

## Table of Contents

		Page
Article 1	Short title; Effect; Definitions	4
Article 2	Legislative Branch	6
Article 3	Executive Branch	9
Article 4	Department of Real Property Tax Services	18
Article 5	Department of Health	20
Article 6	Department of Law	23
Article 7	Department of Labor Relations [Reserved]	24
Article 8	Department of Parks, Recreation, and Forestry	25
Article 9	Department of Personnel	26
Article 10	Department of Environment and Planning	27
Article 11	Department of Public Works	35
Article 12	Department of Social Services	39
Article 13	Department of Mental Health	42
Article 14	Department of Homeland Security and Emergency Services	43
Article 15	Department of Central Police Services	48
Article 16	Department of Senior Services	49
Article 17	Department of Public Advocacy	50
Article 18	Comptroller	52
Article 19	County Clerk	56
Article 20	District Attorney	58
Article 21	Sheriff	59
Article 22	Other County Boards, Offices, Institutions and Functions	61
Article 22-A	Citizens Salary Review Commission [Reserved]	63
Article 22-B	Erie County Community Coordinating Council on Children and Families [Reserved]	64
Article 23	Autonomous Institutions [Reserved]	65
Article 24	Service Relationships with Local Municipalities [Reserved]	66
Article 25	Financial Procedures	67
Article 26	General Provisions	71
Article 27	Code Application, Amendment and Construction	75

# Article 1 - Short title; Effect; Definitions – Code

Section 1.01 Title and purpose.

1.02 Effect on state laws.

1.03 Effect on local laws and resolutions.

1.04 Definitions.

1.05 County seal.

1.06 County flag.

Section 1.01 Title and purpose.

This code and all amendments hereto shall be known and cited as "Erie county administrative code." The purpose of this code is to set forth the details of administration of the Erie county government in harmony with the provisions of the Erie county charter.

Section 1.02 Effect on state laws.

Within the limits prescribed by the municipal home rule law, wherever and whenever any state law, general, special or local in effect, is inconsistent with this code, such law shall be deemed to the extent of such inconsistency to be superseded by this code. The county of Erie shall continue to have all powers, duties, rights, privileges and obligations conferred or imposed upon such county by any provision of any state law, general, special or local in effect, not inconsistent with the county charter or this code.

Section 1.03 Effect on local laws and resolutions.

Except to the extent they are inconsistent with the county charter or this code or are specifically superseded, amended or repealed thereby, all local laws and resolutions heretofore adopted by the county legislature shall continue in full force and effect until amended, superseded or repealed.

Section 1.04 Definitions.

Wherever used in this code, unless otherwise expressly stated, or unless the context or subject matter otherwise requires:

- a. "County" shall mean the county of Erie.
- b. "Charter" and "county charter" shall mean the Erie county charter and all amendments thereto.
- c. "Code" shall mean the Erie county administrative code and all amendments thereto.
- d. "County legislature" shall mean the elective legislative body of the county of Erie.
- e. "Administrative unit" shall mean any department, executive division, institution, office or other agency of county government except a bureau, division, section, or other subordinate part of any of the foregoing.
- f. "Administrative head" shall mean the head of any administrative unit.
- g. "Authorized agency" shall mean any agency authorized by law, including but not limited to those authorized by section two hundred twenty four of the county law, to receive and expend county funds for a county purpose.

- h. "Executive division" shall mean the division of the budget and the division of purchase and central services.
- i. "Capital project" shall mean (1) any physical betterment, improvement or replacement or any appraisals, reports, studies, surveys, plans and specifications relative thereto, or (2) land or rights inland, or (3) any machinery, apparatus or equipment for any physical betterment or improvement, or (4) furnishings in connection with any physical betterment or improvement when such betterment or improvement is first constructed or acquired, or (5) any combination of (1), (2), (3) and (4).
- j. "Majority" shall mean a majority of the whole number of the members of a board or body. For the purpose of this definition the words "whole number" shall be construed to mean the total number which the board or body would have were there no vacancies and were none of the members disqualified from acting.

Section 1.05 County seal.

- a. The seal of the county of Erie shall be as follows: Within a circle with cord border, an octagonal band shall contain the words "Seal of Erie County" above, the words "State of New York" below, and fasces on the left and right.

The octagonal band shall frame a picture with curving shorelines, docks, boats, railway, elevators and industry. Diagonally across the picture there shall be a pennant with thirteen stars in upper left and five stripes extending to lower right. To the left of the pennant shall be depicted urban buildings and trees; to the right, a highway winding past rural settlements and farms to distant hills with the sun at the horizon.

- b. The following design is hereby adopted as the official and standard design of county seal:



- c. Such seal shall be used for all authorized and requisite purposes.

Section 1.06 County flag.

The flag of the county of Erie shall be rectangular in shape, fifty two units wide by sixty six units long. On a dark blue field fringed with gold, the county seal with a diameter of twenty units shall appear in shades of blue, green, gold, orange, red, gray and white. Above the seal, in gold letters six units high, the words "County of Erie" shall appear in a curved line. Below the seal, in gold letters four units high, the words "State of New York" shall appear in a straight line. The distance between the seal and either line of lettering and between such lettering and the top or bottom edge of the flag respectively shall be five and one half units measured vertically through the center of the seal and flag.

# Article 2 - Legislative Branch – Code

- Section 2.01 The county legislature.
- 2.02 Powers and duties.
- 2.03 Local laws; form and procedure.
- 2.04 Adoption of local laws.
- 2.05 Conference expenses.
- 2.06 Petty cash funds.
- 2.07 Seal.

## Section 2.01 The county legislature.

The county legislature and all officers and employees thereof shall comprise the legislative branch of the county government.

## Section 2.02 Powers and duties

- a. The county legislature shall have and exercise all the powers and duties now or hereafter conferred or imposed upon it by the county charter, by this code, by local law, by the county law, or by any other applicable law, or by any applicable act of the state legislature not inconsistent with the county charter or this code.
- b. The rules and regulations for the conduct and procedure of the county legislature in effect at the time of the adoption of this code shall, to the extent that they are not inconsistent with the county charter or the code, remain in full force and effect until rescinded, altered, or amended.
- c. Notwithstanding the provisions of any state law, or of any local law, act, resolution or salary plan heretofore adopted or enacted by the county legislature, such legislature shall have the power to fix or change the compensation of all officers and employees paid from county funds except members of the judiciary.

## Section 2.03 Local laws; form and procedure.

Except as otherwise provided in the county charter or this code, the form and procedure for the adoption of a local law, including referendum, mandatory or permissive, shall be as provided in the New York state municipal home rule law.

## Section 2.04 Adoption of local laws.

When the county legislature shall have passed a local law or ordinance specifying functions affected thereby of any administrative unit in which an advisory board has been appointed, the clerk of the county legislature shall transmit a duplicate certified copy of such local law or ordinance within five days after its passage, to the chairman of such advisory board and to any other person authorized to call a meeting of such advisory board. Such transmittal shall be deemed to be a referral of such local law or ordinance by the county executive to such advisory

board for its consideration and recommendation pursuant to the provisions of section twenty-six hundred one of article 26 of the county charter.

#### Section 2.05 Conference expenses.

The chairman of the county legislature shall have the power to designate and authorize any member, officer or employee of the legislative branch to attend an official or unofficial convention, conference or school for the betterment of county government. Within the appropriation therefor and when so authorized all necessary and actual expenses including but not limited to a registration fee and mileage as fixed by said legislature shall be paid from county funds.

#### Section 2.06 Petty cash funds

- a. The county legislature, upon the recommendation of the county executive, may establish a revolving petty cash fund for any administrative unit or subdivision thereof or officer in such amount as is deemed necessary. Any petty cash or imprest fund heretofore established by the county legislature shall be continued in existence as a petty cash fund for the administrative unit or subdivision thereof or officer for which it was established or the successor of such unit or officer created pursuant to the provisions of the county charter or this code. The county executive shall determine which administrative unit, subdivision or officer shall be considered to be the successor administrative unit, subdivision or officer for the purposes of this section. The county legislature, upon the recommendation of the county executive, may increase, decrease or abolish any petty cash fund established or continued pursuant to the provisions of this section. Any such petty cash fund shall otherwise continue in existence from year to year until abolished.
- b. Expenditures from a petty cash fund may be made only for payment in advance of audit of properly itemized and verified or certified bills for materials, supplies or services other than employment, furnished to the county for the conduct of its affairs and upon terms calling for payment to the vendor upon the delivery of any such materials or supplies or the rendering of any such services, provided that moneys in any such fund also may be used for the purpose of making change when such is required in the performance of official duties, and further provided that moneys in any such fund established for the office of the sheriff, district attorney, or any county peace officer may also be used to advance travel funds to personnel of the sheriff's or district attorney's office or any county peace officer when required to travel outside the state of New York on official business. Upon audit of bills such petty cash fund shall be reimbursed from the appropriate budgetary item or items in any amount equal to the amount audited and allowed. The county comptroller immediately shall notify the budget director in writing of the disallowance of any such bills or any portion of any such bills, stating the amount in each case disallowed. Any of such bills or any portion of any such bills as shall be disallowed upon audit shall be the personal liability of the official responsible for the use of petty cash fund from which payment on account thereof was made, and such official shall forthwith reimburse such petty cash fund in the amount of such disallowances. If such reimbursement has not been made by the time of the first payment of salary to such official after the disallowance of any such bills or any portion of any such bills, the amount of such disallowances shall be withheld by the budget director from such salary payment and, if necessary, subsequent salary payments, and paid

into such petty cash fund until an amount equal to the amount of such disallowances has been repaid to such petty cash fund.

Section 2.07 Seal

- a. The seal of the county legislature shall consist of two circles, one within the other, with the words "Seal of County Legislature Erie County, New York," around the outer circumference of the inner circle and in the inner circle the words "County Organized 1821".
- b. The following design is hereby adopted as the official and standard design of such seal.



- c. Such seal shall be used for all authorized and requisite purposes.

# Article 3 - Executive Branch - Code

- Section 3.01 The county executive; compensation.  
3.02 Powers, duties and obligations of county executive.  
3.03 Removal of the county executive.  
3.04 Acting county executive.  
3.05 Division of budget and management.  
3.06 Division of purchase.  
3.07 Division of purchase; purchasing procedure.  
3.08 Division of information and support services.  
3.08-A County development coordination board.  
3.09 Administrative appointments and removal.  
3.10 Reserved  
3.11 Seal of county executive.

Section 3.01 The county executive; compensation.

The compensation of the county executive shall be fixed by the county legislature.

Section 3.02 Powers, duties and obligations of county executive.

- a. The county executive shall have all the powers and duties and shall be subject to all the obligations and liabilities, heretofore or hereafter lawfully granted or imposed by the county charter, by this code, by local law, ordinance or resolution of the county legislature or by any applicable provisions of any act of the legislature not inconsistent with the county charter or this code.
- b. The county executive shall have the power and authority to subpoena and compel the attendance and the production of books, records and papers of any administrative unit, officer or employee under her or his jurisdiction, for the purpose of ascertaining facts in connection with any study or investigation of the affairs, functions, accounts, methods, personnel, or agency of any such administrative unit, officer or employee, and in case any person fails or refuses to obey any subpoena or fails to appear, produce books, records or other evidence required by the subpoena to testify she or he shall be subject to the order of a court of record in contempt proceedings. The county executive may, within the appropriations provided therefor, employ all personnel necessary to conduct such hearing.
- c. The county executive shall have power and authority to designate in writing, in connection with any study or investigation, any county officer who may administer oaths or affirmations, examine witnesses in any such hearing, receive evidence and preside at or conduct any such study or investigation and report the findings of such study or investigation to the county executive, together with any recommendations or suggestions which the designated county officer may consider to be required or advisable by the results of such study or investigation.
- d. The county executive shall have power, within the appropriations provided therefor, to appoint without confirmation by the county legislature the heads of executive divisions and all officers and employees of her or his own office as provided in paragraph b of section three hundred two of article III of the county charter.

- e. The county executive, to the extent to which organization of her or his office, or of any administrative unit, the head of which she or he has power to appoint, is not prescribed by law, may organize or supervise and direct the organization of any such administrative unit into such divisions, bureaus, sections of other subordinate part and make such assignments of powers and duties among them, and from time to time change or supervise and direct the changes in such organizations or assignments, as she or he may consider advisable.
- f. On or before the first day of November in each year, after reviewing the proposed county tax equalization rates submitted to her or him by the director of real property tax services, and after obtaining such additional information or holding such hearings thereon as she or he may deem necessary or advisable, the county executive shall fix and determine the real property tax equalization rates among the various tax districts of the county for county purposes and file the same, together with an abstract of evidence upon which the rates are based, with the clerk of the county legislature and the same shall be binding and conclusive on the county legislature. The documentary evidence used in determining the county equalization rates shall be preserved by the county executive and an abstract of the same published with the county equalization rates in the proceedings of the county legislature.
- g. The county executive shall not be an officer, director or stockholder of any depository or depositories designated by her or him pursuant to paragraph g of section three hundred two of article III of the county charter.
- h. In addition to or as part of the annual report to the county legislature required by paragraph i of section three hundred two of article III of the county charter the county executive shall, at least once a year, communicate to the county legislature a general statement of finances, government and affairs of the county. She or he shall present to the county legislature, from time to time, such information concerning the affairs of the county as she or he may deem necessary, or the board by resolution may request, and shall recommend such measures in connection therewith as she or he shall deem expedient.
- i. The county executive shall have the power to designate and authorize any officer or employee paid from county funds, except members, officers and employees of the legislative branch, to attend an official or unofficial convention, conference or school for the betterment of county government. Within the appropriation therefor and when so authorized, all necessary and actual expenses, including but not limited to a registration fee and mileage as fixed by the county legislature shall be paid from county funds.

Section 3.03 Removal of the county executive.

The county executive may be removed in the manner provided by section three hundred three of article III of the county charter.

Section 3.04 Acting county executive.

The acts performed by the acting county executive pursuant to section three hundred four of article III of the county charter shall have the same effect as if performed by the county executive, and the acting county executive shall have and exercise all the powers of the county executive, except the power of removal as provided in paragraph a of section 3.09 of this code.

Section 3.05 Division of budget and management.

The director of budget and management shall be the head of the division of budget and management and shall perform all duties in the preparation and submission of the proposed

tentative budget and capital program set forth in article 18 of this code, and all duties prescribed in the charter relating to monitoring the productivity of the various administrative units of county government. The director of budget and management shall review the management, financial, performance and compliance audit issued by the comptroller and shall report to the county executive on these recommendations. The director of budget and management shall submit to the county executive monthly monitoring reports comparing projected revenues and expenditures with actual and accrued revenues and expenditures. She or he shall, in addition to her or his powers and duties set forth in the charter or this code, perform such other duties as the county executive may require. The director of budget and management shall have the power to compel the attendance of witnesses and the production of books, papers and records, to administer oaths and affirmations, and to hear proofs and take testimony necessary in the performance of such duties. A fifteen member advisory board whose members shall be appointed by the county executive shall advise the director of budget and management on all matters pertaining to the management and performance of county government. The members of this board shall not be officers or employees of the county of Erie.

All references contained in this code to the budget director shall be deemed to refer to the director of budget and management.

#### Section 3.06 Division of purchase.

- a. The purchasing director shall be the head of the division of purchase. The purchasing director shall give a surety bond to the county in a sum fixed by the county legislature, conditioned for the faithful performance of her or his duties, which bond shall be approved as to form by the county attorney and as to the sufficiency of surety by the county executive and filed in the office of the county clerk.
- b. The purchasing director shall (1) establish and maintain a central purchasing system; (2) establish and enforce standard specifications with respect to supplies, materials, equipment and such services as are specified hereinafter; (3) upon departmental or legislative request, the purchasing division shall inspect or supervise the inspection of deliveries of supplies, materials and equipment and determine their quality, quantity and conformance to specifications; (4) maintain and have charge of such storerooms and warehouses of the county as may be provided by the county legislature; (5) disburse and transfer the supplies, materials and equipment in her or his custody among the administrative units upon requisitions signed by the respective administrative head or by such employees as the administrative head shall designate; (6) make transfers of supplies, materials and equipment between administrative units; (7) sell or lease any surplus, obsolete or unused supplies, materials and equipment under such rules and regulations as may be established by act of the county legislature; (8) upon request of any city, town, village, school district or other unit of local government in the county, act as purchasing agent for the same, either for all or for any part of its purchases, upon such conditions as may be prescribed by the county legislature; (9) perform such other duties as may be required by the county executive; (10) perform under the direction of the county executive all other duties of county purchasing agent under the laws of this state, not inconsistent with the provisions of this code.

Section 3.07 Division of purchase; purchasing procedure.

- a. The division of purchase shall make all purchases of and contracts for supplies, materials, equipment and insurance for the county, the county legislature or any administrative unit, other than primary or election supplies or the county shall be liable. The division of purchase shall also purchase or contract for those services which are subject to bidding. A service contract which is subject to approval by the Erie county legislature or contracted for by a department head pursuant to charter or code authority shall not be considered a purchase or contract made by this division. The lease of real property shall not be considered a service for the county purchased or contracted by the division of purchase. The division of purchase will review contracts for services and shall contract for those services which are determined to be subject to bid. The county legislature shall fix a sum as the limit above which any such purchase or contract cannot be made without publishing an advertisement in a daily newspaper printed in the English language and published in the county of Erie and having a circulation of not less than fifty thousand which advertisement shall invite sealed bids for the same, provided, however, that public advertisement shall not be required for purchase of perishable foodstuffs, drugs, dental and medical supplies or purchase of primary or election supplies or services. By a resolution adopted by a two thirds vote of all its members, the county legislature may exclude the purchase of other materials, supplies, equipment, insurance or services from the requirements of public advertisement. Such advertisement shall contain a statement of time when and the place where all bids received pursuant to such notice will be publicly opened and read. At least five days shall elapse between the first publication of such advertisement and the date specified therein for the opening and reading of bids. The purchasing director or the person designated by her or him to open the bids at the time and place specified shall make a record of such bids in such form and detail as the purchasing director shall prescribe. The contract shall be awarded to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided in this section unless the county legislature by a two thirds vote shall determine that it will best promote the public interest that a bid other than that of the lowest bidder shall be accepted, and shall authorize, as hereinafter provided, the acceptance of such other bid. Where the bid of the lowest responsible bidder is in excess of one hundred thousand dollars (\$100,000) and the bidder's product is not manufactured within the county, or the bidder's service is not performed by a contractor whose principal place of business is located within the county, and where a difference of five percent or less exists between such low bid and the lowest bid submitted by a bidder residing or having a principal place of business in the county of Erie, the purchase director shall submit the bids to the legislature to determine whether or not it will best promote the public interest to award the bid to the lowest responsible bidder residing or having a principal place of business in the county of Erie. In the event the legislature does not adopt, at its first or second meeting after submission of said bids, a resolution determining that it will best promote the public interest that such a bid be accepted instead of the lowest responsible bid, the purchase director shall award the contract to the lowest responsible bidder. In cases where two or more responsible bidders furnishing the required security submit identical bids as to price, the purchase director may award the contract to any of such bidders. The

purchase director may in her or his discretion, reject all bids and re advertise for new bids in the manner provided by this section.

- b. The purchasing director may purchase supplies, materials, equipment, insurance or services to be rendered by contract without the advertisement required by paragraph a of this section in the following cases: (1) when the county executive has declared a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting the life, health or safety of inhabitants of the county of Erie require immediate action which cannot await competitive bidding; (2) when, by resolution adopted by a two thirds vote of all its members, the county legislature has determined it to be impracticable to advertise for such bids, or (3) when the county legislature is not in session, and through some accident or other unforeseen circumstances the machinery, apparatus or equipment of any of the public buildings of the county shall become disabled or any of such buildings or parts thereof shall be rendered untenable by reason of the sudden action of the elements, and the administrative head in charge of such building shall certify in writing to the purchasing director such emergency and the necessity of immediate repair of the defect. Such certificate shall be approved by the county executive.
- c. Upon the adoption of a resolution by a vote of at least two thirds of all the members of the county legislature stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, material, services, insurance or supplies in excess of the amount specified by the county legislature in accordance with paragraph a may be awarded to the lowest responsible bidder furnishing the required security after advertisement for sealed bids therefor in the manner provided in this section. Such resolution shall contain a full explanation of the reasons for its adoption.
- d. Surplus and second hand supplies, materials or equipment may be purchased without competitive bidding from the federal government, the state of New York or any other political subdivision or district.
- e. No supplies, materials, equipment, insurance or biddable services shall be delivered except as specifically ordered by the division of purchase. No supplies, materials, equipment, insurance or biddable services shall be provided by the division to any administrative unit, office or employee except on a requisition in writing signed by an authorized person.
- f. Where the administrative code or other provision of law specifies that a purchase or contract is to be let by the purchasing division such purchase or contract shall be ordered by the purchasing director and the director shall certify the prices at which she or he made the purchases. The county comptroller shall not audit any bill or invoice for supplies, materials, equipment, insurance or biddable services unless it shall fully appear that such items or services were ordered pursuant to this code or other applicable law. All requisitions received by the purchasing director shall be filed in her or his office and open to public inspection under reasonable regulations for their safety and preservation. The purchasing director shall make no purchases until she or he has first secured the certification of the county comptroller that there are unencumbered balances available for the purpose. Procedures established for the division of purchase shall be applicable only to purchases and contracts made by the division of purchase. Other purchases and contracts shall be made pursuant to procedures established by the executive department in consultation with the comptroller.

Section 3.08 Division of information and support services.

The division of information and support services shall be headed by the director of information and support services who shall have all the powers and duties lawfully conferred or imposed upon her or him by the county charter, by local law, by order or direction of the county executive, or by any applicable provision of any act of the state legislature not in conflict with the county charter or this code. Such director shall be assisted by a director of data processing, and her or his powers and duties shall include the following:

- a. The provision of graphics, printing, copying, information technology, and electronic records management services and the care and supervision of equipment in the division of information and support services related thereto, as well as the operation of such equipment including the preparation, processing, delivery and storage of data input into or output from such equipment where appropriate; and the performance of all functions, including advice and assistance, related to the operation, installation of or modification of such equipment in all participating county departments and agencies; and the training of personnel in participating departments and agencies for the purpose of using such equipment or properly preparing data for using such equipment.
- b. The maintenance of records regarding total operating costs of the division of information and support services and charging back such costs to participating departments and agencies. The division of central services shall have the authority to require county departments to provide necessary data in usable format to compile its reports and statistics.
- c. The office of data processing shall be headed by the director of data processing who shall be a person qualified by professional training and by practical or administrative experience in the area of data processing, and who shall have all the powers and duties lawfully conferred or imposed upon her or him by the county charter, by local law, by order or direction of the county executive, or by any applicable provision of any act of the state legislature not in conflict with the county charter or this code. Such powers and duties shall include the care and supervision of all computers and related electronic equipment and systems in the office of data processing, the preparation of programs and data for input into such computers, the processing and storage of output from such equipment, the supply of such output information to participating county departments and agencies, and the coordination of all county owned or county operated computer installation. The office of data processing shall advise and assist all departments of the county in matters relating to the installation of new data processing applications and modifications of existing procedures; evaluate and coordinate data processing requirements for participating departments and agencies; assist in the conversion of raw data into machine usable materials or perform such function itself; carry out all functions related to the operation of data processing equipment, and train personnel of participating departments and agencies in acquisition of data in a form suitable for processing.
- d. The acquisition, replacement, operation, and informational input and output of any computers and related electronic equipment used by the department of central police services in connection with any criminal justice program shall be under the exclusive control of the commissioner of central police services, subject to contracting and purchasing regulations and procedures set forth in the charter and administrative code.

- e. The county executive may enter into contracts with the federal government, state government and any municipal corporation to provide data processing services to any such municipality or governmental entity, subject to the approval of the county legislature...

#### Section 3.08-A County development coordination board.

- a. There shall be a county development coordination board consisting of seventeen members who shall be as follows: the commissioner of health; the commissioner of public works; the commissioner of parks, recreation and forestry; the commissioner of environment and planning; the chairman of the environmental management council, or her or his designee; a member of the county legislature selected by the chairman of the legislature; eleven persons designated by the county executive subject to confirmation by the county legislature and which persons are not county officials or employees. The county executive shall designate one member who is not a county official or employee to serve as chairman of the board at the pleasure of the county executive. The deputy commissioner of planning of the department shall serve as secretary to the board. The eleven members of the board designated by the county executive shall serve for a term of two years. Meetings of the board shall be held at the call of the chairman or the deputy commissioner of environment and planning on three days written notice mailed to the last known address of each board member. The members of the board shall receive no salary or compensation for their services as members of such board, but shall, within the appropriations provided therefor, be entitled to actual disbursements and expenses in performing the duties of their office.
- b. The board shall have all the powers and duties conferred or imposed upon it by the county charter or by this code and shall (i) review the comprehensive plan prepared by the department of environment and planning and submit its recommendations thereon to the county executive and review proposed amendments to said plan prior to final action being taken on such amendments, (ii) review procedural guidelines for the coordination and preparation of the comprehensive plan and annual planning program, (iii) review county policies and standards for inclusion in the comprehensive plan and forward such recommendations to the county executive, (iv) recommend amendments to the comprehensive plan and annual planning program to the county executive, (v) advise the county executive in all matters within the jurisdiction of the county related to comprehensive regional, county and municipal planning and development and (vi) make recommendations on the capital budget and capital improvement program to the county executive pursuant to the procedures established by section 18.03 of this code.

#### Section 3.09 Administrative appointments and removal.

- a. Each appointment by the county executive which is made in conformity with all requirements of the charter, this code and other applicable law, and which is subject to confirmation by the county legislature shall be valid until such confirmation has been voted upon by such board, or until thirty (30) days have expired after the filing of notice of such appointment. If a majority of such board shall vote in favor of confirmation, the appointment shall be deemed confirmed immediately. If a majority of such board shall vote against confirmation, such vote shall constitute a rejection, the term of the interim appointee shall be terminated and the office or position shall be deemed vacant as of the end of the

day of such vote. A person who has been thus rejected may not be appointed to the same position within the same calendar year, except after a reconsideration and reversal by the county legislature of its vote to reject. If within thirty calendar days after filing of written notice of appointment with the clerk of the board no vote shall have been taken, or if the voting shall not have resulted in a majority either for or against confirmation or rejection, the appointment shall be deemed to have been confirmed as of the thirtieth day after such filing.

- b. The county executive may: (1) nominate for confirmation the same person whom she or he has appointed or is appointing to an office or position, or (2) appoint one qualified person to serve no longer than thirty (30) days in any calendar year and nominate a different person for confirmation. Under the second alternative, the appointment shall be considered a temporary appointment not subject to confirmation.
- c. If the county charter or this code prescribes specific or special qualifications for any appointment made by the county executive pursuant to section three hundred seven of article 3 of the county charter, the written notice of such appointment required by said section three hundred seven shall also contain a statement that such appointee has the required qualifications.
- d. Each administrative head shall have power, within the appropriations provided therefor, to appoint all deputies, other officers and employees in her or his respective administrative unit; to designate in writing the relative rank of such deputies, including the order of temporary succession to the duties of the administrative head during her or his absence or disability or in the event of a vacancy, and delegate among them such of her or his powers and duties as she or he may determine. A copy of all such designations and delegations shall be filed in the office of the county clerk.
- e. Except in the legislative or judicial branch, no appointive county office or position which hereafter becomes vacant shall be filled until the county executive has certified in writing to the county legislature the necessity of filing the same.
- f. If the county executive appoints one head for two or more administrative units, such person shall receive the salary for only one such position as the county executive shall designate. The county executive shall notify the comptroller and the county legislature of such salary designation.
- g. The county executive, except as herein otherwise provided, may remove or suspend any officer or employee appointed by her or him under the authority of the county charter or this code by written notice of such suspension or removal and the effective date thereof served on such officer or employee personally or by mail sent to her or his last known address. Whenever a person shall be suspended, such suspension shall be without pay unless otherwise determined by the board of review. In the case of those administrative heads or members of boards and commissions appointed for the term or balance thereof of the county executive or for any other definite term, the effective date of removal shall not be earlier than ten calendar days after service of said notice, which notice shall contain a statement of the charges or reasons therefor, and no removal shall be made prior to the end of such term until a hearing, if requested, has been held by the board of review as provided in the county charter and an order of removal has been signed by a majority of the board of review. In the event a hearing shall have been requested, the county executive shall give at least three days written notice, served in the manner set forth in this paragraph of the time and place of such hearing. Unless a request for a hearing before such board shall have been

made to the county executive in writing within seven calendar days after delivery of the notice of removal, the right to such hearing shall be deemed to have been waived.

Section 3.10 [Reserved]

Section 3.11 Seal of county executive.

- a. The seal of the county executive shall consist of two (2) circles, one within the other, with the words "COUNTY EXECUTIVE ERIE COUNTY, NEW YORK," around the outer circumference of the inner circle and in the center of the inner circle the word "SEAL".
- b. The following design is hereby adopted as the official and standard design of such seal:



- c. The county executive shall affix or imprint such seal upon any and all instruments requiring the same.

# Article 4 - Department of Real Property Tax Services - Code

- Section 4.01 Organization.
- 4.02 Powers and duties.
- 4.03 Seal of director of real property tax services.

## Section 4.01 Organization.

The department of real property tax services shall be headed by a director, who shall organize it under the supervision and direction of the county executive into: (1) a division of tax collection, (2) a division of real property tax preparation and administration, and (3) a division of real property tax mapping and title search.

## Section 4.02 Powers and duties.

The director of real property tax services shall have the following powers and duties:

- a. all the powers and duties and shall be subject to all the obligations and liabilities heretofore or hereafter lawfully granted or imposed by the county charter, by this code, by local law, ordinance or resolution of the county legislature, by order or direction of the county executive, or by any applicable provision of any act of the state legislature not inconsistent with the county charter or this code. Such powers, duties, obligations and liabilities shall include, but shall not be limited to, any power, duty, obligation or liability now or hereafter required by any law to be performed by or imposed upon a county treasurer or director of real property tax services;
- b. shall maintain an inventory of all county real property and shall have custody of all surety bonds, deeds to county property and such other instruments as the county executive may direct;
- c. shall, not later than October fifteenth in each year, submit to the county executive proposed county tax equalization rates, together with the documentary evidence used in determining the proposed rates and any other information which the county executive shall request in connection therewith;
- d. shall be responsible for the collection, receipt, and deposit of all fees, taxes, revenues and other funds of the county or for which the county is responsible and shall have charge of the performance of all other duties required by any law to be performed by a county treasurer not inconsistent with the county charter or this code;
- e. (1) keep a record of the transfer of title to real property and immediately notify the town clerk and the town board of assessors or the city board of assessors of all such transfers in each town or city, as the case may be; and (2) provide a consultant and advisory service to assist local assessors in the performance of their duties and in the establishment and maintenance of suitable procedures and facilities to improve assessment records and practices.

- f. (1) perform all the duties heretofore permitted or performed or required to be performed by the clerk of the county legislature pursuant to the provisions of the Erie county tax act, being chapter eight hundred twelve of the laws of nineteen hundred forty two as amended, in relation to ascertaining, spreading, entering and extending taxes levied by the county legislature for all state, county, town and special district purposes and shall prepare and issue bills for the same; prepare the annual school district tax bills for any school district in the county which has made a written request for the preparation thereof. The actual cost of procuring and preparing such tax bills shall be a charge upon the county and shall be reimbursed by such school district for such cost as provided in section 4 3.1 of the said Erie county tax act; and (2) assist in the preparation of or prepare village, town, city and county assessment rolls in the manner and under the conditions set forth in section 3 2.1 and 3 2.2 of said Erie county tax act;
- g. maintain and update tax maps used for assessment purposes for all municipal corporations in Erie county; and
- h. establish, verify and maintain a network of geographic coordinates and legal markers for tax mapping reference purposes in connection with the updating of tax maps

Section 4.03 Seal of director of real property tax services.

- a. The seal of the county of Erie shall be the seal of the county director of real property tax services. The county director of real property tax services shall affix or imprint such seal upon



any and all instruments requiring same.

# Article 5 - Department of Health - Code

- Section 5.01 Department of health; commissioner.
- 5.02 Powers and duties.
- 5.03 Deputies.
- 5.04 Board of health.
- 5.05 Sanitary code.
- 5.06 County laboratory; assistant director.
- 5.07 Seal of department of health.

## Section 5.01 Department of health; commissioner.

The county health department shall be headed by a commissioner who shall possess the qualifications required by section five hundred one of article 5 of the county charter.

## Section 5.02 Powers and duties.

The commissioner of health shall have and exercise all the powers and duties conferred or imposed upon her or him by the county charter, by this code, by any applicable act of the legislature not inconsistent with the county charter or this code and by order or direction of the county executive.

## Section 5.03 Deputies.

- a. The county health commissioner may, within the appropriations provided therefor, appoint to serve at her or his pleasure, such deputies, assistant deputies, directors, and other employees as she or he may deem necessary for the performance of her or his duties and to fulfill the purposes of article three of the public health law in the county health district. Such deputies and assistant deputies and other employees shall have the qualifications prescribed in the state sanitary code.
- b. The county health commissioner shall designate a deputy qualified in accordance with the provisions of the state sanitary code to whom shall be delegated all the powers and duties of the county health commissioner when such commissioner is unable to act by reason of absence or disability. Such designation shall be in writing filed and recorded in the office of the Erie county clerk and in such other places as may be required by the public health law or any other applicable law.

## Section 5.04 Board of health.

The county executive shall appoint the members of the board of health in accordance with the provisions of section five hundred three of article 5 of the county charter. Such members shall be residents of the county health district. The county medical society of the county may submit to the county executive a list of physicians from which the county executive may choose the medical members of the board of health. The terms of the members of the board of health first appointed by the county executive shall be made for the respective terms of six, five, four, three, two and one years. Vacancies shall be filled by appointment for the unexpired terms. The board

of health shall elect annually a chairman, vice-chairman and a secretary from among its members. Meetings of the board of health shall be held at the call of the commissioner of health or the chairman of such board on five days written notice mailed to the last known address of such board members. The board of health shall have and exercise the powers and duties conferred or imposed upon such board by the county charter or this code. The board of health shall make recommendations and suggestions to the county executive relative to the qualifications and appointments of the commissioner of health and relative to the qualifications and duties of the deputy commissioners, officers or employees of the department of health.

#### Section 5.05 Sanitary code.

- a. The provisions of the Erie county sanitary code in effect at the time of the effective date of this code shall remain in full force and effect until amended or repealed by the board of health, provided, however, that the powers and duties for the enforcement of the county sanitary code shall on and after January first, nineteen hundred sixty-one, be vested in the commissioner of health.
- b. Any sanitary code now in force or hereafter adopted by the board of health pursuant to the provisions of section five hundred four and article 5 of the county charter and any amendment to such sanitary code shall be published and filed in the manner and places required by the public health law and any other applicable law. Before adopting any amendment to the sanitary code the board of health shall cause notice of a public hearing thereon to be published in the official newspapers once a week for two publications and at least twenty days shall elapse from the first publication to the date of the hearing. The notice shall contain an abstract statement of the proposed amendment and give the time and place of such hearing. On or before the date of the first publication of the proposed amendment, copies thereof shall be filed with the clerk of the county legislature, the county executive, the clerk of each city, town and village in Erie county and in the office of the commissioner of health and be open to inspection by the public. Such county sanitary code and any amendments thereto shall also be filed in the Erie county clerk's office.

#### Section 5.06 County laboratory; assistant director.

The county executive shall appoint an assistant director of the laboratory who shall possess the qualifications required by section five hundred five of the county charter. The assistant director shall exercise all the powers and duties heretofore or hereafter conferred or imposed upon her or him by the county charter, by this code, by local law, by order or direction of the county executive, by order or direction of the commissioner of health and by any applicable act of the legislature not inconsistent with the county charter or this code. Such powers and duties shall include but shall not be limited to any power or duty conferred or imposed upon a county laboratory board and the director of a county laboratory district by the public health law or other applicable law.

Section 5.07 Seal of department of health.

The seal of the County of Erie shall be the seal of the Commissioner of the Department of Health. The Commissioner of the Department of Health shall affix or imprint such seal upon any and all instruments requiring same.

# Article 6 - Department of Law - Code

- Section 6.01 Department of law; county attorney.  
6.02 Powers and duties.  
6.03 Assistant county attorneys.  
6.04 Bond of county attorney.

## Section 6.01 Department of law; county attorney.

The department of law shall be headed by the county attorney who shall be a member in good standing of the bar of the state of New York.

## Section 6.02 Powers and duties.

- a. The county attorney shall have all the powers and duties, and shall be subject to all the obligations and liabilities heretofore or hereafter lawfully granted or imposed by the county charter or acts amendatory thereto, by this code, by the county executive, by local law, by resolution of the county legislature or by any applicable provisions of any act of the legislature.
- b. The county attorney shall make an annual report at the close of each fiscal year, to the county executive and the county legislature, covering generally the work of her or his office.
- c. The county attorney may, within the limits of the appropriations provided therefor, employ special counsel, professional, technical or other consultant services and incur such expenses in connection therewith as she or he may deem necessary for the performances of her or his duties.
- d. The county attorney shall prepare annually a supplement to the county charter and administrative code which shall indicate all additions to, repeals and amendments of any section of the charter or code.

## Section 6.03 Assistant county attorneys.

The county attorney shall, within the appropriations provided therefor, have the power to appoint assistant county attorneys who shall perform such duties pertaining to the office as may be directed by the county attorney. Every appointment of an assistant county attorney shall be in writing and filed and recorded in the office of the county clerk. Any such appointment may be revoked by the county attorney at any time by filing a written revocation in the office of the county clerk. If more than one assistant county attorney shall be appointed, the county attorney shall designate in writing and file in the office of the county clerk, the county executive and the clerk of the county legislature the order in which such assistants shall exercise the powers and duties of the office in the event of a vacancy or the absence or inability of such county attorney to perform the duties of her or his office.

## Section 6.04 Bond of county attorney.

The county attorney and such of her or his assistants as the county legislature shall require shall each give a surety bond to the county in a sum fixed by the county legislature conditioned for the faithful performance of her or his duties, which bond shall be approved as to form by the district attorney and as to sufficiency of surety by the county executive and filed in the office of the county clerk.

# Article 7 – Department of Labor Relations

[RESERVED]

# Article 8 - Department of Parks, Recreation, and Forestry - Code

- Section 8.01 Organization.
- 8.02 Division of parks.
- 8.03 Division of recreation.
- 8.04 Bureau of forestry.
- 8.05 Rules and regulations.

## Section 8.01 Organization.

The department of parks, recreation, and forestry shall be headed by a commissioner, who shall organize it, under the supervision and direction of the county executive, into (1) a division of parks, (2) a division of recreation, and (3) a bureau of forestry.

## Section 8.02 Division of parks.

The division of parks shall be headed by a deputy commissioner. She or he shall have supervision and control over the management, design, construction, operation, maintenance and repair of all county owned and operated properties and recreation facilities for all the purposes set forth in section seven hundred two of the county charter, except as provided by section 8.03 and 7.04 of this article and article 10 of this code.

## Section 8.03 Division of recreation.

The division of recreation shall be headed by a deputy commissioner. She or he shall (1) supervise and direct such county recreational facilities as the commissioner of parks and recreation shall designate; (2) plan, organize and direct county recreation programs; (3) with consent of the commissioner of parks and recreation, advise and assist any city, town or village in the county in the planning of recreation programs; and (4) file a detailed report of the activities of the division with the commissioner of parks and recreation and the county legislature.

## Section 8.04 Bureau of forestry.

The bureau of forestry shall be headed by the county forester who shall (1) plan, develop, operate, maintain and manage county forest lands; (2) consult with and advise the division of parks, the department of public works and any other county department or agency requesting her or his services in the selection, planting, care and maintenance of trees on any property owned or operated by the county; and (3) have such other powers and duties as may be conferred or imposed upon he or him by the commissioner of parks and recreation.

## Section 8.05 Rules and regulations.

The county legislature shall have power by ordinance or local law to regulate the use of forests, parks, playgrounds, athletic fields and recreation centers owned or operated by the county and to provide for the enforcement thereof.

# Article 9 - Department of Personnel – Code

- Section 9.01 Department of personnel; commissioner.
- 9.02 Powers and duties.
- 9.03 Examinations; eligibility lists.
- 9.04 Administrative unit; information and aid.
- 9.05 Personnel roster.
- 9.06 Certification of payrolls.

Section 9.01 Department of personnel; commissioner.

The department of personnel shall be headed by a commissioner who shall be the personnel officer of the county.

Section 9.02 Powers and duties.

The commissioner of personnel shall, subject to the limitations thereon in section eight hundred two of article 8 of the county charter, have the powers and duties of a county civil service commissioner as provided in the civil service law. She or he shall have such other powers and duties as may be conferred or imposed upon her or him by the county executive.

Section 9.03 Examinations; eligibility lists.

The commissioner of personnel shall request the state civil service department to render its services in the preparation and rating of examinations and the establishment of eligibility lists for all positions under her or his jurisdiction.

Section 9.04 Administrative unit; information and aid.

It shall be the duty of the head of each administrative unit of the county to furnish the commissioner of personnel with such information and aid as such commissioner may deem necessary in the performance of her or his duties.

Section 9.05 Personnel roster.

The commissioner of personnel shall establish and maintain a roster of all county officers and employees. Such roster shall show for each county officer and employee the date of appointment, the title of the position, the rate of pay and rate changes, promotions, demotions, transfers, the time and cause of separations from county employment, and any other information the commissioner of personnel considers necessary for a proper personnel record.

Section 9.06 Certification of payrolls.

No payroll, estimate or account providing for the payment of wages or salaries shall be approved by the county comptroller unless it bears the certificate of the commissioner of personnel that the persons named therein have been, during the period specified, employed in their respective positions in accordance with law and rules made pursuant to law.

# Article 10 - Department of Environment and Planning - Code

- Section 10.01 Organization.
- 10.02 Powers and duties.
  - 10.03 Division of planning; deputy commissioner; functions.
  - 10.04 Division of sewerage management; deputy commissioner; functions.
  - 10.05 Division of environmental compliance; deputy commissioner; functions.
  - 10.06 County environmental quality code.
  - 10.07 Fisheries Advisory Board.

Amended by Local Law No. 6 1988.

## Section 10.01 Organization.

The department of environment and planning shall be headed by a commissioner, who shall organize it under the supervision and direction of the county executive into:

1. a division of planning;
2. a division of sewerage management;
3. a division of environmental compliance.

## Section 10.02 Powers and duties.

- a. The commissioner of environment and planning shall have all the functions, powers and duties provided by the county charter, by this code, and by any applicable provisions of any act of the state legislature not inconsistent with the county charter or this code.
- b. The commissioner of environment and planning shall appoint a deputy commissioner for planning, a deputy commissioner for sewerage management and a deputy commissioner for environmental compliance. The commissioner of environment and planning may from time to time delegate such of her or his powers, duties and function as she or he shall deem appropriate to one or more of her or his deputies and may revoke such delegations. Any act performed by a deputy pursuant to such delegation shall have the same effect in law as if performed by the commissioner of environment and planning. The commissioner of environment and planning or any authorized employee of the department may inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or for the purposes of ascertaining compliance or non-compliance with any rule or regulation or order promulgated pursuant to this article; provided, however, except in case of emergency, such entry shall be at reasonable times and with due prior notice to the owner or occupant of said property.
- c. The commissioner of environment and planning may with the concurrence of the commissioner of health authorize and direct employees of the department of health to make inspections for the department of environment and planning.
- d. The commissioner of environment and planning or any consultant or employee of the department when authorized by her or him may enter upon any property or premises within

the county for the purpose of making any surveys, examinations, tests or investigations necessary to lay out the route of or locate facilities for any sewerage system or other project assigned to the department by the county legislature at reasonable times and with due prior notice to the owner or occupant of said property.

- e. The commissioner of environment and planning may execute licensing agreements with railroads, utility companies, governmental agencies and other organizations which are necessary for the construction and operation of Erie county sewerage or drainage systems.
- f. The commissioner of environment and planning may, within the appropriations provided therefor, authorize and approve change orders on sewerage projects.
- g. The commissioner of environment and planning may, under the direction of the county executive and upon request of one or more municipalities within the county, assist such local governments by furnishing technical advice, information and recommendations concerning environmental and planning matters.

#### Section 10.03 Division of planning; deputy commissioner; functions.

The division of planning shall be headed by a deputy commissioner, who shall be a person qualified by professional education, training and at least six years' experience in the field of regional, county or municipal planning and planning administration.

The deputy commissioner of planning in addition to other duties assigned by the commissioner:

- a. shall supervise and direct the planning staff;
- b. shall advise the county executive, county legislature, development coordination board, and other departments, officials and agencies of the county with respect to any matter relating to the development or redevelopment of the county on which her or his opinion is requested, or upon which she or he deems it advisable to report;
- c. shall prepare and maintain a county comprehensive plan and annual planning program;
- d. shall participate in the development of a capital improvements program and prepare an annual capital program report;
- e. shall perform development and zoning reviews and approvals as provided for in article twelve B of the general municipal law, with the exception of the review of subdivisions pursuant to section 239-n of said general municipal law; and perform such other development reviews as may be required by or may pertain to federal, state, and regional governmental agencies and actions;
- f. may make available, to assist in cooperative planning purposes, the services of the technical staff to the local planning commissions and boards of the cities, towns and villages within the county;
- g. shall review, coordinate and integrate the planning and development programs of agencies of the county, all cities, towns and villages within the county, and all other governmental agencies operating within and affecting the county;
- h. shall maintain basic data on the county's population, land use, housing, environmental status, human and natural resources and such other matters, and make such studies, analyses, plans and recommendations as may be necessary in the exercise of the powers and the performance of the duties set forth in this article;
- i. shall prepare and administer any annual housing and community development program funded by the federal government;

- j. shall have and exercise all the powers and duties of a county planning board heretofore or hereafter lawfully granted.

Section 10.04 Division of sewerage management; deputy commissioner; functions.

The division of sewerage management shall be headed by a deputy commissioner, who shall be a professional engineer licensed to practice in the state of New York and shall be a graduate of a recognized college or university with a degree in sanitary, chemical, environmental, or civil engineering and six years of satisfactory experience in the design, construction and operation of sewerage systems.

The deputy commissioner, in addition to other duties assigned by the commissioner, shall:

- a. supervise and direct the sewerage management staff;
- b. furnish technical advice, information and recommendations to assist in the administration of each county sewer district;
- c. assemble data relating to the sewage collection, conveyance, treatment and disposal problems of the county and of its political subdivisions and the elimination or alleviation of such problems;
- d. have all the powers and duties of the Erie county sewer, drainage and refuse agencies. In the event the deputy commissioner is unavailable to perform these duties, the commissioner shall designate a member of the division to act for her or him;
- e. analyze and evaluate information for the establishment, development, coordination and utilization of sewerage facilities to service other municipalities in the county;
- f. prepare maps, plans and cost estimates on sewerage facilities, compile economic data in support thereof and coordinate survey results in connection with a master sewerage plan;
- g. prepare reports on studies and work with local municipalities in the formation of county sewer districts and in connection therewith cooperate with local, state and federal agencies on program hearings and surveys;
- h. prepare or supervise the preparation of plans and specifications for construction work undertaken for any county sewer district and supervise and inspect the work;
- i. supervise and direct the operation and maintenance of county sewerage facilities.

Section 10.05 Division of environmental compliance; deputy commissioner; functions.

The division of environmental compliance shall be headed by a deputy commissioner, who shall be a person qualified by professional education, training, and at least six years experience in the field of environmental engineering, environmental management or environmental planning.

The deputy commissioner, in addition to other duties assigned by the commissioner:

- a. shall supervise and direct the environmental compliance staff;
- b. shall investigate and take appropriate action to resolve environmental complaints;
- c. shall assist other units of county government, local municipalities, businesses and citizens to achieve and maintain local, state and federal environmental standards;
- d. shall systematically evaluate the quality of water and air resources of the county and conduct such other investigations and undertake such other actions as may be deemed

- necessary or advisable to carry out the intents and purposes of the county environmental quality code and access progress in meeting environmental goals;
- e. shall conduct investigations and undertake such other actions as are necessary to carry out the intents and purposes of federal or state environmental law in connection with intergovernmental agreements for joint environmental programs:
  - f. shall advise the commissioner in regard to proposed orders and other enforcement measures;
  - g. may issue, deny, revoke or modify permits under such conditions as may be prescribed in the county environmental quality code or under state law for the prevention, abatement or control of pollution;
  - h. shall review proposed environmental statutes, codes, rules and regulations and other actions of other levels of government and advise the county executive and legislature as to their effect on Erie county.

#### Section 10.06 County environmental quality code.

- a. Adoption procedure. Before adoption of the county environmental quality code or any amendment thereto, the commissioner of environment and planning shall cause notice of a public hearing thereon to be published in the official newspapers and in newspapers of general daily circulation in the county once a week for two publications and at least twenty days shall elapse from the first publication to the date of the hearing. The notice shall contain an abstract statement of the proposed provision and give the time and place of such hearing. On or before the date of the first publication of the proposed provision, copies thereof shall be filed with the clerk of the county legislature, the county executive, the clerk of each city, town and village in Erie county and in the office of the commissioner of environment and planning and be open to inspection by the public. If subsequent to this initial public hearing, the commissioner's preliminary decision is to adopt the proposed county environmental quality code or any amendment thereto, she or he shall, within five days of said preliminary decision, submit a copy thereof to the clerk of the county legislature. The county legislature, at the second regular legislative meeting following such submission at which a quorum is present, may by resolution make a finding that the proposed code or amendment warrants further consideration. Upon such a finding, the commissioner shall hold a second public hearing in the same manner as that required for the initial public hearing. Subsequent to this second public hearing, the commissioner shall either adopt or issue an order declining to adopt the proposed code or amendment. In the event the county legislature shall make no finding that further consideration is warranted, the commissioner's preliminary decision to adopt the proposed code or amendment shall become final upon adjournment of the second regular legislative meeting, subsequent to submission of the preliminary decision, at which a quorum is present. All rules, regulations, orders and directions promulgated under this section shall be compiled and known as the Erie county environmental quality code. In the event that provisions of the sanitary code promulgated by the board of health and provisions of the environmental quality code shall be applicable to the same subject, the more restrictive provision shall control.

b. Enforcement.

1. The commissioner may prescribe and impose penalties for the violation of or failure to comply with any of her or his orders or regulations, after holding a hearing thereon. Such penalties shall not exceed ten thousand dollars (\$10,000) for a single violation or failure, which if not paid as ordered by the commissioner, will be recoverable by action in the appropriate court.
2. (a) The provisions of the county environmental quality code shall have the force and effect of law.  
(b) Any noncompliance or nonconformance with any provision of such code or of a rule or regulation, duly made thereunder shall constitute a violation punishable by a fine of not more than two hundred fifty dollars (\$250) or by imprisonment for not more than fifteen days or both such fine and imprisonment.  
(c) Certified copies of the environmental quality code shall be received in evidence in all courts and proceedings.
3. The commissioner may enforce the county environmental quality code by stipulation, agreed settlement, consent order or other conciliation agreements.
4. The commissioner shall have all the authority conferred by state law upon local officials to enforce orders, rules and regulations pertaining to the control and enhancement of the quality, use or enjoyment of air and water resources.

c. Procedure.

1. Notices; service of process.
  - (a) Notices of all public hearings shall specify the time, date and place of hearing.
  - (b) Service of all processes, except subpoenas, shall be made in the same manner as a summons in a civil action or by registered or certified mail with a return receipt requested, addressed to the individual served in person or in a representative capacity as hereinafter provided at her or his last known residence, office or place of business. Such service shall be made upon a municipality by serving the chief executive or counsel thereof, upon a sewer district, authority, commission or private corporation by serving an officer thereof or upon an unincorporated association or partnership or other company of persons which has a president or treasurer by serving either of such officers.
  - (c) Subpoenas shall be served upon the witnesses personally, together with such fees therefor as may be provided by law.
2. Proceedings before the commissioner.
  - (a) Whenever it shall appear to the commissioner that there has been a violation of any of the provisions of the county environmental code, she or he shall give written notice to the alleged violator or violators setting forth anything or act done or

omitted to be done or claimed to be in violation of any such provisions, and requiring that the matters complained of be corrected, or that the alleged violator appear in person or by attorney before the commissioner or her or his duly designated representative, at the time and place said notice specifies, and answer the charges complained of.

(b) At least twenty days notice of such hearing shall be given.

(c) One day before the return day of such notice, the person so notified shall file with the commissioner a statement setting forth the position of the person so notified, the answer, if any, to the charges made against her or him, the methods, practices and procedures, if any, which are being taken to prevent violations of the provisions of the county environmental quality code, and any other defenses or information pertinent to the case. Pertinent and relevant testimony of witnesses shall be received in support of or opposition to said statement.

(d) The burden of proof with respect to violations imposed by provisions of the county environmental quality code shall be upon the department.

(e) After due consideration of the written and oral statements, and testimony and arguments filed pursuant to subdivision 2(c) above or on default in appearance on said return day, the commissioner may issue and enter such final order or make such final determination as she or he deems appropriate under the circumstances, and shall notify such person or persons thereof in writing, personally, by registered mail or by certified mail, return receipt requested.

### 3. Hearings.

(a) Public hearings shall be conducted by the commissioner, or her or his duly designated representative or representatives, prior to issuance of an order directing discontinuance of actions allegedly in contravention of provisions of the county environmental quality code.

(b) The hearings herein provided may be conducted by the commissioner, or by the duly designated hearing officer or officers at any time and place.

(c) A record, or summary thereof, of the proceedings of said hearings shall be made and filed with the department of environment and planning. If requested by any party concerned with said hearing, the full stenographic notes of the testimony presented at said hearing shall be taken and filed. The stenographer shall, upon the payment of her or his fee allowed by the law therefor, furnish a certified transcript of the whole or any part of her or his notes to any party to the action requiring the same.

(d) In any such hearing, the hearing officer or any member of the hearing panel may administer oaths, examine witnesses, and issue, in the name of the department, notices of hearings and subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing. A designation of a person or persons by the commissioner to perform the functions herein authorized shall be in writing and filed with the department.

4. The commissioner is hereby authorized to settle or compromise any action or cause of action for the recovery of a penalty under the provisions of the county environmental quality code.
5. Hearings for persons aggrieved. The commissioner shall grant a hearing to any person not previously heard in connection with the making of a determination or order, who within twenty days after service upon her or him of a copy of a notice, order or determination of the commissioner, may file a petition with the department alleging that the said order(s) or determination(s) is or are contrary to fact and injurious to her or him, and that said order or determination caused her or him damage by the invasion of or interference with a private right or privilege, particularly appertaining to her or him. At such hearing the petitioner may appear in person or by attorney, present witnesses, submit evidence and be given full opportunity to be heard. Following such hearing, the commissioner shall make her or his determination, which, unless an appeal is taken there from, shall be final and conclusive.
6. Summary action. Whenever the commissioner, after investigation, is of the opinion that any person is causing, engaging in or maintaining a condition or activity which in her or his opinion constitutes danger to the health or welfare of the people, and that it therefore appears to be prejudicial to the interest of the people to delay action for twenty days until an opportunity for a hearing can be provided in accordance with the provisions of section 9.07c, the commissioner may order the person, by written notice, to discontinue such dangerous condition or activity or take certain action immediately or within a specified period of less than twenty days. As promptly as possible thereafter within not to exceed twenty days, the commissioner shall provide the person an opportunity to be heard and to present any proof that such condition or activity does not constitute a danger to the health of the people.
7. Review by courts. All orders or determinations of the commissioner of the department shall be subject to review as provided in article seventy eight of the civil practice law and rules. Application for such review must be made within sixty days after service in person or by mail of a copy of the determination or decision upon the attorney of record of the applicant and of each person who has filed a notice of appearance or to the applicant in person directly if not represented by an attorney.

#### Section 10.07 Fisheries advisory board.

There shall be within the department a fisheries advisory board, consisting of twelve members. The county executive shall make the appointments for eight positions, the chairman of the Erie County legislature shall make the appointment for one position, the enrolled members of each of the two political parties which have the greatest number of members seated in the Erie County legislature shall by majority vote make the appointment each for one position, and the Chairperson of the Legislature's Energy & Environment Committee shall make the appointment for one member, and all such appointments shall be subject to confirmation by the Erie County Legislature. Members shall be appointed to terms of three years. Members shall be residents of the County of Erie, and shall include representatives of sports and recreational fishing, and of

various fields of marine and aquatic sciences. The board shall advise the department on matters concerning protection, development, and access to fisheries, upon related issues, and upon such additional matters as may be requested by the commissioner or by the county executive. No later than the first day of December in each year, the board shall deliver to the county executive an annual report summarizing the board's activities over the preceding twelve months.

# Article 11 - Department of Public Works - Code

- Section 11.01 Organization.  
11.02 Powers and duties.  
11.03 Division of highways.  
11.04 Division of buildings and grounds.  
11.05 Traffic safety advisory board.

## Section 11.01 Organization.

The department of public works shall be headed by a commissioner, who shall possess the qualifications required by article XI of the county charter. She or he shall organize the department under the supervision and direction of the county executive; (1) a division of highways, (2) a division of buildings and grounds, and (3) a division of fleet services.

## Section 11.02 Powers and duties.

- a. The commissioner of public works shall have all the powers and duties and shall be subject to all the liabilities and obligations heretofore or hereafter lawfully granted or imposed by the county charter, by this code, by local law, ordinance or resolution of the county legislature, by order or direction of the county executive, or by any applicable provisions of any act of the legislature not inconsistent with the county charter or this code. Such powers, duties, obligations and liabilities shall include, but shall not be limited to, any power, duty, obligation or liability now or hereafter required to be performed by or imposed upon a county engineer or a county superintendent of highways or a county traffic safety board and/or the executive secretary of a county traffic safety board.
- b. The commissioner of public works may delegate to one or more of her or his deputies' specific powers and duties of the commissioner of public works, including those which she or he has as county engineer or as a county superintendent of highways, and may revoke such delegations. Such delegations and revocations shall be in writing and shall set forth the specific power or powers, duty or duties so delegated or revoked. Such written delegations or revocations shall be filed with the county executive and with the county clerk, and if the powers or duties so delegated or revoked are those which the commissioner of public works has as county engineer or county superintendent of highways, a duplicate of such written delegation or revocation shall be filed with the state superintendent of public works. The acts performed by such deputies pursuant to such delegations shall have the same effect in law as if performed by the commissioner of public works.
- c. Within the appropriations provided therefore, and when authorized by the county executive, the commissioner of public works may employ such special engineering, architectural or other technical counsel and incur such expenses as may be necessary for the performance of any of the duties set forth in article XI of the county charter or in this code. Professional fees or other compensation shall not exceed rates approved by the county legislature.
- d. The commissioner of public works and any consultant, deputy, assistant or employee of the department when authorized by her or him may enter upon any public or private property

within the county for the purpose of making any surveys, examinations or investigations necessary or desirable for the exercise of the powers or the performance of the duties of the department.

- e. The commissioner of public works may arrange, subject to the approval of the county executive and the county legislature, with any city, town, village, public authority, district or commissioners within the county for public works services. The charge for such services shall be in each case the costs and expenses of rendering the service as provided by section twenty-four hundred two of the county charter and as certified by the commissioner of public works and the comptroller.
- f. The commissioner of public works shall be the administrative and enforcement officer of the county for all purposes under the New York state uniform fire prevention and building code. The commissioner shall have the authority to promulgate rules and regulations consistent with the New York state fire prevention and building code, and shall establish a system of permits, inspections and approvals of all construction, reconstruction, renovation or modification of any building owned by the county. All buildings owned by the county, including but not limited to those under the custodial jurisdiction of the commissioner, community college, the library, holding center, correctional facility, and laboratory, shall be subject to the fire prevention and building code established by the commissioner, and shall be subject to the enforcement jurisdiction of the commissioner. The commissioner may delegate the inspection and enforcement of the New York state uniform fire prevention and building code to deputies and employees within the department, and by rule may delegate such powers to licensed professional engineers with the division of sewerage management in the department of environment and planning. No county owned building shall be constructed, altered, or renovated until a permit is first issued by the commissioner. The commissioner shall have the power to: deny permits to proposed projects which do not meet the standards of the uniform fire prevention and building code; order employees and contractors to cease work on unapproved or disapproved projects; enter all permitted premises at any time to inspect the course of construction, renovation or alteration; cause workers to change, correct or remove work which fails inspection; or cause employees or contractors to cease work. No certificate of occupancy shall be issued and no person shall occupy any county building, or any altered or renovated part of such building, until the work is first inspected and approved pursuant to this section.

#### Section 11.03 Division of highways.

- a. The division of highways shall be headed by a deputy commissioner, who shall, to the extent that the commissioner of public works shall designate the same in writing, have all of the powers and duties vested in and imposed upon a county superintendent of highways or a county engineer by the highway law. She or he shall have such other duties as may be prescribed by local law, ordinance or resolution of the county legislature or by direction of the commissioner of public works.
- b. Except as the provisions of the highway law conflict with or are changed by the county charter or this code, such provisions shall apply to and define the powers, duties and obligations of the commissioner of public works, or of her or his designated deputy, when exercising any of the powers or performing any of the duties of a county superintendent of highways or a county engineer.

- c. The statements and reports required to be filed with the county legislature and public works department by paragraphs three and seven of section one hundred two of article XX of the highway law shall also be filed with the county executive.
- d. The inventories required by paragraph thirteen of section one hundred two of article XX of the highway law shall be filed with the county legislature, the county executive, the comptroller, the budget director and the director of purchase.
- e. The commissioner of public works may permit the rental, with or without operator, of the county highway machinery, tools, equipment and implements by any county or by any city, town, village, school or other district in Erie county, upon such terms as may be agreed upon, but with the payment to the county of not less than the hourly rate as fixed by the state superintendent of public works for the rental or hiring of such machinery, tools or equipment by the county. All sums obtained pursuant to any terms agreed upon shall be deposited in the county road machinery fund.
- f. The deputy commissioner shall be responsible for the care and supervision of all vehicles and vehicle maintenance equipment in the division and the operation of a central motor pool for county employee use, as well as the collection of data on maintenance and operating costs of all county vehicles and the preparation and distribution of vehicle cost and utilization reports to participating departments and agencies

Section 11.04 Division of buildings and grounds.

The division of buildings and grounds shall be headed by a deputy commissioner who shall be appointed on the basis of her or his administrative experience and qualifications for the duties of the office. She or he shall:

- a. Have charge of the preservation and maintenance of all buildings and grounds owned or leased by the county which are held, used and/or operated by the county for county purposes, except (1) lands and buildings under the jurisdiction of the division of highways or the department of parks, recreation, forestry, and (2) custodial care of the community college, library, holding center, correctional facility, and laboratory;
- b. Have charge and control of all janitors, caretakers, engineers and any other employees connected with the care and maintenance of county buildings and grounds except as provided in paragraph a of this section. She or he may make such rules and regulations governing such employees as she or he shall deem proper, subject to the approval of the commissioner of public works; and
- c. Perform such other duties and make such reports as are required by the commissioner of public works.

Section 11.05 Traffic safety advisory board.

The county executive shall appoint a traffic safety advisory board of fifteen members interested in traffic safety and traffic problems. Each member shall be a resident of Erie county and shall be a qualified elector thereof. At least one of such members shall be a resident of each of the cities contained in the county and at least six of such members shall be residents of the area of the county outside such cities. The said board shall annually elect a chairman, vice chairman and secretary from its members. Meetings of the traffic safety advisory board shall be held at the call of the commissioner of public works or the chairman of such board on three days' written notice

mailed to the last known address of such board members. Such board shall have and exercise the powers and duties conferred or imposed upon it by the county charter or this code. The term of office of such members shall be five years. The terms of office of the incumbent members of the traffic safety advisory board shall continue for the periods for which such members shall have been appointed. Vacancies in the membership of the board occurring otherwise than by expiration of term shall be filled by appointment for the unexpired term.

# Article 12 - Department of Social Services - Code

Section 12.01	Department of social services; commissioner.
12.02	Powers and duties.
12.03	Deputy commissioners.
12.04	Bond of commissioner.
12.05	Division of family independence.
12.06	Division of family and child well-being.
12.07	Poverty advisory board.
12.08	Division of youth services
12.09	Youth bureau board.

## Section 12.01 Department of social services; commissioner.

The department of social services shall be headed by a commissioner. She or he shall be appointed on the basis of her or his administrative experience and qualifications for the duties of the office consistent with NYS Social Services Law.

## Section 12.02 Powers and duties.

- a. The commissioner of social services shall have all the powers and duties heretofore or hereafter lawfully conferred or imposed upon her or him by the county charter, by local law, by order or direction of the county executive, or by any applicable provision of any act of the legislature not inconsistent with the county charter or this code. Such powers and duties shall include but shall not be limited to any power or duty conferred or imposed upon a county commissioner of public welfare under the social welfare law or any other applicable law.

## Section 12.03 Deputy commissioners.

The commissioner of social services, within the limits of the appropriations provided therefore, have the power to appoint such deputies, officers, assistants and employees as she or he may deem necessary for the performance of her or his duties. The deputy commissioners shall perform such duties as the commissioner may prescribe. The commissioner shall designate in writing filed in the Erie county clerk's office the order in which such deputies shall exercise the powers and duties of the office in the event of a vacancy or in the absence of the commissioner from the county or her or his inability to perform the duties of her or his office.

## Section 12.04 Bond of commissioner.

The commissioner of social services and such of her or his deputies, assistants or employees as the county legislature or the county executive shall require shall each give a surety bond to the county in a sum to be fixed by the county legislature conditioned for the faithful performance of her or his duties, which bond shall be approved as to form by the county attorney and as to sufficiency of surety by the county executive and filed in the office of the county clerk.

#### Section 12.05 Division of family independence.

The division of family independence shall be headed by a deputy commissioner who shall be appointed on the basis of her or his administrative experience and qualifications for the duties of the office. In addition to all other duties prescribed by local law, ordinance or resolution of the Legislature or by the commissioner of social services, the deputy commissioner of the division of family independence shall

- a. have supervision of social welfare programs administered by the department of social services,
- b. supervise and direct the family independence staff,
- c. serve as an ex-officio member to the Poverty Committee,
- d. assemble data relating to economic hardship.

#### Section 12.06 Division of family and child well-being.

The division of family and child well-being shall be headed by a deputy commissioner who shall be appointed on the basis of her or his administrative experience and qualifications for the duties of the office. In addition to all other duties prescribed by local law, ordinance or resolution of the addition to all other duties prescribed by local law, ordinance or resolution of the Legislature or by the commissioner of social services, the deputy commissioner of the division of family child and family well-being shall

- a. have supervision of preventive and protective programs administered by the department of social services,
- b. supervise and direct the child and family well-being staff,
- c. assemble data relating to child and family well-being.

#### Section 12.07 Poverty advisory board.

The county executive shall appoint a poverty advisory board of seven members as provided for in section 2208 of the charter, at least one of whom shall be a physician licensed to practice in the state of New York and at least one of whom shall be a certified social worker employed in Erie County. Such board shall have and exercise the powers and duties conferred or imposed on such board by the county charter or this code. The poverty advisory board shall, at the request of the commissioner of social services and may on its own initiative, make recommendations and suggestions relative to the qualifications and duties of any of the deputies, officers or employees of the department. The poverty advisory board shall elect annually a chairman, vice-chair and a secretary from among its members. Meetings of the poverty advisory board shall be held at the call of the commissioner of social services or the chairman of such board on three days<sup>1</sup> written notice mailed to the last known address of such board members. Members of the poverty advisory board shall be appointed for a term of five years. Vacancies in the membership of the board occurring otherwise than by expiration of term shall be filled by appointment for the unexpired terms.

Section 12.08 Division of youth services.

The division of youth services shall be headed by a deputy commissioner who shall be appointed on the basis of her or his experience and qualifications for the duties of the office. The deputy director shall have and exercise all the powers and duties now or hereafter conferred or imposed upon her or him by the county charter, by this code, by order or direction of the county executive and/or the commissioner of social services, or by any other applicable law, not inconsistent with the county charter or this code.

Section 12.09 Youth bureau board.

The county executive shall appoint twenty one persons to serve without compensation on a youth bureau board for the department of social welfare to advise on matters relating to youth in the county. Membership shall be proportionately representative of the geographical areas within the county. The term of office of members of the board shall be two years. Officers of the board shall be selected by the membership thereof.

# Article 13- Department of Mental Health - Code

Section 13.01	Organization; commissioner.
13.02	Powers and duties.
13.03	Advisory board.

## Section 13.01 Organization; commissioner.

The department of mental hygiene shall be headed by a commissioner who shall possess the qualifications required in section 13.01 of the Erie county charter.

## Section 13.02 Powers and duties.

The commissioner of mental health may, within the appropriations provided therefore, employ and remove such officers, employees and consultants as may be necessary for the work of the office and to fulfill the purpose of article eight a of the mental hygiene law.

## Section 13.03 Advisory board.

The county executive shall appoint the members of community services board in accordance with the provisions of article forty one of the mental hygiene law. Such members shall be residents of the county of Erie.

The community services board shall elect annually a chairman, vice chairman and a secretary from among its members. The community services board shall have and exercise the powers and duties conferred or imposed upon such board by the county charter or this code.

Meetings of the community services board shall be held at the call of the commissioner of mental health or the chairman of such board on three days written notice mailed to the last known address of such board members. The community services board shall at the request of the county executive and may of its own initiative, make recommendations and suggestions to the county executive relative to the qualifications and appointment of the commissioner of mental health and relative to the qualifications and duties of the deputy commissioner, officers or employees of the department of mental health.

Vacancies in the membership of the board occurring otherwise than by expiration of term shall be filled by appointment for the unexpired terms.

# Article 14 - Department of Homeland Security and Emergency Services - Code

Section 14.01	Organization.
14.02	Powers and duties.
14.03	Division of emergency medical services.
14.04	Division of fire safety.
14.05	Division of homeland security/disaster preparedness.
14.06	Absence, disability or vacancy.
14.07	Advisory boards.

## Section 14.01 Organization.

The department of homeland security and emergency services shall be headed by a commissioner who shall organize the department, under the supervision of the county executive, into:

1. a division of emergency medical services;
2. a division of fire safety;
3. a division of civil defense/disaster preparedness.

## Section 14.02 Power and duties.

The commissioner of homeland security and emergency services shall have and exercise all the powers and duties granted or imposed by the laws of the state of New York upon a county director of emergency medical services, a county fire coordinator, a county director of civil defense and a county director of disaster preparedness and all the duties heretofore or hereafter lawfully granted or imposed by the county charter, by this code, by local law, ordinance or resolution of the county legislature, by order or direction of the county executive, or by applicable provision of any act of the state legislature not inconsistent with the county charter or this code.

## Section 14.03 Division of emergency medical services.

The division of emergency medical services shall be headed by a deputy commissioner who shall be appointed by the county executive, subject to confirmation by the county legislature, to serve at the pleasure of the county executive. The deputy commissioner of emergency medical services shall, when so directed by the commissioner, have and exercise any or all of the powers and duties vested in and imposed upon a county director of emergency medical services by the laws of the state of New York and any related powers and duties heretofore or hereafter lawfully granted or imposed by the county charter, by this code, by local law, ordinance or resolution of the county legislature, by order or direction of the county executive, or by applicable provision of any act of the state legislature not inconsistent with the county charter or this code; shall maintain advanced life support response readiness as outlined by article 30 of the public health law; maintain pre-hospital educational initiatives; initiate coordination of mass casualty incidents

and large scale planned events; coordinate public health preparedness planning and response of emergencies.

#### Section 14.04 Division of fire safety.

The division of fire safety shall be headed by a deputy commissioner who shall be appointed by the county executive, subject to confirmation by the county legislature, to serve at the pleasure of the county executive. The deputy commissioner of fire safety shall, when so directed by the commissioner, have and exercise any or all of the powers and duties vested in and imposed upon a county fire coordinator by the laws of the state of New York and any related powers and duties heretofore or hereafter lawfully granted or imposed by the county charter, by this code, by local law, ordinance or resolution of the county legislature, by order or direction of the county executive, or by applicable provision of any act of the state legislature not inconsistent with the county charter or this code.

#### Section 14.05 Division of homeland security/disaster preparedness.

The division of homeland security/disaster preparedness shall be headed by a deputy commissioner who shall be appointed by the county executive, subject to confirmation by the county legislature, to serve at the pleasure of the county executive. The deputy commissioner of homeland security/disaster preparedness shall, when so directed by the commissioner: have and exercise any or all of the powers and duties vested in and imposed upon a local director of civil defense under the New York state defense emergency act; develop, make public and regularly amend a county disaster preparedness plan, in accordance with article two B of the executive law, for the coordination of emergency services in the event of natural or other disaster or emergency; coordinate the provision of disaster and emergency assistance by local disaster preparedness and civil defense forces in the event such assistance is requested by the chief executive of any city, town or village within the county; have and exercise any related powers and duties heretofore or hereafter lawfully granted or imposed by the county charter, by this code, by local law, ordinance or resolution of the county legislature, by order or direction of the county executive, or by applicable provision of any act of the state legislature not inconsistent with the county charter or this code.

#### Section 14.06 Absence, disability or vacancy.

The commissioner shall designate in a writing filed in the office of the Erie county clerk the relative rank of the deputy commissioners, including: the order in which each is to temporarily succeed to the duties of the commissioner during her or his absence or disability or in the event of a vacancy in such office, and; the order in which each deputy commissioner is to temporarily succeed to the duties of any other deputy commissioner during the absence or disability, or in the event of a vacancy in the office, of such other deputy commissioner.

#### Section 14.07 Advisory boards.

The county executive shall appoint the following advisory boards:

- a. Emergency medical services advisory board: This board shall be composed of no fewer than fifteen and no more than twenty five members appointed by the county executive for two year terms. One third of the members shall be active members of volunteer fire companies operating rescue squads or ambulance services and the remaining membership

shall be elected officials or their representatives, representatives of ambulance services, hospitals, fire department emergency and rescue squads, public health officers and other agencies, organizations or citizens involved in the planning or provision of emergency medical services. The county executive shall designate one of the members to serve as chairman. It will be the duty of such board to cooperate with the state health departments bureau of emergency medical services in effectuating the purposes for which the bureau was established in relation to programs for emergency medical services; to act as an advisory board to the county executive, the county legislature, the commissioner of emergency services and the deputy commissioner of emergency medical services in connection with county establishment and maintenance of a county emergency medical services and mutual aid program for medical and other emergencies in which the services of emergency medical personnel would be used. Members of such board shall be county officers and shall serve without compensation.

- b. Fire Advisory Board: This board shall be composed of twenty-five (25) members appointed by the County Executive for two years. At least eight of the members shall be active or exempt members of volunteer fire companies. It shall be the duty of such board to cooperate with the state office of fire prevention and control in effectuating the purposes for which the office was established in relation to programs for fire training and mutual aid; to act as an advisory body to the county executive, the county legislature, the commissioner of emergency services and the deputy commissioner of fire safety in connection with county participation in programs for fire training and mutual aid, county establishment and maintenance of a county fire training school and mutual aid programs for fire and other emergencies in which the services of firemen would be used; and to perform such other duties as the county executive, the county legislature, the commissioner of emergency services or the deputy commissioner of fire safety may prescribe in relation to fire training and mutual aid for fire and other emergencies in which the services of firemen would be used; and to perform such other duties as the county executive, the county legislature, the commissioner of emergency services or the deputy commissioner of fire safety may prescribe in relation to fire training and mutual aid for fire and other emergencies in which the services of firemen would be used. The members of such board shall be county officers and shall serve without compensation. The terms of the office of the incumbent members of the fire advisory board shall continue for the periods for which such members shall have been appointed.
- c. Civil defense/disaster preparedness advisory board: This board shall be composed of no fewer than fifteen and no more than twenty five members who shall be appointed by the county executive for two year terms. One third of the members shall be active members of voluntary fire companies and the remainder shall be elected officials or their representatives, representatives of organizations involved in civil defense and disaster preparedness and other citizens of the county. The commissioner of environment and planning, the sheriff, the commissioner of public works and the commissioner of health shall be ex officio members. The county executive shall designate one of the members to serve as chairman. It shall be the duty of such board to cooperate with the state civil defense commission and the state natural disasters commission in effectuating the purposes for which the commissions were established in relation to programs for civil defense and disaster preparedness; to act as an advisory board to the county executive, the county legislature, the commissioner of emergency services and the deputy commissioner of civil

defense/disaster preparedness in connection with county participation in programs for civil defense and disaster preparedness, county establishment and maintenance of county civil defense and disaster preparedness plans and programs for natural or other disasters or emergencies in which the services of civil defense forces or emergency personnel would be used; to perform such other duties as the county executive, the county legislature, the commissioner of emergency services or the deputy commissioner of civil defense/disaster preparedness may prescribe in relation to civil defense and disaster preparedness programs for natural or other disasters or emergencies in which the services of emergency personnel would be used. The members of such board shall be county officers and shall serve without compensation.

The chairman of the emergency medical services advisory board, the fire advisory board and the civil defense/disaster preparedness advisory board shall each designate a member of their respective advisory boards, or themselves, to form a four member steering committee to act as a liaison between the county executive, the county legislature and the commissioner of emergency services relative to the coordination and development of plans and programs for emergency medical services, fire safety, civil defense and disaster preparedness purposes. The fourth member of the steering committee shall be appointed by the county executive and shall serve as the chairman thereof.

- d. In lieu of the advisory boards set forth in subdivisions a, b and c above, the county executive may appoint a homeland security/emergency advisory board as follows:

(1) The board shall be composed of no fewer than seven (7) and no more than fifteen (15) members appointed by the county executive for three (3) year terms in accordance with the county charter. One third of the members shall be active members of volunteer fire service. There will be members from the following disciplines: the fire service, emergency medical service, emergency management, law enforcement and dispatch communications. It will be the duty of such board to cooperate with the state health department's bureau of emergency medical services in effectuating the purposes for which the bureau was established in relation to programs for emergency medical services, to cooperate with the state office of fire prevention and control in effectuating the purposes for which the office was established in relation to programs for fire training and mutual aid, participation in programs for fire training and mutual aid, county establishment and maintenance of a county fire training school and mutual aid programs for fire and other emergencies in which the services of firefighter would be used, to cooperate with the state civil defense commission/State Department of Homeland Security and Emergency Services and the state natural disasters commission in effectuating the purposes for which the commissions were established in relation to programs for civil defense and disaster preparedness, to act as an advisory board to the county executive, the county legislature, the commissioner of homeland security and emergency services and the deputy commissioners of homeland security/disaster preparedness, in connection with county participation in programs for homeland security and disaster preparedness, county establishment and maintenance of county homeland security and disaster preparedness plans and programs for acts of terrorism and natural disasters or emergencies in which the services of civil defense forces or emergency personnel would be used; to perform such other duties as the county executive, the

county legislature, the commissioner of homeland security and emergency services or the deputy commissioners of emergency medical services, fire-safety, or homeland security/disaster preparedness. The commissioner of environment and planning, the sheriff, the commissioner of public works and the commissioner of health shall be ex officio members. The members of such board shall serve without compensation.

(2) The commissioner of homeland security and emergency services shall designate one member each from the following disciplines, the fire service, emergency medical services, law enforcement and dispatch communications to form a steering committee to act as a liaison between the county executive, the legislature and the commissioner of homeland security and emergency services.

# Article 15 - Department of Central Police Services - Code

- Section 15.01 Department established.
- 15.02 Commissioner; powers and duties.
- 15.03 Board of trustees.

## Section 15.01 Department established.

There shall be a department of central police services as established by the Erie county charter.

## Section 15.02 Commissioner; powers and duties.

There shall be a commissioner of central police services to be appointed and with powers and duties pursuant to provisions of the Erie county charter.

## Section 15.03 Board of trustees.

There shall be a department of central police services board of trustees as established by the Erie county charter. Members of the board of trustees except the three ex officio members shall be selected for two year terms. Any designated member may be designated for additional terms. Any designated member chosen to fill a vacancy created otherwise than by expiration of term shall be designated for the unexpired term of the member he or she is to succeed.

There shall be an initial organizational meeting of the board of trustees held during January of each year at which a chair, vice chair and secretary shall be elected from among its members by a majority vote of a quorum consisting of at least four members, this same number to constitute a quorum for conduct of any business at meetings of the board of trustees. The chair, vice chair and secretary shall serve for a term of one year.

# Article 16 - Department of Senior Services - Code

Section 16.01	Department established.
16.02	Commissioner; powers and duties.
16.03	Advisory board.

Section 16.01 Department established.

There shall be a department of senior services as established by the Erie county charter.

Section 16.02 Commissioner; powers and duties.

There shall be a commissioner of the department of senior services to be appointed with powers and duties pursuant to provisions of the Erie county charter.

Section 16.03 Advisory board.

The county executive shall appoint not less than seven (7) and no more than fifteen (15) persons to serve without compensation on an advisory board for the department of senior services to advise on matters relating to senior citizens in the county. The board shall include not less than ten members who are Erie county residents, sixty two years of age or older. Membership shall be proportionately representative of the geographical areas within Erie county. The term of office of members of the board shall be as provided in the county charter. Officers of the board shall be selected by the membership thereof. Members of the board shall include, but not be limited to, representatives of the retired senior volunteer program.

# Article 17 - Department of Public Advocacy - Code

- Section 17.01 Division for persons with Disabilities.  
17.02 Division of Consumer Protection.

## Section 17.01 Division for persons with disabilities.

(a) Division established. Within the department of public advocacy there shall be a Division for persons with disabilities as established by the Erie county charter.

(b) Director; powers and duties. There shall be a director of the division for persons with disabilities to be appointed with powers and duties pursuant to provisions of the Erie county charter.

(c) Advisory board.

(1) The advisory board to the division for persons with disabilities shall be known as the Erie county council for persons with disabilities. Members of the council shall be appointed by the county executive, subject to confirmation by the county legislature and shall serve without compensation. Such council shall consist of twelve voting members: six of whom shall be individuals with disabilities or the parent of a child or children with disabilities, with a maximum of three of the preceding members being a non-disabled parent of a disabled child or children; and three of whom shall be appointed from a list of nine representatives nominated by public and private agencies and organizations serving citizens with disabilities of the county. In addition to the voting members, each public and private agency and organization providing service to the persons with disabilities shall be entitled to designate a non-voting member to the council. The term of office of voting members of the council shall be two years and the term of the members first appointed shall commence on the first day of the month following the enacting of this law. A vacancy shall be filled for an unexpired term of a voting member in the same manner as the original appointment. Officers of the council shall be selected by the voting membership thereof.

(2) Meetings of the council shall be held upon the call of the chairman or as specified in a written declaration by a majority of the members of such council but in no event shall less than eight meetings per year be held.

(3) The council shall be charged with the responsibility of assisting the director in the implementation and performance of those functions and duties set forth in section 1706 of the Erie county charter to hold at least one open meeting annually for purposes of soliciting the comments of the general public regarding the status of services and programs for persons with disabilities in the county.

Section 17.02 Division of Consumer Protection.

- a. Division established. Within the department of public advocacy there shall be a division of consumer protection, the head of which shall be the Director as established by the Erie County Charter.
  1. Within the Division of Consumer Protection there shall be a Bureau of Weights and Measures which shall be headed by the county sealer of weights and measures. He or she shall possess all of the qualifications required for and shall have all the powers and duties of a county sealer of weights and measures now or hereafter granted or imposed by article sixteen of the agriculture and market law of the state of New York, by local law, by ordinance or resolution of the county legislature, by order or direction of the Commissioner of Public Advocacy, and by any applicable provision of any act of the legislature not inconsistent with the county charter.
  2. Wherever and whenever the county sealer of weights and measures is required by any state law to make a report to the county legislature, he or she shall, at the same time, file a copy thereof with the director of consumer protection.
  3. Notwithstanding the provisions of section one hundred eighty of article sixteen of the agricultural and market law, the appointment of a county sealer of weights and measures shall be made by the Commissioner of Public Advocacy.

# Article 18 - Comptroller - Code

Section 18.01	Election.
18.02	Powers and duties.
18.03	Deputies and organization.
18.04	Bond of comptroller.
18.05	Financial reporting.
18.06	Depository undertakings.
18.07	Seal.

Section 18.01 Election. [Reserved]

Section 18.02 Powers and duties.

The comptroller shall have all the powers and duties conferred or imposed upon her or him by the county charter or by this code and shall:

- a. Examine and audit all claims or payrolls for services rendered the county, or for salaries of any county employee or county officer. All original payrolls shall be filed in the office of the comptroller. Before presentation to the comptroller of such payrolls, they shall be certified by the head of the appropriate administrative unit or her or his deputy in the manner and form prescribed by the comptroller. The comptroller shall not approve any payroll or item thereof until the commissioner of personnel shall have certified that the persons named therein are employed in their respective positions in accordance with law and rules made pursuant to law.
- b. Prescribe, with the approval of the county attorney, the procedure and form for the submission of claims or charges against the county or against funds for which the county is responsible. Such forms shall be in accordance with the requirements of any law, rule or regulation applicable to the form, certification or payment of such claim or charge.
- c. Make available to the county legislature, the county executive and the head of any administrative unit of the county any information from the records and accounts of the comptroller's office which they may require to assist them in the performance of their duties.
- d. Prepare and submit to the director of budget and management annually on such date as she or he shall designate and on forms prescribed by her or him, the information required by the director of budget and management to assist her or him in the preparation of the proposed tentative operating and capital budget.
- e. Prepare and sign all checks for the payment of the payroll and all other lawful claims or charges against the county or against funds for which the county is responsible.
- f. Prescribe and issue procedures to all county departments for the preparation of input documents and for the accounting of all appropriations, encumbrances, expenditures and revenue.
- g. As chief fiscal, accounting, reporting and auditing officer maintain records of the county's accounting transactions as processed in the county's computerized accounting system; and designate in writing, where appropriate, if selected source documents are to be filed in other county departments.

- h. Not be an officer, director, or stockholder of and depository or depositories designated by the county executive, pursuant to subsection g of section 1302 of the county charter.
- i. Be responsible for reviewing, signing and mailing, or assuring the appropriate signing and mailing of all claims which are prepared by county departments, and for preparing accounting input documents to reflect the allocation of all cash received.
- j. Have custody of and disburse all fees, revenues, and other funds of the county or for which the county is responsible.

#### Section 18.03 Deputies and organization.

The comptroller shall have the power to appoint a deputy for accounting, investment and cash management, and an auditing deputy and shall within the appropriations provided therefore, appoint associate deputies. The deputies who are appointed by the comptroller shall, to the extent that the comptroller shall delegate the same, have the comptroller's powers and duties. Such appointment and delegation of duties shall be in writing and filed in the office of county clerk. The comptroller's office shall be headed by an independently elected comptroller, who shall organize it into (1) a division of internal audit, and (2) a division of accounting.

#### Section 18.04 Bond of comptroller.

The comptroller and her or his deputies shall each give a surety bond to the county in a sum fixed by the county legislature conditioned for the faithful performance of her or his duties, which bond shall be approved as to form by the county attorney and as to sufficiency of surety by the county executive and filed in the office of the county clerk.

#### Section 18.05 Financial reporting.

In addition to the financial reports required by Article 18 of the county charter, the comptroller shall also provide such other information as the county executive may request or the county legislature by resolution

#### Section 18.06 Depository undertakings.

- a. Each depository designated by the county executive, pursuant to subsection g of section 3.02 of the county charter, shall, for the benefit of the security of the county and before receiving any such deposit, give to the county a good and sufficient undertaking, approved as to sufficiency of surety by the county executive and as to form by the county attorney. The undertaking shall specify the amount which such comptroller shall be authorized to have on deposit at any one time with such depository, and shall provide (1) that such depository shall faithfully keep or pay over, on the order or warrant of such comptroller or other lawful authority, such deposits and the agreed interest thereon, and (2) for the payment of such bonds or coupons as by their terms are made payable at a bank or banks for the payment of which a deposit shall be made by such comptroller with such depository. The comptroller may increase the amount which any such depository is authorized to have

on deposit at any one time and require additional undertaking therefore. Each such undertaking shall be filed by the comptroller in the office of the county clerk.

- b. In lieu of such undertaking, a depository may execute its own undertaking in such form and upon such conditions as may be prescribed by law, and as collateral thereto shall deposit with the comptroller outstanding unmatured bonds or other obligations of the United States of America, state of New York, or any county, town, city, village, or school district in the state of New York authorized to be issued by law in the face amount of all times at least equal to the amount on deposit less the amount certified by the depository as covered by insurance under the federal deposit insurance act. The collateral shall be approved as to amount and sufficiency by the comptroller accepting the same. The depository shall deposit with the comptroller an assignment in blank of such collateral. The comptroller shall deliver a certificate of deposit containing a description of the bonds or other securities so deposited as collateral. In the event of a default on the undertaking of and depository and the consequent necessity to complete the assignment in blank, the comptroller shall complete the assignment and shall be deemed to be the agent of the assignor for such purpose. The comptroller may from time to time require the depository to increase the amount of securities deposited and may from time to time release securities whenever the amount of the balance on deposit shall be lawfully reduced. Upon the withdrawal of all moneys from any depository and the closing and settlement of the account thereof, the comptroller may require the surrender of the certificate of deposit and thereupon shall return the securities so deposited as collateral. Whenever in the judgment of the comptroller it appears that additional facilities for the safeguarding of the securities deposited with her or him are essential, such comptroller may lease or rent a safety deposit box and the cost thereof shall be audited and paid as a county charge. The depository, with the consent of the comptroller, may deposit such securities in a safe deposit box maintained by the depository under the joint control of the depository and the comptroller, or if such depository has and maintains a separate trust department, may with the consent deliver such securities to said trust department, may with like consent deposit securities in escrow in the trust department of any other bank within the state to be held by it subject to the joint order of the depository and the comptroller, and all expenses in connection therewith shall be borne by the depository.

The comptroller shall not be liable for the loss of public funds of the county by reason of the default or insolvency of a designated depository, provided such funds have been deposited in accordance with the provisions of this section. In the event that securities have been deposited as provided in paragraph b. of this section, the comptroller shall be liable to the extent of any loss in excess of the face amount of such securities on deposit at the time of such insolvency.

#### Section 18.07 Seal.

- a. The seal of the comptroller shall consist of two circles, one within the other, with the words "COMPTROLLER ERIE COUNTY, NEW YORK," around the outer circumference of the inner circle and in the center of the inner circle the word "SEAL."
- b. The following design is hereby adopted as the official and standard design of such seal:



- c. The comptroller shall affix or imprint such seal upon any and all instruments requiring the same.

# Article 19 - County Clerk - Code

Section	19.01	Election.
	19.02	Powers and duties.
	19.03	Deputy county clerks.
	19.04	Accounting for fees.
	19.05	Bond of county clerk.
	19.06	Seal.

Section 19.01 Election. [Reserved]

Section 19.02 Powers and duties.

The county clerk shall have and exercise all the powers and duties now or hereafter conferred or imposed upon her or him by any applicable law. She or he shall perform such additional and related duties as may be prescribed by law not inconsistent with the county charter or this code, and directed by the county executive.

Section 19.03 Deputy county clerks.

The county clerk may, within the appropriations provided therefore, appoint to serve at her or his pleasure such deputy county clerks as she or he deems necessary for the conduct of the office. All such appointments or revocations thereof shall be in writing and filed and recorded in her or his office. The county clerk shall designate in writing filed and recorded in her or his office the order in which such deputy county clerks shall have and exercise the powers and duties of the county clerk during the temporary absence or inability of the county clerk to act. The deputy first named on such writing shall in case of a vacancy in the office of the county clerk perform the duties of the county clerk until a successor is elected or appointed and has qualified.

Section 19.04 Accounting for fees.

All moneys to which the county may be entitled under and by virtue of the laws of the state of New York, or which the county clerk may receive for all and any official services by her or him, or by any of her or his assistants, clerks, employees or subordinates, shall apply to and be for the benefit of the county and shall be collected by such clerk, accounted for and paid over within five days after the first day of each and every month to the comptroller. Said county clerk shall make a full and true statement for each calendar month of all moneys received each day by her or him, her or his deputies, officers or employees in her, his or their official capacity and shall transmit and deliver such statements to the comptroller within five days after the expiration of such month. Each statement shall have attached thereto a certification by said county clerk to the effect that the same is in all respects a full and true statement of all moneys received by her or him as herein required. At the time of rendering any such statement, such clerk shall pay to the comptroller for the benefit of said county the whole amount or the balance of the moneys received by her or him since making the last preceding monthly report. Other funds or fees collected, by the county clerk shall be collected, paid over, deposited and reported in accordance with the law applicable thereto.

Section 19.05 Bond of county clerk.

The county clerk and such of her or his deputies, officers and employees as the county legislature shall require shall give a surety bond to the county in a sum to be fixed by the county legislature conditioned for the faithful performance of her or his duties, which bond shall be approved as to form by the county attorney and as to sufficiency of surety by the county executive and filed in the office of the county clerk.

Section 19.06 Seal.

- a. The seal of the county of Erie shall be the seal of the county clerk and register.
- b. The county clerk shall affix or imprint such seal upon any and all instruments requiring the same.

# Article 20 - District Attorney - Code

Section	20.01	Election.
	20.02	Powers and duties.
	20.03	Assistant district attorneys.
	20.04	Bond of district attorney.

Section 20.01 Election. [Reserved]

Section 20.02 Powers and duties.

The district attorney shall have and exercise all powers and duties now or hereafter conferred or imposed upon her or him by any applicable law. She or he shall perform such additional and related duties as may be prescribed by law, not inconsistent with the county charter or this code, and directed by the county executive.

Section 20.03 Assistant district attorneys.

The district attorney may appoint such number of assistants as shall be fixed and determined by resolution of the county legislature. Every such appointment shall be in writing filed and recorded in the office of the county clerk. Any such appointment may be revoked by the district attorney at any time by filing and recording a written revocation in the office of the county clerk. All of the persons so appointed shall be called assistant district attorneys and shall receive such salary as shall be fixed and determined by the county legislature. The district attorney shall designate in the writing appointment such assistants, the salary which each of such assistants shall receive, subject, however, to the limitations provided by the resolution of the county legislature. Said assistants shall severally take the constitutional oath of office before entering upon their duties. The district attorney may designate, in writing, filed and recorded in the office of the county clerk, the order in which such assistants shall exercise the powers and duties of the office in the event of the absence or inability of such district attorney to perform the duties of her or his office. Such designation may be revoked or changed by the district attorney in writing filed and recorded in the office of the county clerk.

Section 20.04 Bond of district attorney.

The district attorney and such of her or his assistants as the county legislature shall require shall each give a surety bond to the county in a sum to be fixed by the county legislature, conditioned for the faithful performance of her or his duties, which bond shall be approved as to form by the county attorney and as to sufficiency of surety by the county executive and filed in the office of the county clerk.

# Article 21 - Sheriff - Code

- Section 21.01 Election.
- 21.02 Powers and duties.
- 21.03 Appointment of undersheriff and staff.
- 21.04 Emergency provisions.
- 21.05 Disbursements.
- 21.06 Bond of sheriff.

Section 21.01 Election. [Reserved]

Section 21.02 Powers and duties.

The sheriff shall have and exercise all the powers and duties now or hereafter conferred or imposed upon her or him by any applicable law. She or he shall perform such additional and related duties as may be prescribed by law, not inconsistent with the county charter or this code, and directed by the county executive.

Section 21.03 Appointment of undersheriff and staff.

- a. The sheriff shall appoint an undersheriff and may appoint such deputies, other clerks and employees within the limits of the appropriations therefore, as she or he deems necessary for the conduct of her or his office. Such deputies shall attend upon the terms and sittings of the supreme court and of the county courts in the county as may be required by law and perform such other duties as the sheriff may direct. The undersheriff shall execute the powers and duties of the office in the absence or inability of the sheriff to act and in the event a vacancy occurs in the office of the sheriff, the undersheriff shall execute the said powers and duties until a new sheriff has been elected or appointed and has qualified.
- b. The sheriff may appoint, within the appropriations provided therefore, a jailer, matron, chaplains, physicians, guards, keepers, clerks and other employees of the county jail. The matron shall have sole charge of the female prisoners and of that portion of the jail in which female prisoners are detained, subject to the direction of the sheriff or jailer. A matron shall be in attendance at all times when females are confined in the jail.
- c. The sheriff or undersheriff may deputize any person to do particular acts.
- d. Each appointment or revocation thereof made pursuant to this article shall be in writing and filed in the office of the county clerk. All the persons appointed pursuant to this article shall serve during the pleasure of the sheriff.
- e. Before the appointment by the sheriff of any person as an undersheriff or a deputy, other than a person deputized to do particular acts, such person shall be fingerprinted by the sheriff and the sheriff shall cause such fingerprints to be compared with fingerprints filed with the appropriate division or department of New York State government and the federal bureau of investigation.
- f. The sheriff may, within the limits of the appropriations provided therefore, employ such number of part time deputies, who shall be paid such compensation as the county legislature may determine. Such deputies shall be appointed in the same manner as regular deputies and shall have only those duties and powers authorized by the sheriff.

- g. The sheriff may in her or his discretion deputize the peace officers of cities, towns and villages within the county and agents of societies incorporated for the purpose of prevention of cruelty to animals, for the purpose of authorizing arrest without a warrant outside the territorial limits of such city, town or village when such crime or infraction was committed within such territorial limits in the presence of such peace officer or agent. Such peace officer or agent shall not be deemed an officer, agent, servant or employee of the county.

#### Section 21.04 Emergency provisions.

- a. For the protection of human life and property during an emergency, the sheriff may deputize orally or in writing such number of additional special deputies as she or he deems necessary. If she or he is unable to continue the services of such special deputies without compensation, she or he may pay the compensation of any such special deputies in such amount as the county legislature may determine for each day any such special deputy is actually engaged in assisting her or him in the performance of her or his duties. If the county legislature shall fail to fix the compensation of such special deputies, the sheriff may fix such compensation at not exceeding ten dollars (\$10) per day for each such special deputy. The compensation of any special deputy so appointed shall be audited and paid as a county charge.
- b. If, in the protection of human life and property, the sheriff shall deem it necessary to hire any equipment or apparatus together with the operator thereof, she or he may hire the same during the period of an emergency or catastrophe at a reasonable charge therefore. The same shall be audited and paid as a county charge.
- c. The county legislature shall have power to appropriate and set aside a fund for the purpose of paying in advance of audit expenditures of a sheriff in an emergency or catastrophe for services and expenses of special deputies and for the hiring of equipment and apparatus and the operator thereof. The county executive may authorize the sheriff to issue orders on the comptroller for the payment thereof. The county executive may further direct the rendering by the sheriff to the comptroller, of an accounting of such expenditures with verified or certified vouchers attached. The claimant and the sheriff shall be jointly and severally liable for any items of expenditure for other than a lawful county purpose and disallowed upon a final audit. Such expenditure so disallowed shall be recovered in an action brought in the name of the county.

#### Section 21.05 Disbursements.

Whenever the sheriff is required by law to transport a prisoner or any other person and the cost of such travel and transportation is made a county charge by law, the sheriff or person deputized by her or him shall, within the appropriations provided therefore, be entitled to her or his actual disbursements incurred for travel, lodging and food.

#### Section 21.06 Bond of sheriff.

The sheriff, undersheriff and such of her or his deputies and employees as the county executive shall require shall each give a surety bond to the county in a sum to be fixed by the county legislature conditioned for the faithful performance of her or his duties, which bond shall be approved as to form by the county attorney and as to sufficiency of surety by the county executive and filed in the office of the county clerk.

# Article 22 - Other County Boards, Offices, Institutions and Functions - Code

Section 22.01 Board of elections.

22.02 Reserved.

22.03 Reserved.

22.04 Reserved.

22.05 Reserved.

22.06 Probation department; director.

22.07 Additional appointments by county executive.

22.08 Miscellaneous administrative functions.

Section 22.01 Board of elections.

- a. The board of elections shall have and exercise all the powers and duties conferred or imposed upon it by the election law or any other applicable law.
- b. The appointment of the members of such board shall be provided by the election law.
- c. Any person who shall become a candidate for elective public office shall be disqualified during the period of her or his candidacy from appointment or continued employment as an employee of the board of elections. The period of her or his candidacy shall be deemed to commence with the filing with the board of elections of a nominating or designating petition in furtherance of her or his candidacy unless she or he shall promptly file with the board a written declination of candidacy. The term "elective public office" shall not be deemed to include any political party office or position. The term "employment" shall include periods of leave of absence and sick time, and shall not encompass periods of paid vacation or compensatory time where the employee has submitted her or his resignation effective as the last day of such paid vacation or compensatory time or combination thereof.
- d. The board of elections shall have the power, without public advertisement for bids, to make all purchases of and contracts for all primary or election supplies and services necessary for the operation of its office and the performance of its duties.

Section 22.06. Department of Probation; director.

The Department of Probation shall be headed by a commissioner who shall be appointed on the basis of her or his administrative experience and qualifications for the duties of the office in accordance with executive law article 12-A. The commissioner shall have and exercise all the powers and duties now or hereafter conferred or imposed upon her or him by the county charter, by this code, by order or direction of the county executive, or by any other applicable law, not inconsistent with the county charter or this code. The commissioner may appoint a deputy commissioner, to serve at her or his pleasure, on the basis of her or his administrative experience and qualifications for the duties of the office in accordance with executive law article 12-A.

Section 22.07 Additional appointments by county executive.

- a. The county executive shall appoint, as county historian, a resident of Erie county who shall have demonstrated an interest in and an ability to record historical records and events.

Section 22.08 Miscellaneous administrative functions. [Reserved]

# Article 22-A – Citizens Salary Review Commission - Code

[RESERVED]

Article 22-B – Erie County Community  
Coordinating Council on Children and Families -  
Code

[RESERVED]

# Article 23 – Autonomous Institutions - Code

[RESERVED]

# Article 24- Service Relationships with Local Municipalities - Code

[Reserved]

# Article 25 - Financial Procedures - Code

- Section 25.01 Fiscal year.
- 25.02 Preparation of proposed tentative operation and maintenance budget.
- 25.03 Preparation of proposed tentative capital budget and program.
- 25.04 Tentative budget and capital program.
- 25.05 Budget controls.
- 25.06 Contingent fund.
- 25.07 Departmental and administrative unit accounting responsibilities.

## Section 25.01 Fiscal year.

The fiscal year of the county shall be as provided in the charter.

## Section 25.02 Preparation of proposed tentative operation and maintenance budget.

The preparation of this proposed tentative operation and maintenance budget shall be as set forth in article 25 of the county charter.

## Section 25.03 Preparation of proposed tentative capital budget and program.

The preparation of the proposed tentative capital budget and program shall be as set forth in article 25 of the county charter.

## Section 25.04 Tentative budget and capital program.

- a. Budget preparation and general scope. The county executive shall review the tentative proposed operation and maintenance budget and the proposed tentative capital budget as submitted by the budget director, together with any other anticipated items of county expenditures or revenue, and shall prepare the tentative budget of the county for the ensuing fiscal year for both current operating and capital purposes. Such budget shall be in such form as the county executive may deem advisable and shall show in parallel columns the following comparative information: (1) actual expenditures and revenues for the last completed fiscal year; (2) the budgeted expenditures and revenues for the current fiscal year, reflecting transfers and supplemental appropriations; (3) the estimates of expenditures and revenues for the ensuing fiscal year submitted by the heads of the various departments, other administrative units and authorized agencies, and (4) the county executive's recommendations and estimates as to expenditures and revenues for the ensuing fiscal year. In addition to items of operation and maintenance, the tentative budget shall include or be supplemented by: all items of capital project expense for which the county is already liable or which the county executive recommends be undertaken in the ensuing fiscal year; other items as set forth in paragraphs b. and c. of this section; and a statement showing the bonded and other indebtedness of the county government and its agencies, the debt redemption and interest requirements, the indebtedness authorized and unissued, the condition of the capital reserve and sinking funds, and the borrowing capacity of the county.
- b. Recommended expenditures. The recommendations for expenditure in the tentative budget shall be classified by administrative units or special funds, shall show the character and

object of expenditure, and shall contain (1) an estimate of the several amounts which the county executive deems necessary in the ensuing fiscal year for conducting the business of the county for each administrative unit thereof, separately stated and for other county purposes and charges, classified to show separately; (i) the ordinary recurring expense of the operation and maintenance of the county government, and (ii) any extraordinary or non-recurring expense to be financed from current revenue; (2) an estimate of the general contingent fund which the county executive recommends be provided for unanticipated or emergency county purposes or charges; (3) a statement of the several amounts recommended by the county executive for appropriation to the reserve funds and sinking funds, if any; (4) a statement of the amount required to pay the interest on and amortization of or redemption of indebtedness of the county becoming due in the ensuing fiscal year; (5) an estimate of the amount to be paid to school districts on account of unpaid school taxes to be returned to the county during such year; and (6) the amount of any judgement recovered against the county and payable during the fiscal year and for which no bonds have been or will be issued.

- c. Estimated revenues. The estimates of revenue in the tentative budget shall be classified by accounts and administrative units, shall show the sources of income and shall contain (1) a statement of all revenues which it is estimated will be received by the county during the ensuing fiscal year, except from county taxes to be levied; (2) a statement of all unexpended balances, if any, at the end of the last preceding completed fiscal year which are available to meet the expenditure requirements of the ensuing fiscal year; (3) an estimate of the anticipated receipts from delinquent taxes, which shall not exceed the amount received in cash from delinquent taxes during the last four months of the last preceding fiscal year and the first eight months of the current fiscal year, provided that delinquent taxes shall include the proceeds of: (i) the collection of all taxes levied or relieved by the county legislature for any year preceding the current fiscal year, together with interest and penalties thereon, (ii) the sale of property sold for such taxes, and (iii) the redemption of property sold for such taxes and bid in by the county, but shall not include the proceeds of any such collection, sale or redemption occurring during the fiscal year for which such taxes were originally levied; (4) a statement as to the amounts, if any, from the capital reserve fund and/or sinking funds available for down payments, other current capital payments or debt service during the ensuing fiscal year; and (5) a statement of the estimated net county tax requirements, determined by subtracting the total estimated revenues, other than taxes to be levied, from the total recommended expenditures for the ensuing fiscal year in accordance with the provisions of section twenty-five hundred nine of article 25 of the charter.
- d. Moneys received by the county but required by law to be paid to the state or the units of government within the county shall not be included in the expenditures and revenues anticipated in the budget, provided, however, that this shall not apply to moneys advanced to local governmental units within the county on account of delinquent taxes.
- e. Capital program. The county executive shall review the proposed capital program as prepared by the budget director. She or he shall after making such changes as she or he may deem advisable, arrange it so as to set forth clearly: (1) as to each pending capital project: the amount of all liabilities outstanding, the unencumbered balances of authorizations and the estimated additional appropriations required for its completion; (2) as to each new capital project recommended: the year in which it is recommended to be undertaken and the estimated cost; (3) as to each pending or recommended project: a brief description, the

estimated date of completion, the amount of liabilities estimated to be incurred in each year to completion, the estimated useful life in years, the amounts, nature and terms of obligations recommended to be authorized, and the estimated annual operating and maintenance charges such project will entail; (4) any recommendations that a pending project be modified or abandoned or further authorization therefor postponed; and (5) any other information that the county executive may deem advisable.

- f. Submission to county legislature; county executive's message. On or before the 15th day of October the county executive shall submit the tentative budget (including both the operation and maintenance budget, and the capital budget) for the ensuing year, a three year budget forecast for succeeding years and the capital program for the ensuing six (6) fiscal years, together with an accompanying message to the county legislature. Such legislature, after holding one or more public hearings thereon, shall proceed to consider the same and to adopt the budget in the manner provided in article twenty five of the county charter. The county executive's message shall outline a fiscal policy for the county government, describing the important features of her or his tentative budget and capital program, containing a general summary of current and capital requirements for the ensuing fiscal year, and showing a balanced relation between total proposed expenditures and total anticipated revenues for the budget year as well as corresponding figures for the last completed fiscal year and the current year. The message shall contain such comments and recommendations as the county executive may deem advisable.
- g. Monthly report. The county executive, or her or his appointed director of budget and management, shall, commencing with the second fiscal quarter of each year, prepare a monthly report which shall include a summary of revenues and expenditures for the preceding month. The report shall be detailed as to the appropriations and funds in such manner as to show the current financial condition and financial future of the county by department and shall compare projected revenues and expenditures with actual and accrued revenues and expenditures. Monthly budget reports filed after the month of May shall include year-end forecasts. Monthly budget reports, containing comprehensive fiscal details set forth herein, shall be filed with the county legislature monthly, on or before the last calendar day of the subsequent calendar month.

#### Section 25.05 Budget controls.

The budget controls shall be as set forth in article 25 of the county charter.

#### Section 25.06 Contingent fund.

The county legislature, by resolution, subject to veto by the county executive, may at any time appropriate all or any part of the moneys in the general contingent fund for general county purposes.

Section 25.07

Departmental and administrative unit accounting responsibilities. All county departments or other administrative units or subdivisions thereof, or other spending agencies shall be responsible for: the preparation of all accounting input as described by the county's accounting manual; management of their operations with the appropriations provided therefore; review and analysis of accounting reports issued by the comptroller; and preparation of correcting entries, as required.

# Article 26 - General Provisions - Code

Section 26.01	Advisory boards.
26.02	Compensation of boards.
26.03	Compensation of officers.
26.04	Expenses.
26.05	Validity of prior obligations.
26.06	Pending actions and proceedings.
26.07	Execution of contracts.
26.08	Professional, technical or other consultant services.
26.09	Construction contracts.
26.10	Undertakings.

## Section 26.01 Advisory boards.

- a. Except as otherwise provided in the charter or this code: (1) members of advisory boards established by the charter, this code or local law shall be appointed for terms ending the thirty first day of December; and (2) the county executive may designate the chairman of each such board at the time of the original appointments, and the chairman so designated shall hold office for the current calendar year; provided that if the county executive fails to designate a member to serve as the first chairman, the advisory board shall proceed to elect a chairman from among its members. Except as provided above, each advisory board shall annually on or before the first day of February, select a chairman and such officers as it may desire, for one year terms or until their successors are elected and qualified.
- b. Each such advisory board shall determine its own rules of procedure. A majority of the whole number of members of such board shall constitute a quorum. Unless otherwise provided in the rules of procedure, each such advisory board shall meet at the call of the chairman or of a quorum or of the county executive.
- c. The county executive may designate quarters wherein county advisory boards may meet at reasonable intervals.
- d. The county executive may designate any officer or employee paid from county funds to attend the meeting of any county advisory board.

## Section 26.02 Compensation of boards.

No member of any board, by whatever name known, appointed pursuant to the charter or this code shall receive compensation for services performed in connection therewith.

## Section 26.03 Compensation of officers.

Any salary fixed by the county legislature of an officer paid from county funds shall be in lieu of all fees, percentages, emoluments or other form of compensation payable for services rendered in the performance of the powers and duties of the office; provided however, that any such officer (1) required by law to reside at a county institution or (2) authorized and directed by the county executive, may be furnished maintenance or any part thereof at a county institution. Such

maintenance shall be defined and the fair value thereof determined by resolution of the board and the amount so determined shall constitute part of the salary fixed for any such officer.

#### Section 26.04 Expenses.

The actual and necessary expenses of all legislators, officers and employees paid from county funds incurred in the performance of powers and duties of the county shall be a county charge.

The county legislature may by resolution authorize the payment of a mileage allowance as fixed by said legislature for the expense of using an automobile privately owned by the user thereof and operated by any legislator, officer or employee.

Whenever under the charter or this code, the appointment of a board or commission by whatever title known, is authorized, the actual and necessary expenses including mileage incurred in the performance of their duties shall be a county charge.

#### Section 26.05 Validity of prior obligations.

The validity or legality of any bonds, notes, certificates of indebtedness or the method of payment thereof, heretofore authorized, issued or sold by the county shall not be affected or impaired by any of the provisions of the county charter or this code.

#### Section 26.06 Pending actions or proceedings.

No action, suit or proceeding commenced before the effective date of the charter or this code shall be affected by the adoption thereof or by any of the provisions herein contained, but shall be continued as if the charter or this code had not taken effect.

#### Section 26.07 Execution of contracts.

No contract shall be executed by the county executive on behalf of the county until the same has been approved as to form by the county attorney. A copy of each such contract when executed shall be filed with the comptroller and county legislature.

#### Section 26.08 Professional, technical or other consultant services.

When a professional, technical or other consultant service contract has a value in gross of ten thousand dollars (\$10,000) or more, the head of a department or administrative unit shall distribute to responsible persons able to provide the required special skill or service, (for the purposes of this section, persons, including the singular of that term, shall include individuals, firms, partnerships and corporations), a request for a proposal (RFP). The RFP shall contain all information, including any particular or unique specifications required, necessary to adequately inform the potential contractor of the special skill or service required by the county and shall afford the potential contractor an opportunity to submit a response to the RFP outlining her or his qualifications, expertise, experience, past experience with the county, if any, and the total estimated cost, or rate, for providing the special service or skill required. Necessary information shall include the name, title and department of any employee or officer who was a county employee or officer one year prior to the date of the potential contractor's response.

Upon receipt of responses to the RFP, a committee of not less than three members shall be formed by the department head or administrative unit head, and the members of this committee shall preliminarily review and evaluate the responses. This committee shall prepare in writing

and shall submit a comparison of all the persons who responded showing (a) what special skill or service will be provided; (b) the qualifications of the person; (c) the expertise of the person and the quality of any past experience that person has had with the county; (d) the total estimated cost, or rate, for providing the special service or skill; and (e) the person shall disclose the name, title and department of any employee or officer of hers or his who was a county employee or officer one year prior to the date of her or his response. The head of the department or administrative unit shall submit such evaluation with her or his recommendation to the Erie county legislature.

The head of the department or administrative unit shall in writing represent to the legislature that, if she or he uses as a prequalified list for prospective suppliers of professional, technical or other consultant services, she or he has published or otherwise made known to the community at large that her or his department or administrative unit uses such a prequalified list and that, if a potential contractor wishes to be considered by the county for such services, she or he should submit necessary information as to what type of service she or he provides so her or his name will be added to the list. If the department or administrative head does not use a prequalified list, then she or he shall in writing represent to the legislature that she or he published or otherwise made known to the community at large on a regular basis the fact that her or his department from time to time requires certain professional, technical or other consultant services and, if a potential contractor is interested in providing such services to the county that she or he contact the head of the department or administrative unit with necessary information as to what type of service she or he provides.

This provision shall in no event mandate a department head or administrative unit head to recommend or the county legislature to award such contracts to the lowest bidder or any bidder. This provision, moreover, shall not prohibit the county legislature from approving a contract with a qualified minority person, as defined in the county's minority business enterprise local law, who provides a special service or skill required by the county whether or not this informal procedure has been followed.

Notwithstanding this provision, if the county legislature makes a finding of necessity that the special service or skill must be provided immediately, or, in the case of doctors, dentists or ministers, makes a determination that this procedure is impracticable, then it may by resolution waive this procedure.

#### Section 26.09 Construction contracts.

Prior to bidding on a construction contract to be let by the county of Erie, the bidder shall certify in writing to the Erie County legislature that (1) it is a participant in a bona fide apprenticeship training program approved by New York State and, which meets the standards contained in section two hundred twenty of the New York State Labor Law, (2) it is a participant in an established pension plan solely paid for by the bidder and/or other employers, for the employees who will perform the work, according to the standards of section two hundred twenty of the New York State Labor Law, (3) it is a participant in an established health and welfare plan solely paid by the bidder and/or other employers for the employees who will perform the work, according to the standards of section two hundred twenty of the New York State Labor Law and, (4) it pays prevailing wages according to the standards of section two hundred twenty of the New York State Labor Law.

Section 26.10 Undertakings.

The County shall procure a blanket undertaking from a duly authorized corporate surety or insurance company covering county officers, clerks and employees required by law to provide a surety, bond or other undertaking for the faithful performance of his or her duties.

# Article 27- Code Application, Amendment and Construction - Code

Section 27.01 Amendment.

27.02 Continuity of authority and responsibility.

27.03 Separability.

27.04 Code to be liberally construed.

27.05 Judicial notice.

27.06 Effective date.

Section 27.01 Amendment.

This code may be amended by local law adopted in the manner prescribed by section 2.03 of article 2 of this code. All such amendments shall be consistent with the county charter.

Section 27.02 Continuity of authority and responsibility.

The performance of functions pursuant to the provisions of this code shall be deemed and held to constitute a continuation thereof for the purpose of succession to all rights, powers, duties and obligations attached to such functions. Any proceedings or other business undertaken or commenced prior to the effective date of this code may be conducted and completed by the county officer or administrative unit responsible therefor under this code or the county charter.

Section 27.03 Separability.

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

Section 27.04 Code to be liberally construed.

This code shall be liberally construed to effectuate its objectives and purposes.

Section 27.05 Judicial notice.

All courts shall take judicial notice of all provisions of this code and all local laws, acts, resolutions, rules, regulations and ordinances adopted pursuant to the county charter or this code.

Section 27.06 Effective date.

This code shall take effect January first, nineteen hundred sixty one.

**Section 3.** Effective Date

This Local Law shall take effect upon filing with the New York Secretary of State.

**Section 4.**

The County Attorney shall renumber the articles, sections and subsections of the Code, as needed, to ensure that such articles, sections and subsections are uniformly formatted and numbered and that all sections changed by this document or any other valid document are effectuated across the Code.

**Section 5.** Severability

If any clause, sentence, paragraph, subdivision, section or part of the Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

**Sponsors:**

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