As the legislative branch in towns, town boards have the ability to adopt a variety of local legislation to manage town government, including resolutions, ordinances, and local laws.

**Resolutions**
- Resolutions are the least formal of the three types of legislation and generally cover the day-to-day workings of the town, including establishing a salary, transferring moneys from one budget account to another, and expressing praise or mourning, among many other things.
- The adoption of a resolution is an official town action and requires a motion to introduce the resolution, a second, and approval of the majority of the board in order to be adopted.
- The town’s rules of procedure – adopted by resolution of the town board, natch – govern how resolutions are introduced to the board.
- Note that a motion is **not** a legislative tool or action and is instead the vehicle to get the legislation – in this case a resolution – on the table and adopted.

**Ordinances**
- Ordinances are a legislative act of the town board that also give the board the ability to impose a penalty for any violations thereof (see Town Law section 131).
- The town board has the authority to enact ordinances via Town Law section 130-134, as well as sections 264 and 265 as they relate to zoning. Ordinances are more formal than a resolution, yet lack the presumption of validity in court that applies to local laws.
- They are typically used for actions of a more permanent nature, including accepting highways, establishing a housing code, amending the zoning code, or general public safety, among many other things.
- Ordinances are applicable only within the jurisdiction of the town – they are not enforceable within any villages that are situated within the town’s borders.
- An ordinance has to be introduced by resolution of a town board member in accordance with the town’s usual rules of procedure.
- Town must conduct a public hearing, which must be noticed in a newspaper of general circulation in the town at least 10 days in advance of the public hearing.
- After the public hearing, the board may adopt the ordinance so long as no substantial changes have been made.
- The text of the ordinance MUST be added to the minutes.
The ordinance or a summary thereof or an abstract must be published in the town’s official newspaper or a newspaper of general circulation within the town if the town does not have an official newspaper.

The town clerk must obtain an affidavit of publication from the newspaper and enter an exact copy of every ordinance or amendment into their ordinance book.

The ordinance is effective 10 days after notice of the adoption is published.

**Zoning Ordinances**

- If the ordinance is related to zoning, the minutes should describe any map adopted in connection with the zoning ordinance. The clerk is required to maintain a separate file for every map adopted in connection with a zoning ordinance, which must be available for inspection by the public during regular business hours.
- Unlike other ordinances and local laws, if the ordinance is related to zoning, the town must serve written notice at least 10 days before a public hearing if the zoning ordinance impacts property within 500 feet of:
  - A housing authority – written notice must be sent to the executive director of the authority and to the chief executive officer of the municipality providing financial assistance to the authority;
  - City, village or town boundaries – written notice must be provided to the clerk;
  - County boundary – written notice must be served upon the clerk of the board of supervisors or other person performing those duties; and
  - State park or parkway – written notice must be served upon the regional state park commission having jurisdiction over the state park.

*The town may also have adopted its own requirements regarding written notice to impacted properties not listed above – one should check their local code to confirm.

**Local Laws**

- Local laws are the highest form of legislation that the board can adopt – the gold medal, if you will.
- A local law is presumed valid in court and if a local law is challenged, the individual bringing the suit has the burden of proof in demonstrating that it is invalid.
- Local governments have the ability to adopt local laws through their home rule authority.

**Local Laws – Constraints**

- Local laws cannot be inconsistent with a general state law or with the New York State Constitution; general state laws and the constitution will generally always supersede a local law that contradicts it.
- Certain areas of the law are considered matters of state concern and only the state has the authority to legislate with regards to the issue.
  - Matters of state concern impact residents of the entire state versus just the residents of a specific locality, and include issues like taxation, highways and parks.
• Local governments are expressly prohibited from enacting laws where the state has preemption powers, as these issues are solely within control of the state. Some examples include the sale of alcoholic beverages, campaign financing, and penalties for the sale of drugs.
• Certain local laws may be subject to mandatory or permissive referendum requirements, meaning that they are not effective until approved by the voters (mandatory referendum) or until the timeline to file a petition has elapsed, or a petition is filed and a vote occurs approving the local law (permissive referendum).

Local Laws – Procedure

• To adopt a local law, it first has to be drafted and introduced. The local law should cover a single subject matter only.
• After the local law is introduced, it has be “aged” for certain number of days, which is dependent upon how the law is introduced. Aging a local law refers to the fact that a number of days have to elapse from the time the proposed local law is introduced to members of the legislative body and the day on which the legislative body can vote on the local law.
• There are two ways to introduce a local law: “on the desk,” which has a seven-day aging requirement, and via mail, which has a 10-day aging requirement. “On the desk” includes physical delivery to the board member or via electronic dropbox, while mailing includes sending via USPS or via email. In order to introduce a local law via email, three requirements must be met:
  1. It must be in PDF format;
  2. Each board member must have an email address published on the clerk’s website; and
  3. The town board has to have adopted a unanimous resolution authorizing introduction via email.
• The town is required to conduct a public hearing on the local law, notice of which must be published by the town clerk at least five days before the date of the hearing.
• After the public hearing, the town board may vote on the local law so long as no substantive changes have been made and the law has aged appropriately.
• After adoption, the local law must be filed with the secretary of state – if there is no effective date listed in the law, then it is effective once filed with the secretary of state.