



The Takeaway

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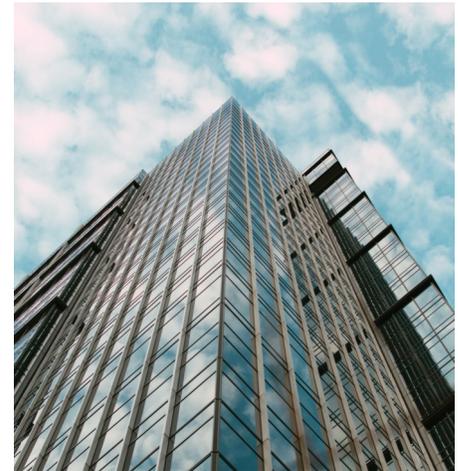
Local Government Control

The Case of Municipal Incorporation in The Woodlands Township, Texas

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The Woodlands, Texas is the Lone Star State's only township government, but that distinction could change if voters in The Woodlands support a November referendum to incorporate as a city. This report provides context and considerations related to becoming a municipality including issues of local control, funding, inter-jurisdictional coordination, and governance.

The Woodlands Township started out as a Housing and Urban Development (HUD) 'new town' investment, comprising several small villages. The private developers who created these villages were influential in the Houston suburbs well into the 1990s and prevented larger communities like Conroe and Houston from acquiring The Woodlands into their extra-territorial jurisdictions (ETJs). In 1996, the developers sold the development which paved the way for The Woodlands community residents to take control of their local self-governance.



WHAT'S THE TAKEAWAY?

The Woodlands Township is currently a special district, not an incorporated city.

At present, The Woodlands Township has complex governance arrangements.

If it incorporates, it will take on additional responsibilities and have control over them.

Municipal incorporation offers The Woodlands the potential to gain more authority, have more say in regional planning issues, and access more federal funds.



The communities that make up The Woodlands today went through several governance forms until they united into a Township. This required enabling legislation, passed by the Texas Legislature in 2007, which included the option to eventually incorporate as a municipality. Rather than being incorporated as a traditional municipality, The Woodlands Township currently serves its community through governance as a special district. A special district has unique benefits that allow it to be flexible in providing services, like planning and economic development. However, it also has limitations, such as outsourcing public safety, lack of emergency management authority, and ineligibility for some federal funds.

HOME RULE AND INCORPORATION

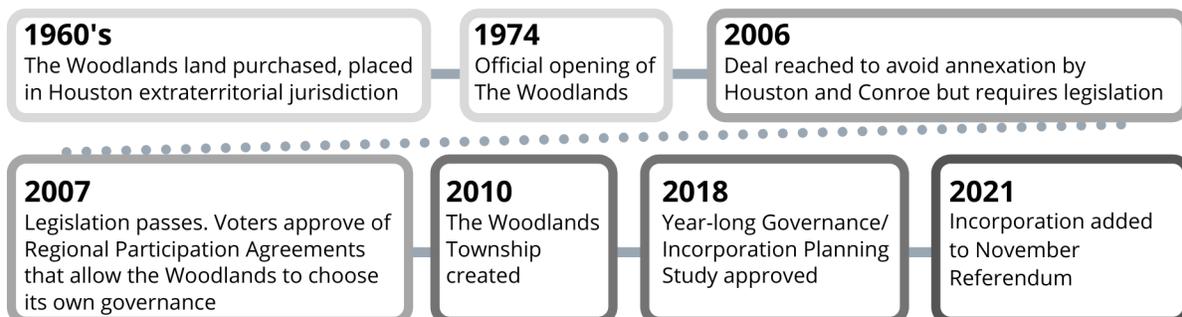
In the upcoming referendum, citizens of The Woodlands will decide on whether to incorporate and become a traditional general purpose city or remain as a special district. In Texas, municipalities are categorized as either general law cities or home rule cities. General law cities are typically smaller, with populations of 5,000 or less, and state law limits what they can do in terms of policymaking and service provision. The Woodlands is an unusual case, because it would incorporate as a general law city although it has a much larger population. After it incorporates as a general law city, it would

have the option to transition to a home rule city. Home rule cities are larger than 5,000 in population and have a broader range of actions available to them.

Becoming a home rule city would put The Woodlands on par with other home rule cities in the area; its dependence on county government would diminish. It would be responsible for additional public services such as policing, transportation, and public health that are currently provided through inter-local agreements with other local governments. It also would gain control, legislative tools, and responsibility for a wider range of public services.

Municipal incorporation can be a controversial decision given its impacts on the political landscape and urban geography. A published study synthesizing the historical literature on municipal incorporation identified several different explanations for why communities incorporate. It found that incorporation is driven by spatial and political factors, economic or fiscal matters, and municipal service concerns.¹ The Woodlands case is unique in that it possesses elements of all three of these drivers. Its complex intergovernmental arrangements are spatial and political drivers, qualifying for additional federal funds is a fiscal driver, and taking on additional services, such as policing and transportation, is a service driver.

The Woodlands Governance Timeline



COMPLEX INTERGOVERNMENTAL ARRANGEMENTS

Being a special district government, The Woodlands does not have certain authorities or responsibilities that would go along with being a municipality. Many other special districts in the area have overlapping authority and jurisdiction and such fragmented governance leaves The Woodlands at a disadvantage. For example, The Woodlands coordinates with eleven Municipal Utility Districts (MUDs), two counties for police officer contracts, multiple utility companies, and the City of Houston and Conroe to prevent ETJ acquisition. These compounding factors in a complex, fragmented government arrangement lead to confusion whenever problems such as flood control mitigation or emergency management authority arise.

The Woodlands also experiences a lack of representation in broader regional intergovernmental institutions. It often feels that it *“doesn’t have a seat at the table”* in situations at various joint-government bodies. For instance, the Houston-Galveston Area Council of Government’s (H-GAC) bylaws exclude any entity that is not a city, county, or independent school district, leaving The Woodlands out of a significant coordinating regional body. As well, the Houston area Transportation Policy Council has The Woodlands only as a non-voting member, although more than half of the voting members’ populations are smaller than The Woodlands’. Finally, flood control and regional water planning and coordination is difficult with the water control authority remaining mostly at the County level and in the MUDs. The regional representation is an example of both spatial and politically driven incorporation pressures.

LOCAL AUTONOMY AND FEDERAL FUNDS

These complex intergovernmental arrangements and unconventional governance arrangements result in significant fiscal impacts, which are additional drivers of incorporation. As a special district that straddles two counties, The Woodlands was left in a gray area when the federal government provided relief to state and local governments through the American Rescue Plan Act (ARPA). Based on its current population and location in the Houston metropolitan statistical area, The Woodlands estimates that it could have received up to \$30 million from the federal government, but instead has received none of those funds. Additionally, it is ineligible for various homeland security and public safety grant programs administered by H-GAC as well as HUD Community Development Block Grant funds. With a large infrastructure bill making its way through Congress, The Woodlands may again be left out depending on the final allocations if the bill is passed.

LOCAL CONTROL AND ACCOUNTABILITY

A foundational element of government performance and creating value for a society is through the delivery of core services,² which can also be a driver for municipal incorporation.

What municipalities must do well is create value for their residents and businesses through the effective and efficient provision of services, with public safety, economic and community development, recreation and parks, and public works being the most common. A priority for The Woodlands appears to be public safety and public works, specifically law enforcement services and public works roadway infrastructure and maintenance.

Law enforcement services are currently provided by the Montgomery and Harris County Sheriff's Department under contracts. Incorporation may replace the existing contract model with either a shared city-county hybrid or a full-service municipal model, offering The Woodlands more local control.

Public works is responsible for key roadway infrastructure expansion and maintenance. Currently, county government provides public works infrastructure improvements and maintenance needs countywide, focusing its maintenance efforts on all roadways located in Montgomery and Harris counties. With The Woodlands being a smaller component of supervisorial responsibility overall, roadway infrastructure expansion and maintenance may not be a current priority. Local control of, and accountability for, public works may be more advantageous as roadways provide for key goods movement and general transportation. Incorporation will allow The Woodlands to prioritize and plan for the expansion, replacement and maintenance of roadways, accordingly, while aligning its essential service plans with existing and future development needs.

CONCLUSION

The Woodlands Township is a unique case of a community that has grown larger than its original governance arrangement was intended for, and has discovered the limits of being a special

district. As Rice et al. (2014) classify, the limits on The Woodlands across multiple dimensions can serve as a catalyst for municipal incorporation. Currently, as a special district The Woodlands has fewer responsibilities and relies on partners to provide core services. If it chooses to incorporate, it will take on additional responsibilities and have control over them. The extent to which these service responsibilities result in changes to the tax structure requires a more formal tax analysis. Through municipal incorporation, The Woodlands has the potential to gain more authority, have a seat at the table in regional planning issues, and access more federal funds.

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Notes:

¹Rice, K.T., Waldner, L.S., & Smith, R.M. (2014). Why new cities form: An examination into municipal incorporation in the United States 1950–2010. *Journal of Planning Literature*, 29(2), 140-154.

²Kirlin, J.J. (1996). What Government must do well: Creating value for society. *Journal of Public Administration*, 6(1), 161-185.

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