

Welcome to Town Government:

An Overview Of Town Government and Administration

Sarah Brancatella, Esq.
Lori Mithen DeMasi, Esq.

The Association of Towns of
the State of New York



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.



Town Government

- **Three classifications of towns:**
 - Second class (87 percent)
 - First class (12 percent)
 - Suburban (6 percent)
- **Classified primarily by population and / or assessed valuation.**
- **Towns provide same essential services regardless of classification but the manner in which these serves are provided may vary.**



Town Services

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



Town Services

- **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 (TOV)): Services provided to area of town outside any villages.
 - **Special District**: Services provided only to those residing in special district (e.g. water, sewer).



Town Services (No Villages)

- **Town Wide Services**
 - Highway Maintenance and Repair
 - Assessments
 - Police
 - Planning / Zoning
- **Services provided to entire area of town**





Town Services (With Village)

- When a town has one or more villages, certain services are provided only to area of town outside of any incorporated villages (TOV).
- **Town-wide Services**
 - Police
 - Assessment
- **TOV / Part-town Services**
 - Planning / Zoning
 - Highway Repair and Maintenance

Village

Town
Outside
Village

Village



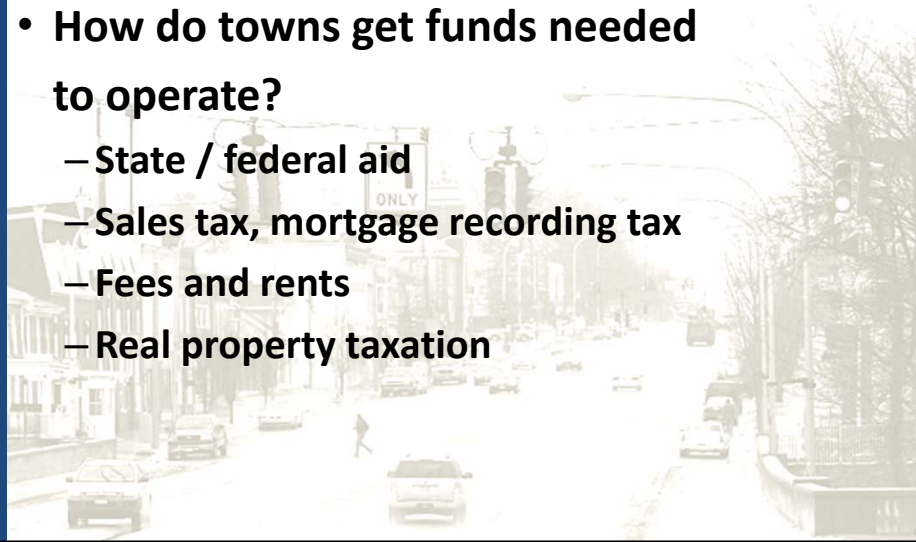
District Services

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

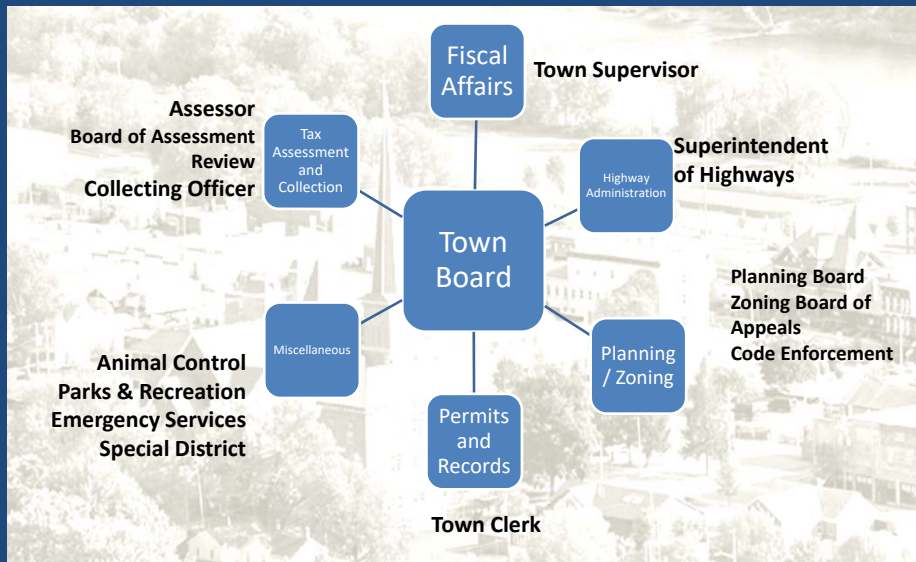


Town Funding

- **How do towns get funds needed to operate?**
 - State / federal aid
 - Sales tax, mortgage recording tax
 - Fees and rents
 - Real property taxation



Administrative Structure





Town Board

- **Legislative body - adopts local laws, ordinances and resolutions**
- **Responsible for overall administration of town**
 - **Control of town finances, budget and property**
 - **Authorizes and approves all purchases and contracts entered into by town**
 - **Appoints officers and employees, sets salaries**
 - **Sets policy**
- **Creates and administers improvement districts**



Town Board

- **Can only act as a body**
- **Town board does not act alone in administering affairs of the town.**
- **May delegate its day-to-day administrative responsibility to supervisor.**



Fiscal Administration

- **Town board's powers:**
 - Designate depositories
 - Establish investment policy
 - Approve budget transfers
 - Approve all contracts / expenditures
- **Supervisor's powers:**
 - Custody and care of town funds
 - Disburse all moneys / execute contracts
 - Keep accurate books



Tax Collecting

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 Taxes

Collection Begins on or Before January 1



Assessing

Assessor(s)

- 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.

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).



Planning and Zoning

- Town board controls land use within town.
- May regulate:
 - 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



Planning and Zoning

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
- Zoning law / ordinance interpretation
- Appeals

Code Enforcement Officer

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



Highway Administration

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



Permits and Licenses

- **Town boards may authorize a number of activities through the use of a permit or license.**
- **Permits and Licenses are often issued by the town clerk and code enforcement officer.**
- **Permits and Licenses must be issued in accordance with State law or local laws.**



Records

- **Town clerk's office serves as the repository of all town documents and records not needed by other officers for the 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 can also be appointed the records access officer under the Freedom of Information Law.**



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 Service Providers

Police: Towns may establish police departments or contract with the state, county or neighboring municipalities for law enforcement services.

Fire: Towns may provide fire services through an independent fire district or through 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 a constitutional 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 & Undertakings

- 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



Oaths & Undertakings

- **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.**



Oaths & Undertakings

- **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**



Oaths & Undertakings

- **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



Oaths & Undertakings

- **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)**

Questions & Comments?



Association of Towns of the State of New York
150 State Street
Albany, New York 12207-1671

Phone: (518) 465-7933
<http://www.nytowns.org>