

# ELECTED OFFICIALS

## Qualifications Of Office Holders

Pursuant to Village Law § 3-300(1) and Public Officers Law § 3(1), to be eligible to hold an elective or appointive village office, an individual must be

- 18 years of age or older;
- A citizen of the United States; and
- A resident of the village.

## Mayor

The chief executive officer of most villages in New York State is the mayor. Exceptions to this arise in villages which have adopted the manager plan under the old Village Law whereby the manager is the chief administrative and executive officer of the village and in villages which have retained their original charter under which the position of mayor may not even exist. Unless otherwise provided by local law or charter, the mayor is elected to a two-year term. Pursuant to Village Law § 3-302(5), the term of office for the mayor and trustees may be extended to four years. Such a local law or resolution is subject to a permissive referendum.

## DUTIES OF THE MAYOR

Village Law § 4-400 empowers the mayor to:

- Preside at the meetings of the board of trustees. The mayor may vote on any matter before the board. In addition, the mayor must vote in the case of a tie. While the mayor has the power to preside over these meetings, the mayor has only one vote, which is equal to the vote of each of the trustees. Village mayors do not have the power to veto any board action.
- Appoint all non-elected officers and employees. Mayoral appointments are subject to approval by the board of trustees. The mayor is permitted to vote on all board approvals of mayoral appointments. The mayor may delegate the power to appoint certain employees to other village officers or employees, but these appointments are also subject to board approval.
- Appoint one of the trustees to serve as deputy mayor, who serves in the mayor's absence or inability to serve. This appointment is not subject to board approval. The mayor should appoint the deputy mayor at the annual meeting. During the mayor's absence or inability to serve, the deputy mayor is vested with all the powers of the mayor. If the mayor's office becomes vacant, the deputy mayor does not automatically become mayor. Rather, the deputy mayor performs the duties and functions of the mayor until the board of trustees fills the vacancy in the office of the mayor. The deputy mayor should not be referred to as the "acting" mayor or "temporary" mayor.
- Appoint individuals to fill vacancies in both elected and appointed offices when the vacancy occurs before the expiration of the term. Mayoral appointments to fill vacancies that occur before the expiration of the term are not subject to board approval. ***For more information on the process of filling vacancies, see Error! Reference source not found. on page 36.***

- Enforce and prosecute all violations of the laws, rules, and regulations. This is largely done through the village police department and the various enforcement officers, such as the building inspectors, code enforcement officers, and parking enforcement officers.
- Supervise the police and other subordinate officers of the village. Note that members of the village board of trustees do not have any authority to supervise or direct subordinate village officers or employees.
- Intervene in any and all actions, at the direction of the board, where deemed necessary to protect the rights of the village and its inhabitants.
- Serve as an ex-officio, non-voting member of each separate board of commissioners.
- Serve as the village's licensing officer. The mayor may designate another village officer to act as licensing officer by filing the designation with the village clerk.
- Execute all contracts in the village name.
- Sign the orders to pay the claims of the village clerk or deputy village clerk when the clerk also serves as the treasurer or the deputy clerk serves as the deputy treasurer; but only when authorized by the board of trustees, must.
- Sign checks, only if the treasurer and deputy treasurer are absent or are unable, and when authorized by the board of trustees. If the board of trustees has authorized the mayor to sign checks, the authorization must be by resolution or local law, a certified copy of which must be provided to the bank.
- Investigate all contract claims made against the village. To carry out the investigations, the mayor may issue subpoenas to compel persons, including the claimant, to appear and testify before the mayor, village clerk, or village counsel.

## PERFORMING WEDDINGS

Domestic Relations Law § 11, authorizes mayors to perform marriages within the village. ***For information on this topic, please refer to "The Local Official's Guide to Performing Marriages" at [www.nycom.org](http://www.nycom.org).***

## MAYOR AS BUDGET OFFICER

Pursuant to Village Law § 5-500, the mayor serves as the village budget officer, unless the village has adopted the village manager plan of government.

## ADDITIONAL RESPONSIBILITIES

Mayors have other statutory responsibilities including but not limited to:

- Insuring that the local code of ethics is distributed to every village officer and employee: General Municipal Law § 806;
- Requesting the service of outside police: General Municipal Law § 209-m; and
- Declaring a local state of emergency: Executive Law § 24.

## Board Of Trustees

The legislative body of a village, the board of trustees, is comprised of the mayor and four trustees. The board may increase or decrease the number of trustees, subject to a mandatory referendum. The general powers of the board of trustees are set forth in Village Law § 4-412, which provides that:

“In addition to any other powers conferred upon villages, the board of trustees of a village shall have management of village property and finances, may take all measures and do all acts, by local law, not inconsistent with the provisions of the constitution, and not inconsistent with a general law except as authorized by the municipal home rule law, which shall be deemed expedient or desirable for the good government of the village, its management and business, the protection of its property, the safety, health, comfort, and general welfare of its inhabitants, the protection of their property, the preservation of peace and good order, the suppression of vice, the benefit of trade, and the preservation and protection of public works. The board of trustees may create or abolish by resolution offices, boards, agencies and commissions and delegate to said offices, boards, agencies and commissions so much of its powers, duties and functions as it shall deem necessary for effectuating or administering the board of trustees duties and functions.”

This extremely broad grant of power enables the board of trustees to adopt a wide range of local laws to address village concerns as long as the action is not inconsistent with the constitution or certain State laws. Under the Municipal Home Rule Law, it is possible for a board of trustees to adopt the local law which can supersede certain State statutes.

Village Law § 4-412 grants additional, more specific powers to the board. Pursuant to this section, the board may:

- Authorize the construction of drains, culverts, dams and other means to regulate water.
- By written resolution, designate financial institutions in which village funds must be deposited.
- Pay or compromise claims against the village in cases when the village has been paid, through error or mistake, and when the village is not entitled to the funds paid.
- Obtain land, either inside or outside the village limits, for a waste disposal site or plant. The property may be obtained by purchase or through an eminent domain proceeding. In addition, when the board designates a specific site for disposing waste, it may also prohibit disposing waste at other sites within the village. Before the village acquires a site outside of the village for disposing waste, the legislative body of the municipality in which the land is located must consent to the use of the land for that purpose.
- Sell lost or abandoned property. The proceeds from sales of lost or abandoned property must be transferred into the general fund.
- Grant franchises and/or permission to use the streets, highways, public places or the space above or below them. Prior to granting a franchise, a public hearing must be held. Notice of the hearing must be published in the village’s official newspaper at least 10 days prior to the hearing. Additionally, if the franchise will result in competition with a municipal lighting or water system, the franchise is subject to a permissive referendum.
- Accept the dedication of lands in the village for public streets.

- Acquire, construct, enlarge, extend or improve public docks both inside and outside the village and acquire land therefore, provided that one end of the dock is within the village. Before a public dock is acquired, constructed or extended beyond the village into a town, the consent of the town board must be obtained. The village board may impose fees for the use of public docks.
- Contract with the village fire department or any other city, village, fire district, or incorporated fire company for fire protection, emergency services, and ambulance services. If the entity furnishing fire protection does not maintain and operate an ambulance, then a separate contract may be made for emergency or general ambulance service in the village. The contract cannot exceed five years and must specify a definite sum to be paid each year for the service. The board must hold a public hearing on the proposed contract before it may be executed. A public hearing is also required in order to amend, terminate, or terminate and enter into a new contract during its term.
- Lease for commercial or private use, the air rights over or the subsurface area under any village property acquired for or to be acquired for street purposes, public parking garages, parking spaces or public off-street loading facilities. The lease may not be entered into if the air rights or subsurface areas are needed for village purposes. Additionally, the lease may not exceed 50 years, but the board may renew the lease for additional terms.
- Determine the rules of its procedure, as no specific rules are set forth in the law for conduct of meetings.

Trustees **do not** possess any inherent authority to supervise or direct the work of subordinate village officers or employees. Rather, pursuant to Village Law § 4-400, the responsibility and power to supervise all subordinate village officers and employees is vested in the village mayor. While village trustees may need to observe village officers and employees in the exercising of their official duties, trustees should do so in a manner that does not interfere with those officers and employees' ability to perform their duties.

In addition, trustees **do not** possess any power in their individual capacities to enter into contracts or other agreements or to approve payment of contracts on behalf of the municipality. Any officer or person who assumes to create a liability or appropriate money or property of the village without authority is personally liable either for the debt or to the village for the money or property.

Finally, in order to make informed decisions, trustees will invariably need access to village records. Trustees should not have to make Freedom of Information Law requests to gain access to village records that are necessary for them to carry out the duties of the office. At the same time however, trustees should be judicious in making requests for village records, as such requests can be time consuming for the village's records management officers and employees, diverting them from other critical village work.