

Town and Village Comparison

Villages and towns are unique entities under New York State Law. In an effort to capture the differences between how villages and towns can govern, the Center for Governmental Research (CGR) has compiled the following list. The list highlights functional service areas where there is either substantive difference and/or where there is often citizen misunderstanding based upon [CGR's](#) experience in other communities across the state.

LAYERS OF GOVERNMENT VS. TAXING DISTRICTS

The word “district” has many connotations in the public sphere. It is often used out of context and therefore sometimes misused in conversations about dissolution and/or consolidation. It is important to distinguish between “taxing districts” and “layers of government” with taxing authority.

Layers of Government

Layers of government typically have elected governing boards with special taxing authority and in some cases are referred to as “districts”. The primary example is a “[fire district](#).” Fire districts are created by establishing an elected board of commissioners and are endowed with the power to levy a tax for the provision of fire services over a pre-defined area. A village is a “layer of government” and is sometimes referred to as a “multipurpose taxing district” in that it has been given authority to raise taxes (subject to certain limits – see below) for the provision of a variety of services. Towns are also a “layer of government” because of the town board established to oversee the affairs of the town.

Taxing Districts

Taxing districts are different in that they are simply boundaries drawn around a particular area for the express purpose of taxing only certain property for the provision of certain services. In the case of taxing districts, there is usually no “extra” layer of government (such as a board established to oversee the taxing district), but the existing town or village board oversees the district and maintains its respective taxing authority over it. An example is a “lighting district” within a town. The town board oversees the provision of the tax for a certain area in a town to receive public lighting. Another example is a “[fire protection district](#).” A fire protection district is just a taxing district authorizing the town board to levy a tax over a pre-defined area in order to provide fire protection within that area. No special board or layer of government is established to oversee the process.

TOWN CLASSIFICATION

Towns are split [according to size](#) into first and second class designations. There is also a third designation for “Suburban Towns” (those with greater than 25,000 people) that was adopted as [Article 3-A](#) in Town Law in 1962. Towns with greater than 10,000 people are first class towns while those with less are second class towns. There are [provisions](#) within Town Law for second class towns to become towns of the first class.

According to the [NYS Local Government Handbook](#), the Constitutional Home Rule Amendment of 1964 virtually eliminated the differences between the powers allotted to the different classes (including suburban towns). As of 1976, towns of any class were also given the authority to restructure elected and appointed positions subject to permissive referendum. The Town of Sweden is classified as a town of the first class due to its [2000 decennial census population of 13,716](#).

FISCAL YEAR

Villages

[Village Law](#) allows for a fiscal year to begin either on August 1, June 1 or to coincide with the fiscal year of the town or county within which the village is located. Changes to the fiscal year must be approved by a village board resolution.

Towns

Towns are required by [Town Law](#) to have a fiscal year that starts on January 1 and runs through December 31.

ADMINISTRATION

Villages

Generally villages are governed by an elected mayor and four elected trustees. Villages are eligible upon referendum to establish more or fewer trustees, but the standard is four. Villages are also required to have two elected justice positions (if the village has a court), a clerk and a treasurer (clerk/treasurer position can be combined and can be appointed by the mayor). Mayors have the authority to appoint support staff and department heads subject to trustee approval.

Source: [New York State Village Law](#) – Article 3

Town

[Article 3, Section 20 of Town Law](#) says that a first class town is required to have a supervisor, four town councilmen (unless it has been changed to be 2 or 6), “a town clerk, two town justices, a town superintendent of highways, one assessor, a receiver of taxes and

assessments, [and] as many town policemen and such other employees as the town board may determine necessary for the proper conduct of the affairs of the town.” The same section also says, “The supervisor, town councilmen, town clerk, town justices, town superintendent of highways and receiver of taxes and assessments in every such town are elective positions.” All other officers and employees in the town must be appointed by the town board.

Paragraph k of Article 3 Section 20 does authorize towns to abolish the elected position of town highway superintendent and re-establish the position as an appointed position.

Source: [New York State Town Law](#) – Article 3, Section 20

TAXES AND TAX LIMITS

Villages

Villages and cities are subject to constitutional taxing limits imposed on them by the state. According to the [New York State Constitution Article VIII Section 10](#), villages may not exceed 2% of the average full valuation of taxable real estate to be raised by tax in any given year with some exceptions made for debt service.

Towns

Towns are not subject to constitutional taxing limitations.

DEBT AND DEBT LIMITS

Villages

Villages are subject to constitutional debt limits. As outlined in the [New York State Constitution Article VIII Section 4](#), villages may not incur debt (including existing debt) that exceeds 7% of the full valuation of taxable property within the boundaries of the village.

Under [current dissolution law](#), all debt associated with a village must remain as taxable to the former village residents in the event of dissolution.

Towns

Towns are prohibited from incurring debt except for town purposes and/or through special districts. Similar to villages, towns are also subject to the same [debt limits](#). Towns may not incur debt (including existing debt) that exceeds 7% of the full valuation of taxable real property within the boundaries of the town.

COURTS

Villages

Village courts are not required. Villages can impose fines for violations of local ordinances. In addition, villages receive revenue associated with vehicle and traffic violations occurring within the village boundary. If a village abolishes its court, the village will continue to receive the fines resulting from 1) violations of village local laws other than speeding, but only if they are designated by town court personnel on state reporting forms as violations of village ordinances; 2) fines resulting from dog control violations, and 3) the local share of the mandatory surcharge collected on handicapped parking violations.

Sources

1. [Handbook for Town and Village Justices and Court Clerks](#) produced by the NYS Office of the State Comptroller (OSC)
2. [Justice Court Consolidation in Villages and Towns Brochure](#) produced by NYS OSC

Towns

Towns are required to have a court. Towns can impose fines for violations of local ordinances. In addition, towns receive revenue associated with vehicle and traffic violations occurring within the town (unless stated as an infraction inside a village boundary). If a village is abolished, the town would be the presiding jurisdiction for court-related matters occurring in the former village. Except as noted above in the section on villages, the town would receive all revenue flowing through the town court.

WATER/SEWER

Villages

According to Village Law [Article 11-1102](#) and [Article 14-1400](#), villages can own and operate water and sewer departments and incur debt. Village boards of trustees serve as the presiding governing body in oversight of the services.

Towns

Towns cannot incur debt and/or own water and sewer departments. However, according to [Section 209](#) of Article 12-A of Town Law, towns can create special districts for the provision of water and sewer services and the town board can serve as the presiding governing body in oversight of said services. [Section 209-Q](#) of Article 12-C in Town Law further authorizes towns to engage in improvements to special districts pursuant to public referendum.

REGISTRAR

Since all towns and villages are considered separate primary registration districts, both municipalities are required to have a registrar of vital statistics. A registrar for a town and village is to be appointed by the town board and the village board of trustees, respectively; a local town clerk shall be eligible for appointment as registrar of their town and of any village wholly within said town in which he has an office, and a village clerk shall be eligible for appointment as a registrar of their village and of any town in which he resides.

Source: [New York State Public Health Law](#)—Article 41T2

FIRE

Villages

Villages are given the power to establish a board of fire commissioners that, subject to the approval of the village board, provide fire protection as a municipal service of the village. Essentially, villages are granted permission to own and operate fire departments. Boards of commissioners are composed of no less than three elected members, to initially be appointed by the village mayor. It is possible for the village board to function as the board of fire commissioners, in which case the commission membership would be composed entirely of the village trustees. The length of terms is to be fixed so that at least one commissioner will be up for election every official year, with no single term to exceed 5 years. Fire services can be provided either through a paid or volunteer force and villages may incur debt to fund the provision of the services, e.g., the building of a firehouse. Villages may also contract with the fire department of another municipality, contract with a fire district, or form a joint fire district with a town and/or other villages in order to provide fire protection.

Towns

Towns cannot provide fire protection to residents as a municipal function, but they can create a fire district or fire protection district. Additionally, towns may own equipment and facilities related with the provision of fire services for use by such districts. A [fire protection district](#) serves as a taxing district with oversight by the town board and fire services are typically contracted with a third party to insure adequate coverage for the protection district. A [fire district](#) is a separate layer of government with an elected board of fire commissioners endowed with spending and taxing authority for the district over which they preside. Fire commissioners are elected to 5-year terms and are subject to constitutional spending limits.

Sources: [New York State Village Law](#)—Articles 4, 10 & 22; [New York State Town Law](#)—Article 11; New York State’s [“Fire Protection in New York State”](#); New York State Department of Fire Administration

NON-PROPERTY TAX REVENUES

Other than property tax revenue, villages and towns are generally eligible to collect non-property tax and/or non-tax revenue from the same sources. However, there is one primary exception.

Villages

[Village Law](#) authorizes villages to impose special taxes on utilities (usually telephone companies).

Towns

Towns are not authorized to impose similar taxes on utilities.

GENERAL REFERENCE

A good general source of information that has been used throughout this document is the [NYS Department of State Local Government Handbook](#). It highlights many of the most significant attributes of each level of government and answers many questions about the fundamental issues that arise during a dissolution process.