

# Town Topics

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"Town Topics" is an informational and training bulletin published bimonthly by the Association of Towns of the State of New York.

All correspondence concerning matters commented upon herein, all notices of changes of addresses of officers, and all inquiries regarding the inclusion of articles, notices or advertisements should be directed to: Association of Towns, 150 State Street, Albany, NY 12207. Phone: 518-465-7933. Fax: 518-465-0724.

## Town Boards

### 2018 Town Budget Process

One of the primary responsibilities of the town board is to adopt a structurally balanced budget that accurately estimates revenues and expenditures of the town for the coming fiscal year. The following outlines the budget adoption process from the initial stages through its final adoption and beyond. Please note that state law requires some steps be done by a certain date – these statutory deadlines are listed in **bold** (the deadlines for towns in Westchester and Monroe counties are different – these dates are indicated in parentheses).

Appointing a Budget Officer. The first step in the budget process is determining who will act as the budget officer. By statute, the town supervisor is the budget officer; however, he or she may appoint any person other than a town board member to serve as the budget officer instead (Town Law §103 [2]).

Receipt of Tax Cap Reporting Information. According to the Office of the State Comptroller (OSC), the town supervisor should receive a user identification and PIN number to access the online tax cap reporting form approximately five months prior to the fiscal year. The online form will be used later in the budget process to report to the OSC the information necessary to calculate the tax levy limit. Separate and apart from this, the Department of Taxation and Finance will make the relevant tax base growth factor used to adjust the town's levy limit available (General Municipal Law, §3-c; [www.osc.state.ny.us/localgov/realprop/](http://www.osc.state.ny.us/localgov/realprop/)).

Development and Submission of Estimates (Town Law § 104). Department heads must submit estimates of revenues and expenditures for their department for the coming fiscal year to the budget officer no later than **September 20 (October 20)**. If estimates are not submitted by the deadline, the budget officer must prepare them. The budget officer also determines the form and what information estimates should contain. If estimates are not submitted to the budget officer by the deadline noted above in this paragraph, then the budget officer is responsible for preparing the estimate. A

best practice is for the budget officer to work with the various department heads to develop reasonable estimates. In order to meet deadlines and give department heads enough time to consider and develop their estimates, this process should be started during the summer.

Calculation of the Tax Levy Limit. Each town is responsible for calculating its own tax levy limit for the coming fiscal year. While there is no specific point at which this must be done, a best practice is to do the calculation early in the budget process. This helps the budget officer develop a tentative budget that requires a tax levy within the allowed limit or gives the town board time to consider and adopt a local law overriding the levy limit (GML, §3-c; for more information visit [www.osc.state.ny.us/localgov/realprop/](http://www.osc.state.ny.us/localgov/realprop/); and [www.tax.ny.gov/pdf/publications/orpts/capguidelines.pdf](http://www.tax.ny.gov/pdf/publications/orpts/capguidelines.pdf)).

Preparation of the Tentative Budget (Town Law § 106 [2]). After reviewing estimates submitted by department heads and preparing estimates as necessary, the budget officer develops the tentative budget and files it with the town clerk by **September 30 (October 30)**.

Preparation of the Exemption Impact Report (Real Property Tax Law § 495). The budget officer must also prepare an exemption impact report in a form provided by the Department of Taxation and Finance. The exemption impact report is annexed to and filed along with the tentative budget by **September 30 (October 30)**; for more information visit [www.tax.ny.gov/research/property/exempt/exemptionreporting.htm](http://www.tax.ny.gov/research/property/exempt/exemptionreporting.htm).

Presentation of the Tentative Budget (Town Law § 106 [3]). The town clerk presents the tentative budget to the town board at a regular or special town board meeting held on or before **October 5 (November 10)**.

Town Board Review of the Tentative Budget (Town Law § 106 [3]). The town board reviews the tentative budget and may modify it. Changes should be in writing, approved by a majority vote of the town board by resolution and included in the minutes of a town board meeting (Town Law §63). During its review, the town board may call on department heads and the budget officer to explain their estimates. The tentative budget review may be adjourned and continued at later meetings, but the town board should be aware of impending deadlines in the budget process and complete its review in a timely manner.

The Preliminary Budget (Town Law §§106 [4]; 107). Once the town board finishes reviewing the tentative budget, it needs to approve it and any modifications made to it. Once approved, the tentative budget becomes the preliminary budget and must be filed with the town clerk. The town clerk must make as many copies available for public distribution as the town board directs. From this point, no changes should be made to the preliminary budget until the town board holds a public hearing.

Public Hearing on the Preliminary Budget (Town Law, §108). The town board must hold a public hearing on the preliminary budget no later than the **Thursday following Election Day** – for 2017, this means by **November 9 (December 10)**. The hearing may be adjourned, but may not be adjourned beyond **November 15 (December 15)**.

Notice of the Public Hearing on the Preliminary Budget (Town Law §108). Notice must be published in the official newspaper and any other paper that the town board directs. In addition, notice should be posted on the town clerk's bulletin board and on the town's Web site, if practicable. The notice must state the time, place and purpose of the hearing and that copies of the preliminary budget are available for public inspection for anyone

interested. The notice must also state the proposed salary of each member of the town board, the supervisor, the elected town clerk and the elected highway superintendent. At least five days must elapse between the first publication of the notice and the date specified for the hearing.

Modification of the Preliminary Budget (Town Law §109). After the public hearing closes, the town board may make modifications to the preliminary budget, consistent with law. No additional public hearings are required on the changes made to the preliminary budget after the initial public hearing.

Adoption of the Tax Cap Override (General Municipal Law, §3-c). If the real property tax levy required under the preliminary budget exceeds the town's allowable tax levy limit, the town needs to adopt a local law overriding the tax cap **before the final budget is adopted**. The local law must be adopted by a 60 percent majority of the town board. For most towns, this will be a simple majority, but for those with seven-member town boards, five members must approve the override.

Report Tax Levy Limit Information to OSC. Towns must submit the information they used to calculate the tax levy limit for the town to OSC using the online form and user ID and PIN number that OSC provided to the town supervisor. The town must also report the proposed levy set forth in either the tentative or preliminary budget to OSC, depending upon the stage in the budget process the town enters the data (General Municipal Law §3-d [2][d]). Although this can be done at any point before adopting the final budget, OSC recommends doing it later in the process because the form requests information relating to the proposed tax levy and whether the town plans on overriding the tax levy limit. Note that this form merely reports the necessary data; OSC will not calculate the tax levy limit for the town. For more information, visit <https://www.osc.state.ny.us/localgov/realprop/>.

Adoption of Final Budget (Town Law §109). After the town board finishes reviewing and modifying the preliminary budget, and adopts the tax cap override (if necessary), the preliminary budget should be adopted as the final budget by resolution. The final budget must be adopted no later than **November 20 (December 20)**, and entered in full in the minutes of the town board. If the town board fails to adopt a final budget, the preliminary budget as last amended by the town board becomes the final budget.

Report Levy for Final Adopted Budget to OSC. The town must report the tax levy amount for the final adopted budget to OSC (General Municipal Law §3-d[2][d]).

Receipt of Fire District Budgets. Fire districts are responsible for developing their own budgets, and the town board has no authority to alter the fire district's budget. Fire districts must file two certified copies of their budget with the town clerk no later than **November 7** (Town Law §181 [3][c])\*.

#### **\* Town Clerk Duties Regarding Fire District Budgets**

- Receive and File Fire District Budget Hearing Notice. The fire district must provide a copy of its published notice to the town clerk(s) of the town(s) in which the district is located (Town Law §181 [3][a]).
- Post-Notice Hearing on Fire District Budget. The town clerk must post the notice of a fire district budget hearing on the town's web site (provided the town has a web site) and on the town clerk's signboard and bulletin board. Notice must be posted for at least