

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics of underlining to indicate new matter.

Town of New Lisbon

Local Law No. 3 of the year 2016

**A LOCAL LAW GOVERNING THE APPOINTMENT OF A TEMPORARY ADMINISTRATOR BY THE TOWN OF NEW LISBON**

Be it enacted by the Town Board of the

Town of New Lisbon

**Purpose:**

**WHEREAS** the New Lisbon Town Board was notified that there is a need for a local law in order to more precisely designate the person or persons to substitute for the Town Supervisor when he/she is absent, unavailable or incapacitated, and in particular, to certify payroll and sign checks or make payments, and

**WHEREAS**, upon advice of counsel a local law is needed to establish the authorization of the person or persons to substitute during the absence, and

**WHEREAS**, Section 63 of the Town Law of New York State states that “in the absence of the supervisor, the other members shall designate one of their members to act as temporary chairman of Town Board meetings, and

**WHEREAS** the Town Board sees the need to provide for such circumstances or events when the Supervisor is absent, unavailable, or incapacitated, by appointing an Administrator, who is an officer or employee of the Town, to be able to certify payroll and sign checks and take care of financial matters for the Supervisor during such period that the Supervisor is absent.

(See Attached)

## **Chapter 1. ADMINISTRATOR, TEMPORARY**

### **§ 1-1. Legislative authority.**

This chapter is adopted pursuant to the provisions of the New York Municipal Home Rule Law.

### **§ 1-2. Definitions.**

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

#### **ABSENT/ABSENCE**

A period of time when the Supervisor is away, absent from the Town and/or Town Board meetings, and is physically not present in the Town. Absence shall include vacation or other leaves, such as illness or sickness of the Supervisor or other members or his or her family, or business trips, obligations or other such activities that take the Supervisor away from the Town of New Lisbon where he or she is not physically present. Such absence may include voluntary unavailability such as personal issues or needs, or mandatory unavailability such as military service or other required service.

#### **ADMINISTRATOR**

The temporary appointment of a current employee or officer of the Town to act, in the absence of the Supervisor, during the period of time of the Supervisor's absence, illness, sickness or incapacity, to be the acting chief financial officer of the Town. Such Administrator shall have the ability to sign checks, make payments, enter into contracts, open or close bank accounts, and otherwise transact the financial activities of the Town while the Supervisor is unable to do so.

#### **ILLNESS, SICKNESS OR INCAPACITY**

Illness, sickness or incapacity shall include such ailments, illnesses, sickness or disease that shall prevent the Supervisor from being physically present to carry out his or her duties, obligations or responsibilities as Supervisor in the Town of New Lisbon, including but not limited to the payment of bills, payroll, attendance at meetings, or acting as the Chief Fiscal Officer of the Town under Local Finance Law § 61 and Town Law § 29. Such illness, sickness, or incapacity can be temporary or permanent in nature.

#### **SUPERVISOR**

The duly elected or appointed Supervisor of the Town, who serves with the powers, duties and obligations as set forth in § 29 of the New York Town Law. For purposes of this section, the term Supervisor shall include the Deputy Supervisor, if the position is authorized, established, and created by the Town Board, and appointed by the Supervisor under § 42 of the New York Town Law. In the event that there is no Deputy Supervisor appointed, or the position is not created, established or is abolished by the Town Board, then the term Supervisor shall only refer to the elected or appointed Supervisor.

### **§ 1-3. Appointment in absence of Supervisor.**

In the event the Supervisor is to be absent from the Town, the Supervisor shall give written notice to the Town Board of such absence and the period or anticipated duration of the absence. In the event of an emergency, the Supervisor shall give such notice as is practicable given the circumstances. Upon such notice, or facts available to the Town Board constituting such notice of the Supervisor's unavailability or absence, the Town Board may call and hold a meeting, wherein pursuant to § 63 of the Town Law, a temporary chairman is designated by the members of the Town Board present and voting, provided there is a quorum. If the Town Board determines that the absence or unavailability of the Supervisor will have a negative impact on the Town's financial obligations, and the matters cannot wait until the Supervisor returns, the Town Board may vote to appoint a temporary Administrator to act while the Supervisor is absent or unavailable. Any temporary Administrator appointed or approved by the Town Board must be a current employee or officer of the Town. Such Administrator may be

given the powers to transact business with the Town's bank or financial providers, including signing a signature card, checks, statements or accounts, enter into contracts, certify payroll or otherwise act as the chief fiscal officer of the Town until the Supervisor gives written notice of his or her return or ability to carry out such functions. The vote to appoint a temporary Administrator shall require three affirmative votes of the Town Board members present. The position, duties and responsibilities of the temporary Administrator shall cease upon the return and resumption of the duties by the Supervisor following notice as set forth herein. In the event of any absence or unavailability of the Supervisor following a resumption by the Supervisor of his or her duties, the Town Board shall consider each and every such absence or unavailability as a separate occurrence, and require a separate vote as set forth herein.

**§ 1-4. Fiduciary responsibility.**

Any Administrator appointed hereunder shall have the fiduciary responsibility of a supervisor to the Town for the period of time serving as Administrator. The Administrator shall keep records of all transactions taken while Administrator, and report them to the Supervisor, bookkeeper and Town Board.

**§ 1-5. Conflict with other provisions.**

Supersession: This chapter is not intended to abridge, limit, reduce, or otherwise restrict the powers, duties, or obligations of the Supervisor under § 29 of the Town Law. It is to provide for alternative processes to permit the Town to function in the absence or unavailability of the Supervisor. To the extent that this chapter is inconsistent with any other provisions of the Town Law, Local Finance Law or the Municipal Home Rule Law, this chapter shall control.