

## What is the Date of the Postponed Village Elections?

On Monday, March 30th, Governor Cuomo issued Executive Order 202.13, which postponed village elections scheduled to be conducted in April and May of 2020. The order provides in relevant part:

Any school board, library board, or village election scheduled to take place in April or May of 2020 is hereby postponed until at least June 1, 2020, and subject to further directive as to the timing, location or manner of voting for such elections.

The Executive Order does not expressly establish the date of the postponed village elections. NYCOM is working with the Governor's Office and the State Board of Elections to answer questions and formulate a plan for rescheduling and conducting the postponed village elections.

Based on the input we are receiving from our March election villages, NYCOM has requested that the Governor reschedule the postponed village elections for June 16th (which is the date for this year's regularly scheduled June village elections). Holding the postponed village elections on June 16th would avoid numerous complications associated with holding the village elections on June 23rd, the same day as the presidential and state primaries.

Additionally, while the Executive Order does not expressly reference referenda, NYCOM is of the opinion that EO 202.13 includes referenda as well.

## Absentee Ballots for the March 18, 2020 Election

Village clerks have a lot of questions regarding the handling of absentee ballots that have already been submitted for the postponed March, April, and May village elections and are asking how to proceed with preparing and providing new absentee ballots for the postponed elections. While the village clerk may continue to accept absentee ballot applications, the **village clerk should not print or provide additional absentee ballots to voters at this time**. Village clerks should secure and preserve all village election materials from the March 18, 2020 election, including all returned absentee ballots and absentee ballot applications.

NYCOM is consulting with the State Board of Elections and is in the process of preparing additional guidance on this issue.

[May voters apply for absentee ballots electronically \(e.g., email or online portal\)?](#)

No. Electronic absentee ballot applications are not authorized under the Election Law, nor has any Executive Order been issued to permit the electronic submission of an absentee ballot application for an election held after April 1, 2020.

[Will absentee ballots that were returned to the village prior to the originally scheduled date of the village election be canvassed at the postponed election?](#)

Absent a Governor's Executive Order or a new State law providing otherwise, all absentee ballots received by the close of the polls on the eventually scheduled Election Day, including absentee ballots that were returned to the village clerk on or before March 18, 2020, or that are returned to the clerk on or before the eventually scheduled Election Day, must be delivered to the election inspectors on Election Day. The election inspectors will determine whether the voter is a qualified voter for the village election and will canvass the ballot accordingly.

## FAQs – Postponement of Village Elections by Executive Orders 202.4 & 202.13

If an individual requested an absentee ballot for a postponed village election and has already cast that ballot by delivering it to the village, do they need to apply for a new absentee ballot?

No, if an individual already cast an absentee ballot, that ballot should be preserved and provided to the election inspectors on the eventually scheduled Election Day.

### Election Day Ballots

Much like absentee ballots, there are a lot of questions relating to the ballots used on Election Day and whether the village clerk will need to prepare new ballots to reflect the new date of the village election. Again, NYCOM is consulting with the State Board of Elections and is in the process of preparing additional guidance on this issue, but NYCOM staff is **currently recommending to village clerks to delay printing any new ballots at this time**. All printed ballots, records, and materials related to the village election should be maintained in a secure manner. We will provide more detailed guidance as soon as possible.

### Notice of the Election

Once the postponed elections are rescheduled, village clerks will need to publish and post the new Election Day information in accordance with Election Law § 15-104, which requires the village clerk to publish notice setting for the (1) polling place in each district, (2) hours during which the polls are open (at least 12:00 noon to 9:00 p.m.), (3) names and addresses of candidates, offices, and term nominated for, and (4) abstract of any proposition, at least 10 days prior to the election. Additionally, notice must also be posted in six (6) conspicuous places in the village and at each polling place at least one (1) day before the election.

### Voter Registration

Questions regarding voter registration and whether prospective voters may register now for the rescheduled village election remain unanswered. However, all poll books and voter registration records from postponed election must be secured and preserved.

### The Rescheduled Election Day

As stated previously, village elections that were postponed have yet to be rescheduled. NYCOM will update villages as to the rescheduled date of the village election as soon as possible.

Will the rescheduled village elections still be conducted by the villages?

Yes. No legislative action nor Executive Order has changed who will conduct of village elections. Consequently, barring legislation or an Executive Order to the contrary, villages that were scheduled to conduct their own elections will conducted the rescheduled village election. If a village had previously turned the running of its elections over to the county, the rescheduled village election will also be run by the county, unless legislation or an Executive Order provides otherwise.

## Election Inspectors

Is it necessary to adopt a new resolution appointing the election inspectors who were already appointed to serve during the March 18th elections?

Pursuant to Village Law § 3-302, the appointment of public officers whose terms are not specifically established by statute defaults to a one-year appointment. Consequently, duly appointed election inspectors do not need to be reappointed for the rescheduled Election Day. However, all appointed officers must file their oaths of office within 30 days of their appointment. If the election inspectors failed to file their oaths, reappointment will be necessary.

What if the election inspectors are not available on the rescheduled Election Day?

Once the village elections are officially rescheduled, village boards of trustees should determine if the previously appointed are able and willing to serve on the rescheduled Election Day. Villages may need to appoint new election inspectors to serve on the reschedule Election day.

In addition, in order to deal with potential last-minute cancellations by the appointed election inspectors, the village board of trustees may consider appointing “additional election inspectors.” See Election Law § 3-406. Note that the provisions of Election Law § 3-406 do not perfectly align with the structure of village conducted elections. Nonetheless, villages may rely on the authority of Section 3-406 to use “additional election inspectors.”

If necessary, villages may consider appointing village employees as “additional election inspectors” to serve if election inspectors fail to appear on election day. Such individuals would have to take a day off from their village position to serve as an inspector on Election Day. Additionally, all inspectors, including additional election inspectors, are public officers and must file an oath of office prior to executing their official duties.

May the clerk appoint additional election inspectors?

If an election inspector is absent the day of the election, the clerk may direct an “additional election inspector” to act in place of the absent election inspector. Such individuals must file the oath of office before executing their duties.

## Official Year & Organizational Meeting

Does the village’s official year change because of the postponement of the village election?

No. Pursuant to Village Law § 3-302, the official year begins on noon on the first Monday in the month following the date that the village election would have been held. Consequently, for villages whose elections were scheduled for March 18, 2020, the official year will begin at noon on April 6, 2020.

Is the organizational meeting changed?

NYCOM recommends that the organizational meeting and the appointment of appointed officials (e.g., the clerk, treasurer, deputy-clerk, deputy-treasurer, etc.) should be delayed until after a postponed village election is conducted, as the spirit of the law is to afford the newly

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elected mayors and boards of trustees the ability to conduct the organizational meeting and to make such appointments.

### Are current village officials in hold over?

Per Public Officers Law § 5, individuals whose terms of office are set to expire at noon on Monday, April 6<sup>th</sup> (both elected and appointed officials) will continue as holdovers in office until their successors are duly chosen and qualified. While Public Officers Law § 5 does not ordinarily apply to judicial officers, Executive Order 202.4 stated that village justices will also continue in office. Individuals who are elected at a postponed election is held may take office as soon as the election results are certified. While there is no specific deadline for certifying the results of the election, once the time has passed to request a re-canvass (two days after the election), villages may consider their election results certified.

### May a village change its polling place for the postponed election?

Villages may change their polling place for a postponed election. Note that, depending upon when the postponed elections are rescheduled to, the county board of elections may already be scheduled to use the polling place the village was scheduled to use on March 18, 2020.

### If the March 18<sup>th</sup> village elections are rescheduled to the same day as the Presidential Primary and the State and federal primaries (June 23, 2020), will the village elections be allowed to be placed on the county ballots?

Pursuant to Article 15 of the NYS Election Law, there is a specific procedure for having a county board of elections run a village election. However, that procedure would not work for turning the running of village elections over to the county to run on short notice. Note, however, that NYCOM is awaiting guidance from the Governor's Office since it was indicated in the most recent Order that further information regarding the timing, location, and manner of the elections would be forthcoming. Based on input we are receiving from our March election villages, and as a way to avoid the complications of holding the election on the same day as the June 23rd presidential and state primaries, NYCOM has requested that the Governor reschedule the postponed village elections for June 16th (which is the statutory date for this year's regularly scheduled June village elections).