

# WEST VIRGINIA CODE: §8-2-1

## PART I. GENERAL.

### §8-2-1. Requirements for incorporation; size and character of territory; population.

(a) Any part of a county or counties may be incorporated as a city, depending upon the population, either as a Class I, Class II or Class III city, or as a Class IV town or village, as classified in section three, article one of this chapter if the area proposed for incorporation meets the following conditions:

- (1) The area is not currently within any municipality urban in character;
- (2) For areas that are more than one square mile there must be an average of not less than five hundred inhabitants or freeholders per square mile;
- (3) For areas less than one square mile there must be at least one hundred inhabitants or freeholders;
- (4) The total area to be incorporated must not include an amount of territory disproportionate to its number of inhabitants; and
- (5) The proponents of incorporation shall provide to the county commission a proposal which shall include:
  - (A) A map or maps of the area to be incorporated showing the following information:
    - (i) The present boundaries of nearby municipalities and the proposed boundaries of the area to be incorporated; and
    - (ii) The proposed extensions of water mains and sewer outfalls to serve the incorporated area, if such utilities are to be operated by the municipality. The water and sewer map must bear the seal of a registered professional engineer or a licensed surveyor.
  - (B) A statement that the area to be incorporated meets the applicable requirements of this article.
  - (C) A statement setting forth the plans of the proposed municipality for providing to the area to be incorporated each major municipal service and whether the service will be provided by the municipality or by contract with a public or private entity. The plan shall:
    - (i) Provide for police protection, fire protection, solid waste collection, public water and sewer services and street maintenance services to the area to be incorporated on the date of incorporation;

(ii) A statement of the impact of the incorporation on any rural fire department providing service in the area to be incorporated and a statement of the impact of the incorporation on fire protection and fire insurance rates in the area to be incorporated; and

(iii) A statement showing how the proposed incorporation will affect the proposed municipalities finances and services.

(b) The creation of any new municipality is prohibited if:

(1) The area to be incorporated is within close proximity to an existing municipality and the existing municipality is capable of more effectively and efficiently providing services to the area; or

(2) The creation of a new municipality is not in the best interest of the county as a whole.

(c) It is within the reasonable discretion of the county commission to determine the exact area or portions thereof to be included or excluded in the new municipality, considering the following:

(1) The topography of the area;

(2) The benefits of incorporation;

(3) The amount of uninhabited land required for parks and recreational use; and

(4) Normal growth and development and the present and possible future uses so as to prevent hardships and inequities.