than 50 inhabitants in the census, the county board can apply to the circuit court to dissolve the municipality.



Indiana

Ind. Code § 36-5-1 to -19 and § 36-5-1.1-1 to -11 (2015)

Procedure Initiated:

Population greater than 500: A petition signed by at least two percent of the total vote cast at the last election for secretary of state in the municipality must be presented to the municipal clerk. The municipal legislative body decides whether there is sufficient cause to submit the question of dissolution to the voters of the town.

Population less than 500: A resolution must be adopted by the municipal governing body or a petition signed by at least 25 percent of the municipality's voters registered at the last general election.

Disincorporation Approved:

Population greater than 500: If two-thirds of the voters approve of the dissolution, the municipality is dissolved.

Population less than 500: The county executive holds hearings and decides whether the municipality should be dissolved. The county executive's decision can be appealed to the circuit court.

Process of Community Disincorporation:

Population greater than 500: Municipal property, after being used to pay off debts and liabilities, is disposed of in the manner chosen by a majority of voters of the municipality.

Population less than 500: After dissolution, the county executive dispose of assets and debts.

Alternative Method of Disincorporation:

The county election board can petition the county executive to dissolve a municipality if the municipality has not elected officials or had a functioning government for 10 years.



Iowa

Iowa Code § 368.3 and § 368.11 (2015)

Procedure Initiated:

A petition must be signed by five percent of the registered voters of a municipality.

Disincorporation Approved:

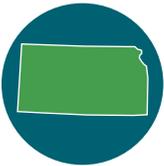
The petition and referendum must contain a plan for the disposal of assets and liabilities. If a majority supports the referendum, it passes.

Process of Community Disincorporation:

All property and assets are conveyed to the county, which pays off all debts. Any remaining money goes to the county.

Alternative Method of Disincorporation:

If a municipality has not held elections or levied taxes for six years and the county commissioners are made aware of this fact, discontinuance is automatic. The county takes control of all of the discontinued municipality's property.



Kansas

Kan. Stat. Ann. § 15-111 and 80-1101a to 80-1118 (2015)

Procedure Initiated:

Third-class city: A petition signed by a majority of legal voters of a third-class city (fewer than 2,000 residents) must be filed with the city council.

Township: If the county commissioners determine that a township should be disorganized, the commissioners adopt a resolution stating its intentions and setting a date for public hearings on the issue.

Disincorporation Approved:

Third-class city: If a two-thirds majority of the legal voters are in favor of dissolution, the third-class city is dissolved into the township in which the city is located.

Township: If the township does not assemble a petition opposing the disorganization within 30 days of the last publication of the resolution, the township is disorganized.

Process of Community Disincorporation:

Third-class city: If the city has any unpaid debts at the time of its dissolution, then the township trustee establishes a special taxing district within the township that covers the territory originally occupied by the dissolved city. The residents within that area continue to be taxed on property until the "city's debt" has been discharged (§ 15-111).

Township: If the township has any unpaid debts at the time of its disorganization, the county commissioners levy taxes on real and personal property in the territory comprising the disorganized township.

Alternative Method of Disincorporation:

n/a



Kentucky

Ky. Rev. Stat. Ann. § 81.094 (2015)

Procedure Initiated:

In a municipality without long-term debt or any debt in excess of the assets of the city, a petition of 20 percent of registered voters of the municipality equal to the number of the total number of votes cast in the municipal in the last presidential election can initiate a dissolution procedure. The petition is presented to the mayor of the municipality.

Disincorporation Approved:

If a majority of votes favor dissolution of the municipality, the municipality ceases to be incorporated within 30 days of the election results.

Process of Community Disincorporation:

All assets of the municipality become the property of the fiscal court of the county in which the municipality is located.

Alternative Method of Disincorporation:

If any municipality fails for one year to maintain a municipal government (electing or appointing officers and levying and collecting taxes), it is dissolved by judgement of the circuit court on petition by a resident of the municipality.



Louisiana

La. Stat. Ann. § 33:231, 251 to 266 (2015)

Procedure Initiated:

For municipalities with 2,500 or fewer residents, a petition by the majority in number and amount of the property taxpayers qualified to vote is presented to the governing body of the municipality. The governing body orders a special election to determine whether the municipality should be dissolved.

Disincorporation Approved:

If a majority of votes favor the dissolution of the municipality, the municipality ceases to be incorporated.

Process of Community Disincorporation:

If a municipality has any indebtedness at the time of its dissolution, the policy jury of the parish in which the municipality is located levies a tax, as the governing authority of the municipality could have legally levied, to resolve any debts (§ 33:264). The governing authority of the municipality liquidates the other affairs of the municipality as quickly as possible. Any surplus funds are turned over to the school board of the parish to be used to educate the children residing in the former municipality.

Alternative Method of Disincorporation:

Any municipality founded after 1898 with fewer than 100 inhabitants can be abolished by proclamation from the governor.



Maine

Me. Stat. tit. 30-A, § 7201 to -7504 (2015)

Procedure Initiated:

A petition must be signed by at least 50 percent of the number of voters in the municipality during the last gubernatorial election, but in no case less than 10 residents. The municipality then calls a town meeting on the question. At this meeting, a vote is taken on whether to develop a deorganization committee and procedure.

Disincorporation Approved:

A five-person committee is formed to direct deorganization (one municipal officer, one member of the local school board, and three voters of the municipality). The committee notifies both the state legislature and the fiscal administrator of the unorganized territory. The Commission on Municipal Deorganization assists the local commission. Hearings are held, and another town meeting is convened. The question is voted on again, and if the results are still affirmative, the issue is resubmitted to the state legislature. If the state legislature votes in favor of deorganization, the municipality may hold a referendum. If two-thirds of voters approve the referendum, the municipality is deorganized.

Process of Community Disincorporation:

The state tax assessor has five years to wind down the affairs of the community. He may assess taxes on property within the community to pay off its liabilities and debt (36 § 1231). All surplus funds are given to the county. The state assesses real estate and collects taxes for the county. The state also retains all planning and zoning authority. All other traditional local municipal services are performed by the county.

Alternative Method of Disincorporation:

In municipalities with 50 or fewer residents, the Commission on Municipal Deorganization can develop the deorganization procedure if requested to do so by the municipality.

Service Delivery:

Various state agencies and county government share duties related to providing services and administering property taxes in each disincorporated area. The Maine legislature serves as the “local governing body,” as it annually reviews and approves the various budgets from state agencies and county governments necessary to provide services and administer property taxes. Municipal services are funded through a property tax and a vehicle and boat excise tax. Counties provide a variety of services, including road maintenance, garbage collection and disposal, fire/EMS protection, and street lights. The state provides services such as land use planning, education, and public health services.



Maryland

Md. Code, Local Gov. Law § 4-313 and 4-314 (2015)

Procedure Initiated:

A resolution of the municipality’s legislative body or a petition of the qualified voters can propose the repeal of the municipal charter.

Disincorporation Approved:

The resolution or proposal is submitted to the Maryland Department of Legislative Services.

Process of Community Disincorporation:

The resolution or petition may provide for the disposition of the municipality’s assets. If the resolution or petition does not provide for the disposition, the county takes control of the assets and pays the debts and obligations of the former municipality. If the assets are not sufficient to pay off the debts of the municipality, the county can impose a special tax or assessment, in the same manner as other county property taxes, to pay off the former municipality’s indebtedness (§ 4-313).

Alternative Method of Disincorporation:

If a municipality fails for three consecutive years to file with the state a statement of financial condition, the Department of Legislative Services has the right to conclude the municipality is no longer operating under its charter; in this case, if the municipality has no outstanding debts or obligations, the state dissolves the municipality. If the assets and liabilities have not been disposed of before the municipal charter is repealed, the county in which the municipality is located takes control of the assets and liabilities. The county can liquidate the assets of the municipality and levy taxes on the former municipality to pay off any remaining debts.



Minnesota

Minn. Stat. § 412.091 to 412.093 (2015)

Procedure Initiated:

A petition must be signed by one-third of voters in the last city election.

Disincorporation Approved:

If a majority of voters at a special election approve, the city dissolves. Six months after the date of the election, the city ceases to exist.

Process of Community Disincorporation:

All city assets go toward repayment of outstanding bonds or claims. All remaining assets become the properties of the town or the towns in which the city was located.

Alternative Method of Disincorporation:

If a city fails to hold city elections for two consecutive years, and if one or more bonds or claims against the city remain unpaid, any bondholder or claimant may secure the dissolution of the city and payment of the city’s bonds and claims.



Mississippi

Miss. Code Ann. § 21-1-49 to -57 (2015)

Procedure Initiated:

If a municipality has a population of fewer than 1,000 inhabitants, the governing body can adopt an ordinance declaring its intention to abolish or dissolve the municipality.

Disincorporation Approved:

After an ordinance is adopted, a petition is filed in chancery court. The chancellor then holds hearings and accepts or denies the petition.

Process of Community Disincorporation:

If the petition is affirmed, the ordinance is forwarded to the secretary of state. Property and assets of the former municipality are assumed by the county. The debts and obligations of the community are not assumed by the county. The governing board of the county levies a special tax upon the property of the former municipality for as long as necessary to pay off the debt (§ 21-1-57).

Alternative Method of Disincorporation:

If any municipality contains fewer than 50 inhabitants, according to the census, that municipality should be automatically abolished.

A municipality also is automatically abolished if the municipality fails to hold an official meeting for 12 months or if general elections are not held on two consecutive occasions.



Missouri

Mo. Rev. Stat. § 80.570 to 80.670 (2015)

Procedure Initiated:

A petition must be submitted by the majority of voters of the municipality.

Disincorporation Approved:

Upon the affirmative vote of 60 percent of voters, the county governing body disincorporates the municipality.

A municipality with fewer than 100 residents can also disincorporate, without an election, with a petition of three-fourths of the voters of the municipality, provided that the petition requests disincorporation without an election.

Process of Community Disincorporation:

When the county dissolves any municipality, it appoints a trustee for the dissolved municipality. The trustee is responsible for finalizing all of the standing affairs and obligations of the municipality, including the dispersion of property and development of a debt-payment schedule. Any surplus funds are paid for the county and dispersed for the benefit of the former municipality. The funds can be directed by the town to a specific use upon the petition of a majority of taxable inhabitants of the municipality.

Alternative Method of Disincorporation:

n/a



Montana

Mont. Code Ann. § 7-2-4901 to -4920 (2015)

Procedure Initiated:

A petition must be signed by at least 15 percent of the registered electors in the last municipal general election, or a two-thirds vote of a municipality's governing body must initiate the process.

Disincorporation Approved:

To disincorporate, 60 percent of the electorate must vote in its favor.

Process of Community Disincorporation:

All assets of the disincorporated municipality are turned over to the commissioners of the county in which the former municipality is situated. The commissioners then manage all debt repayment, including levying taxes on the former municipality if necessary (§ 7-2-4918). Any surplus assets are transferred to the county general fund.

Alternative Method of Disincorporation:

If a governing body of a municipality ceases to exist or fails to function for a period of two years, the municipality is disincorporated.



Nebraska

Neb. Rev. Stat. § 17-215 to -219.03 and § 23-297 (2015)

Procedure Initiated:

A petition must be signed by a least one-third of the registered voters of the village (municipality with 100 to 800 residents), or two-thirds of the members of the governing body of a village must pass a resolution.

Disincorporation Approved:

A majority vote in an election dissolves the village.

Process of Community Disincorporation:

Upon the dissolution of the village, all assets of the village are transferred to the county board of the county in which the village is located. The county board adopts a plan for the liquidation of village assets to retire the liabilities of the village. All surplus funds are spent as the county board sees fit.

Alternative Method of Disincorporation:

n/a





Nevada

Nev. Rev. Stat. § 265.110 to § 265.180 (2015)

Procedure Initiated:

A petition must be signed by a majority of legal voters residing within a municipality.

Disincorporation Approved:

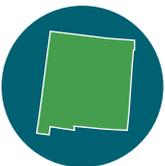
The county commissioners have the power to disincorporate a municipality after all its debts have been paid or secured.

Process of Community Disincorporation:

Whenever a municipality is dissolved, the county commissioners may appoint three persons to act as trustees for the dissolved municipality. The trustees wrap up the business of the municipality. The trustees sell and convey municipality property to resolve any debts. Any surplus funds are given to the county commissioners to be spent for the benefit of the former municipality. The funds can be directed by the town to a specific use upon receipt of a petition from a majority of taxable inhabitants of the municipality.

Alternative Method of Disincorporation:

n/a



New Mexico

N.M. Stat. § 3-4-1 to -9 (2015)

Procedure Initiated:

A petition must be signed by one-fourth of registered voters of a municipality.

Disincorporation Approved:

The process moves forward when a majority of voters are in favor of disincorporation and after provision has been made for payment of the municipality's current indebtedness, contracts, and obligations, as well as levying the requisite tax to do so.

Process of Community Disincorporation:

When the municipality is disincorporated, the county commissioners assume control of all property belonging to the disincorporated municipality. The commissioners can levy a tax on all taxable property within the former municipality to pay the obligations of the municipality (§ 3-4-9).

Alternative Method of Disincorporation:

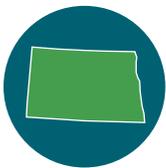
n/a



New York

N.Y. GMU § 17-A (Consol. 2015)

Procedure Initiated:	A petition must be signed by 10 percent of registered voters or 5,000 total registered voters, whichever is less. However, if a municipality has 500 or fewer registered voters, signatures of at least 20 percent of the voters are required. Alternatively, the governing board of the municipality can initiate the dissolution through resolution.
Disincorporation Approved:	Following either the petition or resolution, a referendum must be held. If a majority of voters approve the referendum, the municipality is then dissolved.
Process of Community Disincorporation:	Upon successfully completing the dissolution proceedings, the municipality winds up the municipal affairs, including paying off any indebtedness. A property tax can be levied on the former municipality to address any indebtedness (§ 790).
Alternative Method of Disincorporation:	n/a



North Dakota

N.D. Cent. Code § 40-53.1 (2015)

Procedure Initiated:	A petition must be signed by one-fourth of the number of qualified electors voting at the last regular municipal election.
Disincorporation Approved:	If a majority votes in favor of disincorporation, the county commissioners disincorporate the municipality.
Process of Community Disincorporation:	When a municipality is dissolved, the county commissioners assume control of all property belonging to the dissolved municipality. The commissioners hire a qualified and bonded person to manage the affairs of the dissolved municipality and supervise the retirement of all debts and liabilities. If there is insufficient money to pay the obligations of the former municipality, the commissioners levy a tax on all taxable property within the boundaries of the former municipality (§ 53.1-09).
Alternative Method of Disincorporation:	An application by the county attorney to the district court can also dissolve a municipality. The court can sell assets of the municipality to pay debts and order any surplus funds paid to the general fund of the county in which the former municipality is located.



Ohio

Ohio Rev. Code § 703.20 to 703.21 (2015)

Procedure Initiated:

In a village (5,000 or fewer residents), a petition must be signed by at least 40 percent of the registered voters as determined by the number voting in the last regular municipal election.

Disincorporation Approved:

If a majority of voters approve the referendum, the municipality is then disincorporated.

Process of Community Disincorporation:

The village clerk certifies the results of the referendum to the secretary of state and the county recorder, which disincorporates the village. All assets are used to pay off any indebtedness. Any surplus funds are given to the township into which the village is dissolving.

Alternative Method of Disincorporation:

If a village has 150 residents or fewer, occupies an area of less than two square miles, and meets two of the conditions for surrendering corporate powers, the attorney general can request the court of common pleas to dissolve the municipality. Conditions that can be considered surrendering corporate powers include: (1) a “fiscal emergency” lasting at least three consecutive years with little or no improvement, (2) failure to properly follow election laws for at least two consecutive election cycles, (3) “unauditable” status for at least two consecutive audits, (4) failure to provide at least two typical municipal services, (5) failure to adopt a tax budget, and (6) an elected official convicted of theft in office.





Oklahoma

Okla. Stat. tit. 11, § 7-101 to 107 (2015)

Procedure Initiated:	A petition must be signed by at least one-third of the registered voters in the previous general election of a municipality.
Disincorporation Approved:	Disincorporation is approved if a majority of the votes are in favor of dissolution and the votes have been cast by at least two-fifths of the registered voters of the municipality (as defined by the preceding general election).
Process of Community Disincorporation:	Municipal property is used first to pay its debts and liabilities. A special election is then held in the former municipality to determine the dissemination of any surplus funds.
Alternative Method of Disincorporation:	<p>The district attorney can file a petition for involuntary dissolution before the district court if a municipality has one of the following conditions.</p> <ul style="list-style-type: none"> • No elections for two successive general municipal elections • A majority of the members of its governing body fail to qualify for two successive general municipal elections • The municipality is totally within an area subject to subsidence, environmental contamination, or flooding as a result of mining operations, dam construction, or natural causes beyond the control of the municipality, and said municipality is unable to meet the cost of continuing its government and maintaining its services to residents due to a reduction in population resulting from such circumstances <p>After a hearing, the district court rules on whether the municipality should be resolved. If the court rules in favor of dissolution, the court appoints a receiver to wind up the affairs of the municipality and dispose of its property.</p>



Oregon

Or. Rev. Stat. § 221.610 to .650 (2015)

Procedure Initiated:	A petition must be signed by at least 10 percent of registered voters in the city at the time the prospective petition is filed.
Disincorporation Approved:	If a majority of voters approve the referendum, the municipality is then disincorporated.
Process of Community Disincorporation:	The municipality conveys all of its assets to the county in which it is located. A municipality may only disincorporate if its debts and liabilities have been positively resolved.
Alternative Method of Disincorporation:	n/a



South Carolina

S.C. Code Ann. § 5-1-100 (2015)

Procedure Initiated:

A petition must be signed by the majority of registered voters in a municipality.

Disincorporation Approved:

The municipality is disincorporated if two-thirds of referendum votes are in favor.

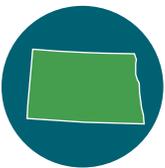
Process of Community Disincorporation:

n/a

Alternative Method of Disincorporation:

If a municipality's population decreases to fewer than 50 inhabitants, the municipality automatically forfeits its incorporation.

Also, if the secretary of state determines that any municipality is neither performing municipal services nor collecting taxes or other revenues and has not held an election during the past four years, the secretary disincorporates the municipality.



South Dakota

S.D. Codified Laws § 9-6-1 to -12 (2015)

Procedure Initiated:

Fewer than 250 residents: A petition must be submitted to the circuit court by the majority of real property owners, both in area and assessed value.

Fewer than 1,000 residents: A petition must be signed by 15 percent of the registered voters, based on the total number of registered voters at the last preceding general election.

Disincorporation Approved:

Fewer than 250 residents: If the court is satisfied that it is in the interest of the municipality, its property owners, and its residents to dissolve, the court rules that the municipality is dissolved.

Fewer than 1,000 residents: If the majority of votes in the referendum are in favor and at least two-fifths of all voters from the last municipal election participated, the municipality is dissolved.

Process of Community Disincorporation:

Following its dissolution, the municipality becomes part of the county in which it is located. Prior to its dissolution, the municipality must pay off its debts and liabilities.

Alternative Method of Disincorporation:

n/a



Tennessee

Tenn. Code Ann. § 6-52-101 to -304 (2015)

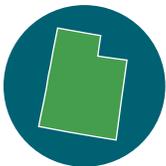
Procedure Initiated:	A petition must be signed by at least 10 percent of the registered voters in a municipality.
Disincorporation Approved:	If a majority of referendum votes are in favor, the municipality is dissolved.
Process of Community Disincorporation:	County governing bodies can levy a special tax within the former municipality to pay off any of the former municipality’s debt (§ 6-52-101 and -102).
Alternative Method of Disincorporation:	<p>Any five residents of a municipality can petition a chancery court to initiate the disincorporation process if a municipality with 100 or fewer inhabitants fails to do the following.</p> <ul style="list-style-type: none"> • Elect a mayor or legislative body, or both, for more than one year • Levy and collect any municipal ad valorem property taxes for three successive years • Expend funds for municipal purposes or adopt a budget for municipal expenditures for three successive years • Hold any municipal elections for more than 20 years



Texas

Tex. Loc. Gov. Code § 62 (2015)

Procedure Initiated:	The mayor of the municipality orders an election on dissolving a municipality if a petition is signed by at least 400 qualified voters of the municipality. However, if a majority of the qualified voters of the municipality is less than 400, the petition must be signed by at least two-thirds of the qualified voters of the municipality. If the municipality has fewer than 400 qualified voters and has no municipal debt and does not provide services that would be otherwise provided by the county, the petition must be signed by at least one-fourth of the qualified voters in the municipality.
Disincorporation Approved:	If a majority of the votes are in favor of abolition, the mayor of the municipality declares the municipality abolished and certifies the abolition to the commissioners court of the county in which the municipality is located. The commissioners court enters the abolition order in its minutes, at which time the municipality ceases to exist.
Process of Community Disincorporation:	Any creditor of a validly incorporated municipality that abolishes its corporate existence may apply to a district judge in the district in which the municipality is located to appoint a receiver for the municipality. The receiver takes control of any property of the municipality in order to pay off creditors. Any leftover assets are given to any public school district located completely within the boundaries of the abolished municipality, and any assets are used for the benefit of the school district.
Alternative Method of Disincorporation:	n/a



Utah

Utah Code § 10 2-701 to -712 (2015) and Utah Code § 17-34-1 to -6 (2015)

Procedure Initiated:

A petition must be signed by at least of 25 percent of all votes cast from the municipality at the last congressional election.

Disincorporation Approved:

If a majority of votes are in favor of abolition, the municipality is dissolved.

Process of Community Disincorporation:

All property and assets of the former municipality are conveyed to the county. The court is empowered to wind up the affairs of the former municipality. The court can also permit the county commissioners to levy a property tax on the residents of the former municipality to pay off any liabilities or debts (§ 10-2-706). Any surplus funding is transferred to the school district in the former municipality.

Alternative Method of Disincorporation:

Any municipality with 50 or fewer residents may be dissolved by the district court upon petition from the county governing board where the municipality is located.

Service Delivery:

A county may provide municipal-type services to unincorporated areas of the county. These services include: fire protection service, waste and garbage collection and disposal, planning and zoning, street lighting, animal services, storm drains, traffic engineering, code enforcement, business licensing, and building permits and inspections. First-class counties—counties with more than 700,000 residents (only Salt Lake County)—may also provide emergency medical services and detective services. These services are funded by a property tax or service fee levied upon the unincorporated area or shared county sales tax revenue. Counties can also provide fire, emergency medical, and police services in designated outdoor recreational areas.



Virginia

Va. Code Ann. § 15.2-3700 to -3712 (2015)

Procedure Initiated:

Prior to initiating the process with voters, the town council must enter into an agreement with the county board of supervisors in which the town is located. The agreement should facilitate the transfer to the county of all of the town’s revenues, the services it performs, its facilities and other assets, debts due to the town, and all indebtedness. After this agreement is finalized, the town council may by ordinance pass a majority vote and petition the circuit court of the county for an order requiring a referendum on the question of whether the town chartered shall be annulled and repealed. Notice of this petition to the court must be posted for at least 30 days (and published at least once a week for four weeks) to the people of the town. The order is then docketed by the court. The court then orders the date of election for the townspeople to consider the question, “Shall the charter for the Town of _____ be annulled and repealed?”

Disincorporation Approved:

A majority of the qualified voters of the town who voted on the question submitted must vote in favor.

Process of Community Disincorporation:

The annulment is effective on January 1 of the year following the date on which the initial order was issued or, upon petition of the governing bodies of the town and county, on another date chosen by those bodies. Upon the effective date, all rights, powers, duties, and compensation of officers, agents, and employees of the town terminate, along with the town.

** As part of the original agreement between the town and the county, the county may create a special debt district in the territory occupied by the former town for the purpose of repaying all or part of the existing indebtedness chargeable to the town before the annulment. A special tax on real property within the special debt district is levied for a period not exceeding 20 years and is paid in addition to all other taxes within the county (§ 15.2-3709).*

Alternative Method of Disincorporation:

n/a





Washington

Wash. Rev. Code § 35.07 (2015)

Procedure Initiated:

A petition must be signed by a majority of registered voters of a municipality.

Disincorporation Approved:

If a majority of voters approves the referendum, the municipality is dissolved. If the municipality has any indebtedness or outstanding liabilities, it orders the election of a bonded receiver at the same time.

Process of Community Disincorporation:

Upon disincorporation, all powers and privileges a municipality has are surrendered to the state. If a receiver is required, all municipal assets are surrendered to the receiver. The receiver has the authority to sell assets or levy taxes on taxable property in order to pay off any indebtedness or outstanding liabilities. Any surplus funds remaining are paid to the county treasurer for the use of the school district in which the former municipality was located.

Alternative Method of Disincorporation:

If any municipality fails for two successive years to hold a regular municipal election or the elected officers fail for two successive years to qualify and the government of the municipality ceases to function as a result, the state auditor may petition the superior court of the county to dissolve the municipality. The superior court can then dissolve the municipality. The court can sell the assets of the municipality or levy a tax in order to pay off any indebtedness or liability.



West Virginia

W. Va. Code § 8-35-1 to -2

Procedure Initiated:

A petition must be signed by 25 percent or more of the legal voters of any class III city (population of 2,000 to 10,000) or class IV town or village (population of 2,000 or fewer).

Disincorporation Approved:

If a majority of voters approve the referendum, the community is dissolved.

Process of Community Disincorporation:

Any assets the municipality possesses after paying off its indebtedness and liabilities are transferred to the state.

Alternative Method of Disincorporation:

Any municipality with fewer than 100 inhabitants, with fewer than 20 votes at the last election, or that has not exercised its corporate powers for a full year may be dissolved by the county commissioners. Any assets the municipality possesses after paying off its indebtedness and liabilities are transferred to the state.



Wisconsin

Wis. Stat. § 61.187 (2015)

Procedure Initiated:

For villages only (1,000 or fewer residents): A petition must be circulated, signed by at least one-third as many electors as voted for village officers in the preceding election, and submitted to the village board for consideration. The question is determined by ballot referendum, and the board can determine whether that takes place at a general election or a special election called for that purpose.

Disincorporation Approved:

If two-thirds of the ballots cast at the election are in favor of dissolution, the village ceases to be a village six months following the election.

Process of Community Disincorporation:

Within 10 days following the election (with positive results), the village clerk records the petition in the office of the register of deeds of the county in which the village is located and files with the secretary of administration certified copies of the petition and the determination of inspections of election. The territory included within the village reverts to and becomes a part of the town or towns from which it originated, unless the town no longer exists, in which case the village may not dissolve. The assets and liabilities are apportioned under Wisconsin Statute 66.0235 (adjustment of assets and liabilities on division of territory) and become the assets and liabilities of the town to which the village reverts.

Alternative Method of Disincorporation:

n/a





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