

# **County Real Property: Purchases, Sales, Easements and Licenses**

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## **CHARTER vs. NON-CHARTER COUNTIES**

The difference between a charter county and a regular (non-charter) county comes down to how the county government is structured and governed.

New York State comprises 62 counties. Among these, 19 counties have adopted a charter. The remaining 43 counties (minus the 5 counties/boroughs comprising NYC) operate under the state's general County Law.

The following counties have established their own charters:

Albany, Broome, Chautauqua, Dutchess, Erie, Monroe, Nassau, Onondaga, Orange, Putnam, Rensselaer, Rockland, Schenectady, Suffolk, Tompkins, Ulster, Wayne, Westchester, and Oneida

The remaining 43 counties (generally the smaller, upstate ones) operate under New York State's general County Law. They typically have a Board of Supervisors or County Legislature and follow state-prescribed structures with limited autonomy.

### **A. Charter County**

A charter county operates under a home rule charter that is adopted by the county itself. This charter acts like a local constitution and allows the county more flexibility on how it structures its government. See NYS Municipal Home Rule Law, Article 1, Section 2

Key characteristics:

Custom Government Structure: The county can create positions like a county executive, legislature, or departments with powers that may differ from those set by state law.

More Local Control: Charter counties can legislate local matters more freely, provided they don't conflict with the New York State Constitution or general laws. See NYS Municipal Home Rule Law, Article 4, Part 1, The County Charter Law

Voter Approval: A charter must be approved by the county's voters via a referendum. This is an exception to the general prohibition in New York State against public referendums. See Local Government Handbook, Chapter X Citizen Participation and Involvement, Referenda, pg. 4, New York State Department of State, 5th addition, January 2000

Examples of charter counties in New York: Erie, Monroe, Nassau, Suffolk, and Westchester.

### **B. Regular (Non-Charter) County**

A regular county (also called a general law county) is governed by state law rather than its own charter.

Standard Structure: These counties follow the default structure set by New York State, usually governed by a Board of Supervisors or a county Legislature, with a county manager or administrative officer. NYS County Law, Article 4 (Board of Supervisors), Section 153,

Less Flexibility: They must operate within the framework of state legislation and have less leeway to reorganize or customize their governance.

Examples of non-charter counties in New York: Delaware, Otsego, and Schuyler counties.

*Key differences:*

Charter counties have a custom local constitution, more control over local structure and policy.

Regular counties follow state-set structure, less flexibility.

*Comparing a charter county and a regular county:*

### **1. County Executive vs. Board of Supervisors**

Charter:

- (a) Has a County Executive (an elected official) who acts like a “mayor” for the county — overseeing departments, preparing budgets, and implementing policy. NYS Municipal Home Rule Law, Article 4, Part 1, Section 33,
- (b) Has separate County Legislature to pass laws.

Regular:

- (a) Governed by a Board of Supervisors, where each town supervisor sits on the board. *See NYS County Law, Article 4 Board of Supervisors, Section 153*
- (b) No separate executive — the board collectively handles legislative and executive functions and hires a county manager or administrator if needed. *See Local Government Handbook, Chapter V County Government, pg. 8, New York State Department of State, 5th Addition, Jan. 2000*

In a charter county, power is centralized around an executive. In a regular county, it’s decentralized, and decisions require board consensus.

**2. Home Rule & Lawmaking Power** *See generally Article 2 General Powers of Local Governments to Adopt and Amend Local Laws; Restrictions, Section 10*

Charter:

Can pass local laws on a wider range of issues — such as ethics codes, consumer protection, and administrative restructuring — without needing state approval.

Regular:

Must follow general state laws more closely and may need state approval for some changes (like changing certain departmental structures).

**3. Department Structure and Services**

Charter:

- (a) The charter allows for a more complex departmental structure — e.g., dedicated departments for Planning, Transportation, and Public Safety. Article 2 General Powers of Local Governments to Adopt and Amend Local Laws; Restrictions, Section 10 (1)(ii)[a]
- (b) Services like public transit, affordable housing, and health initiatives are robust and locally managed.

Regular:

- (a) Has fewer departments and relies more on state-run services or shared services with towns.
- (b) Public transit is limited or nonexistent, and services like housing assistance are managed through simpler or state channels.

**4. Taxes and Budgeting**

Charter:

- (a) The County Executive prepares the budget and can push for initiatives like infrastructure projects, affordable housing programs, public transit, youth programs or expanded social and mental health services.
- (b) Can implement local tax policies within limits — e.g., hotel occupancy taxes, surcharges for specific services. Article 2 General Powers of Local Governments to Adopt and Amend Local Laws; Restrictions, Section 10 (1)(ii)[a]
- (c) Larger tax base due to high population and property values, allowing for more extensive services.

Regular:

- (a) The Board of Supervisors collaborates to create a consensus-based budget.
- (b) Fewer options to impose specialized taxes without state permission.

- (c) Smaller tax base provides for tighter budgets, fewer services with limited public transportation, fewer county-funded social programs, and reliance on nonprofits or the state for social services.

**5. Zoning and Land Use** (see *generally* Statute of Local Governments, Article 2, Section 10 Grants of Power to Local Governments)

Charter:

- (a) Has a Department of Planning and regional oversight of land use.
- (b) Charter allows county to coordinate with towns and cities on zoning, affordable housing, and infrastructure.
- (c) Has a County Planning Board that reviews major developments under General Municipal Law.
- (d) Can challenge local zoning if it undermines regional goals (e.g., exclusionary zoning).

Regular:

- (a) Zoning is handled almost entirely by individual towns, not the county.
- (b) The county has little control over how land is used town-to-town.
- (c) As a result, regional planning is more difficult, and planning is more piecemeal.

**6. Emergency Management Response and Services**

Charter:

- (a) Has the ability for a centralized Department of Emergency Services and countywide coordination for police, fire, EMS, and disaster response.
- (b) Can operate specialized units (e.g., Hazardous Materials, bomb squad) and emergency communications centers.
- (c) Can coordinate across multiple municipalities quickly.

Regular:

- (a) No centralized command — emergency response is decentralized, handled by local town/village fire departments, many of which are volunteer-based.
- (b) County involvement is supportive, not centralized.
- (c) Coordination during large-scale disasters depends on mutual aid and state assistance.

## **7. Purchasing/Procurement**

### **Charter:**

- (a) In purchasing, a charter county can adopt local laws that modify or override certain state rules on procurement procedures, such as thresholds for bidding, purchasing methods, or approval processes, provided they stay within the overall framework of state constitutional and statutory requirements.
- (b) Charter counties could create a centralized purchasing department, authorize different bidding thresholds, or streamline contract approval in ways that non-charter counties generally cannot without specific state legislation.

### **Regular:**

A non-charter county does not have a local constitution. It must follow the default rules in New York's County Law and General Municipal Law.

- (a) Purchasing procedures, like bidding requirements for goods and services over certain dollar amounts (e.g., competitive bidding for purchases over \$20,000), must be strictly followed as set by state statutes.
- (b) Regular counties have less flexibility and cannot generally adopt local laws that alter these procedures without special authority granted by the state legislature.