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(c) Any plan under par. (b) shall comply with the provisions listed in sub. (4).

(5) **HOSPITAL, ACCIDENT AND LIFE INSURANCE.** The state or a local governmental unit may provide for the payment of premiums for hospital, surgical and other health and accident insurance and life insurance for employees and officers and their spouses and dependent children. A local governmental unit may also provide for the payment of premiums for hospital and surgical care for its retired employees. In addition, a local governmental unit may, by ordinance or resolution, elect to offer to all of its employees a health care coverage plan through a program offered by the group insurance board under ch. 40. A local governmental unit that elects to participate under s. 40.51 (7) is subject to the applicable sections of ch. 40 instead of this subsection.

History: 1999 a. 9, 115; 1999 a. 150 ss. 34, 303 to 306; Stats. 1999 s. 66.0137; 1999 a. 186 s. 63; 2001 a. 16, 30.

Section 66.185 (now sub. (5)) does not prohibit providing health insurance benefits to persons not listed in the statute if authority is granted by other statutes. Sections 120.12, 120.13, and 120.44, broadly construed as required by s. 118.001, grant broad powers, including that of providing insurance to persons not listed in this section. *Pritchard v. Madison Metropolitan School District*, 2001 WI App 62, 242 Wis. 2d 301, 625 N.W.2d 613.

This section authorizes the purchase of liability insurance for state officers, agents, and employees for errors or omissions in carrying out the responsibility of their governmental positions. 58 Atty. Gen. 150.

**66.0139 Disposal of abandoned property.** (1) In this section, "political subdivision" means a city, village, town or county.

(2) A political subdivision may dispose of any personal property which has been abandoned, or remained unclaimed for a period of 30 days, after the taking of possession of the property by an officer of the political subdivision by any means determined to be in the best interest of the political subdivision. If the property is not disposed of in a sale open to the public, the political subdivision shall maintain an inventory of the property, a record of the date and method of disposal, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. The inventory shall be kept as a public record for a period of not less than 2 years from the date of disposal of the property. Any means of disposal other than public auction shall be specified by ordinance. If the disposal is in the form of a sale, all receipts from the sale, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid into the treasury of the political subdivision.

(3) A political subdivision may safely dispose of abandoned or unclaimed flammable, explosive, or incendiary substances, materials, or devices that pose a danger to life or property in their storage, transportation, or use immediately after taking possession of the substances, materials, or devices without a public auction. The political subdivision, by ordinance or resolution, may establish disposal procedures. Procedures may include provisions authorizing an attempt to return to the rightful owner substances, materials, or devices that have a commercial value in normal business usage and do not pose an immediate threat to life or property. If enacted, a disposal procedure shall include a presumption that if the substance, material, or device appears to be or is reported stolen, an attempt will be made to return the substance, material, or device to the rightful owner.

(4) Except as provided in s. 968.20 (3), a 1st class city shall dispose of abandoned or unclaimed dangerous weapons or ammunition without a public auction 12 months after taking possession of them if the owner has not requested their return. Disposal procedures shall be established by ordinance or resolution and may include provisions authorizing an attempt to return to the rightful owner any dangerous weapons or ammunition which appear to be stolen or are reported stolen. If enacted, a disposal procedure shall include a presumption that if the dangerous weapons or ammunition appear to be or are reported stolen an attempt will be made to return the dangerous weapons or ammunition to the rightful owner. The dangerous weapons or ammunition are subject to sub. (5).

(5) A political subdivision may retain or dispose of any abandoned, unclaimed or seized dangerous weapon or ammunition only under s. 968.20.

History: 1979 c. 221, 222, 355; 1985 a. 29; 1987 a. 203; 1991 a. 269; 1993 a. 90; 1995 a. 157; 1999 a. 150 ss. 35, 324, 325; Stats. 1999 s. 66.0139; 2001 a. 103.

**66.0141 Accident record systems.** Every city, village and town having a population of 5,000 or more shall maintain a traffic accident record system whereby traffic accidents occurring within the city, village or town may be located within 100 feet of the occurrence and shall provide a copy of the record quarterly to the county traffic safety commission under s. 83.013 (1) (a).

History: 1975 c. 381; 1983 a. 291; 1993 a. 246; 1999 a. 150 s. 118; Stats. 1999 s. 66.0141.

**66.0143 Local appeals for exemption from state mandates.** (1) **DEFINITIONS.** In this section:

(a) "Political subdivision" means a city, village, town, or county.

(b) "State mandate" means a state law that requires a political subdivision to engage in an activity or provide a service, or to increase the level of its activities or services.

(2) **APPEALS FOR EXEMPTIONS.** (a) A political subdivision may file a request with the department of revenue for a waiver from a state mandate, except for a state mandate that is related to any of the following:

1. Health.
2. Safety.

(b) An administrative agency, or the department of revenue, may grant a political subdivision a waiver from a state mandate as provided in par. (c).

(c) The political subdivision shall specify in its request for a waiver its reason for requesting the waiver. Upon receipt of a request for a waiver, the department of revenue shall forward the request to the administrative agency that is responsible for administering the state mandate. The agency shall determine whether to grant the waiver and shall notify the political subdivision and the department of revenue of its decision in writing. If no agency is responsible for administering the state mandate, the department of revenue shall determine whether to grant the waiver and shall notify the political subdivision of its decision in writing.

(3) **DURATION OF WAIVERS.** A waiver is effective for 4 years. The administrative agency may renew the waiver for additional 4-year periods. If a waiver is granted by the department of revenue, the department may renew the waiver under this subsection.

(4) **EVALUATION.** By July 1, 2004, the department of revenue shall submit a report to the governor, and to the appropriate standing committees of the legislature under s. 13.172 (3). The report shall specify the number of waivers requested under this section, a description of each waiver request, the reason given for each waiver request, and the financial effects on the political subdivision of each waiver that was granted.

History: 2001 a. 109; 2003 a. 321.

SUBCHAPTER II

INCORPORATION; MUNICIPAL BOUNDARIES

**66.0201 Incorporation of villages and cities; purpose and definitions.** (1) **PURPOSE.** It is the policy of this state that the development of territory from town to incorporated status proceed in an orderly and uniform manner and that toward this end each proposed incorporation of territory as a village or city be reviewed as provided in ss. 66.0201 to 66.0213 to assure compliance with certain minimum standards which take into account the needs of both urban and rural areas.

(2) **DEFINITIONS.** In ss. 66.0201 to 66.0213, unless the context requires otherwise:

(am) "Board" means the incorporation review board.

(ar) "Department" means the department of administration.

(bm) "Isolated municipality" means any existing or proposed village or city entirely outside any metropolitan community at the time of its incorporation.

(c) "Metropolitan community" means the territory consisting of any city having a population of 25,000 or more, or any 2 incorporated municipalities whose boundaries are within 5 miles of each other whose populations aggregate 25,000, plus all the contiguous area which has a population density of 100 persons or more per square mile, or which the department has determined on the basis of population trends and other pertinent facts will have a minimum density of 100 persons per square mile within 3 years.

(d) "Metropolitan municipality" means any existing or proposed village or city entirely or partly within a metropolitan community.

(dm) "Population" means the population of a local unit as shown by the last federal census or by any subsequent population estimate certified as acceptable by the department.

History: 1977 c. 29; 1979 c. 361 s. 112; 1991 a. 39; 1995 a. 27 ss. 3306 and 9116 (5); 1997 a. 27; 1999 a. 150 s. 33; Stats. 1999 s. 66.0201; 1999 a. 186; 2003 a. 171.

**66.0203 Procedure for incorporation of villages and cities.** (1) **NOTICE OF INTENTION.** At least 10 days and not more than 20 days before the circulation of an incorporation petition, a notice setting forth that the petition is to be circulated and including an accurate description of the territory involved shall be published within the county in which the territory is located as a class 1 notice, under ch. 985.

(2) (a) The petition for incorporation of a village or city shall be in writing signed by 50 or more persons who are both electors and freeholders in the territory to be incorporated if the population of the proposed village or city includes 300 or more persons; otherwise by 25 or more persons who are both electors and freeholders in the territory to be incorporated.

(b) The petition shall be addressed to and filed with the circuit court of a county in which all or a major part of the territory to be incorporated is located. The incorporation petition is void unless filed within 6 months of the date of publication of the notice of intention to circulate.

(c) The petition shall designate a representative of the petitioners, and an alternate, who shall be an elector or freeholder in the territory, and state that person's address; describe the territory to be incorporated with sufficient accuracy to determine its location and have attached to the petition a scale map reasonably showing the boundaries of the territory; specify the current resident population of the territory by number in accordance with the definition given in s. 66.0201 (2) (dm); set forth facts substantially establishing the required standards for incorporation; and request the circuit court to order a referendum and to certify the incorporation of the village or city when it is found that all requirements have been met.

(e) No person who has signed a petition may withdraw his or her name from the petition. No additional signatures may be added after a petition is filed.

(f) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate.

(3) **HEARING; COSTS.** (a) Upon the filing of the petition the circuit court shall by order fix a time and place for a hearing giving preference to the hearing over other matters on the court calendar.

(b) The court may by order allow costs and disbursements as provided for actions in circuit court in any proceeding under this subsection.

(c) The court may, upon notice to all parties who have appeared in the hearing and after a hearing on the issue of bond, order the petitioners or any of the opponents to post bond in an amount that it considers sufficient to cover disbursements.

(4) **NOTICE.** (a) Notice of the filing of the petition and of the date of the hearing on the petition before the circuit court shall be

published in the territory to be incorporated, as a class 2 notice, under ch. 985, and given by certified or registered mail to the clerk of each town in which the territory is located and to the clerk of each metropolitan municipality of the metropolitan community in which the territory is located. The mailing shall be not less than 10 days before the time set for the hearing.

(b) The notice shall contain:

1. A description of the territory sufficiently accurate to determine its location and a statement that a scale map reasonably showing the boundaries of the territory is on file with the circuit court.

2. The name of each town in which the territory is located.

3. The name and post-office address of the representative of the petitioners.

(5) **PARTIES.** Any governmental unit entitled to notice pursuant to sub. (4), any school district which lies at least partly in the territory or any other person found by the court to be a party in interest may become a party to the proceeding prior to the time set for the hearing.

(6) **ANNEXATION RESOLUTION.** Any municipality whose boundaries are contiguous to the territory may also file with the circuit court a certified copy of a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory designated in the incorporation petition. The resolution shall be filed at or prior to the hearing on the incorporation petition, or any adjournment granted for this purpose by the court.

(7) **ACTION.** (a) No action to contest the validity of an incorporation on any grounds, whether procedural or jurisdictional, may be commenced after 60 days from the date of issuance of the charter of incorporation by the secretary of state.

(b) An action contesting an incorporation shall be given preference in the circuit court.

(8) **FUNCTION OF THE CIRCUIT COURT.** (a) After the filing of the petition and proof of notice, the circuit court shall conduct a hearing at the time and place specified in the notice, or at a time and place to which the hearing is duly adjourned.

(b) On the basis of the hearing the circuit court shall find if the standards under s. 66.0205 are met. If the court finds that the standards are not met, the court shall dismiss the petition. Subject to par. (c), if the court finds that the standards are met the court shall refer the petition to the board. Upon payment of any fee imposed under s. 16.53 (14), the board shall determine whether the standards under s. 66.0207 are met.

(c) 1. The court shall determine whether an annexation proceeding that affects any territory included in the incorporation petition has been initiated under s. 66.0217, 66.0219, or 66.0223. A court shall consider an annexation proceeding under s. 66.0223 to have been initiated upon the posting of a meeting notice by a city or village that states that the city or village is considering enacting an ordinance under s. 66.0223.

2. If the court determines that an annexation proceeding described under subd. 1. was initiated before the publication of the notice under sub. (1), the court shall refer the petition to the board when the annexation proceeding is final. If the annexation is determined to be valid, the court shall exclude the annexed territory from the territory proposed to be incorporated when it refers the petition to the board.

3. If the court determines that an annexation proceeding described under subd. 1. was initiated after, and within 30 days after, the publication of the notice under sub. (1), the annexation may not proceed until the validity of the incorporation has been determined. If the incorporation is determined to be valid and complete, the annexation is void. If the incorporation is determined to be invalid, the annexation may proceed.

4. If the court determines that an annexation proceeding described under subd. 1. was initiated on the same date as the publication of the notice under sub. (1), the court shall determine which procedure was begun first on that date and that action may

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proceed and the other action may not proceed unless the first action fails.

5. If the court determines that an annexation proceeding described under subd. 1. was initiated more than 30 days after the publication of the notice under sub. (1), the annexation is void.

(9) FUNCTION OF THE BOARD. (a) Upon receipt of the petition from the circuit court and payment of any fee imposed under s. 16.53 (14), the board shall make any necessary investigation to apply the standards under s. 66.0207.

(b) Within 30 days after the receipt by the board of the petition from the circuit court and payment of any fee imposed under s. 16.53 (14), whichever is later, any party in interest may request a hearing. Upon receipt of the request, the board shall schedule a hearing at a place in or convenient to the territory sought to be incorporated.

(c) Notice of the hearing shall be given in the territory to be incorporated by publishing a class 2 notice, under ch. 985, and by mailing the notice to the designated representative of the petitioners or any 5 petitioners and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

(d) Subject to par. (dm), unless the court sets a different time limit, the board shall prepare its findings and determination, citing the supporting evidence, within 180 days after receipt of the referral from the court and payment of any fee imposed under s. 16.53 (14), whichever is later. The findings and determination shall be forwarded by the board to the circuit court. Copies of the findings and determination shall be sent by certified or registered mail to the designated representative of the petitioners, and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

(dm) The time period specified or set by the court under par. (d) shall be stayed for a reasonable period of time to allow for alternative dispute resolution of any disagreements between interested parties that result from the filing of an incorporation petition if all interested parties agree to this stay and provide written notice of their agreement to the board and to the circuit court.

(e) The determination of the board made in accordance with the standards under ss. 66.0205, 66.0207 and 66.0217 (6) (c) shall be one of the following:

1. The petition as submitted is dismissed.
2. The petition as submitted is granted.

3. The petition as submitted is dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the department's findings and determination.

(f) If the board determines that the petition shall be dismissed under par. (e) 1., the circuit court shall issue an order dismissing the petition. If the board grants the petition, the circuit court shall order an incorporation referendum as provided in s. 66.0211.

(g) The findings of both the court and the board shall be based upon facts as they existed at the time of the filing of the petition.

(h) Except for an incorporation petition which describes the territory recommended by the board under sub. (9) (e) 3., no petition for the incorporation of the same or substantially the same territory may be entertained for one year following the date of dismissal under par. (f) of the petition or the date of any election at which incorporation was rejected by the electors.

(i) If the board fails to make a determination within the time limit under par. (d), the board shall refund the fees imposed by the board under s. 16.53 (14) and shall then make a determination as quickly as possible.

(10) EXISTING ORDINANCES. A county shoreland zoning ordinance enacted under s. 59.692 that is in force in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

History: 1973 c. 37; 1977 c. 29; 1977 c. 187 s. 134; 1983 a. 219; 1991 a. 316; 1993 a. 329; 1995 a. 201; 1999 a. 150 s. 36; Stats. 1999 s. 66.0203; 1999 a. 186; 2001 a. 16; 2003 a. 171.

Sub. (5) does not empower a court to compel joinder. In re Incorporation of Town of Fitchburg, 98 Wis. 2d 635, 299 N.W.2d 199 (1980).

An incorporation petition's precedence over a competing annexation proceeding is discussed. *Town of Delavan v. City of Delavan*, 176 Wis. 2d 516, 500 N.W.2d 268 (1993).

Sub. (2) (e) prevents the signer of a petition from withdrawing his or her name. It does not prevent the circulator of the petition from striking invalid signatures. Sub. (2) (b) permits withdrawal of a signature before the petition is filed. *Walag v. Town of Randall*, 213 Wis. 2d 424, 570 N.W.2d 623 (Cl. App. 1997).

The effect of the requirement in sub. (2) (c) of a description with "sufficient accuracy" and a scale map "reasonably showing" the boundaries of the affected parcel is that the description and map, when viewed together, fairly apprise the public of the territory to be incorporated. *Wirth v. City of Port Washington*, 2001 WI App 277, 248 Wis. 2d 893, 637 N.W.2d 442.

The date a petition is "entertained" under sub. (9) (h) is the date the petition is filed with the circuit court. *Town of Sheboygan v. City of Sheboygan*, 2001 WI App 279, 248 Wis. 2d 904, 637 N.W.2d 770.

There are significant conflicts between a contingent narrative description that provides for more than one location and the sub. (2) (c) requirement that the petition describe the territory to be incorporated with sufficient accuracy to determine its location. *Town of Campbell v. City of La Crosse*, 2003 WI App 139, 266 Wis. 2d 107, 667 N.W.2d 356, 02-1150.

Under the rule of prior precedence, in case of conflict between competing annexations, or between an annexation and a proceeding for the incorporation of a city or village, the proceeding first instituted has precedence, and the later one must yield. Annexation proceedings did not lose priority status when the ordinances were deemed invalid and dismissed by the circuit court but subsequently vindicated on appeal. *Town of Campbell v. City of La Crosse*, 2003 WI App 139, 266 Wis. 2d 107, 667 N.W.2d 356, 02-1150.

**66.0205 Standards to be applied by the circuit court.**

Before referring the incorporation petition as provided in s. 66.0203 (2) to the board, the court shall determine whether the petition meets the formal and signature requirements and shall further find that the following minimum requirements are met:

(1) ISOLATED VILLAGE. Area, one-half square mile; resident population, 150.

(2) ISOLATED CITY. Area, one square mile; resident population, 1,000; density, at least 500 persons in any one square mile.

(3) METROPOLITAN VILLAGE. Area, 2 square miles; resident population, 2,500; density, at least 500 persons in any one square mile.

(4) METROPOLITAN CITY. Area, 3 square miles; resident population, 5,000; density, at least 750 persons in any one square mile.

(5) STANDARDS WHEN NEAR 1ST, 2ND OR 3RD CLASS CITY. If the proposed boundary of a metropolitan village or city is within 10 miles of the boundary of a 1st class city or 5 miles of a 2nd or 3rd class city, the minimum area requirements are 4 and 6 square miles for villages and cities, respectively.

History: 1977 c. 29; 1999 a. 150 s. 37; Stats. 1999 s. 66.0205; 2003 a. 171.

The 4 square mile requirement of sub. (5) was met when 4.2 square miles of village land were proposed for annexation, although 2.5 square miles of that land was within floodway lines. In re Petition of Township of Campbell, 78 Wis. 2d 246, 254 N.W.2d 241 (1977).

**66.0207 Standards to be applied by the board.**

(1) The board may approve for referendum only those proposed incorporations which meet the following requirements:

(a) *Characteristics of territory.* The entire territory of the proposed village or city shall be reasonably homogeneous and compact, taking into consideration natural boundaries, natural drainage basin, soil conditions, present and potential transportation facilities, previous political boundaries, boundaries of school districts, shopping and social customs. An isolated municipality shall have a reasonably developed community center, including some or all features such as retail stores, churches, post office, telecommunications exchange and similar centers of community activity.

(b) *Territory beyond the core.* The territory beyond the most densely populated one-half square mile specified in s. 66.0205 (1) or the most densely populated square mile specified in s. 66.0205 (2) shall have an average of more than 30 housing units per quarter section or an assessed value, as defined in s. 66.0217 (1) (a) for real estate tax purposes, more than 25% of which is attributable to existing or potential mercantile, manufacturing or public utility uses. The territory beyond the most densely populated square mile as specified in s. 66.0205 (3) or (4) shall have the potential for residential or other urban land use development on a substantial scale within the next 3 years. The board may waive these

requirements to the extent that water, terrain or geography prevents the development.

(2) In addition to complying with each of the applicable standards set forth in sub. (1) and s. 66.0205 in order to be approved for referendum, a proposed incorporation must be in the public interest as determined by the board upon consideration of the following:

(a) *Tax revenue.* The present and potential sources of tax revenue appear sufficient to defray the anticipated cost of governmental services at a local tax rate which compares favorably with the tax rate in a similar area for the same level of services.

(b) *Level of services.* The level of governmental services desired or needed by the residents of the territory compared to the level of services offered by the proposed village or city and the level available from a contiguous municipality which files a certified copy of a resolution as provided in s. 66.0203 (6).

(c) *Impact on the remainder of the town.* The impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated.

(d) *Impact on the metropolitan community.* The effect upon the future rendering of governmental services both inside the territory proposed for incorporation and elsewhere within the metropolitan community. There shall be an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

History: 1977 c. 29; 1983 a. 189 s. 329 (14); 1985 a. 297 s. 76; 1999 a. 150 s. 38; Stats. 1999 s. 66.0207; 2003 a. 171.

The delegation of legislative power under sub. (2) (d) is constitutional. *Westring v. James*, 71 Wis. 2d 462, 238 N.W.2d 695 (1976).

Incorporation of a town in a metropolitan area is discussed. *Pleasant Prairie v. Department of Local Affairs and Development*, 113 Wis. 2d 327, 334 N.W.2d 893 (1983).

That the department approved annexations that helped create fragmented town borders did not render arbitrary and capricious the department's determination that the town's proposed incorporation did not meet the requirement of homogeneity and compactness. *Incorporation of the Town of Pewaukee*, 186 Wis. 2d 515, 521 N.W.2d 453 (Ct. App. 1994).

Whether incorporation would benefit the proposed village area is not the standard for allowing incorporation. An area must meet all the requirements of subs. (1) and (2). *Walag v. DOA*, 2001 WI App 217, 247 Wis. 2d 850, 634 N.W.2d 906.

**66.0209 Review of incorporation-related orders and decisions.** (1) The order of the circuit court made under s. 66.0203 (8) or (9) (f) may be appealed to the court of appeals.

(2) The decision of the board made under s. 66.0203 (9) is subject to judicial review under ch. 227.

(3) Where a proceeding for judicial review is commenced under sub. (2), appeal under sub. (1) may not be taken and the time in which the appeal may be taken does not commence to run until judgment is entered in the proceeding for judicial review.

(4) An incorporation referendum ordered by the circuit court under s. 66.0203 (9) (f) may not be stayed pending the outcome of further litigation, unless the court of appeals or the supreme court, upon an appeal or upon the filing of an original action in the supreme court, concludes that a strong probability exists that the order of the circuit court or the decision of the board will be set aside.

History: 1977 c. 29, 187; Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1999 a. 150 s. 39; Stats. 1999 s. 66.0209; 2001 a. 103; 2003 a. 171.

When a petition to incorporate is dismissed due to DOA disapproval, sub. (2) prevents appellate court review prior to judicial review under ch. 227. *Petition to Incorporate Powers Lake Village*, 171 Wis. 2d 659, 492 N.W.2d 342 (Ct. App. 1992).

**66.0211 Incorporation referendum procedure.**

(1) **ORDER.** The circuit court's order for an incorporation referendum shall specify the voting place and the date of the referendum, which shall be not less than 6 weeks from the date of the order, and name 3 inspectors of election. If the order is for a city incorporation referendum the order shall further specify that 7 alderpersons shall be elected at large from the proposed city. The city council at its first meeting shall determine the number and boundaries of wards in compliance with s. 5.15 (1) and (2), and the combination of wards into aldermanic districts. The number of alderpersons per aldermanic district shall be determined by charter ordinance.

(2) **NOTICE OF REFERENDUM.** Notice of the referendum shall be given by publication of the order of the circuit court in a newspaper having general circulation in the territory. Publication shall be once a week for 4 successive weeks. The first publication may not be more than 4 weeks before the referendum.

(3) **RETURN.** An incorporation referendum shall be conducted in the same manner as an annexation referendum under s. 66.0217 (7) to the extent applicable except that the ballot shall contain the words "For a city [village]" and "Against a city [village]". The inspectors shall make a return to the circuit court.

(4) **COSTS.** If the referendum is against incorporation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be incorporated, voting in the referendum, bears to the total number of electors in the territory voting in the referendum. If the referendum is for a village or city, the costs shall be charged against the municipality in the apportionment of town assets.

(5) **CERTIFICATION OF INCORPORATION.** If a majority of the votes in an incorporation referendum are cast in favor of a village or city, the clerk of the circuit court shall certify the fact to the secretary of state and supply the secretary of state with a copy of a description of the legal boundaries of the village or city and the associated population and a copy of a plat of the village or city. Within 10 days of receipt of the description and plat, the secretary of state shall forward 2 copies to the department of transportation and one copy each to the department of administration, the department of revenue and the department of commerce. The secretary of state shall issue a certificate of incorporation and record the certificate.

History: 1971 c. 304; 1973 c. 37, 90; 1977 c. 29 s. 1654 (8) (c); 1977 c. 273; 1979 c. 361 s. 112; 1981 c. 4 s. 19; 1981 c. 377; 1993 a. 184; 1995 a. 27, s. 9116 (5); 1999 a. 150 s. 40; Stats. 1999 s. 66.0211.

A referendum is effective immediately if the majority of votes are for incorporation. 70 Atty. Gen. 128.

**66.0213 Powers of new village or city; elections; adjustment of taxes; reorganization as village.** (1) **VILLAGE OR CITY POWERS.** A village or city incorporated under ss. 66.0201 to 66.0213 is a body corporate and politic, with powers and privileges of a municipal corporation at common law and conferred by these statutes.

(2) **EXISTING ORDINANCES.** (a) Ordinances in force in the territory incorporated or any part of the territory, to the extent not inconsistent with chs. 61 and 62, continue in force until altered or repealed.

(b) A county shoreland zoning ordinance enacted under s. 59.692 that is in force in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

(3) **INTERIM OFFICERS.** All officers of the village or town embracing the territory that is incorporated as a village or city continue in their powers and duties until the first meeting of the board of trustees or common council at which a quorum is present. Until a village or city clerk is chosen and qualified all oaths of office and other papers shall be filed with the circuit court with which the petition was filed. The court shall deliver the oaths and other papers with the petition to the village or city clerk when that clerk qualifies.

(4) **FIRST VILLAGE OR CITY ELECTION.** (a) Within 10 days after incorporation of the village or city, the clerk of the circuit court with whom the petition was filed shall fix a time for the first election, and where appropriate designate the polling place or places, and name 3 inspectors of election for each place. The time for the election shall be fixed no less than 40 nor more than 50 days after the date of the certificate of incorporation issued by the secretary of state, irrespective of any other provision in the statutes. Nomination papers shall conform to ch. 8 to the extent applicable. Nomination papers shall be signed by not less than 5% nor more than 10% of the total votes cast at the referendum election, and be filed no later than 15 days before the time fixed for the election. Ten days' previous notice of the election shall be given by the