

LOCAL LAW INTRODUCTION NO. 4- 2010

**TOWN OF AMHERST
COUNTY OF ERIE, STATE OF NEW YORK**

**A LOCAL LAW TO REPEAL CHAPTER 4 OF THE CODE OF THE TOWN OF
AMHERST ENACTED BY LOCAL LAW NO. 7-1976, AS AMENDED AND TO ENACT
A NEW CHAPTER 4 OF THE CODE OF THE TOWN OF AMHERST
“ADMINISTRATION OF GOVERNMENT”**

Be it enacted by the Town Board of the Town of Amherst as follows:

Section 1. Repeal of Prior Local Law

Local Law Introduction No. 2-2010, A Local Law entitled “A Local Law To Repeal Chapter 4 Of The Code Of The Town Of Amherst Enacted By Local Law No. 7-1976, As Amended And To Enact A New Chapter 4 Of The Code Of The Town Of Amherst, “Administration Of Government,” adopted by the Town Board on April 12, 2010, is hereby repealed. A New Local Law is enacted as follows:

Section 2.

This Local Law shall be referred to as “Administration of Government.”

Section 3.

Chapter 4 of the Code of the Town of Amherst adopted by the Town as Local Law No. 7-1976 and as amended by Local Law No. 6-2006 and Local Law No. 5-2007 is hereby repealed and a new Chapter 4 Administration of Government is enacted as follows:

ARTICLE I, General Provisions

§ 4-1. Legislative findings and intent.

A. The Town Board finds and declares that the traditional structure of Town government designed primarily for rural areas many years ago is no longer suitable for the Town of Amherst. This has been caused by rapid population growth, urban expansion and the attendant increase in the demand for urban services, plus the complexity and scale of both administrative and fiscal burdens on the Town government.

B. Under the traditional structure of town government, executive and administrative responsibilities are allocated among and in many cases shared by a variety of elective and appointive officials.

C. The traditional system by which committees of a Town Board and the Supervisor assume responsibilities for and at times undertake the performance of routine administrative tasks has resulted in a diffusion of command and on occasions conflicting directives to subordinate officers and employees, causing diffusion of accountability, diminution of morale of the town's work force,

impairment of management and operational efficiency and a waste of the town's resources.

D. The intent of this chapter is to provide an executive branch, separate from the legislative body. A concomitant objective of this chapter is to enhance the capacity of the Town Board to perform its legislative functions, principally by relieving its committees of administrative duties so as to enable it to devote its resources to the demanding tasks of formulating legislative policies, while at the same time retaining and facilitating the Town Board's function of legislative oversight of the activities of the executive branch.

E. It is the intent of the Town Board, pursuant to the authority granted to towns by §10-d(3) of the New York State Municipal Home Rule Law to supersede such portion of New York State Town Law §20-1(a); 2(a) and 3(b),(e) that may be inconsistent with regard to the establishment and organization of branches, departments and divisions as stated in this section and fully set forth in §§ 4-4, 4-5, 4-6, 4-8, 4-9 and 4-12-14 of this Chapter.

F. It is the intent of the Town Board pursuant to the authority granted to towns by §10-d(3) of the New York State Municipal Home Rule Law to transfer certain powers to appoint, remove, suspend or fill vacancies of Town Officials and employees from the Town Board and other authorities to the Supervisor.

G. To the extent that §4-7 and §4-10 of Article III, Chapter 4 of this Local Law regarding the power to appoint, remove, suspend or fill vacancies within the executive branch, is inconsistent with the following enumerated New York State Statutes, it is intended that this local law shall supersede those Statutes.

Town Law §150 regarding the authority to appoint the Chief of Police, Officers and Patrolmen.

Town Law §20-1(a) regarding the authority to appoint the Town Engineer and Assessor.

Town Law §20-2(a) regarding the authority to appoint Deputies in the Office of the Town Engineer.

Town Law §20-3(e) regarding the authority to appoint the Director of Purchasing.

Town Law §20-1(a) regarding the authority to appoint all other officers and employees in the executive branch.

Real Property Tax Law §310-1 regarding the authority to appoint the Assessor.

General Municipal Law §242 regarding the authority to appoint Recreation Directors, Leaders, Supervisors, Secretaries, Superintendents or other such officers or employees in the Recreation Department.

Town Law §64-5 regarding the authority to appoint persons to fill vacancies in appointive offices that are in the executive branch.

§ 4-2. Title.

This chapter shall be known and may be cited as the "Amherst Government Organization Law."

§ 4-3. Definitions.

As used in this chapter, the following terms shall have the following meanings, unless otherwise indicated by the context:

CENTRAL MANAGEMENT DEPARTMENT -- One of the departments so designated in § 4-12.

DEPARTMENT -- A separate unit of town government so designated by this chapter or any other local law.

DEPARTMENT HEAD, DIVISION HEAD (and cognate terms) -- The offices or positions described in § 4-5.

DIVISION -- A subordinate unit within a department.

FUNCTIONS -- Includes powers and duties.

LEGISLATURE -- The legislature of the State of New York.

SPECIAL AGENCY -- A board, commission, committee, council, bureau, officer or other agency described or listed in § 4-4D.

SUPERVISOR -- The Supervisor of the town.

TOWN -- The Town of Amherst, Erie County.

TOWN BOARD -- Includes the Town Councilmen/Councilwomen and the Supervisor, constituting the Town Board of the town.

ARTICLE II, Establishment of Branches, Departments and Divisions

§ 4-4. Branches established.

The government of the Town shall comprise four branches, as follows:

- A. The executive branch shall consist of:

- (1) The Supervisor, except to the extent he/she performs legislative or other functions as a member of the Town Board.
- (2) The Engineering Department, Police Department, Assessment Department, Building Department, Senior Citizens' Department, Recreation Department, Museum Department, Youth Department, Refuse Control, Purchasing Department, Information Technology Department and Emergency Services Department.
- (3) The central management departments created by this chapter.
- (4) Any other departments heretofore existing or hereafter created and designated by this chapter or any other local law or by resolution of the Town Board as being part of the executive branch.
- (5) All other offices or agencies of the Town government performing executive or administrative functions, except those expressly included within the legislative, judicial or special agencies branches.

B. The legislative branch shall consist of the Town Board and any officers or employees designated under this chapter or any other law to serve the Town Board in the performance of its legislative functions other than those officers or employees expressly included in the special agencies branch.

C. The judicial branch shall consist of:

- (1) The Town Justices.
- (2) The Clerk of the Town Justice Court.
- (3) The civil officers.
- (4) The Traffic Violations Bureau.
- (5) Any other officers or employees appointed under an act of the legislature or a local law to assist in the performance of the functions of the Town Justices or perform other functions assigned to the judicial branch.

D. The special agencies branch shall consist of boards, commissions, committees, councils, bureaus, officers or other agencies of the Town which, by reason of the nature of their functions or responsibilities, their elective or statutory status, enjoy a special measure of autonomy from the supervision of the Town Board, Supervisor or Town Justices. The special agencies branch shall include the following, together with their subordinate units, officers and employees:

- (1) The Town Clerk.
- (2) The Town Superintendent of Highways.

- (3) The Board of Assessment Review.
- (4) The Town Comptroller.
- (5) The Town Attorney.
- (6) The Zoning Board of Appeals.
- (7) The Planning Board.
- (8) The Traffic and Safety Board.
- (9) The Recreation Commission.
- (10) The Town of Amherst Youth Bureau.
- (11) The Narcotics Guidance Council.
- (12) The Citizens' Industrial Advisory Committee.
- (13) The Conservation Advisory Council.
- (14) The Senior Citizens' Advisory Council.
- (15) The Town of Amherst Industrial Development Agency.
- (16) The Old Amherst Colony Museum Park Board of Regents Trustees.
- (17) The Board of Trustees of the Town Library.
- (18) The Board of Plumbing and Drainage examiners.
- (19) The Board of Electrical Examiners.
- (20) Industrial and Commercial Incentive Board.
- (21) Such other boards, commissions, committees, councils, bureaus, officers or other agencies previously or hereafter established which shall be designated by local law, ordinance or resolution of the Town Board as belonging to the special agencies branch.

§ 4-5. Creation and modification of departments and divisions.

A. In addition to the central management departments created under Article IV, the Town Board may, by local law, create separate departments within any of the branches of

town government for the performance of particular functions. The Town Board may, by local law, modify, consolidate or abolish departments and reassign their functions.

B. Except as otherwise provided by § 4-6, the Town Board may, by local law or resolution, create divisions within any department and may modify, consolidate or abolish such divisions and reassign their functions; provided, however, that any such modification, consolidation or abolition shall be by local law if it affects a division or divisions established by local law.

C. The divisions may be designated as such or as "bureaus" or "sections" or by any other appropriate terms, as approved by the Town Board.

ARTICLE III, Organization of Executive Branch; Powers of Supervisor

§ 4-6. Internal organization of departments.

Except as otherwise provided by this chapter or any other local law, the Supervisor shall be responsible for the internal organization of the departments within the executive branch and, for the purpose of discharging such responsibility, shall have the following powers:

A. Subject to the approval of the Town Board, the Supervisor may establish a division or divisions within any of the departments in the executive branch to perform particular functions. The divisions may be designated as such or as bureaus or sections or by any other appropriate terms, selected by the Supervisor.

B. Subject to the approval of the Town Board, the Supervisor may modify, consolidate or abolish any such divisions or transfer functions from one such division to another within the executive branch.

§ 4-7. Appointment of department and division heads.

A. Except as otherwise provided by this chapter, and subject to confirmation by the Town Board, the Supervisor shall appoint the following:

- (1) A department head to serve as the principal executive officer of each department within the executive branch.
- (2) A deputy department head who shall have the power to act generally for and in place of such department head.
- (3) Such divisional heads as the Supervisor may deem necessary to direct the activities of particular divisions within any such department, subject to the overall supervision of the department head.

B. A department head or deputy department head may be designated and appointed as a divisional head.

C. Department heads, deputy heads and divisional heads may be appointed to offices or positions specifically created by local law for the performance of the functions described in this section or may be persons holding other offices or positions who are designated by appointment under this section to perform such functions in addition to their regular duties.

D. Department heads, deputy department heads or divisional heads may be known by the title of "Director," "Commissioner," "Chairperson" or such other appropriate title as may be designated by an act of the Legislature or by local law.

§ 4-8. Responsibilities of department heads.

The head of each department within the executive branch shall be its principal executive officer, who shall be responsible to the Supervisor for the execution of town policies applicable to the functions of the department. The department head shall have all the powers and duties conferred upon him by acts of the Legislature, by local laws, ordinances or resolutions of the Town Board or by delegation from the Supervisor. The department head shall; consult regularly with the Supervisor on all matters of policy affecting the department and in its relationship to other departments or agencies; the department head shall be responsible for the performance of all duties and functions of the department within the limitations of appropriations or other resources available to the department; the department head shall furnish the Supervisor with such reports, surveys, recommendations and other information as may be requested by the Supervisor or otherwise required by law.

§ 4-9. Executive functions of the Supervisor.

The Supervisor shall be the chief executive officer of the town and administrative head of the executive branch, and shall be responsible for the proper administration of town affairs, law enforcement and the maintenance of peace and order in the town. The Supervisor shall have such powers and perform such functions and duties as shall be vested in that office by this chapter or any other local law or by act of the Legislature.

§ 4-10. Powers of appointment, removal and suspension.

A. (1) The Supervisor shall appoint all officers and employees, and fill all vacant offices and positions within the executive branch. All appointments by the Supervisor of officers or employees within the executive branch, other than Assistant to the Supervisor, shall be subject to confirmation by the Town Board.

(2) If the Town Board fails to confirm or reject an appointment within the executive branch made by the Supervisor within sixty (60) days after the Supervisor has made the appointment, the appointment shall be deemed confirmed by the Town Board.

B. If the Supervisor shall fail to appoint, provisionally or otherwise, an officer or employee other than Assistant to the Supervisor to a vacant office or position in the executive branch within sixty (60) days after the vacancy occurs, the Town Board shall have the

authority to fill that office or position. The Town Board may for good cause, extend the time within which the Supervisor may make an appointment to said vacancy.

- C. Subject to the Civil Service Law and any other applicable laws or Collective Bargaining Agreements, all officers and employees in the executive branch shall serve at the pleasure of and may be removed or suspended by the Supervisor.

§ 4-11. Assistant to the Supervisor.

The position of Assistant to the Supervisor, heretofore established, is continued. The Assistant to the Supervisor shall perform such administrative functions as may be appropriately assigned by the Supervisor. The Assistant to the Supervisor may not act for or on behalf of the Supervisor in the Supervisor's capacity as a member of the Town Board, either as a Deputy Supervisor appointed under § 42 of the Town Law or otherwise.

ARTICLE IV, Central Management Departments

§ 4-12. Designation of departments.

The following are designated and shall function as central management departments:

- A. The Human Resources Department.
- B. The Planning Department.

§ 4-13. Human Resources Department.

- A. The Human Resources Department shall:
 - (1) Be responsible for coordinating the personnel activities of the Town.
 - (2) Assist in the preparation, negotiation, execution and administration of contractual agreements between the Town and employee organizations.
 - (3) Provide advisory services to management and supervisory staffs of the various Town departments regarding such matters as staffing needs, position classification, job evaluation, disciplinary problems, training and employee relations.
 - (4) Maintain personnel roster records and employee files, classification and salary plans and other personnel records and documents.

- (5) Assume responsibilities for the Town in regard to various personnel fringe benefits, such as retirement, health insurance, workmen's compensation and unemployment insurance claims.

B. The Human Resources Director shall serve as head of the Human Resources Department.

§ 4-14. Planning Department.

A. The Planning Department shall:

- (1) Assist in the formation of development policies and help coordinate the total governmental planning efforts of the Town.
- (2) Provide planning services to the Planning Board, the Town Board, the Supervisor and other departments of the Town.
- (3) Assist in the analysis and review of proposed changes in the Comprehensive Plan, Zoning Ordinance and Zoning Map of proposed subdivision developments, site plan approval submissions and street abandonment.
- (4) Through the making of studies or provision of design or other technical services, assist in overall capital improvement planning and in the planning for particular Town or special district works or facilities.
- (5) Provide services to the Zoning Board of Appeals when requested.
- (6) Provide administration of Community Development Block Grant and HOME funds.
- (7) Provide Support for such other public services as directed by the Town Board.
- (8) Subject to direction by the Supervisor, serve as liaison with state, regional, county or other governmental agencies concerned with planning, development or environmental protection.
- (9) Performed such other services as required by Planning Board or Town Board.

B. The Planning Director shall serve as head of the Planning Department.

ARTICLE V, Construction; Severability; Supercession; Effective Date

§ 4-15. Construction.

No provision of this chapter shall be construed as altering or in any manner impairing the status, rights or privileges of any present officer or employee of the Town, except to the extent that functions are transferred to the Supervisor.

§ 4-16. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 4-17. Authority

This Local Law is adopted pursuant to the authority granted to towns by §10 of the Municipal Home Rule Law to adopt local laws with respect to their property, affairs or government. To the extent that this Local Law is inconsistent with any of the provisions of the Town Law or any other general law of the State of New York, this Local Law shall supersede said State Statute.

Section 4. Effective Date

This Local Law shall take effect upon the affirmative vote of a majority of qualified electors voting thereon at the General Election to be held on November 2, 2010, and upon filing in the Office of the Secretary of State of New York in accordance with the Municipal Home Rule Law and the Code of the Town of Amherst.

**Deborah Bruch Bucki
Town Clerk
Town of Amherst
Erie County, New York**