

Frequently Asked Questions (“FAQ”) Regarding the Combined Petition for Incorporation and Consolidation—FINAL

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1. *What is the Petition asking for?*

In basic terms, the Petition is a request by the Town residents who sign it to transform Tuxedo from a town to a consolidated town-village. A consolidated town-village is similar to a coterminous town-village, which is when a town and village include exactly the same boundaries, i.e. that both municipal boundaries start and end at the exact same place. Coterminous town-villages are a special and unique form of organizing local government that is starting to become more popular in New York State, as five other town-villages already exist in New York: Mount Kisco, Harrison, and Scarsdale, in Westchester County; Green Island in Albany County; and East Rochester in Monroe County.

More specifically, this Petition is a voter-initiated procedure wherein two processes will occur simultaneously: (1) a new Village of Tuxedo will be incorporated, which will extend to the entire borders of the Town but exclude the Village of Tuxedo Park, which is entirely within the Town; and (2) immediately the newly incorporated Village will be consolidated with the Town of Tuxedo. Although the five other town-villages listed above have set up their new governmental structures slightly differently, this Petition aims to create a consolidated town and village that will function together as a single local government.

Because the Village of Tuxedo Park exists within the existing Town of Tuxedo (to simplify, think of Tuxedo Park as the “hole” within the “donut” of the Town of Tuxedo), the existing Town and newly created Village will not include *exactly* the same boundaries as a typical coterminous town-village. This is what makes this Petition’s desired results unique from the other five existing coterminous town-villages noted above. However, the newly created village will follow the procedures outlined in Village Law § 2-200, which allows the incorporation area to be coterminous with the entire boundary of the Town refuse district pursuant to § 2-200(1)(b). This is why this Petition asks to create a “consolidated town-village,” instead of a “coterminous town-village.” Regardless of terminology, the idea behind the procedure remains the same.

2. *Can you summarize the Petition in a timeline format?*

A previous timeline has already been submitted to the Town. For convenience, the timeline has been attached to this “FAQ.”

3. *How long will this process take?*

The attached timeline includes mandatory dates for completion of steps within the process. That being said, this is an open-ended process that can move as quickly or as slowly—within the

mandatory statutory confines—as necessary. It is in the Petitioners’ best interest to submit the Petition as quickly as possible, as then the new town-village will be created sooner (please see answer to #4, below).

4. *What happens if another set of Petitioners files a similar Petition before this one is finalized?*

Unfortunately, this is a “first come, first served” process. This means that if another Petition is filed with the Town Clerk prior to the filing of this Petition, the Town Clerk should wait until that other Petition is either rejected or is approved in its entirety. This is a precaution that avoids the undesired result of one piece of property being part of two different incorporated villages, which is not allowed under the New York State Village Law.

Therefore, it is again in the Petitioners’ best interest to submit their Petition as soon as possible to avoid this potentially unwanted result.

5. *When do the residents vote on this proposal?*

There is one mandatory voting opportunity wherein a “referendum” vote will be held (July 16, 2019). A typical referendum occurs when a general vote on a single political question is held. In this case, the Town will hold a mandatory “combined referendum,” held on the question of whether the Combined Petition for Incorporation and Consolidation should be approved. Since the Petition includes two procedures—incorporation and consolidation—these procedures will be voted on separately based upon voter residency pursuant to state statute. Only residents of the Town (not including Tuxedo Park) can vote on the incorporation. This is because only those residing in the proposed area of incorporation and qualified to vote in town elections may vote on that question. The entire Town, including Tuxedo Park residents, can vote on the consolidation.

If the referendum passes on both questions, voters also have the opportunity to conduct another petition drive to require a second referendum on the Consolidation Plan itself. The purpose of this referendum would be to demonstrate that amendments are needed to the Plan prior to consolidation and reorganization. If the petition is successful, this permissive referendum will be held on the question of whether the proposed Consolidation Plan, which governs the future consolidated town-village of Tuxedo, should be approved “as-is”. The entire Town, including Tuxedo Park residents, can vote to approve the Consolidation Plan if this second referendum is held.

6. *What is the number of votes that is required to pass this Petition?*

The Petition itself must be signed by at least 20% of the registered voters in the incorporation area. These voters must have been registered by the last preceding general election. The Town Clerk keeps the list of voters at his or her office. According to Town records, the Petition itself requires 512 signatures (20% of the 2560 registered voters).

To pass the Petition, one mandatory referendum must be held (see answer to question #5 above). For both the incorporation and consolidation questions within the combined referendum, a simple majority vote will count as an approval. This means that the incorporation vote requires a simple majority of Town residents, while the consolidation vote requires a simple majority of the entire Town (including Tuxedo Park residents).

7. *Why should I sign this Petition or vote yes for each referendum?*

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

To summarize, the Petition's approval will generally allow the Town to exercise the above increased powers of a village while continuing to operate as a town.

8. *What are the differences between a village and a town?*

As noted in question 7 above, villages and towns have different powers in New York. For example, towns do not have a separate executive branch of town government. A Town Supervisor functions as a part of the legislative branch instead. A Supervisor's duties under law include: (1) acting as treasurer and taking care and custody of funds belonging to the town; (2) disbursing funds for the town's usage; (3) keeping an accurate and complete account of all town funds; (4) making reports as required; (5) paying fixed salaries and other claims; (6) and leasing, selling, and conveying town properties, when so directed by the Town Board. It is clear from that list that the town supervisor functions as a fiscal officer. In addition, a Supervisor can be considered as more of an administrator than an executive officer, as they do not possess any special powers other than what is listed above.

In New York villages, conversely, a mayor is normally the chief executive officer. Unlike a Town Supervisor, the Village Mayor is not the chief fiscal officer of the Village and therefore has no explicit fiscal duties. A Mayor is however responsible for enforcing the village's laws, as well as for appointing all non-elected village officers and employees.

In certain ways, therefore, a Village Mayor has more authority than a Town Supervisor. Once the Town of Tuxedo converts into a town-village upon passage of the Petition, the Town Supervisor will be able to exercise some of the executive powers a Village Mayor normally only possesses.

9. *Will the elected Town Highway Superintendent still exist?*

Yes, the elected Town Highway Superintendent will still exist. The suggested Consolidation Plan (found within the proposed Petition) does not propose any changes to the current governmental structure of the Town.

10. *Will the change from town to town-village affect Orange County's guarantee on tax relevys?*

No. Orange County is still required to guarantee payment of tax relevys under state law.

11. *Will the change from town to town-village cause residents to be obligated to pay for the Hamlet or Tuxedo Farms sewer districts?*

Currently, the cost and expense of providing sewer district services to the Hamlet Sewer District and Tuxedo Farms Sewer District are paid for by taxes assessed against those within only those respective districts. This will not change when the town-village is created. Specific sections of the New York Village Law (§ 2-252(b)(2), 17-1718(1)) prohibit such a change and require that the status quo remain.

12. *What if the Petition fails?*

If either referendum fails, reorganization will not take place. This means that the process cannot be initiated again for the same purpose for at least **four years** pursuant to state statute. This prohibition serves as even stronger incentive for the Petitioners to garner as much support as possible from the Town's citizens before filing the Petition.

13. *Can any changes be made to the proposed Consolidation Plan prior to the referendum?*

Whatever elector-proposed Consolidation Plan (the "Plan") was filed with the petition and requisite signatures is the plan that will be subject of the dual referendum. However, there is nothing in the statutes that prohibits having a "clarification" document that can explain some of the phrases included in the Plan. Our office therefore submitted a clarification document (the "Clarification Document") that is annexed to this FAQ. The Clarification Document serves as an interim measure to ensure that all comments and suggestions made at the public hearing regarding language changes to be included in the Final Consolidation Plan are reviewable by the electorate prior to the referendum vote. The Tuxedo Town Board fully intends to take the Clarification Document and integrate its provisions into the Final Consolidation Plan. The Final Consolidation Plan, which includes the changes requested by residents during the April 8th information session, will then become the document that governs how the town/village will function and govern itself.

14. *Are absentee ballots permitted for the dual referendum?*

New York State Attorney General Opinion 2006-01 states that absentee ballots are prohibited for incorporation referendums. This prohibition would likely be construed to also apply to consolidation referendums. Since this is a combined incorporation and consolidation referendum, absentee ballots cannot be used.

15. *Is there another option that will accomplish the same goals as the Petition? For example, can't the Village of Tuxedo Park just annex the Town of Tuxedo?*

While it is true that a coterminous village can be created in a couple of ways, the Petition's current format is the only option that works to both keep the Village of Tuxedo Park intact and unaffected. To reiterate, the current Petition will incorporate a new village in the area outside of the existing Village of Tuxedo Park, with the new village encompassing the same boundaries as the existing Town of Tuxedo. The Town of Tuxedo

and new village will then be consolidated to create the Consolidated Town of Tuxedo, with no effect on the Village of Tuxedo Park.

As some residents have suggested, another method is for an existing village to use the procedures of Article 17 of the New York State General Municipal Law to annex the adjacent territory in its town lying outside the village. While this method is possible, representatives from the Village of Tuxedo Park have repeatedly stated that they do not wish to annex any Town territory. This is one of the reasons the Petition has been pursued in its current form.

Other methods include: (1) petitioning the State Legislature to adopt a special act creating the coterminous town-village or (2) submitting a public petition under Article Five of the New York State Town Law. To accomplish the first option, there must be two separate and already existing governments that wish to merge into a town-village. Those two governments will send a “home rule request” to the State Legislature to enact the bill. Because the new village does not exist yet, the Petition cannot follow this method. The second option, which calls for a division of an existing town into two towns (one of which would have the same boundaries as an existing village), would also not work. This is because the Town of Tuxedo does not wish to split into two entities, but rather keep its current boundaries.

The current form of the Petition is therefore the simplest option that accomplishes the Petition’s goals without any effect on the existing Village of Tuxedo Park.

16. What changes will be made, if any, to the existing Town Board and Supervisor powers if the Petition is successful?

No changes will be made to the respective powers of the existing Town Board and Supervisor if the Petition is successful. Although governmental entities are empowered to make such changes and document them within the Consolidation Plan, neither the Town of Tuxedo Town Board nor the Petitioners want any change to occur. Therefore, each Town Board member and the Town Supervisor will retain the same powers and abilities as they did prior to the Petition.

This position is also referenced in the annexed “Clarification Document.”

17. I’ve heard talk of New York State passing legislation that would change the petition requirements to create a village in New York. Is this true? Would this affect the current Petition?

It is true that Assemblyman Colin Schmitt has plans to introduce a bill that would raise the minimum population and percentage of petition signers needed in New York to create a village. Specifically, Schmitt wants to raise the population threshold to 2,000 from 500 and require that at least 51 percent of the area’s residents sign the village petition, rather than 20 percent.

Regardless of whether this proposed bill gains any legislative traction in the future, it would not affect a petition that has already been filed pursuant to the previous village incorporation procedures.

18. *Now that the petitions are filed, what are the next steps in the process and what is the likely timetable?*

The petition was filed on February 25, 2019 and the signatures were verified by the Tuxedo Town Clerk on March 5, 2019. At the March 11 Town Board meeting, the Town Board enacted a resolution calling for a public hearing on April 1, 2019.

After the public hearing is held, the next step was for the Town Board to enact a resolution calling for the dual referendum vote and setting a date for the vote. The referendum vote must occur within 60 to 90 days after the resolution and will occur on July 16, 2019.

After the vote (assuming both votes pass—see answer to Questions # 4 and 7 for more detail), the Town Clerk must immediately file a “Certificate of Election” with the Secretary of State, the Town Clerk’s own office, and the Orange County Clerk’s office. The Certificate of Election will certify the results of the dual vote. After 10 but within 15 days of the filing of the Certificate of Election, the Town Clerk must then file a “Report of Incorporation” with State and local entities.

The remaining procedural steps are detailed in a timeline format, which was previously submitted to the Town. For convenience, the timeline has been attached to this “Public Hearing FAQ.” The attached timeline includes mandatory dates for completion of each procedural step. That being said, this is an open-ended process that can move as quickly or as slowly—within the mandatory statutory confines—as necessary.

19. *How many days are required to schedule the referendum and how will the public be notified?*

The Town Board first enacted a resolution calling for a dual referendum and setting a date for the vote (July 16, 2019). The referendum must be held within 60 to 90 days after the resolution is enacted. The public will be notified by public notice in the official newspaper, press releases to other media, email blast to those registered on the town website, notices posted in the library, Town and Village of Tuxedo Park Clerk’s office, and first class mail where addresses are available.

20. *What are the boundary lines of the new village and how were they determined?*

The new village will include *roughly* the same boundaries as the Town of Tuxedo. Because the Village of Tuxedo Park exists within the existing Town of Tuxedo (to simplify, think of Tuxedo Park as the “hole” within the “donut” of the Town of Tuxedo), the existing Town and newly created Village will not include *exactly* the same boundaries as a typical coterminous town-village. The newly created village will follow the

procedures outlined in Village Law § 2-200, which allows the incorporation area to be coterminous with the entire boundary of the Town refuse district pursuant to § 2-200(1)(b). This is why this Petition asks to create a “consolidated town-village,” instead of a “coterminous town-village.” Regardless of terminology, the idea behind the procedure remains the same.

21. *If the voters approve of the referendum how soon does the new village go into effect? Exactly how does the town "flip" from the new village back into a town?*

The Petition is a voter-initiated procedure wherein two processes will occur simultaneously if the dual referendum is approved: (1) a new Village of Tuxedo will be incorporated, which will extend to the entire borders of the Town but exclude the Village of Tuxedo Park, which is entirely within the Town; and (2) immediately the newly incorporated Village will be consolidated with the Town of Tuxedo.

Because the petition is combined and specifically states that incorporation will not occur without consolidation, if the consolidation vote fails, the entire petition fails. No incorporation will occur. Therefore, both questions need to pass in order to create the Consolidated Town of Tuxedo. There is no wait time or “flipping” from the new village back into a town, because the incorporation of the new village and consolidation with the existing town occurs simultaneously as soon as the votes are certified by the Town Clerk in the Certificate of Election (please see answer to question # 1 above). As soon as the Certificate of Election and Report of Incorporation are filed with the appropriate state and local agencies, the new town/village has been properly created. There are additional steps in the process after this point (please see attached timeline for more detail), but these steps only further refine the already existing town/village.

22. *How is our plan different from or similar to other villages that have gone into effect in our area such as Monroe, Blooming Grove, or Woodbury?*

This plan is similar to the other villages in the area with regard to the first step in the process—incorporation. However, the other villages have not completed the second step in the process—consolidation. Therefore, they have not created a consolidated town-village and remain as a “regular” village.

A consolidated town-village is similar to a coterminous town-village, which is when a town and village include exactly the same boundaries, i.e. that both municipal boundaries start and end at the exact same place. Coterminous town-villages are a special and unique form of organizing local government that is starting to become more popular in New York State, as five other town-villages already exist in New York: Mount Kisco, Harrison, and Scarsdale, in Westchester County; Green Island in Albany County; and East Rochester in Monroe County. Although these five other town-villages have set up their new governmental structures slightly differently, our Petition aims to create a consolidated town and village that will function together as a single local government.

As a final note, this Petition specifically attempts to avoid the issues the Village and Town of Woodbury now experience, especially with regard to overlapping government and taxes. This problem occurred because the Village and Town only completed the first step in the process—incorporation. The Town of Woodbury never consolidated with the Village of Woodbury. Our Petition seeks to avoid the problems created in Woodbury by instead following the consolidation provisions (set forth in the New York Government Reorganization and Citizen Empowerment Act) simultaneously when the new Village of Tuxedo is created. This is an important distinction to the proposed Petition, as Tuxedo will be able to overcome Woodbury’s mistakes by creating a combined incorporation and consolidation procedure.

23. *Can the process be reversed by outside entities if Tuxedo Farms is purchased?*

No. The process has nothing to do with private purchasers of land.

24. *What exactly will the referendum ask the voters to approve? What will the residents of Tuxedo Park be voting on?*

A typical referendum occurs when a general vote on a single political question is held. In this case, the Town will hold a mandatory “combined referendum” where two yes/no questions will be posed to the eligible voters. Since the Petition includes two procedures—incorporation and consolidation—these procedures will be voted on separately based upon voter residency pursuant to state statute.

The first question (on incorporation) will be: *Should the Village of Tuxedo be incorporated pursuant to the elector-initiated petition?* For this vote, only the residents of the Town (not including Tuxedo Park) can vote. This is because only those residing in the proposed area of incorporation and qualified to vote in town elections may vote on that question.

The second question (on consolidation) will be: *Should the newly incorporated Village of Tuxedo be immediately consolidated with the existing Town of Tuxedo to create the Town-Village of Tuxedo?* The entire Town, including Tuxedo Park residents, can vote on the second question.

25. *How does this affect the Village of Tuxedo Park? Do they lose any of their independence and will any of their departments be absorbed or eliminated? Will they continue to elect their own mayor and trustees?*

This procedure will not affect the preexisting Village of Tuxedo Park. The Petition aims to retain the existing relationship between the Town and the Village of Tuxedo Park, a Village with its own unique history and status. There will be no impact on the Village of Tuxedo Park’s departments, current governmental structure, or its independence.

Residents of the Village of Tuxedo Park, however, do have an opportunity to voice their opinion regarding the incorporation and consolidation procedure during the mandatory referendum, during the consolidation portion of the referendum.

26. How will the new town/village's government work? Will we have a supervisor or a mayor?

The new town/village's governmental organization and regime will remain the same, but the Petition's approval will generally allow the Town to exercise the increased powers of a village while continuing to operate as a town.

Villages and towns have different powers in New York. For example, towns do not have a separate executive branch of town government. A Town Supervisor functions as a part of the legislative branch instead. A Supervisor's duties under law include: (1) acting as treasurer and taking care and custody of funds belonging to the town; (2) disbursing funds for the town's usage; (3) keeping an accurate and complete account of all town funds; (4) making reports as required; (5) paying fixed salaries and other claims; (6) and leasing, selling, and conveying town properties, when so directed by the Town Board. It is clear from that list that the town supervisor functions as a fiscal officer. In addition, a Supervisor can be considered as more of an administrator than an executive officer, as they do not possess any special powers other than what is listed above.

In New York villages, conversely, a mayor is normally the chief executive officer. Unlike a Town Supervisor, the Village Mayor is not the chief fiscal officer of the Village and therefore has no explicit fiscal duties. A Mayor is however responsible for enforcing the village's laws, as well as for appointing all non-elected village officers and employees.

In certain ways, therefore, a Village Mayor has more authority than a Town Supervisor. Once the Town of Tuxedo converts into a town-village upon passage of the Petition, the Town Supervisor will be able to exercise some of the executive powers a Village Mayor normally only possesses.

27. How does this affect any of our other elected town officials such as town clerk or superintendent of highways?

This procedure will not affect any other elected town officials.

28. Will this change give the town board any additional powers?

There is a difference between the powers villages and towns were given by state statute. Unfortunately, towns have fewer powers than villages in two important arenas. First, villages are able to prevent pipelines from traveling through their borders. By creating a town-village, the Town of Tuxedo will be able to combat the increasing development pressure from pipelines in the area. Second, the creation of a town-village will prevent any other villages from incorporating within the Town's borders. This has the added benefit of preventing future financial burdens to the Town and its taxpayers by avoiding

the threat of multiple unconsolidated municipal governments existing within the Town. Multiple unconsolidated governments can create additional expenses for residents, as overlapping municipal governments in turn create overlapping taxes for the provision of redundant residential services.

29. *Will there be any extra steps or changes in the process of applying for a building permit?*

No, the procedure will not cause any extra steps or changes in the building permit application process.

30. *Will there be any changes in our current zoning laws?*

The procedure itself will not cause any changes to the current zoning laws. However, the zoning for the Town of Tuxedo is currently being amended and the draft zoning documents are under review by the Town Board. The pending rezoning process will not be affected by the procedure.

31. *Will this change result in any type of new taxes for either the new town/village or the already existing Village of Tuxedo Park?*

There will be no impact on taxes for either the new town/village or the pre-existing Village of Tuxedo Park.

32. *Will it be necessary to reassess all the properties in the new town/village?*

No, there is no need to impose a mandatory reassessment of all properties within the new town/village.

33. *Will this change in status result in a change in any monies we currently receive or are eligible to receive from either the state or county?*

No, the change in status will not result in a change in state or county grant or monies eligibility.

34. *What will the new town/village be called?*

The new town-village will be formally called the Consolidated Town of Tuxedo. Informally, we expect that the town-village will continue to be referred to as the "Town of Tuxedo."

35. *Will this adversely affect any future attempts to develop a ward system in Tuxedo?*

No, the Petition will not adversely affect future attempts to create a ward system in Tuxedo.

36. *Will this in any way affect our current school district boundaries?*

The school district boundaries are not affected by this procedure.

37. *Will there be any effect on current or future plans to revitalize the downtown area?*

No, this petition will not affect current or future downtown revitalization plans.

38. *Are there residual benefits to making this change such as the ability of local organizations to conduct fundraising road drives or more control over local speed limits?*

No, the Petition does not affect these issues.