



# Welcome to Town Government

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## Town Government

- Towns are general purpose local governments that operate in accordance with the constitution and laws of NYS.
- Laws created by statute (Legislature) or common law (courts).
- “Local government” includes counties, cities, towns and villages (NYS Const. Article IX, General Municipal Law § 2).
- General purpose local governments have authority to regulate conduct, provide services, and tax.

## Three classifications of towns:

- Second class (87 percent)
- First class (12 percent)
- Suburban (6 percent)
  - Classified primarily by population and / or assessed valuation.
  - All but smallest towns have option to change to first class.
  - Towns provide same essential services regardless of classification.
  - May account for some differences in town offices etc.

## Town Services

- Typical Town services include:
  - Maintain Roads and Bridges
  - Town Courts
  - Licenses and Permits
  - Planning and Zoning
  - Public Protection
  - Water and Sewer
  - Parks and Recreation

Town services are provided:

- Town Wide: Services provided to all areas of town, including those in village(s) or special district.
- Part-town (Town Outside Village or TOV): Services provided to area of town outside any villages.
- Special District: Services provided only to those residing in special district.

### Examples of Town wide Services

- Highway Maintenance and Repair
- Assessments
- Police
- Planning / Zoning

Services provided to entire area of town

### **Part-Town / TOV**

When a town has one or more villages, certain services are provided only to the area of the town outside of any incorporated villages (TOV).

### **Common Part-Town Services**

- Planning & Zoning
- Highway Maintenance and Repair

### **District Services**

#### **Towns provide certain services through districts**

- Districts provide a particular service:
  - o Water
  - o Sewer
  - o Fire Protection
- Only those residing in district receive the service.
- Only those residing in district pay for the service.

## **Town Revenue Sources**

### **How do towns get funds needed to operate?**

- State / federal aid
- Sales tax, mortgage recording tax
- Fees and rents
- Real property taxation

## **Town Board**

- Legislative body - adopts local laws, ordinances and resolutions
- Responsible for overall administration of town
  - o Control of town finances, budget and property
  - o Authorizes and approves all purchases and contracts entered into by town
  - o Appoints officers and employees, sets salaries
  - o Sets policy
  - o Creates and administers improvement districts
- Can only act as a body
- Town board does not act alone in administering affairs of the town.
- Relies on a broad range of boards, bodies and officers to carry out administration of town.
- May delegate its day-to-day administrative responsibility to supervisor.

## **Fiscal Administration**

### **Fiscal Administration Town board's powers:**

- Designate depositories
- Establish investment policy
- Budget transfers
- Approve all contracts / expenditures

### **Supervisor's powers:**

- Custody and care of town funds
- Disburse all moneys / execute contracts
- Keep accurate books

### **Collecting Officer is Responsible for Collecting Property Taxes**

- Tax Collector- Towns of the Second Class
- Receiver of Taxes – Towns of the First Class
- Town Clerk – in towns of the first or second class
- Only the Collecting Officer (or Deputies) Have the Authority to Collect
- Collection Begins on or Before January 1

### **Assessors**

- Elected or Appointed
- Four or Six Year Term (Town Law, 24; RPTL, 310)
- Sole Appointed (RPTL, 310, 328)
- Single Elected (RPTL, 329)
- Board of Three Elected (Town Law, 20, 22-b)
- Responsible for assessing real property in the town for purposes of taxation.
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### **Board of Assessment Review**

- Appointed
- Five-Year Term Office (RPTL, 523)
- Three-Five Members appointed by the town board (RPTL, 523)
- Hears property owner complaints on grievance day and may adjust their assessments (RPTL, 102 (3), (4), and 523).

### **Highway Administration**

- Highway superintendent charged with authority to oversee highways.
  - Repair and maintenance of highways
  - Snow and ice removal
  - Machinery and equipment
- Town board responsible for appropriating money and establishing policies.
- 284 Agreement ties these respective powers together.

### **Planning and Zoning**

Town board may regulate land use within the town such as:

- height and size of buildings
- density of lots and size of yards
- location and use of buildings, structures and land for trade, industry, residence or other purposes

## **Town Board**

- Adopts local zoning laws and ordinances
- Adopts comprehensive plan
- Appoints planning board and ZBA members
- Appoints enforcement officer

## **Planning Board**

- Powers delegated by town board
- May help prepare comprehensive plan and special use permits
- Site plan review and subdivision review

## **Zoning Board of Appeals**

- Mandatory in towns with zoning
- Variances (use and area)
- Zoning law / ordinance interpretation Appeals

## **Code Enforcement Officer**

- Enforces zoning laws as written (investigate compliance / violations)
- Issues permits

## **Permits (Licenses)**

- Town board may authorize a number of activities through use of a permit.
- Permits are often issued by the town clerk.
- Permits must be issued in accordance with terms set by town board.

## **Records**

- Town clerk's office serves as repository of all town documents and records not needed by other officers for conduct of business.
- Minutes of town board meetings, local laws, employment policies, etc. all get filed with town clerk.
- Town clerk is records management officer and may be records access officer.

## **Miscellaneous Administration**

- **Animal control:** towns responsible for licensing and control of dogs (animal control officer / town clerks)
- **Recreation:** towns may undertake a number of programs for youth and recreation (town board / recreation commission).
- **Improvement districts:** town boards will be responsible for administration of most improvement districts.

## **Emergency Services Administration**

- **Police:** towns may establish police departments, and regulate its government, discipline and administration (town board / police commissioners).
- **Fire:** Towns may provide fire services through a fire district or a fire protection district
- **Ambulance:** Towns may provide ambulance services as a town service or through an ambulance district.

## **Oaths & Undertakings**

- All Town officers are required to take oath of office and file it in the Town Clerk's office within 30 days of taking office.
- Town Justices must also file with the Office of Court Administration & County Clerk

- Registrars of Vital Statistics must also file with the County Clerk
- Town Clerk notifies Town Board where an officer fails to timely take and file their oath of office
- Good for term of office or length of appointment

**Oaths may be administered by:**

- Town Clerk
- Notary Public
- Court of Appeals or Supreme Court Justice
- Town Supervisor, but only to Town Board members
- Town Justice

**Official Undertakings**

- A pledge by a town official and a third party that the official will faithfully discharge the duties of his or her office, and promptly account for and pay over all moneys or property received by him or her.
- Guarantees that, if the public official defaults on this obligation, the third party will pay all expenses resulting from the default, up to an amount specified in the undertaking.
- Individual (covers individual office or person) or
- Blanket (covers all designated offices and persons)
- Form and amount determined by town board
- Failure to file within 30 days of taking office vacates office by operation of law
- Town Clerk notifies Town Board when undertaking is about to expire
- Town officers required to file official undertaking:
  - Town Clerk
  - Town Supervisor
  - Highway Superintendent
  - Tax Collector/Receiver
  - Constable
  - Town Justice
  - Anyone else the Town Board requires

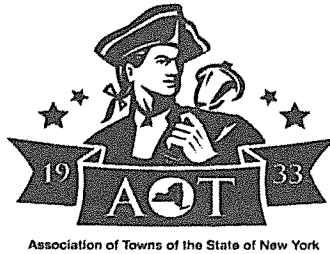
Failure to properly take and file your oath of office and/or your official undertaking results in vacating your office by operation of law (Public Officers Law, 30)

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**Association of Towns of the State of New York**

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## Municipal Ethics

### Analyzing a Conflict of Interest:

GML  
Article 18

1. Is there a potential conflict with a contract with the municipality?
2. If yes to #1, do you have an “interest” in the contract?  
  
“Interest” means a direct or indirect financial or material benefit received because of the contract.

3. If yes to #1 and 2, do you have “control” over the contract?  
  
“Control” means you can, individually or as a board, negotiate/approve contract authorize payments from contract audit bills from contracts or appoint someone who can.

4. If “yes” to #1-3, do any statutory exceptions listed in General Municipal Law § 802 apply?

STOP! If you answered yes to #1-3 and “no” to #4 the contract is prohibited.

5. What does your local ethics code say?
6. Is there an “appearance of impropriety?” (applies to more than just contracts)
  - Is the interest personal?
  - Is the interest substantial?

**Nepotism:** No general prohibition against two members of the same family from working for the same municipality; however, an officer should not participate in decisions concerning salary or terms and conditions of employment for family members also employed by municipality. Also, consult local ethics code for local nepotism rules that may apply.

**Incompatible Positions:** A person cannot hold 2 different positions in the municipality if any of the following apply:

- Statutory prohibition (e.g. Town Law says one person cannot hold two elected offices);

- Subordinate - one position cannot be subordinate to the other (you can't be the boss of yourself)
- Conflict of Duties –if one person held both positions, would it upset a system of checks and balances?

**Gifts:** Officer or employee cannot solicit or accept gifts worth more than \$75 that could reasonably be inferred to influence performing official duties. Local ethics code could lower threshold amount.

**Compensation for Matters Before an Agency:** Officer or employee may not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he or she is an officer, member or employee or of any municipal agency over which he or she has jurisdiction or to which he has the power to appoint any member, officer or employee

### Conflict of Interest Flow Chart

