

Continuity of Local Government Local Law No.1, 1968

A Local Law to provide for the continuity of government of the Town of LaFayette, New York, in the event of an attack of public disaster.

Be it Enacted by the (Town Board of) the Town of LaFayette, New York as follows:

SECTION 1. Intent.

The New York State Defense Emergency Act, in Section Twenty- nine a thereof, authorizes political subdivisions of the state to provide for the continuity of their governments in the event of an actual or imminent attack upon the United States by an enemy or foreign nation. The General Municipal Law, in Section Sixty thereof, authorizes the political subdivisions to provide for the continuity of their governments in the event of other public disasters, catastrophes or emergencies. Based on the authority contained in such laws this Local Law is adopted so that on such occasions the government of the Town of LaFayette, New York, may continue to function properly and efficiently under emergency circumstances.

SECTION 2. Definitions.

As used in this Local Law the following terms shall mean and include:

- a. "Attack." Any attack, actual or imminent, or series of attacks by an enemy or foreign nation upon the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shell fire, or nuclear, radio-logical, chemical, bacteriological, or biological means or other weapons or processes.
- b. "Public disaster." A disaster, catastrophe or emergency, actual or imminent, of such unusual proportions or extent that (1) a substantial number of the residents of the Town of LaFayette either sustain injury, become ill, are infected with disease, have their lives imperiled, are killed or die as the result of injury, disease or exposure, or the property of a substantial

number of such residents is imperiled, damaged, or destroyed, and (2) it is necessary and essential in the interest of public safety, health and welfare that the continuity of the government of the (Town) of LaFayette be assured in order that it be enabled to function properly and efficiently and to exercise its essential powers in meeting emergencies may include, but shall not be limited to, conflagrations, explosions, earthquakes or other convulsions of nature, floods, tidal waves, pestilence, riots, insurrections, storms, prolonged failure of electric power or essential transportation services, or any incident or occurrence which cause or threatens to cause danger to lives, health or property from exposure to noxious materials or radiation.

- c. "Duly authorized deputy." A person authorized to perform all the powers and duties of a public office in the event the office is vacant or at such times as it lacks administration due to the death, absence or disability of the incumbent officer, where such authorization is provided pursuant to the provisions of any general, special, or local law other than this local law.
- d. "Emergency interim successor." A person designated pursuant to this Local Law for possible temporary succession to the powers and duties, but not the office, of a (Town) officer in the event that neither such officer nor any duly authorized deputy is able, due to death, absence from the (Town) or other physical, mental, or legal reasons, to perform the powers and duties of the office.

SECTION 3. Designation, status, qualifications and terms of designation of emergency interim successors.

- a. Elective officers. Within thirty days following the effective date of this Local Law, and thereafter within thirty days after first entering upon the duties of his office, each elective officer shall, in addition to any duly authorized deputy, designate such number of emergency interim successors to the powers and duties of his office and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three duly authorized deputies or emergency

interim successors, or combination thereof, to perform the powers and duties of the office.

- b. Appointive officers. Each officer or body of officers empowered by law to appoint officers shall within the time specified in subdivision a of this Section, in addition to any duly authorized deputy, designate for each such appointive officer such number of emergency interim successors to such officers and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three duly authorized deputies or emergency interim successors, or combination thereof, for each such officer. Where such a body of officers consists of members having overlapping terms, such body of officers shall review and, as necessary, revise the previous designations of emergency interim successors by such board within thirty days after a new member elected or appointed to such body of officers first enters upon the duties of his office a member of such body of officers.
- c. Review of designations. The incumbent in the case of those elective officers specified in subdivision a of this section, and the appointing officer or body of officers specified in subdivision b of this Section shall from time to time review and, as necessary, promptly revise the designations of emergency interim successors to insure that at all times there are at least three duly authorized deputies or emergency interim successors, or combination thereof, for each elective and appointive officer of the (Town).
- d. Qualifications. No person shall be designated to, nor serve as, an emergency interim successor unless he is legally qualified to hold the office of the person to whose powers and duties he is designated to succeed.
- e. Status of emergency interim successor. A person designated as an emergency interim successor shall hold that designation at the pleasure of the designator and such a designation shall remain effective until replaced by another by the authorized designator.
- f. Compensation. An emergency interim successor shall serve without salary, unless otherwise provided by Local Law. He shall, however, be entitled to reimbursement for actual

expenses necessarily incurred in the performance of his powers and duties.

SECTION 4. Assumption of powers and duties of officer by emergency interim successor.

If, in the event of an attack or a public disaster, an officer described in Subdivision a or Subdivision b of Section three of this Local Law or his duly authorized deputy, if any, is unable, due to death, absence from the (Town), or other physical, mental, or legal reasons, to perform the powers and duties of the office, the emergency interim successor of such officer highest in rank in order of succession who is able to perform the powers and duties of the office shall, except for the power and duty to discharge or replace duly authorized deputies and emergency interim successors of such officer, perform the powers and duties of such successors of such officer, perform the powers and duties of such officer. An emergency interim successor shall perform such powers and duties only until such time as the lawful incumbent officer or his duly authorized deputy, if any, resumes the office or undertakes the performance of the powers and duties of the office, as the case may be, or until, where an actual vacancy exists, a successor is duly elected or appointed to fill such vacancy and qualifies as provided by law. The authority of an emergency interim successor performing the powers and duties of an office shall not terminate upon the subsequent availability of an emergency interim successor higher in rank in order of succession.

SECTION 5. Recording and publication of designations.

The name, address and rank in order of succession of each duly authorized deputy and emergency interim successor shall be filed with the Town Clerk and each designation, replacement, or change in order of ' succession of any emergency interim successor shall become effective when the designator files with such Clerk the successor's name, address and rank in order of succession. Such Clerk shall keep an up-to-date file of all such data regarding duly authorized deputies and emergency interim successors and the same shall be open to public inspection. The Clerk shall notify in writing each designated person of the filing of his name as an emergency interim successor and his rank in order of succession and also shall notify in writing any person

previously designated who is replaced or whose place in order of succession is changed.

SECTION 6. Qualification for taking office.

At the time of their designation, or as soon thereafter as possible, emergency interim successors shall take such oath and do such other things, if any, as may be required to qualify them to perform the powers and duties of the office to which they may succeed.

SECTION 7. Quorum and vote requirements.

In the event of an attack or a public disaster the Town Supervisor or his duly authorized deputy or emergency interim successor performing his powers and duties, may suspend quorum requirements for the Town Board. If quorum requirements are suspended, any Local Law, Ordinance, Resolution, or other action requiring enactment, adoption or approval by an affirmative vote of a specified proportion of members may be enacted, adopted or approved by the affirmative vote of the specified proportion of those voting thereon.

SECTION 8. Separability clause.

If any section, subdivision, sentence, clause, phrase or portion of this Local Law 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 section, subdivision, sentence, clause, phrase or portion thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 9. Effective date.

This Local Law shall take effect upon its adoption and the filing of one certified copy thereof with the Town Clerk, one certified copy in the office of the state comptroller and three certified copies in the office of the secretary of state.