

NOTICE OF ADOPTION OF RESOLUTION

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Babylon, County of Suffolk, State of New York, at a regular meeting thereof held on the 1st day of September 2021 duly adopted a resolution adopting Local Law No. 7 of 2021, an abstract of which is as follows:

**RESOLUTION NO. 588 SEPTEMBER 1, 2021
ADOPTING A LOCAL LAW OF 2021 AMENDING CHAPTER 15 OF THE BABYLON TOWN CODE (DEPARTMENT OF PUBLIC SAFETY ENFORCEMENT)**

WHEREAS, the Town Board of the Town of Babylon having duly called and held a Public Hearing at Babylon Old Town Hall, 47 W Main Street, Babylon, on the 4th day of August, 2021 upon the question of enactment of a Local Law of 2021 of the Town of Babylon, Suffolk County, New York, being a Local Law amending the Code of the Town of Babylon, Chapter 15 (Department of Public Safety Enforcement);

WHEREAS; In accordance with Part 617.5 (c.) (26), State Environmental Quality Review (SEQR), the adoption of this Local Law is classified a Type II Action and not subject to environmental review under SEQR; and

NOW, THEREFORE, be it

RESOLVED AND ORDAINED, by the Town Board of the Town of Babylon that Local Law No. 7 of 2021, of the Town of Babylon, Suffolk County, New York, is hereby enacted as follows and effective upon its filing with the New York State Department of State:

**LOCAL LAW NO. 7 of 2021
AMENDING THE CODE OF THE TOWN OF BABYLON, CHAPTER 15**

Section 1. **ADD** as follows:

CHAPTER 15
DEPARTMENT OF PUBLIC SAFETY ENFORCEMENT

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§ 15-1. Title.

This chapter shall be known as the "Establishment of a Department of Public Safety Enforcement."

§ 15-2. Definitions; word usage.

A. Word usage. Whenever used in this chapter, words used in the singular include the plural and vice versa.

B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

CHIEF DEPUTY COMMISSIONER – The Chief Deputy Commissioner of the Town of Babylon Department of Public Safety Enforcement, who shall act for and in place of the Commissioner.

COMMISSIONER — The Commissioner of the Town of Babylon Department of Public Safety Enforcement, who shall be the chief executive officer of the Department.

DEPARTMENT — The Town of Babylon Department of Public Safety Enforcement, which shall perform a major function of Town government.

DEPUTY COMMISSIONER — The Deputy Commissioner of the Town of Babylon Department of Public Safety Enforcement, who shall act for and in place of the Commissioner.

§ 15-3. Establishment.

A. There shall be in the Town of Babylon a Department of Public Safety Enforcement. The principal executive officer and administrative head of such Department shall be the Commissioner, who shall be appointed by the Town Board for the term fixed by law, at such salary as may from time to time be fixed by said Town Board. The Commissioner shall be appointed on the basis of his administrative experience and qualification for the duties of such office and such additional standards as may be required by the Town Board. The Commissioner shall be the head of the Department, with the power and authority to appoint and remove officers and employees under his jurisdiction in accordance with the Civil Service Law and other applicable laws.

B. The Commissioner is empowered herein to appoint a Chief Deputy Commissioner and a Deputy Commissioner who shall generally act for and in his behalf and who shall perform such duties as are vested in and imposed upon that office by the provisions of this chapter, by statute or by other lawful authority. In the absence of the Commissioner, the Chief Deputy Commissioner shall act as the chief executive officer of the Department. In the absence of the Commissioner and Chief Deputy

Commissioner, the Deputy Commissioner shall act as the chief executive officer of the Department. The Commissioner shall be authorized to modify the divisions, assignments and the responsibilities of the Chief Deputy Commissioner and Deputy Commissioner as he shall deem necessary.

- C. The Commissioner is also empowered herein to appoint an executive assistant for such administrative functions as may be assigned and to advise and aid the Commissioner in the planning and coordination of projects and policies of the Department.
- D. The Commissioner is also empowered herein to appoint a secretary who shall perform such duties, functions and assignments as are proper and necessary in executing the administrative and clerical obligations and needs of the Commissioner and the Department.
- E. Before entering upon the duties of his office, the Commissioner shall execute and file with the Town Clerk an official undertaking, if the same is required by the Town Board, in such form as approved by the Town Attorney.

§ 15-4. Organization.

- A. The Commissioner shall have such powers as shall be necessary for the proper administration of the Department consistent with applicable provisions of law.
- B. Until such time as the same may be either amended or modified, the Department shall be divided into the following five divisions:
 - (1) Division of Public Safety.
 - (2) Division of Emergency Management.
 - (3) Division of Fire Prevention.
 - (4) Division of Code Enforcement.
 - (5) Division of Park Rangers

§ 15-5. Powers and duties.

- A. The powers and duties of such divisions therein shall be under the administration, direction and control of the Commissioner, and each division shall be supervised by a person designated by the Commissioner in conformance with the Civil Service Law.
- B. The Commissioner may, with the approval of the Town Board, establish, consolidate or abolish any divisions or subdivisions not existing or hereafter created in the Department.
- C. Powers and duties of individual divisions.
 - (1) Division of Public Safety. Its powers and duties are to provide for the protection of Town property and of the health, safety and welfare of citizens using Town property maintained for public use, by the enforcement of the applicable provisions of the Code of the Town of Babylon. The guards shall be responsible for ensuring the safety and security of Town buildings, grounds, materials and equipment against fire, trespass, theft and other hazards. The Division of Public Safety shall, upon request of the Town Clerk or any other agency or department in the Town, review applications for permits or licenses issued pursuant to law. This Division shall investigate the facts and circumstances surrounding the proposed activity subject to licensing, verify the application and recommend to the Town Clerk the determination to be made with respect to such application. The investigations authorized by this subsection shall be conducted with respect to the following activities requiring licenses or permits:
 - i. Beach vehicle operation.
 - ii. Bingo operations.
 - iii. Amusement and carnival operations.
 - iv. Games of chance operations.
 - v. Junkyard operations.
 - vi. Parades and block parties.
 - vii. Hawking and peddling.
 - viii. Tow truck operation.

- ix. Video game licenses.
- x. Taxi licenses.
- xi. Carting.

- (2) The Division of Emergency Management. Its powers and duties are to coordinate the town's response to natural and man-made disasters. Division personnel are responsible for the development of the a comprehensive emergency management plan, and work with local, county, state, and federal officials in all aspects of planning, resource management, and emergency response and recovery activities.
 - (3) Division of Fire Prevention. Its powers and duties are set forth in Chapter 123 of the Code of the Town of Babylon. The Division of Fire Prevention shall have charge and supervision of the administration and enforcement of Chapter 123 of the Code of the Town of Babylon relating to fire prevention. The Fire Marshals shall also be responsible to issue such permits and collect such fees as required in said chapter. Fire Marshal are also hereby authorized to issue appearance tickets and summonses for violations of the Code of the Town of Babylon and the New York State Building Code, Residential Code, Fire Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Property Maintenance Code and Energy Conservation Code. Fire Marshals are further authorized to issue uniform appearance tickets and simplified informations pursuant to Article 71 of the Environmental Conservation Law and simplified traffic informations pursuant to Criminal Procedure Law § 100.25 and shall have other powers of peace officers in accordance with § 2.10, Subdivision 62, of the Criminal Procedure Law, § 2.20 of the Criminal Procedure Law, and such other powers as may be authorized by law.
 - (4) Division of Code Enforcement. Its powers and duties are to investigate all alleged violations of the Code of the Town of Babylon or, to such end, applicable state codes, laws, rules and regulations. The Commissioner may employ such investigators, zoning inspectors, ordinance inspectors, sign inspectors, fire marshals or any other personnel as may be required to effectuate the same, within budgetary limits set by the Town Board. The Division shall be responsible for the enforcement of all violations of the aforesaid codes, laws, rules and regulations and/or obtaining compliance with the same. Persons in said Division designated by the Commissioner in conformance with the Civil Service Law may issue notices of violation, appearance tickets, summonses or any other notices as permissible by law. Nothing herein shall be construed to limit any other power of the Commissioner as provided by the Code of the Town of Babylon or any other applicable law, rule or regulation.
 - (5) Division of Park Rangers. This Division of Park Rangers shall be composed of individuals with peace officer training and status entrusted with the responsibility to maintain the peace and good order of our community including in all parks, beaches other recreational spaces and upon all other Town owned property. It shall be the responsibility of all Park Rangers to actively patrol in marked or unmarked vehicles and enforce all federal, state and local laws to accomplish their mission. They will work closely with all public safety divisions and other code enforcement personnel as and where deployed by the Commissioner. Park Rangers, designated peace officers in accordance with § 2.10, Subdivision 9, of the Criminal Procedure Law, shall exercise the powers of peace officer and such other powers as may be authorized by law.
- D. In cooperation with the Town Attorney, the Department shall assist in preparation, investigation, trial and enforcement of all litigation instituted by or against the Town in all courts as well as the prosecution of violations of applicable state codes, Town codes and local laws and the enforcement of any and all civil or criminal judgments.

§ 15-6. Residency requirements.

- A. Legislative intent. The purpose and intent of this section is to establish residency requirements for certain appointed Town officers of the Town of Babylon who are appointed to positions of Park Ranger and Fire Marshal. In order to employ and maintain employment of quality appointed Town officers in these positions, the Town Board of the Town of Babylon has determined that residency of such Town officers within the State of New York would provide sufficient geographical boundaries within which to secure and maintain a pool of qualified appointed Town officers available to be appointed by the Town of Babylon as the needs for such appointments occur from time to time. The Town Board further finds and determines that limiting these appointed Town officers' residency to the Town of Babylon only is unduly restrictive and burdensome on the Town of Babylon in attempting to maintain and fill appointed Town officers vacancies as they occur within the specific positions stated above. Accordingly, the Town Board of the Town of Babylon adopts this section for the purposes of allowing the Town to employ and maintain employment of qualified appointed Town officers to the positions of Park Ranger and Fire Marshal to serve the Town of Babylon and its residents.
- B. Establishment of residency requirements for appointed Town officers. Notwithstanding the provisions of Subdivision 1 of § 23 of the Town Law of the State of New York, and notwithstanding the provisions of Subdivision 1 of § 3 of the Public Officers Law, and notwithstanding the provisions of Subdivision 1 of § 3-b of the Public Officers Law or Subdivision 1d of § 30 the Public Officer's Law, in the Town of Babylon, Suffolk County, New York, all persons appointed to the positions of Park Ranger and Fire Marshal shall reside within the State of New York.

C. Conflict with state statutes and authority to supersede. To the extent that any provisions of this section are in conflict or are construed as inconsistent with the provisions of the New York State Town Law or New York State Public Officers Law, this section supersedes, amends and takes precedence over New York State Town Law and New York State Public Officers Law pursuant to the Town's Municipal Home Rule powers pursuant to Municipal Home Rule Law §§ 10, Subdivisions 1(ii)d(3) and 1(ii)a(14), and 22 to supersede any inconsistent authority. In particular, this section supersedes any inconsistent provisions of Town Law § 23, Subdivision 1, which provides that every officer of the Town at the time of his election or appointment and throughout his term of office must be an elector of the Town. This section further supersedes any inconsistent provisions of Public Officer's Law § 3, Subdivision 1, which sets forth the qualification for holding public office and provides that to qualify a person must, at the time chosen, be at least 18 years of age, a citizen of the United States, a resident of the state and, in the case of a local office, a resident of the political subdivision for which he or she is appointed or within which the electors choosing him reside. It is the intent of this section to amend § 23, Subdivision 1, of the Town Law and § 3, Subdivision I, of the Public Officer's Law to the extent herein provided.

§ 15-7 Costs and expenses.

All costs and expenses incurred by the Department, or its officers or employees, on behalf of a special improvement district or special Town project shall be charged against each district or project and paid for from the funds fully apportioned for the purpose of such district or project.

§ 15-8. Effect on powers of Town Supervisor.

Nothing herein contained shall be construed to delegate or transfer any power of the Town Supervisor contained in § 29, 52 and 125 of the Town Law of the State of New York or any other powers which may be lawfully exercised by said Supervisor.

§ 15-9. Fees.

The Commissioner may establish a schedule of fees to be collected by the Department for any service rendered in connection with the work of this Department and for which the Commissioner deems it necessary to charge and collect a fee therefor.

§ 15-10. Repeal of local laws and Town Code provisions.

It is the intent and purpose of this Chapter to incorporate all the powers and duties set forth herein in the Department of Public Safety Enforcement. To the extent that any existing local law and Town Code provision is duplicative of any provision of this Chapter, or is inconsistent with any provision of this Chapter, said local law and Town Code provision are hereby repealed.

§ 15-11. Severability.

If any section, provision or part hereof in this chapter shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of the chapter as a whole or any section, provision or part thereof not so adjudged invalid or unconstitutional.

§ 15-12. When effective.

This chapter shall be effective when the appropriate certified copies are filed with the Secretary of State of the State of New York.

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Section 2. Severability.

If any clause, sentence, paragraph, subdivision, section, or other part of this local law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgement shall not affect, impair or invalidate the remainder of this local law, and it shall be construed to have been the legislative intent to enact this local law without such unconstitutional or invalid parts therein.

Section 3. Effective Date.

This local law shall take effect immediately upon filing in the Office of the Secretary of the State of New York.

Dated: September 1, 2021, Town of Babylon
BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON
GERALDINE COMPITELLO, TOWN CLERK