

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

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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. 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. *Isn't this the same process that happened in Woodbury? Don't they have issues with overlapping taxes?*

The Village and Town of Woodbury do have issues with overlapping taxes. However, this 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. The 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 Petitioners are able to overcome Woodbury's mistakes by creating a combined incorporation and consolidation procedure.

9. *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.

10. *Are there any alternative ways to accomplish the Petition's goals?*

A coterminous town-village can be created in a couple of ways. The first way is the option that the Petition follows, which is to incorporate a new village in an area with no existing villages, with the village encompassing the same boundaries as the existing town. The town and village will then be consolidated.

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. Because the village does not exist yet, the Petition cannot follow this method.

Another method is for the State Legislature to adopt a special act creating the coterminous town-village. To accomplish this, 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 also cannot follow this method.

A final method is for a public petition to be submitted under Article Five of the New York State Town Law. This petition would call for the division of an existing town into two towns, one of which would have the same boundaries as an existing village. Because the Town of Tuxedo does not wish to split into two entities, but rather keep its current boundaries, the Petition also cannot follow this method.

The current form of the Petition is therefore the simplest option that accomplishes the Petition’s goals, as it entirely relies on the Petitioners to initiate the process, rather than waiting for the state government to approve a request.

11. *What is the effect of this Petition on the preexisting Village of Tuxedo Park?*

This Petition 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.

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 (see answer to #5 above).

12. *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.

13. *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.

14. *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.

15. *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.