

The Ward Subcommittee submits the enclosed report detailing our research and information on the consideration of Ward system of representation for the Town Board's review. It is this subcommittee's expectation that, prior to submission to the Town Board, any substantive edits to this report be submitted back to this subcommittee for our review and potential inclusion in this report. The final draft of this report is to be approved by this subcommittee prior to submission to the Town Board.

GOVERNANCE STUDY OPTIONS: The Ward System?

This report examines the Ward System of local representation.¹ The Town Board may wish to consider other options for governance representation which are not explored in this report.²

Introduction

This report explains the legal process and raises issues that the Town Board would encounter if it were to consider changing the way voters elect their local Town Board representatives from an at-large system to a ward system. This report is presented in four sections:

- (a) The law, process implementation, and timeline;
- (b) Examples of Towns with wards and those which rejected the ward approach: How do they compare to Bethlehem;
- (c) Observations – including advantages and disadvantages – for the Town Board’s consideration; and
- (d) Visual examples of what Bethlehem might look like with four or six wards.

Background

The Town of Bethlehem currently has an at-large system of electing the Town Board, which means all the Town’s voters elect the four Town Board Members plus the Supervisor. The four Town Board Members each serve four-year terms (two elected every two years) and the Supervisor serves a two-year term.³ The Town of Bethlehem has 33,656 residents (according to the 2010 Census) and about 23,092 registered voters (as of February 28, 2012).

The Bethlehem Town Board consists of a Supervisor and four Board Members who are all elected at-large in accordance with Town Law § 20(1)(a). Like other Towns, the Town of Bethlehem holds elections for Town Board members biennially on the first Tuesday of November in odd-numbered years. All other Town elections are special elections – those held in even-numbered years (to fill a vacancy in elective office) or those held at a time other than November in an odd-numbered year (see below, referendum on petition). The terms of Town Board Members are staggered, with two four-year board seats up for election every odd year in accordance with Town Law § 80. Since the

¹ Unlike the current “at-large” system of representation where four Town Board seats are elected from among Town residents as a whole, a “Ward” system of representation provides for the creation of four or six new geographic districts for Town Board membership and each Town Board member is elected from among Town residents who must reside in that district or “ward.”

² Among other options for the Town Board to consider are as follows: a. Make no change – keep at-large election of Supervisor and at-large Board Members; b. At large-Supervisor, and Ward-elected Board members at four or six wards; c. All Board members elected and appoint a Chair of the Board to function as the Supervisor, similar to the County Board of Supervisors (e.g., Saratoga County); d. A Professional Town Manager or Administrator to serve as the Supervisor hired by the Board either as at-large or ward-elected Town Board members. The committee was asked to focus this informational report on a ward system for the Town of Bethlehem. Therefore, we do not explore or explain the other possible governance options.

³ Each Town Board member is paid \$14,104 per year and the Supervisor is paid \$106,890 per year.

population of the Town of Bethlehem is greater than 10,000, it is considered a Town of the first class under New York Town Law § 10.⁴

There are 932 towns in New York, and of this number 106 towns are first-class towns.⁵ Only first-class towns may adopt the ward system. Since Bethlehem's population is greater than 25,000, it is also considered a suburban town under Town Law §50-a.⁶ The number of first class towns in New York State is 106; the number of suburban towns is 58, making the total number of towns eligible to adopt a ward system of representation 164, based on the 2010 census.⁷

Currently, only 13 towns elect council members by ward. The remaining 919 towns, including Bethlehem, use the at-large system of town council representation. A list of the 13 towns with ward systems is provided in Appendix 1. A list of the Towns which considered a Ward system and rejected it is also provided in Appendix 1. Of the 13 Towns which have adopted a Ward-style Town Board, nine have one or more village governments within the Town structure, whereas Bethlehem has none.⁸ Five of the Towns which have adopted a ward system have larger populations than Bethlehem.⁹ For example, Brookhaven, Hempstead, and North Hempstead are Towns which have populations greater than three times the size of Bethlehem and are among the largest municipalities in New York State.

A. The law, process, implementation, and timeline.

The ward system of electing Town Board Members is authorized by §§ 81 and 85 of the New York Town Law. Town Law § 85 further provides that a Town may choose to have either four or six wards. The actual change to a ward system can be accomplished in one of two ways: Under the first approach, the Bethlehem Town Board may, upon its own motion, submit a proposition to be on the ballot at a Town election to establish the ward system for the election of Town Board members. Under the second approach, the Town Board must, if presented with a petition by the voters, submit the proposition for a public vote in accordance with New York Town Law § 81(2)(b).

⁴ Towns of the first class include all those in Westchester County; and those elsewhere having a population of 10,000 or more, except towns in Broome and Suffolk Counties; the Town of Potsdam, St. Lawrence County; and the Town of Ulster, Ulster County. The Town of Bethlehem, by resolution in 1964, has chosen to operate as a "Suburban Class" town. The Town Board also passed a resolution on July 11, 1951 stating that the Town of Bethlehem is a town of the first class.

⁵ The number of first class towns in New York State is 106; the number of suburban towns (S) is 58, making the total number of towns eligible to adopt a ward system of representation 164, based on the 2010 census.

⁶ This section provides that "any town having a population of at least 25,000 or having a population of at least 7,500 and is not more than 15 miles from a city having a population of at least 100,000, measured from their respective nearest boundary lines; provided, however, that the population of such town shall have increased by at least 65 per cent between 1940 and 1960 or by at least 40 per cent between 1950 and 1960, as shown by the decennial federal censuses for such years." This provision of the Town Law took effect on January 1, 1964, and applied to towns as described above at that time. The Suburban Town Law has been largely superseded by the Municipal Home Rule Law and remains a designation for classification purposes.

⁷ Under Town Law § 12(1), any town of the second class having a population of 5,000 or more as shown by the latest federal census or in which the assessed valuation of the taxable real property as shown by the latest completed assessment role exceeds 10 million dollars or adjoining a city having a population of 300,000 or more as shown by the latest federal census, may become a town of the first class.

⁸ A village is a separately incorporated unit of government within a town formed by petition, defined by geographic boundaries, for the provision centralized services and administration.

⁹ See Appendix 1.

First Option: Town Board Action. If the Town Board acts on its own motion, it generally adopts a resolution to place a proposition (or question) on the ballot for the next Town election. The proposition to be placed on the ballot should read “Whether the Town of Bethlehem should establish a Ward system for the election of Town Board members?” or words to this effect. Town Law § 92 states that a proposition must contain an abstract of the act or resolution concisely stating its purpose and effect. The Town Clerk prepares the abstract and transmits it to the Town Board in the form in which it is to be submitted at the election. If there is more than one proposition to be voted upon at the election, each proposition must be separately and consecutively numbered.

Second Option: Initiative and Referendum. If the Town Board is presented with a valid petition from residents and voters of the Town to place a proposition on the ballot to establish a ward or other system, the Town Board must adhere to Town Law § 81(4), which states that the petition must contain at least five per cent (5 percent) of the total votes cast for governor in the Town at the last general election, or at least 100 signatures. If a petition is filed with the Town Clerk no less than 60 and no more than 75 days prior to a biennial Town election, the proposition must be submitted at the biennial election. If a petition is presented at any other time, a special election must be called to be held not less than 60, nor more than 75 days after the filing of the petition.

The voters only vote “yea” or “nay” on the proposition itself; they do not vote on the number or composition of the wards. It is only after the proposition to establish a ward system is adopted by the voters, that the process of dividing the Town into four or six wards and fixing their boundaries is commenced. Town Law § 85(1) provides that the County Board of Elections establishes the wards. However, only after Town residents approve the establishment of a ward system, may the Town Board enact a local law to draw ward boundaries itself.¹⁰ The authority to enact such a local law, which would supersede the Town Law, is granted by Municipal Home Rule Law. See **Appendix 2** for an explanation of the Municipal Home Rule Law.

Establishing Four or Six Wards. A Town of the first class may, at the same election that a proposition to establish wards is presented, put forward a second proposition increasing the number of Board Members in accordance with Town Law § 81(2)(a). This would be required if the Town Board sought six wards instead of four wards.

In addition, if dividing the Town into wards, only a few rules apply. First, a Town election district cannot be divided and no election district thereafter created can include parts of two or more wards. Second, the number of voters in each ward must be approximately “equal”.¹¹ The law is silent as to the types of geographic or geopolitical units that can be considered when drawing ward boundaries. However, all 13 towns that have a ward system of government have used election districts as the basic unit of geography for building wards. (An election district is an administrative unit created by county boards of election in New York State for the purpose of running elections.) Further, the law is silent as to the time frame for completing the ward-drawing process, public participation and disclosure, and the role of the Town board when the County Board draws the lines.

¹⁰ See Cavallaro v Nassau County Bd. of Elections 307 A.D.2d 1003 (2d Dept. 2003).

¹¹ In addition, the provisions of existing federal and state law regarding “one person, one vote” population standards must be applied.

When the County Board of Elections (or Town Board where a local law has been enacted) determines the ward boundaries, it must prepare a map of the Town showing in detail the location of each ward and its boundaries and file the original with the Town Clerk. Copies must also be filed with the County Clerk and the County Board of Elections. The ward system will be deemed established after this filing is complete. See Town Law §85 (1).

Required changes. The establishment of a ward system results in several significant changes to the Town Board. First, the terms of Town Board Members would change from four years to two years. Unless changed by a subsequently adopted local law, the terms of the two board members elected to four-year terms at the same election at which the proposition to establish wards was approved, are now reduced to two years. Second, the terms of Town Board Members are no longer staggered. That is, in subsequent Town elections, all four Board seats and the Supervisor will be placed on the ballot. Third, since Board Members are elected by ward, a Town resident can vote for only one individual (from within the ward) to serve as a Town Board member. Last, a Town Board member must reside within the ward he or she represents in order to take the oath of office for that particular Town Board seat.

New York law states that after a ward system is established, the term of office of every Town Board Member will end on December 31 next succeeding the first biennial Town election held not less than 120 days after the establishment of a ward system; and at such biennial Town election, and every biennial Town election thereafter, one resident elector will be elected from each ward for a term of two years beginning on January 1 next succeeding the election.

Example: A biennial Town election is held November 2015, at which time a proposition to establish a ward system is on the ballot. At the same time, an election is held for two Town Board Members with four-year terms. If the proposition is adopted, board members in office would continue to hold office until December 31, 2017. At the biennial Town election held in November 2017, the ward system would be used to fill all board member positions. Starting on January 1, 2018, the term of office of each board member would be two years. Note that adoption of the ward system would reduce the four-year term of those elected at the November 2015 election to two years. If the original proposition on the ward system had failed, then the four-year terms of the board members elected at that time would remain in effect.

Once adopted, a ward system can be abolished by adopting a proposition at a special or biennial Town election. As with the adoption of the ward system, abolition would take place in much the same way: either on Board motion or pursuant to a petition from resident electors. All of the statutory rules stated above would apply to abolition as well. At the first biennial Town election held at least 120 days after the adoption of a proposition to abolish the ward system for election of Board Members, the electors of the Town would elect two Town Board members for two-year terms and two Town Board Members for four-year terms. At each biennial Town election held thereafter, two Town Board Members would be elected for four-year terms. The terms of all Board Members would begin on the first day of January next succeeding the date of their election. See, Town Law § 85(2).

Notice of Proposition. The Town Board must adopt a resolution at least 20 days before every special Town election designating the hours of opening and closing the polls and the place or places of holding the election, setting forth in full all propositions to be voted upon. If the Town Board designates more than one voting place, the resolution and the notice must specify the place at which the voters of each election district shall vote. The polls must remain open for at least six consecutive hours between 8:00 a.m. and 8:00 p.m. Voting on a proposition must be by ballot and each proposition

must be separately stated and numbered. The Town Clerk must give notice of a special Town election at the expense of the Town by the publication of a notice in a newspaper published in the Town, or in a newspaper published in the County with general circulation in the Town, specifying the time when and place or places where the election will be held, the hours during which the polls will remain open for the purpose of receiving ballots, and setting forth in full all propositions to be voted upon. The first publication of the notice must be at least 10 days prior to the time of the special election. Additionally, the Town Clerk must post notice on the sign-board of the Town maintained pursuant to Town Law § 30(6) at least 10 days prior to the election. If a proposition is submitted at a biennial Town election, notice that it will be submitted, and setting it forth in full, must be published and posted in the manner provided for special Town elections. Town Law § 82. See Appendix 3 for a sample Notice of Submission of Proposition to Town Electors at General Election.

B. Examples of Towns with Wards and those which rejected Wards - How They Compare to Bethlehem.

We have examined a number of towns that have considered the ward system and either adopted it, rejected it, or took some other action. The Towns that were interviewed include Brookhaven, Greece, Huntington, New Hartford, Poughkeepsie, and Salina. For those we were not able to interview, we obtained information via the Internet for Amherst, Clay, and New Castle.

The larger summaries of information for these Towns are contained in Appendix 4. The questions used to interview each Town are listed at Appendix 5.

1. **Amherst.** Amherst is a town of about 122,366 residents in Erie County, a suburb of Buffalo. It considered a ward system and rejected it based on various factors. In 2011, as a result of a citizens' petition, a proposal to form a ward system was put on the November election ballot in the Town of Amherst. The proposed system was voted down by voters at that time. This was not a town board initiative but was the result of the citizen petition. See, www.mokenabuzz.com/uploads/Southwick_Study.pdf
2. **Brookhaven.** Brookhaven is a town of about 472,425 residents in Suffolk County and has nine villages within it. Brookhaven considered and adopted a ward system of six wards in 2002. Board members have two year terms. The County Board of Elections drew the lines. Positive and negative experiences with wards were reported. News articles suggest that scandal and one party domination was a factor for adopting the ward system.
3. **Clay.** Clay is a town of about 58,2066 residents in Onondaga County, the largest suburb of the City of Syracuse, NY. It considered a ward system via a proposition and the Town rejected it based on various factors.
4. **Greece.** The Town of Greece is a town of about 96,095 residents in Monroe County, a suburb of Rochester. Greece has a ward system of four wards with four year terms.
5. **Huntington.** Huntington is a town of about 203,264 residents in Suffolk County, one of the largest on Long Island. It considered a ward system several times and rejected it every time based on various factors. However, it has a local law that if a ward system were ever adopted, it would be drawn by the Town Board.

6. **New Castle.** New Castle is a town of about 18,000 residents in Westchester County, near Ossining and Mt. Kisco. It considered a ward system and rejected it based on Town fragmentation, decrease in continuity, increased costs, ability to get qualified candidates, and no impact or improvement on government transparency.
7. **New Hartford.** The Town of New Hartford, a suburb of the City of Utica has a ward system of four wards. It was adopted in 1964. Board members have four year terms. The Town Board drew the lines. Positive and negative experiences with wards were reported.
8. **Poughkeepsie.** The Town of Poughkeepsie has a ward system of six wards. No information available when adopted. Board members have two year terms. The County Board of Elections drew the lines. Positive and negative experiences with wards were reported.
9. **Salina.** The Town of Salina, a suburb of the City of Syracuse has a ward system of four wards. No information available when adopted. Board members have two year terms. The Town Board drew the lines. Positive and negative experiences with wards were reported.

There are at least seven other towns that have considered the ward system of government but due to either a challenge to the petition or failure of the proposition at the polls, the ward system was not adopted: Amherst, Clay, Colonie, Hamburg, Huntington, Malta, New Castle, and Ramapo. It should be noted that the Town of Huntington attempted, unsuccessfully, to adopt the ward system on at least three occasions, most recently in 2009. However, the Town has adopted provisions that if a ward system is ever established in the future, the Town of Huntington, and not Suffolk County Board of Elections, will draw the district lines.

Finally, it is important to note that of the Towns that have been surveyed (except for Brookhaven) we have been unable to factually determine a motivation or cause for adopting a ward system in the 13 Towns in New York State. All those interviewed could not accurately report when or why the ward system was adopted.

C. Observations – Advantages and Disadvantages of the Ward System

In this section, we offer the advantages and disadvantages of the ward system of representation, including immediate impacts on the Town and the issues raised. The Town may wish to consider if any of these changes would (i) enhance or diminish representation or increase/decrease accountability to the voters; (ii) save the Town money; or (iii) improve government administration. These are some, but not all, of the factors the Town Board and the public should examine when considering the ward system.

<u>Concept</u>	<u>Current (At-Large)</u>	<u>Ward</u>
1. Residency Requirement	Anywhere within the Town for any of the four Town Board seats.	Within the ward for that Town Board seat assigned to that particular ward.

2. Representation of Town Board members (excluding supervisor)	Resident votes for four of four Board members.	Resident votes for 1 of four or one of six Board members.
3. Impact on Costs to Administer Elections	Unchanged.	Increase due to multiple ballots and administration.
4. Responsiveness of Elected Officials	All residents have four or four Board members who represent all residents.	Ward residents have one Board member who represents the residents in the ward.
5. Two-Party System Involvement	Party focus is Town wide.	Party focus is on wards.
6. Accountability to Voters	All Board members are accountable to all Town residents.	Ward-elected Board member is accountable to ward residents.
7. Boundaries	Elected positions are Town-wide and are based on entire Town. No internal boundaries created, community treated as Town.	Elected positions are local and based on internal boundaries. Town and community is divided into four or six sections.
8. Drawing of District Lines	Not needed.	Must draw four or six districts based on generally equal populations. Could be susceptible to gerrymandering.
9. Eligibility of Potential Candidate	Eligible from the Town at large – increases participation opportunities from whole Town or multiple seats. Any eligible voter can run for any one of four board seats.	Eligible from only within ward. Divides candidate pool. Any eligible voter can run for the one seat representing the ward. ¹²
10. Governmental Functions	Town Board and Supervisor are five equal parties and share responsibility equally.	Although all members have a Town-wide responsibility, the Supervisor has a town-wide mandate and Board members have a Ward mandate.
11. Governmental Stewardship	Town Board and Supervisor are equally responsible for public assets and services.	Town Board and Supervisor retains town-wide focus; Board members may focus on ward issues.
12. Elections	Every two years, have two Board seats plus supervisor (3 of 5) are up for election.	Every two years, all four Board seats plus the supervisor are up for

¹² See Election Law 6-122 “A person shall not be designated or nominated for a public office or party position who is not a citizen of the state of New York; is ineligible to be elected to such office or position; or who, if elected will not at the time of commencement of the term of such office or position, meet the constitutional or statutory qualifications thereof.”

		election.
13. Terms	Supervisor have 2 year terms; Board has four year terms.	Supervisor and Board have two year terms.
14. Modification of Boundaries	Not applicable.	Could require a change of ward boundaries every ten years.

D. What would Bethlehem look like with four or six wards?

According to the 2010 Census, there were 33,656 people living in the Town of Bethlehem. Assuming a mathematical equivalent district in a four-ward system, each council member would represent about 8,400 people. In a six-ward system, each member would represent about 5,600 people. The wards themselves would be drawn using election districts as the basic unit of geography. This is because ward elections, like any election in the Town, must be run using the administrative apparatus of the County Board of Elections. There are currently 31 election districts in the Town of Bethlehem. Given the wide population disparities between some of these election districts, it may be necessary to adjust existing election district boundaries in order to create compact and legally permissible wards.

Wards must comply with the provisions of all federal and state law regarding voting rights, especially the principle of “one person, one vote.” Election districts, the basic unit of geography, are administrative units created by county boards of election based on the number of voters. Wards must be drawn based on total population, not registered voters. This means that while election districts may be used to create wards, it is the number of people, rather than the number of voters, that counts when considering the size of wards. In general, wards would only be allowed to deviate from equal population by plus or minus 5 percent, or 10 percent overall.¹³ Currently, election districts within the Town of Bethlehem vary in total population.

Appendix 6 presents several visual examples of what possible districts may look like based on ward systems for four or six Town Board members. These maps are only illustrations and examples; they do not show what final districts will look like should a ward system be ultimately adopted.

Appendix 7 lists excerpts of Town Law cited in this report as well as background materials of interest.

Submitted on June 11, 2012.

Donna Giliberto, Chair
Steven Elliott
Christopher Hanifin
Linda Jasinski
Frank Zeoli

¹³See *e.g.*, Avery v Midland County, 390 U.S. 474 (1968); Abate v. Mundt, 403 U.S. 182 (1971); NYC Board of Estimates v Morris, 489 U.S. 688 (1989); Brooklyn Heights Association v Macchiarola, 82 N.Y.2d 101 (1993); and Abate v Rockland County Legislature, 964 F.Supp. 817 (S.D.N.Y. 1997).

APPENDIX 1

TOWNS WITHOUT WARDS – There are approximately 919 Towns in New York State that do not use the ward system.*

TOWNS WITH WARDS – There are 13 Towns in NYS that use the ward system.*

**Please note: The number of first class towns in New York State is 106; the number of suburban towns (S) is 58, making the total number of towns eligible to adopt a ward system of representation 164, based on the 2010 census.*

Brookhaven – Suffolk County

Established 1686

531.5 square miles

486,000+ population – second most populous in New York State

Located in central Suffolk County, is the only town in the county that stretches from the North Shore to the South Shore of Long Island.

Largest town in New York in terms of total area.

Includes nine villages and 50 hamlets

Six wards, adopted in 2002

Camillus – Onondaga County

Established 1799

35 square miles

25,000+ population

Includes three hamlets and one village

Suburb of City of Syracuse

Four wards

Ellicott – Chautauqua County

Established 1812

30.5 square miles

8,700+ population

Includes two villages

Borders Chautauqua Lake

Surrounds the City of Jamestown on the east, north and west.

Four council members with two-year terms

Greece – Monroe County

Established 1822

51.4 square miles

94,000+ population

Includes six communities (not referred to as hamlets)

Borders Lake Ontario

Suburb of City of Rochester

Four wards

Hempstead – Nassau County

Established 1644

759,757 population
191.3 square miles includes 71.4 square miles of water
Largest town in NYS; includes 22 villages as well as the majority of the population of the county.
Six wards

Hyde Park – Dutchess County

Established 1810
39.8 square miles
21,500+ population
Includes three hamlets
Suburb of City of Poughkeepsie
Four wards

New Hartford – Oneida County

Established 1827
22,000+ population
25.5 square miles
Includes two hamlets and two villages
Largest suburb of City of Utica
Four wards

North Hempstead – Nassau County

Established 1784
226,000+ population
69.1 square miles
Includes 30 villages and 20 hamlets
Suburb of Queens
Six wards.

Poughkeepsie – Dutchess County

Established 1788
31.2 square miles
43,000+ population
Includes nine hamlets and part of one village
Suburb of City of Poughkeepsie
Six wards.

Queensbury – Warren County

Established 1762
64.81 square miles
25,000+ population
Suburb of City of Queensbury and City of Glens Falls
Four wards, adopted in 1985

Salina – Onondaga County

Established 1847
15.1 square miles
33,000+ population
Includes four hamlets and part of one village

Suburb of City of Syracuse

Four wards.

Wappinger – Dutchess County

Established 1659 as Town of Fishkill

27,000+ population

28.6 square miles

Includes three hamlets and one village

Suburb of City of Poughkeepsie

Four wards.

Wallkill – Orange County

Established 1772

27,000+ population

64 square miles – encircles City of Middletown

Includes 13 hamlets

Four wards.

APPENDIX 2

Municipal Home Rule Law

The Municipal Home Rule Law (MHRL) provides local government with the power to enact local laws only if they are "not inconsistent" with a general law of the state. MHRL §10(1)(ii). Various subdivisions found in the Municipal Home Rule Law provide authority, especially MHRL §10(1)(ii)(d)(3), for a Town to amend or supersede sections of the Town Law as it applies to the Town with regard to certain subjects spelled out in that subparagraph. N.Y. Const. Art. IX, §2(c), and the specific provisions of the MHRL, give local government the authority to adopt local laws on certain enumerated subjects, subject to restrictions by the State. MHRL §10(1)(ii)a(2), (13) provide that a Town may enact laws relating to its governance, including the membership, composition, and apportionment of its legislative body. Under MHRL §10(1)(ii)(d), a general law found in the Town Law may be amended or superseded by a local Town Law with regard to the Town's own government, even where the local law is inconsistent with the state statute. In addition, MHRL §10, which provides the statement of power, MHRL §11 (Restrictions on the adoption of local laws) enumerates the reverse – that is, the specific exceptions to the general grant of power to political subdivisions of the State provided by the statute.

APPENDIX 3

Notice of Submission of Proposition to Town Electors at General Election.

Notice is hereby given that, pursuant to resolution adopted by the Town Board of the Town of Bethlehem, on [-----] , 20 [--] , in accordance with the provisions of the Town Law applicable thereto, the following proposition will be submitted to the electors of this Town at the General Election to be held on [-----] , 20 [--] .

“Whether the Town of Bethlehem should establish the ward system for the election of board members?”

Further notice is hereby given that voting on this proposition will be between the same hours as regular voting at said General Election and that the places of voting in each of the respective election districts of the Town shall be the same places, and shall be used for voting at the General Election on that day.

Dated: [-----] , 20 [--] . [-----] Town Clerk

[Add statement as to qualifications of voters, for which see Town Law §84].

[Certifications]

APPENDIX 4

Examples of Towns - How They Compare to Bethlehem.

Town of New Hartford, Oneida County

Population: 22,166

Gail Young, Town Clerk

The Town of New Hartford is located in Oneida County and is a suburb of the City of Utica. It has four wards; Ward 2 is separated by the boundaries of the City of Utica. The Town adopted a four-ward system in 1964 because, “People really like to be able to have one person from their area that can identify with their specific problems,” according to Ms. Young. Board members have four-year terms, no term limits, and hold partisan elections. When the ward system was adopted, the Town Board drew the ward lines.

Ms. Young stated that sometimes there are issues with the representation of Ward 2, which is comprised of four districts, including two disparate areas: districts one and two are known as the Mills and districts three and four are known as the Hills. The Hills is a wealthier of the two areas. She noted that residents of the Mills may feel under-represented at times. She specifically noted that when a councilman who represented Ward 2 unexpectedly passed away, a lawyer from the Mills area was appointed to fill his term and won her first election following the appointment. She lost a re-election bid to a candidate from the Hills district. Ms. Young noted that following the outcome of the election, people in the Mills complained feeling they were not properly represented, especially regarding drainage issues that are specific to the Mills area.

She stated that in the last election, the result from Ward 2 was 718 voters from District 1; 987 voters from District 2; 936 voters from District 3; and 1075 voters from District 4.

Ms. Young reported that, besides the complaints in Ward 2, the Town has not experienced any negative fallout, such as in polarizing neighborhoods. She believes that, for the most part, wards benefit residents. “You can never really address everyone’s concerns/alleviate all the problems. I think having the closer relationship between the representative and the district that is familiar leads to people feeling better represented and they are held more accountable.”

She added that the local political parties field candidates and that the rate of board turnover is low. “I wouldn’t say it is frequent. We have one councilman on his fourth term and people usually serve two or three terms. One of the most difficult positions to fill is supervisor.”

Town of Salina, Onondaga County

Population 33,710

Mark Nicotra, Town Supervisor

The Town has four wards and a supervisor, with two- year terms for all members, and no term limits. We couldn’t find any information on when the Town Board adopted a ward system, but the Supervisor speculated that it was well over 30 years ago. Supervisor Nicotra feels strongly that wards produce more direct representation. “I think it is beneficial because people know who they can turn to. With an at-large (system) there are times when a board member might not even live near you. Familiarity is a huge benefit, and people on the board are fighting for projects in each area evenly.” However, he notes

that “the only down side is that everyone is up (for election) at the same time which leaves the possibility of entire turnover. I am a huge proponent (of the ward system) because you represent your neighborhood and you know it best.” He hasn’t seen anything to indicate that the ward system polarizes neighborhoods. “Not that I have ever heard, it has been this way for so long it doesn’t seem like they know any other way, I think it’s a great thing because you’re representing your neighborhood, I wouldn’t have gotten involved otherwise.”

The ward lines were drawn by the Town Board and are adjusted every 10 years based on population; the ward lines are drawn according to election districts. Supervisor Nicotra noted that some districts were moved to different wards with the past census, but there has been no negative response from the districts that have been moved.

According to the Supervisor, the ward lines were not drawn to benefit the majority party in Town. “Republicans are 4-1 on the board but the enrollment skews the other way, ward lines have no political benefits,” he said.

The Town runs partisan elections, and there have been some difficulties fielding candidates from Mattydale - one of the older parts of the Town. Mattydale is comprised of a lot of rental property and there is high turnover. It is also the area of Town with the fewest registered voters.

The rate of board turnover is relatively stable, although recently one ward turned over from Republican to Democrat and another turned over to an open seat. Supervisor Nicotra recently began a third term as supervisor.

The turnout in the last election was low. Out of 21,000 registered voters, only 5,300 voted.

Poughkeepsie

Todd Tancredi, Town Supervisor
Population: 42,777

We couldn’t find any information on when the Town Board adopted a ward system. The Town has six wards and a supervisor; each has two-year terms and no term limits.

Supervisor Tancredi was a council member representing the sixth ward for 10 years before being elected supervisor. He noted that while council members are primarily responsible for their ward, they vote on all issues.

The Supervisor is not aware of any fall-out from the ward system, noting “that is one thing that the system offers, each area has someone they know they can call to address their issues.” One downside is the cost of elections every two years. He estimated the cost at \$100,000.

While fielding candidates is up to the political parties, Supervisor Tancredi noted that the Democrats have had some problems coming up with candidate. For example, in the last election there were seven Republicans up for election and only two Democrat challengers. However, he doesn’t think the system benefits/protects or hurts either party.

Ward lines were drawn/designed based on population following (the) census. Election districts have recently been added based on census. “You would think the wards would run down main roads but they don’t. (You) could have a house where the lines run through a yard,” he said. “We are an old Town that is fairly built-out so there hasn’t been much of any change since I’ve been here.”

The Supervisor estimates typically voter turnout at 30 percent.

Town of New Castle

The Town of New Castle did not adopt a ward system of town government. The following was obtained from an online interview with a member of the League of Women Voters that examined the issue for the Town Board and provides several main reasons for the decision to not pursue wards.

Town fragmentation. Currently the Town Board is elected by and represents all of New Castle and is answerable to every citizen of the Town . The Town Board primarily deals with issues affecting the entire Town. In a ward system, each board member would be answerable to only residents in his or her ward. In addition, more focus could potentially be on narrower issues relevant to only one or two wards. New Castle is not large enough to justify such a major change in its government.

Decrease in continuity. Electing a new Town Board every two years is inefficient and probably would have a deleterious effect on continuity and long- range planning.

Increased costs. Two additional board members would result in an increase in costs to New Castle residents. Also, it is ill-advised to increase policy-makers at a time when the Town ’s administrative staff is being reduced.

Ability to get qualified candidates. Prior to this year, New Castle had not had a contested election for board members in many years. Under the ward system it may be difficult to get the most qualified candidates for Town Board from six different wards of only 2,000 voters each.

Government Transparency. The League did not study the issue of whether New Castle’s government is transparent or responsive enough. Rather, we studied whether the referendum would improve the transparency and responsiveness of the Town Board. We concluded it would not.

APPENDIX 5

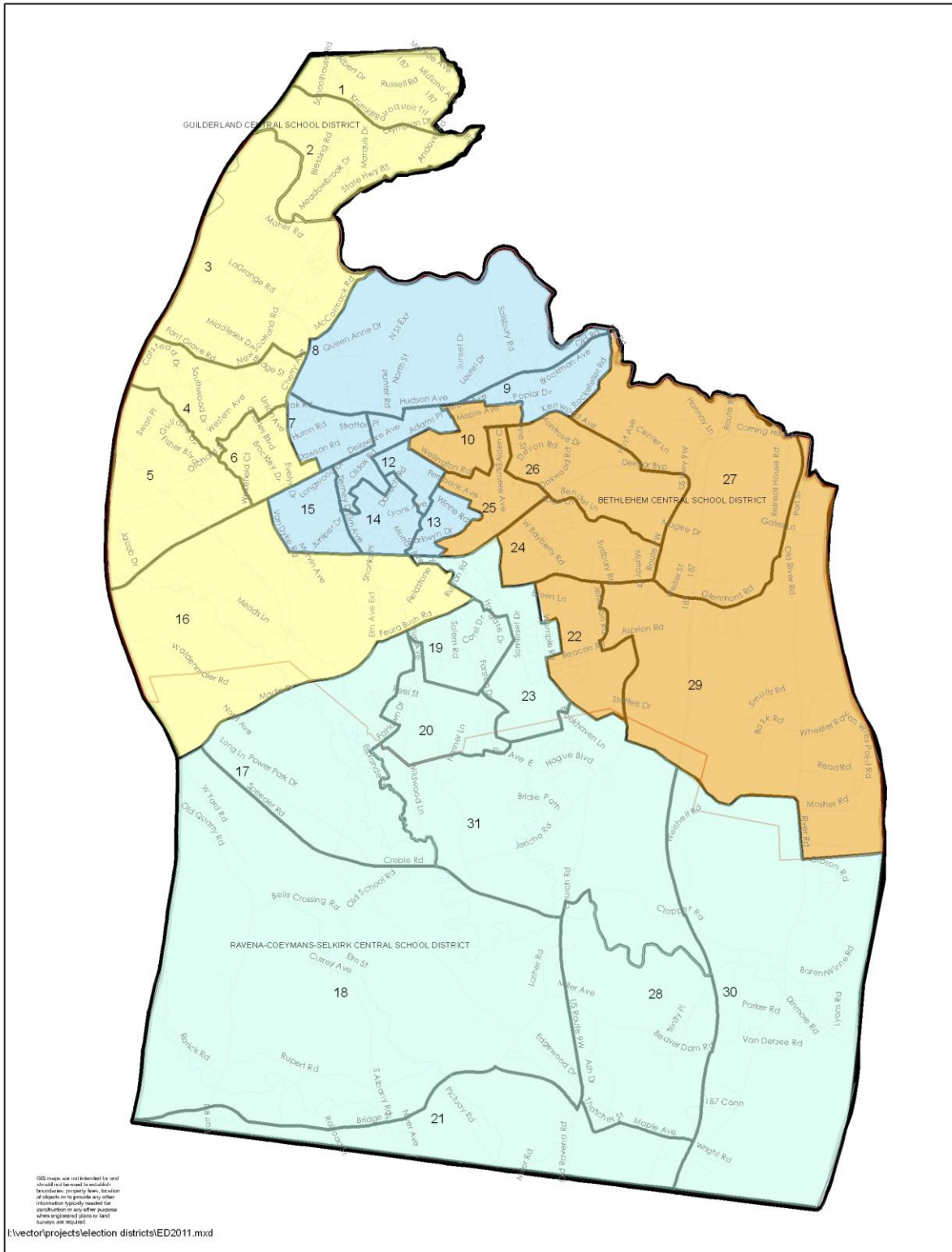
Research Questions for Towns with Ward System

1. When did you change to the ward system?
2. Why did you choose to use the ward system?
3. Is there a history explaining it? (If respondent was in office, etc. when wards were enacted, get personal anecdotes.)
4. State law authorizes ward creation, but did your board adopt any local laws in addition or to clarify? (Can you provide the local law?)
5. Did town board terms change to 2-year terms? Did board vote to change to four year-terms?
6. Is the ward system all or nothing? For example, two wards, two at large, etc.?
7. Was the change a citizen or board driven decision?
8. Do you believe there are cost savings at election time?
9. Has there been any negative fallout as in polarizing neighborhoods?
10. Have you had any issue with fielding candidates from each ward?
11. How were the ward lines drawn? Who drew them, the town or county?
12. Were the lines drawn to benefit the majority party?
13. What was the reaction of the residents to how the lines were drawn? Any challenges?
14. Do wards benefit residents?
15. Is there a belief that that the wards produce more direct representation?
16. Have any villages been incorporated in the Town as a result of wards?
17. Have you noticed/documentated any change in voter turnout?
18. What was the percent/# of voters in the last election (turnout)?
19. What is the rate of board turnover?
20. Did the ward system affect the town's bond rating or fund balance?
21. Does your town run partisan or independent elections?

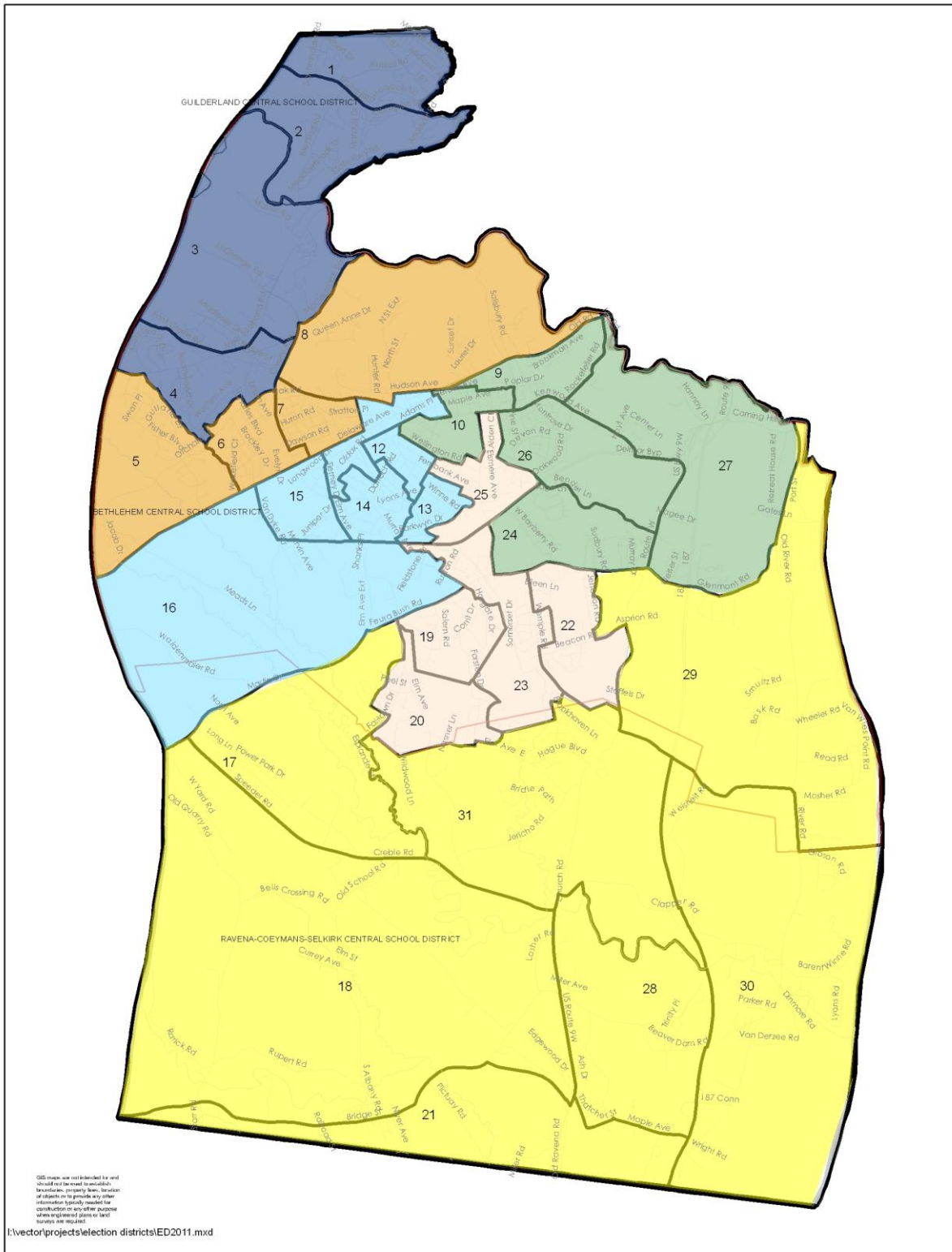
APPENDIX 6

Illustrative Maps to show visual examples of possible four and six district wards.

Illustrative Example of Four Wards for the Town of Bethlehem.



Illustrative Example of Six Wards in the Town of Bethlehem.



APPENDIX 7

Town Law Excerpts and Background Information

Provisions of Town Law Regarding Ward System Creation

Town Law § 81. Election upon proposition. The Town Board may upon its own motion and shall upon a petition, as hereinafter provided, cause to be submitted at a special or biennial Town election, a proposition:

1. In any Town:

(a) To erect a monument or monuments within the Town in commemoration Of any person or event.

(b) To purchase, lease, construct, alter or remodel a Town hall, a Town lockup or any other necessary building for Town purposes, acquire necessary lands therefore, and equip and furnish such buildings for such purposes, or to demolish or remove any Town building.

(c) To establish airports, landing fields, public parking places, public parks or playgrounds, acquire the necessary lands therefore, and equip the same with suitable buildings, structures and apparatus.

(d) To vote upon or determine any question, proposition or resolution which may lawfully be submitted, pursuant to this chapter or any general or special law.

(e) To dredge, bulkhead, dock and otherwise improve any navigable, or other waterway, within the Town, and to rent, purchase and equip necessary machinery for such dredging, docking, bulk heading or other improvement, and supply the necessary labor and material therefore.

(f) To provide for the collection and disposition of garbage, ashes, rubbish and other waste matter in the Town by (1) the award of one or more contracts for the collection and disposition of the same, (2) by the purchase, operation and maintenance of apparatus and equipment for the collection and transportation of the same, (3) by the construction, operation and maintenance of a disposal or incinerator plant or (4) by any combination of (1), (2) and (3).

2. In any Town of the first class:

(a) To increase the number of councilmen from four to six.

(b) To establish or abolish the ward system for the election of councilmen in Towns having four or six councilmen.

(c) To decrease the number of councilmen from four to two.

(d) To increase the number of councilmen from two to four.

3. In a Town of the second class having five thousand or more population according to the latest federal or state census or enumeration or having an assessed valuation of ten million dollars or more, as shown by the latest completed assessment-roll of such Town, or

adjoining a city having a population of three hundred thousand or more, as shown by the latest federal or state census or enumeration, to change the classification of such Town to that of a Town of the first class.

4. Such petition shall be subscribed and authenticated, in the manner provided by the election law for the authentication of nominating petitions, by electors of the Town qualified to vote upon a proposition to raise and expend money, in number equal to at least five per centum of the total votes cast for governor in said Town at the last general election held for the election of state officers, but such number shall not be less than one hundred in a Town of the first class nor less than twenty-five in a Town of the second class. If such a petition be filed in the office of the Town clerk not less than sixty days, nor more than seventy-five days, prior to a biennial Town election, the proposition shall be submitted at such biennial election. If a petition be presented at any other time, a special election

shall be called to be held not less than sixty days, nor more than seventy-five days after the filing of such petition.

5. A proposition for the consolidation or dissolution of a Town or district shall be noticed, conducted, canvassed and otherwise held pursuant to, and in accordance with, the provisions of article seventeen-A of the general municipal law; and a petition to consolidate

or dissolve a Town or district shall be subscribed, authenticated and otherwise governed pursuant to, and in accordance with, that article. Any expenditure approved pursuant to this section shall be paid for by taxes levied for the fiscal year in which such expenditure is to be

made. However, nothing contained in this section shall be construed to prevent the financing in whole or in part, pursuant to the local finance law, of any expenditure enumerated in this section which is not authorized pursuant to this section. Any expenditure financed in whole from moneys appropriated from surplus funds shall not be subject to referendum.

§ 85, Town Law. Ward system for election of councilmen.

1. Whenever a proposition shall have been adopted in a Town of the first class for the establishment of the ward system and the election thereafter of one councilman from each ward, the board of elections of the county in which such Town is situate shall divide the Town into four wards and fix the boundaries thereof, unless a proposition shall have been adopted to increase the number of councilmen from four to six, in which instance, the board of elections shall divide the Town into six wards and fix the boundaries thereof. In so dividing the Town into wards, no Town election district shall be divided and no election district thereafter created under the election law shall contain parts of two or more wards. So far as possible the division shall be so made that the number of voters in each ward shall be approximately equal. When the board of elections shall have finally determined the boundaries of the wards, they shall cause a map of the Town to be prepared showing in detail the location of each ward and the boundaries thereof. The original map so made shall be filed in the office of the Town clerk and copies thereof shall be filed in the offices of the county clerk and the board of elections of the county. The ward system shall be deemed established after such filing is complete. After a ward system shall have been so established, the term of office of every Town councilman shall terminate on the thirty-first day of December next succeeding the first biennial Town election held not less than one hundred twenty days after the establishment of such ward system, and at such biennial Town election, and every biennial Town election thereafter, one resident elector of each ward shall be elected as councilman there from for a term of two years beginning on the first day of January next succeeding such election.

2. The ward system may be abolished upon the adoption of a proposition therefor at any special or biennial Town election. At the first biennial Town election held at least one hundred twenty days after the adoption of a proposition to abolish the ward system for election of councilmen, the electors of the Town shall elect one-half of the total number of Town councilmen for the term of two years each and one-half of the totals number of Town councilmen for the term of four years each. At each biennial Town election held thereafter there shall be elected one-half of the total number of Town councilmen for the term of four years each. The terms of all such councilmen shall begin on the first day of January next succeeding the date of their election.

The number of first class towns in New York State is 106; the number of suburban towns (S) is 58, making the total number of towns eligible to adopt a ward system of representation 164, based on the 2010 census.*

By County

Albany

Bethlehem (S)
Colonie (S)
Guilderland (S)

Cattaraugus

Allegany

Chautauqua

Ellicott
Pomfret

Chemung

Elmira
Horseheads
Southport

Clinton

Ausable
Plattsburgh

Dutchess

Beekman
East Fishkill
Fishkill
Hyde Park
La Grange
Poughkeepsie (S)
Red Hook
Wappinger

Erie

Alden
Amherst
Aurora
Cheektowaga
Clarence (S)
Elma
Evans (S)
Grand Island
Hamburg (S)
Lancaster (S)
Orchard Park (S)
Tonawanda
West Seneca

Franklin

Malone

Greene

Catskill

Herkimer

German Flatts
Herkimer

Jefferson

Le Ray

Madison

Sullivan (S)

Monroe

Brighton (S)
Chili (S)
Gates (S)
Greece (S)
Henrietta (S)
Irondequoit (S)
Ogden (S)
Parma (S)
Penfield(S)
Perinton (S)
Pittsford (S)
Sweden
Webster (S)

Nassau

Hempstead (S)
North Hempstead
Oyster Bay (S)

Niagara

Lewiston
Lockport
Newfane
Wheatfield

Oneida

Kirkland
New Hartford (S)
Whitestown

Onondaga

Camillus (S)
Cicero (S)
Clay (S)
De Witt
Geddes (S)
Lysander
Manlius
Onondaga (S)
Salina (S)
Van Buren

Ontario

Canandaigua
Farmington
Victor

Orange

Blooming Grove
Chester
Cornwall
Goshen
Highlands
Monroe
Montgomery
New Windsor
Newburgh
Tuxedo
Wallkill
Warwick
Woodbury

Oswego

Oswego
Schroepfel

Putnam

Carmel
Kent
Patterson
Putnam Valley
Southeast

Rensselaer

Brunswick (S)
East Greenbush (S)
North Greenbush (S)
Sand Lake
Schodack

Rockland

Clarkstown (S)
Haverstraw (S)
Orangetown (S)
Ramapo (S)
Stony Point

St. Lawrence

Canton
Massena

Saratoga

Clifton Park (S)
Halfmoon
Malta
Milton
Moreau
Wilton

Schenectady

Glenville (S)
Niskayuna (S)
Rotterdam (S)

Steuben

Bath

Sullivan

Fallsburg
Mamakating
Thompson

Tioga

Owego

Tompkins

Dryden
Ithaca
Lansing
Ulysses

Ulster

Lloyd
New Paltz
Plattekill
Saugerties
Shawangunk
Wawarsing

Warren

Lake George

Queensbury

Washington

Kingsbury

Wayne

Arcadia

Macedon

Ontario

Sodus

Walworth

Williamson

Westchester

Bedford

Cortlandt (S)

Eastchester (S)

Greenburgh (S)

Harrison

Lewisboro

Mamaroneck (S)

Mount Kisco

Mount Pleasant

North Castle

New Castle (S)

North Salem

Ossining (S)

Pelham

Pound Ridge

Rye (S)

Scarsdale

Somers

Yorktown (S)

*These figures are provided by the NYS Department of State. This total includes towns in Broome and Suffolk Counties; the Town of Potsdam, St. Lawrence County; and the Town of Ulster, Ulster County.

Broome

Union (S)

Vestal (S)

Suffolk

Babylon (S)

Brookhaven (S)

East Hampton

Huntington (S)

Islip (S)

Smithtown (S)

Southampton

St. Lawrence

Potsdam

Ulster

Ulster

THE WARD SYSTEM OF TOWN GOVERNMENT

New York's towns, all 932 of them, are the backbone of local government in our State. The town, for example, is the primary organizing element for elections and, in turn, political parties, which are built around the election district (towns in all counties except Monroe, Nassau and Suffolk establish and operate all election districts outside cities). Representative democracy is achieved in almost all of them through the system of electing town councilmen as at-large representatives. Towns of the first class (generally, towns with a population of 10,000 or more, or those towns with a smaller population that have chosen to become towns of the first class pursuant to sections 12 & 81 of the Town Law) usually elect a Town Supervisor and four town councilmen as the town legislative body, separate from other elective or appointive town offices such as clerk, justice and assessor.

Unlike cities in New York, which show a mix of both at-large and ward-elected councilmen, only a handful of towns elect councilmen by ward. At last count, only eleven towns in New York use the ward system.

The ward system of electing town councilmen is authorized by sections 81 and 85 of the Town Law. A town of the first class may, upon the vote of the town board or upon a duly qualified petition, submit a proposition to the voters for establishing the ward system. If the voters approve the proposition, the county board of elections must divide the town into four wards and fix their boundaries. "So far as possible the division shall be so made that the number of voters in each ward shall be approximately equal" (Town Law §85 [1]). The ward system is deemed established only upon the date the county board of elections duly files a map "showing in detail the location of each ward and the boundaries thereof" (Town Law §85 [1]). Note that the voters may also decide on a proposition at the same election, whether to increase the number of councilmen from four to six, which if approved, would require drawing six wards. Any past failures of ward propositions to be approved by the voters may be because boundaries of the wards are not known at the time of the ballot, but instead are fixed by the board of elections if the proposition is successful. Apart from the constitutional requirement of "one person one vote" (see, *Reynolds v. Sims*, 377 U.S. 533, 84 S. Ct. 1362) codified in the statute by its demand that wards contain "approximately" the same number of voters, the voter has few assurances how wards will be drawn.

If the ward system is established, the terms of the sitting councilmen end on December 31 after the first biennial town election held at least 120 days after the ward system is established. And of course the terms of the councilmen elected by ward commence January 1 following such election.

Only a town of the first class is authorized to both establish the ward system and increase the number of councilmen from four to six, and such a town may submit both propositions at the same election (Op. Atty. Gen. [Inf.] 90-63; 1968 Op. Atty. Gen. [Inf.] 52; 13 Op. St. Compt. 223, 1957). May a town of the second class, which is not authorized to either increase the number of councilmen or establish the ward system, submit a proposition to the electorate to change its classification to first class at the same election it submits the other propositions? Under the authorizing sections of sections 81 and 85 the Town Law, the answer is that the electorate must

first approve a change in classification to first class, with subsequent elections necessary to increase the number of councilmen and establish the ward system. The Attorney General has opined, however, that a town of the second class may, by enactment of a local law, increase its number of councilmen and establish the ward system (Op. Atty. Gen. [Inf.] 90-63). Under the Municipal Home Rule Law (MHRL) towns, cities, counties and villages are authorized to adopt local laws not inconsistent with the Constitution or any general law, in relation to, inter alia, “the powers, duties, qualifications, number, mode of selection and removal, terms of office, compensation, hours of work, protection, welfare and safety of its officers and employees” (MHRL, §10 [1] [ii] [a] [1], emphasis supplied). Such a local law would be itself subject to a mandatory referendum (MHRL, §23 [2] [b], [e], [g]).

The conclusion reached in the above-cited Attorney General’s Opinion is based upon the reasoning that such a local law is not inconsistent with any provision of the Town Law, but it has not been tested by litigation, nor is it likely to be. It’s fair to say that legal impediment isn’t the reason why more towns don’t have the ward system. If the voters want representation by ward they have the means to establish it. To date, they seem content with the prevailing mode of representation, the at-large system.

Taken from <http://www.dos.ny.gov/cnsl/lg01.htm>