

## Coterminous Town-Villages in New York State

*A Fact Sheet Prepared by CGR for the Malone Study Committee – 7 December 2011*

### **What is a coterminous town-village?**

A coterminous town-village is a **partially to fully consolidated municipality with shared borders** with each entity retaining its identity and governmental authority.

Depending on how the unit is formed, the **town and the village may function together as a single unit of government**. In such an example, the same person serves as both village mayor and town supervisor, and the village board members serve also as the town board.<sup>1</sup>

### **Are there existing examples?**

Currently, there are 5 coterminous town-villages in New York: Mount Kisco (3 square miles), Harrison (16.8 square miles) and Scarsdale (6.7 square miles), in Westchester County, Green Island (.7 square miles) in Albany County, and East Rochester (1.3 square miles) in Monroe County.

### **How is a coterminous town-village created?**

There are **4 methods** for creating a coterminous town-village in New York State:

1. *A new village can be incorporated using the exact same boundaries of an existing town.*
  - a. The existing town *must have no other villages within its territory*, and would have to comply with other provisions in Village Law Article 2-200.<sup>2</sup>
  - b. The coterminous municipalities of Harrison and Scarsdale were created this way.
2. *A new town can be incorporated which shares the borders of an existing village.*
  - a. A town must submit a petition under Article 5 of Town Law calling for division of the existing town into two towns, one of which shares the boundaries of an existing village.
  - b. Filing an Article 5 petition requires obtaining signatures equal to 5% of the number of votes cast in the most recent gubernatorial election but not less than 100 in a first class town (or not less than 25 in a second class town). The petition then goes to the County legislative body which must hold a public hearing before deciding to grant the petition. If the measure is approved, a referendum is held at which all registered town voters are eligible to vote.
  - c. East Rochester and Mount Kisco were formed this way.
3. *The State Legislature may adopt a special act creating the new town-village entity.*
  - a. Each existing local government submits a “home rule request” to the Legislature to enact the bill. The new act states the new boundaries for the new municipalities and sets forth the necessary provisions regarding governmental administration, disposition of real property, and other assets and obligations of the existing municipalities.

<sup>1</sup> New York State Department of State Office of General Counsel. *What is a coterminous town-village?* Legal Memorandum LG 06. <http://www.dos.state.ny.us/cnsl/lg06.htm>

<sup>2</sup> See New York Village - Article 2 - (2-200 - 2-258) Incorporation here: <http://law.onecle.com/new-york/village/article2.html>

- b. The new boundaries could either follow those of an existing town or village or can carve out a new municipal border.
  - c. No formal referendum is required with this approach, but the State Legislature typically would condition the formation upon voter approval.
  - d. The Town and Village of Green Island were both formed under separate acts of the legislature in this way.
4. *A local village can annex adjacent territory within a town, provided that no other villages exist within the town.*
- a. This procedure requires formal votes of the town and village governing boards, plus approval by the voters at a referendum held in the outlying territory which is to be annexed.
  - b. In New York State, this method has never been utilized to form a coterminous relationship.
  - c. **Note:** The new entity would not be subject to Article 17 of Village Law (provisions on election of officers, their powers and duties, assessments, etc.) since the law pertains only to the formation of a new village or town. There would continue to be separate governing bodies over both the village and town. In models 1-3 above, Article 17 applies to the new entity.

### ***Important considerations to keep in mind***

- What is the extent to which an existing relationship already exists between the two entities?
- What will be the impact on revenues?
  - **Federal aid** – *The new coterminous entity would receive aid only as one government.*
  - **State aid** – *A town/village can continue to receive aid according to their status as both a town and a village.*
  - **Consolidated Local Street and Highway Improvement Program (CHIPS)** – *The new entity can receive aid as a town or village, depending on which form of government is chosen as the predominant form.*
  - **Other aid** (e.g., Exempt Railroad Property, Programs for Aging or Youth) – *This aid continues, but amount depends on how many people are now represented in the newly formed unit of government.*
  - All forms of taxation available to town and village remain at the new entity's disposal.
- What is the **overall level of service** being provided, and the **tax base available** to underwrite it?
  - **Note:** Within some separate towns and villages are arrangements for shared services that are more cost-effective than the independence afforded by going coterminous. For instance, **East Rochester now pays for all of its own services** which, in practice, is more expensive than being able to purchase some of those services from another local government. In addition, East Rochester also deals with a small tax base which compounds that impact.
- What will be the **impact on existing water, sewer and fire operations**?
  - These would be part of public referendums and subject to town and village board review.
- What will be the impact upon **local school districts**? (*Note: creation of a coterminous village/town does not affect the existence or boundaries of a school district or change the tax levy.*)
- What about court proceedings? (*Note: The jurisdiction of existing town and village courts must be extended to cover any judicial actions pending at the time of creating the new entity.*)
- What impact would there be on any other improvement districts?