

# COUNTY OF ERIE

## LOCAL LAW No. 1 - 1959

A local law in relation to the adoption of a county charter for the county of Erie, state of New York, in accordance with the provisions of article six-A of the County Law of the state of New York.

Be it enacted by the board of supervisors of the county of Erie as follows:

### SECTION 1

#### ERIE COUNTY CHARTER

##### Article

- I. Erie county and its government
- II. Legislative branch
- III. Executive branch
- IV. Department of finance
- V. Department of health
- VI. Department of law
- VII. Department of parks and recreation
- VIII. Department of personnel
- IX. Department of planning
- X. Department of public works
- XI. Department of social welfare
- XII. Comptroller
- XIII. County clerk
- XIV. District attorney
- XV. Sheriff
- XVI. Other county boards, offices, institutions and functions
- XVII. Service relationships with local municipalities
- XVIII. Financial procedures
- XIX. General provisions
- XX. Application of charter, when and how\* effective

### ARTICLE I

#### ERIE COUNTY AND ITS GOVERNMENT

- Section 101. Title and purpose.
102. County status, powers and duties.
  103. Charter effect on state laws.
  104. Charter effect on local laws and resolutions.

§ 101. Title and purpose. This charter and all amendments hereto shall constitute the form of government for the county of Erie and shall be known and cited as the "Erie county charter." Among the purposes of this charter are the accomplishment of greater efficiency, economy and responsibility in county government; the securing of all possible county home rule; and the separation of county legislative and executive functions.

§ 102. County status, powers and duties. The county of Erie shall continue to be a municipal corporation exercising such powers and discharging such duties as may be imposed or conferred upon it by this charter or by applicable law.

§ 103. Charter effect on state laws. Within the limits prescribed in article six-A of the County Law, wherever and whenever any state law, general, special or local in effect, is inconsistent with this charter, such law shall be deemed to the extent of such inconsistency to be superseded by this charter insofar as the county of Erie and its government are affected.

§ 104. Charter effect on local laws and resolutions.\* Except to the extent inconsistent with this charter, all existing laws and resolutions heretofore adopted by the board of supervisors of the county shall continue in force until amended, superseded or repealed as provided herein.

\* So in original. [Does not conform with article heading in text of law.]

\* So in original. [Word misspelled.]

## ARTICLE II

### LEGISLATIVE BRANCH

Section 201. The board of supervisors.

202. Powers and duties.

203. Local laws: definition; power to adopt, amend and repeal; effect on legislative acts.

204. Form and procedure.

205. Adoption; executive approval required; reconsideration after veto.

206. Filing and publication of local laws; judicial notice.

207. Referendum.

208. Effective date.

209. Ordinances.

§ 201. The board of supervisors. The supervisors of the several cities and towns in the county of Erie, when lawfully convened, shall constitute the board of supervisors, which shall be the legislative and governing body of the county.

§ 202. Powers and duties. Except as otherwise provided in this charter, the board of supervisors shall have and exercise all powers and duties of the county, all powers and duties now or hereafter conferred or imposed on said board by applicable law, and all powers necessarily incidental thereto.

The board of supervisors shall have, but not by way of limitation, the following powers and duties:

a. To make appropriations, levy taxes and incur indebtedness.

b. To exercise all powers of local legislation in relation to enacting, amending or rescinding local laws, legalizing acts, ordinances or resolutions, subject to veto by the county executive in such instances as are specifically provided in this charter.

c. By local law to adopt, amend and repeal an administrative code which shall set forth the details of administration of the county government in harmony with the provisions of this charter and may contain revisions, simplifications, consolidations, codifications and restatements of special laws, local laws, ordinances, resolutions, rules and regulations consistent with this charter.

d. By local law to create, alter, combine or abolish county administrative units not headed by elective officers.

e. To adopt by resolution all necessary rules and regulations for its conduct and procedure.

f. To fix the compensation of all officers and employees paid from county funds, except members of the judiciary.

g. To fix the amount of bonds of officers and employees paid from county funds.

h. To make such studies and investigations as it deems to be in the best interest of the county, and in connection therewith to obtain professional and technical advice, appoint temporary advisory boards of citizens, subpoena witnesses, administer oaths and require the production of books, papers and other evidence, deemed necessary or material to the study or inquiry.

i. To determine and make provision for any matter of county government not otherwise provided for, including any matter involved in the transition to this charter form of government.

§ 203. Local laws; definition; power to adopt, amend and repeal; effect on legislative acts. A local law is a law adopted pursuant to this charter within the power to do so granted by the constitution, any act of the legislature or provision of this charter. This term shall not include a resolution, ordinance or legalizing act.

The county may adopt, amend and repeal a local law. A local law may relate to the property, affairs or government of the county or any other subject matter of county concern. In the exercise of such power the county may change, supersede or amend any act of the legislature. Such power shall include but be not limited to whatever power is vested in any county in the state of New York or the elective governing body thereof to adopt, amend and repeal local laws granted by any provisions of general laws, special laws, charters, administrative codes, special acts or local laws.

§ 204. Form and Procedure. If a local law amends a specific state statute or specific local law, the matter to be eliminated shall be enclosed in brackets or parentheses and the new matter underscored or italicized.

Except as otherwise provided in this charter the procedure for the adoption of a local law including referendum, mandatory or permissive, shall be as provided in the administrative code and in the absence thereof by applicable law.

§ 205. Adoption; executive approval required; reconsideration after veto. The county executive shall have power, within ten (10) days after its passage, to veto any local law passed by the board of supervisors. A duplicate of every local law shall be certified by the clerk of the board of supervisors and filed by said clerk with the county executive within five (5) days after its passage. If the county executive approves it, he shall sign it and return it to such clerk and it shall be deemed to be adopted. If he vetoes it, he shall return it to such clerk and may set forth his written objections thereto and the clerk shall present the same with such objections to the board of supervisors at its next regular or special meeting and such objections shall be entered in its journal. The board of supervisors within thirty (30) days after its return to the clerk may by a two-thirds vote of the whole number of its members override such veto. Only one vote shall be had to override such veto which vote shall be taken by roll call and entered in the journal. If within ten (10) days after its passage the county executive shall not return it either approved or vetoed to the clerk, it shall be deemed to be adopted with like effect as if he had approved and signed it.

§ 206. Filing and publication of local laws; judicial notice. The filing and publication of local laws shall be as provided by section three hundred six of the County Law, and the courts shall take judicial notice of all local laws, and of rules and regulations adopted pursuant thereto.

§ 207. Referendum. A local law shall be subject to mandatory or permissive referendum when required by this charter, the administrative code or applicable law. Where no mandatory or permissive referendum is so required, the board of supervisors may nevertheless provide in a local law that a referendum shall be had or that it shall be subject to permissive referendum.

§ 208. Effective date. After adoption, every local law shall become effective when filed in the office of the secretary of state or on such later date as in said local law provided.

§ 209. Ordinances. Ordinances may be adopted by the board of supervisors subject to veto by the county executive. The procedure shall be the same as herein provided for the adoption of local laws except that an ordinance shall not be subject to referendum, mandatory or permissive. An ordinance may provide for any subject matter of county concern not required to be provided by local law, legalizing act or resolution of the board of supervisors.

Such ordinance may provide for its enforcement by legal or equitable proceedings in a court of competent jurisdiction, may prescribe that violations thereof shall constitute offenses or misdemeanors and may provide for punishment of violations by civil penalty or by fine and imprisonment or by two or more such penalties or punishments.

Ordinances and their application, particular subjects and form may be as further provided in the administrative code.

### ARTICLE III

#### EXECUTIVE BRANCH

- Section 301. The county executive; election; term; qualifications.
- 302. Powers and duties.
- 303. Removal of the county executive.
- 304. Acting county executive; how designated; when to act.
- 305. Division of budget.
- 306. Division of purchase and central services; purchasing act repealed.
- 307. Administrative heads; term; interim appointment; appointment of other officers and employees.
- 308. Confirmation by board of supervisors.

§ 301. The county executive; election; term; qualifications. The executive branch of county government shall be administered by the county executive who shall be elected from the county at large. His term of office shall begin with the first day of January next following his election and shall be for four (4) years, except that the term of the county executive elected in nineteen hundred sixty shall be for three (3) years. At the time of his election and throughout his term of office he shall be a qualified elector of the county. He shall devote his whole time to the duties of his office and shall hold no other public office, except as provided in section three hundred seven hereof.

§ 302. Powers and duties. The county executive in addition to any other powers and duties provided by this charter shall:

a. Be the chief executive officer and administrative head of the county government.

b. Except as otherwise provided in this charter, and subject to confirmation where so provided, appoint to serve during his pleasure the head of every department and other administrative unit of the county and the officers and employees in his own office.

c. Supervise and direct the internal organization and reorganization of each department or other administrative unit the head of which he has power to appoint.

d. Be the chief budget officer of the county.

e. Determine and fix real property tax equalization rates among the various taxing districts of the county for county purposes and file the same with the board of supervisors on or before the first day of November in each year.

f. Have authority to appoint and terminate one or more temporary advisory boards of citizens of the county who shall, without compensation other than such necessary expenses as may be provided in the budget, assist in the consideration of county administrative policies and programs.

g. Designate one or more depositories located within the county for the deposit of all moneys received by the commissioner of finance.

h. Examine and approve or disapprove the sufficiency of sureties on official bonds and undertakings.

i. Report to the board of supervisors annually at the close of the fiscal year or as soon thereafter as practicable, but in no event later than the first day of March, the activities of the several administrative units of the county during the preceding fiscal year in such detail as the board of supervisors shall direct.

j. Appoint a member of the board of supervisors to serve as chairman of such board (1) for the remainder of the calendar year in case the board of supervisors has failed to select a chairman on or before February first, or (2) for the unexpired term of the previous chairman in case the board of supervisors has failed to select a chairman within thirty days after a vacancy has occurred in the office of the chairman.

k. Perform such other duties and have such other powers as may be prescribed for him by law, administrative code, county ordinance or resolution.

l. In addition to the powers set forth in this charter, have and be responsible for the exercise of all executive and administrative powers in relation to any and all functions of county government not otherwise specified in this charter.

m. Have all necessary incidental powers to perform and exercise any of the duties and functions specified above or lawfully delegated to him.

§ 303. Removal of the county executive. The county executive may be removed by the governor in the manner provided in the Public Officers Law for the removal of other county officers.

§ 304. Acting county executive; how designated; when to act. The county executive shall designate in writing one or more appointive department or executive division heads, to perform the duties of the county executive during the latter's temporary inability to perform by reason of absence from the county or disability. Such appointment, with order of succession specified, shall be filed with the clerk of the board of supervisors. Any such designation may be revoked by the county executive at any time by filing a notice of

revocation with the clerk of the board of supervisors. If a vacancy occurs in the office of the county executive, the acting county executive shall serve until the vacancy is filled pursuant to this charter.

In the event that no acting county executive has been designated or is able to serve, the board of supervisors shall designate an appointive department or executive division head to perform the duties of the office during the inability of the county executive to perform by reason of absence from the county or disability.

§ 305. **Division of budget.** There shall be in the office of the county executive a division of the budget headed by a budget director who shall be appointed by and serve at the pleasure of the county executive. The budget director shall assist the county executive in the preparation and administration of the operating and capital budgets and in the study of administrative efficiency.

§ 306. **Division of purchase and central services; purchasing act repealed.** There shall be in the office of the county executive a division of purchase and central services, headed by a purchasing director who shall be appointed by and serve at the pleasure of the county executive. The purchasing director shall, in accordance with requirements as to advertising and competitive bidding, make all purchases and sales of materials, supplies and equipment and contract for the rental or servicing of equipment for the county, except as otherwise provided in this charter or the administrative code. He shall not contract for or furnish any services, equipment or other articles except upon receipt of authorized requisitions and certifications as to availability of funds. The Erie county purchasing department act, being chapter one hundred sixty-seven of the laws of nineteen hundred seventeen as amended, is hereby repealed as of January first, nineteen hundred sixty-one.

§ 307. **Administrative heads; term; interim appointment; appointment of other officers and employees.** Except as otherwise provided in this charter, the county executive shall appoint, to serve during his pleasure or for such term as may be specified in this charter, the head of every department or other administrative unit not administered by an elective official. The appointment by the county executive of the head of each department, or other administrative unit except executive division, shall be subject to confirmation by the board of supervisors. The county executive may appoint one head for two or more departments or other administrative units, subject to all requirements as to qualifications and confirmation, or may himself so serve without such confirmation.

All appointments shall be in writing, signed by the county executive and filed in the office of the clerk of the board of supervisors within ten days after the date of appointment. No such appointee shall hold office beyond the term of the county executive by whom the appointment was made, except that unless removed he shall continue to serve until his successor is appointed and has qualified or until an interim appointment is made.

Upon confirmation by the board of supervisors and qualifying for the office, an appointee to the position of head of a department or other administrative unit shall enter upon the duties thereof. In the event the board of supervisors has neither confirmed nor rejected an appointment within a period of thirty (30) days after the filing thereof with the clerk of the board, such appointment shall be deemed to be confirmed. Awaiting action by the board of supervisors, the county executive may designate a qualified person to serve as such head for a period not to exceed thirty (30) days in any calendar year.

All other officers and employees of each department or other administrative unit shall be appointed by the head thereof.

§ 308. **Confirmation by board of supervisors.** Confirmation of appointment when required shall be by affirmative vote of a majority of the whole number of members of the board of supervisors taken at a regular or special meeting.

## ARTICLE IV

### DEPARTMENT OF FINANCE

Section 401. Department of finance; commissioner; board of equalization and elective office of treasurer abolished.

402. Powers and duties.

§ 401. Department of finance; commissioner; board of equalization and elective office of treasurer abolished. There shall be a department of finance headed by a commissioner, who shall be appointed by the county executive subject to confirmation by the board of supervisors. The Erie county equalization board act, being chapter three hundred four of the laws of nineteen hundred nineteen as amended, is hereby repealed, and the elective office of county treasurer shall be abolished, as of January first, nineteen hundred sixty-one.

§ 402. Powers and duties. Except as otherwise provided in this charter, the commissioner of finance shall:

a. be the chief fiscal officer of the county and have charge of the administration of all its financial affairs.

b. collect, receive, have custody of, deposit, invest and disburse all fees, revenues and other funds of the county or for which the county is responsible.

c. submit to the board of supervisors annually on or before the first day of April, and at such other times as such board may require, a complete financial statement containing a general balance sheet for the county.

d. perform all the duties, including but not limited to the collection of taxes, required by any law to be performed by a county treasurer or county sales tax director.

e. perform all duties in relation to the extension of taxes and the issuing of tax bills heretofore performed by the clerk of the board of supervisors.

f. keep a record of the transfer of title to real property and immediately notify the town clerk or the city board of assessors of all such transfers in each town or city, as the case may be.

g. make available a consultation 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.

h. submit annually to the county executive proposed county tax equalization rates consistent with standards prescribed by the legislature.

## ARTICLE V

### DEPARTMENT OF HEALTH

Section 501. County health district and department; commissioner; qualifications; appointment and term.

502. Powers and duties of the commissioner.

503. Board of health.

504. Sanitary code.

§ 501. County health district and department; commissioner; qualifications; appointment and term. The county, including the cities, towns and villages and special districts situated therein, shall continue to be a county health district. There shall be a department of health headed by a commissioner. The county executive shall appoint as commissioner of health a physician duly licensed to practice medicine in the state of New York, who shall be experienced in public health administration and shall possess such qualifications as are prescribed in the state Sanitary Code or otherwise by the public health council of the state of New York. Such appointment shall be subject to confirmation by the board of supervisors, and shall be for the term or balance thereof of the county executive making such appointment.

§ 502. Powers and duties of the commissioner. Except as otherwise provided in this charter, the commissioner of health shall have all the powers and perform all the duties conferred or imposed upon county health commissioners and/or county boards of health by law. He shall perform such additional and related duties as the county executive may prescribe.

§ 503. Board of health. There shall be in the department a board of health, the members of which shall be appointed by the county executive. The composition of such board in regard to the number of members and the professional, governmental or other representation, and the terms of such members, shall be as provided in the public health law for a county board of health. The board of health shall at the request of the commissioner, and may on its own initiative, advise on matters relating to the preservation and improvement of the public health.

§ 504. Sanitary code. The board of health may formulate, promulgate, adopt and publish rules, regulations, orders and directions relating to health in the county, which shall not be inconsistent with the Public Health Law or the state Sanitary Code. Such rules, regulations, orders and directions shall be known as the county sanitary code. Any and all provisions of the Erie county sanitary code in effect at the time of adoption of this charter shall remain in full force and effect until amended or repealed by the board of health.

The provisions of the county sanitary code shall have the force and effect of law. Penalties for violation of or non-conformance with such code shall be as provided by such code or other applicable law. Certified copies of such code shall be received in evidence in all courts and proceedings in the state.

## ARTICLE VI

### DEPARTMENT OF LAW

Section 601. Department of law; county attorney.

602. Powers and duties.

§ 601. Department of law; county attorney. There shall be a department of law headed by the county attorney, who shall be appointed by the county executive subject to confirmation by the board of supervisors. He shall be a member in good standing of the bar of the state of New York.

§ 602. Powers and duties. The county attorney shall be the legal advisor for the county and, on its behalf in county matters, of its officers and administrative units. He shall, in all county legal matters of a civil nature, advise all county officers and employees and, where in the interest of the county, prepare all necessary papers and written instruments in connection therewith; prosecute or defend all actions or proceedings of a civil nature brought by or against the county; prepare resolutions, ordinances, legalizing acts and local laws to be presented for action by the board of supervisors, together with notices and other items in connection therewith; and perform such additional and related duties as may be prescribed by law, by the county executive or by resolution of the board of supervisors.

## ARTICLE VII

### DEPARTMENT OF PARKS AND RECREATION

Section 701. Department of parks and recreation; commissioner; parks act repealed.

702. Powers and duties.

703. County parks and other recreation facilities.

§ 701. Department of parks and recreation; commissioner; parks act repealed. There shall be a department of parks and recreation headed by a commissioner, who shall be appointed by the county executive subject to confirmation by the board of supervisors. The Erie county parks act, being chapter six hundred six of the laws of nineteen hundred forty-seven as amended, is hereby repealed as of January first, nineteen hundred sixty-one.

§ 702. Powers and duties. Except as otherwise provided in this charter, the commissioner shall have supervision and control over the design, construction, operation, maintenance and repair of all county owned and operated properties and facilities for the following purposes: parks and recreation facilities therein, beaches, zoological and botanical gardens, forest lands and golf courses, together with buildings, structures, roads, parking areas, utilities, equipment and appurtenances. He shall perform such additional and related duties as the county executive may prescribe.

§ 703. County parks and other recreation facilities. The board of supervisors is hereby authorized on behalf of the county to accept by gift and to acquire by purchase, condemnation, lease or otherwise, real property for the purposes set forth in section seven hundred two hereof. The board of supervisors may abandon such purposes by local law and may dispose of such property.

## ARTICLE VIII

### DEPARTMENT OF PERSONNEL

Section 801. Department of personnel; commissioner.

802. Powers and duties.

§ 801. Department of personnel; commissioner. There shall be a department of personnel headed by a commissioner, who shall be appointed by the county executive subject to confirmation by the board of supervisors.

§ 802. Powers and duties. The commissioner of personnel shall have, with reference to the civil service of the county, the powers and duties of a county civil service commission as provided in the Civil Service Law, and he shall be subject to supervision and control by the state civil service commission as are county civil service commissions. Provided, however, that the state civil service commission shall have exclusive jurisdiction to prepare and rate examinations and establish eligibility lists for all positions under the jurisdiction of the county personnel commissioner. The commissioner shall perform such additional and related duties as the county executive may prescribe.

## ARTICLE IX

### DEPARTMENT OF PLANNING

Section 901. Department of planning; commissioner.

902. Planning advisory board.

§ 901. Department of planning; commissioner. There shall be a county planning department headed by a commissioner. The county executive shall appoint as planning commissioner, subject to confirmation by the board of supervisors, a person qualified by professional training and experience in the field of regional, county or municipal planning. The planning commissioner shall have and exercise all the powers and duties of a county planning board as authorized by law. He shall perform such additional and related duties as the county executive may prescribe.

§ 902. Planning advisory board. There shall be in the department a planning advisory board, the members of which shall be appointed by the county executive. Such board shall be advisory to the planning commissioner in matters related to comprehensive regional county and municipal planning.

## ARTICLE X

### DEPARTMENT OF PUBLIC WORKS

Section 1001. Department of public works; commission; qualifications.

1002. Powers and duties.

1003. Divisions of the department.

§ 1001. Department of public works; commissioner; qualifications. There shall be a department of public works headed by a commissioner. He shall be appointed by the county executive, subject to confirmation by the board of supervisors, and shall be a professional engineer licensed and registered by the state of New York.

§ 1002. Powers and duties. Except as otherwise provided in this charter, the commissioner of public works shall:

a. have all the powers and duties of a county engineer and a county superintendent of highways pursuant to the Highway Law or other applicable law.

b. have charge and supervision of the design, construction, reconstruction, alteration, maintenance, repair and operation of county buildings, grounds, parking fields, drives and walks, but not including custodial care of the technical institute, library, jail, penitentiary, home and infirmary, hospital or laboratory.

c. have such powers and duties in relation to county facilities for drainage, flood control, sanitation, sewerage or water supply as may be prescribed in the administrative code or other local law; provided that the provisions of this article shall not be deemed to curtail or affect any of the powers or duties of the Erie county water authority.

d. advertise and call for bids on the construction of each public works project of the county, open such bids publicly, tabulate them and submit recommendations with respect thereto to the board of supervisors and county executive.

e. perform such additional and related duties as the county executive may prescribe.

§ 1003. Divisions of the department. There shall be within the department of public works the following divisions: highways, buildings and grounds, drainage and sanitation, and weights and measures.

## ARTICLE XI

### DEPARTMENT OF SOCIAL WELFARE

Section 1101. Department of social welfare; commissioner; county welfare act repealed.

1102. Powers and duties of the commissioner.

1103. Welfare advisory board.

§ 1101. Department of social welfare; commissioner; county welfare act repealed. There shall be a department of social welfare headed by a commissioner, who shall be appointed by the county executive subject to confirmation by the board of supervisors. The Erie county social welfare act, being chapter twenty eight of the laws of nineteen hundred thirty-eight as amended, is hereby repealed as of January first, nineteen hundred sixty-one.

§ 1102. Powers and duties of the commissioner. Except as otherwise provided in this charter, the commissioner of social welfare shall:

a. have all the powers and perform all the duties conferred on or required of a county commissioner of public welfare under the Social Welfare Law or other applicable law.

b. manage and supervise the Erie county home and infirmary and any other public welfare institutions of the county.

c. perform such additional and related duties as the county executive may prescribe.

§ 1103. Welfare advisory board. There shall be in the department a welfare advisory board of seven members appointed by the county executive for five-year staggered terms. At least one member of such board shall be a physician licensed to practice in the state of New York. The welfare advisory board shall at the request of the commissioner, and may on its own initiative, advise on matters relating to the operation and improvement of the department or involving social welfare.

## ARTICLE XII

### COMPTROLLER

Section 1201. Election; comptroller's act repealed.

1202. Powers and duties.

§ 1201. Election; comptroller's act repealed. There shall be a county comptroller who shall be elected from the county at large. His term of office shall begin with the first day of January next following his election and shall be for four (4) years. At the time of his election and throughout his term of office he shall be a qualified elector of the county. He shall devote his whole time to the duties of his office and shall hold no other public office. The Erie county comptroller's act, being chapter four hundred twenty-three of the laws of nineteen hundred thirty-nine as amended, is hereby repealed as of January first, nineteen hundred sixty-one.

§ 1202. Powers and duties. The comptroller shall:

- a. be the chief accounting and auditing officer of the county.
- b. keep records of appropriations, encumbrances and expenditures, and prescribe approved methods of accounting for county officers and administrative units.
- c. examine all requisitions for the encumbering of funds for the expenditure of which the county is responsible, and certify as to the availability of funds therefor.
- d. audit and certify for payment all lawful claims or charges against the county or against funds for which the county is responsible.
- e. audit the financial records and accounts of all officers and employees charged with any duty relating to county funds or funds for which the county is responsible.
- f. procure statements from all depositories of county funds and funds for which the county is responsible, and reconcile such statements with the county accounts.
- g. submit to the board of supervisors and county executive reports in such form and detail and at such times as may be prescribed by the board of supervisors.
- h. perform such additional and related duties as may be prescribed by local law.

## ARTICLE XIII

### COUNTY CLERK

Section 1301. Election.

1302. Powers and duties.

§ 1301. Election. There shall be a county clerk who shall be elected from the county at large. His term of office shall begin with the first day of January next following his election, and shall be for four (4) years except as otherwise provided in this charter. At the time of his election and throughout his term of office he shall be a qualified elector of the county. He shall devote his whole time to the duties of his office and shall hold no other public office.

§ 1302. Powers and duties. Except where inconsistent with this charter, the county clerk shall have and exercise all powers and duties now or hereafter conferred or imposed upon him by any applicable law. He shall perform such additional and related duties as may be prescribed by local law.

## ARTICLE XIV

### DISTRICT ATTORNEY

Section 1401. Election.

1402. Powers and duties.

§ 1401. Election. There shall be a district attorney who shall be elected from the county at large. His term of office shall begin with the first day of January next following his election, and shall be for four (4) years except as otherwise provided in this charter. At the time of his election and throughout his term of office he shall be a qualified elector of the county. He shall devote his whole time to the duties of his office and shall hold no other public office.

§ 1402. Powers and duties. The district attorney shall have and exercise all powers and duties now or hereafter conferred or imposed upon him by any applicable law. He shall perform such additional and related duties as may be prescribed by local law.

## ARTICLE XV

### SHERIFF

Section 1501. Election.

1502. Powers and duties.

§ 1501. Election. There shall be a sheriff who shall be elected from the county at large. His term of office shall begin with the first day of January next following his election, and shall be for four (4) years except as otherwise provided in this charter. At the time of his election and throughout his term of office he shall be a qualified elector of the county. He shall devote his whole time to the duties of his office and shall hold no other public office.

§ 1502. Powers and duties. The sheriff shall have and exercise all powers and duties now or hereafter conferred or imposed upon him by any applicable law. He shall perform such additional and related duties as may be prescribed by local law.

## ARTICLE XVI

### OTHER COUNTY BOARDS, OFFICES, INSTITUTIONS AND FUNCTIONS

Section 1601. Board of elections.

1602. County hospital: superintendent; advisory board.

1603. County laboratory: director; advisory board.

1604. Community mental health office; director; advisory board.

1605. Traffic safety office; director; advisory board.

1606. Probation office; director.

1607. Other boards; how appointed.

1608. Additional appointments by county executive.

1609. Miscellaneous administrative functions.

§ 1601. Board of elections. The board of elections, its powers and duties and the method of appointment of the members thereof by the board of supervisors shall continue as provided by law.

§ 1602. County hospital: superintendent; advisory board. There shall be a county hospital superintendent, who shall be appointed by the county executive on the basis of his training and experience in hospital administration. Such appointment shall be subject to confirmation by the board of supervisors and shall be for the term or balance thereof of the county executive making such appointment.

Except as otherwise provided in this charter, the superintendent shall have charge and supervision of all county hospitals and shall exercise all powers and duties of a hospital board of managers. He shall perform such additional and related duties as the county executive may prescribe.

There shall be a hospital advisory board of seven members appointed by the county executive for five-year staggered terms. At least two members of such board shall be physicians licensed to practice in the state of New York. Such board shall at the request of the superintendent, and may on its own initiative, advise on matters relating to county hospital operation and improvement.

§ 1603. County laboratory: director; advisory board. The county, including the towns, cities, villages and special districts situated therein, shall continue to be a county laboratory district. There shall

be an Erie County laboratory headed by a director. The county executive shall appoint as laboratory director a pathologist or microbiologist who shall possess such qualifications as may be prescribed by the public health council of the state of New York. Such appointment shall be subject to confirmation by the board of supervisors, and shall be for the term or balance thereof of the county executive making such appointment.

The director shall be responsible for the pathological, toxicological, serological, bacteriological and other laboratory work for the county laboratory district, the county health district and the county hospital or hospitals. Except as otherwise provided in this charter, he shall exercise all powers and perform all duties of a county laboratory board.

The county executive shall appoint a laboratory advisory board of nine members which shall at the request of the director, and may on its own initiative, advise on matters relating to laboratory facilities and services. The chairman of the board of health, the chairman of the hospital advisory board, the commissioner of health and the hospital superintendent shall be ex officio members of such board. The five other members of such board, at least two of whom shall be physicians licensed to practice in the state of New York, shall be appointed for five-year staggered terms.

§ 1604. **Community mental health office; director; advisory board.** There shall be an office of community mental health, the head of which shall be the director. The county executive shall appoint as director of mental health a psychiatrist whose qualifications meet standards fixed by the state commissioner of mental hygiene. Such appointment shall be subject to confirmation by the board of supervisors, and shall be for the term or balance thereof of the county executive making such appointment.

Except as otherwise provided in this charter, the director of mental health shall have all the powers and perform all the duties conferred or imposed upon such directors and/or community mental health boards by law. He shall perform such additional and related duties as the county executive may prescribe.

The county executive shall appoint a mental health advisory board which shall at the request of the director, and may on its own initiative, advise on matters relating to an adequate program of mental health services in the county. The composition of such board in regard to the number of members and the professional, governmental or other representation, and the terms of such members, shall be as provided in the mental hygiene law for a community mental health board.

§ 1605. **Traffic safety office; director; advisory board.** There shall be an office of traffic safety headed by a director, who shall be appointed by the county executive subject to confirmation by the board of supervisors. The county executive shall appoint a traffic safety advisory board which shall at the request of the director, and may on its own initiative, advise on matters relating to traffic safety in the county.

§ 1606. **Probation office; director.** There shall be an office of probation headed by a director of probation, who shall be appointed by a majority vote of the judges of the county court and children's court and the county executive, and shall have the powers and duties provided by law.

§ 1607. **Other boards: how appointed.** The alcoholic beverage control board, the board of trustees of the Buffalo and Erie county public library, the board of trustees of the Erie county technical institute, the fire advisory board and the vocational education and extension board shall continue as provided by law except that the power of appointment residing in the board of supervisors or in the chairman thereof of one or more members of each of said boards is transferred to and shall be exercised on and after January first, nineteen hundred and sixty-one, by the county executive, subject to confirmation by the board of supervisors. The appointment of any head, board or agency in relation to a county sewer, water, drainage or small watershed protection district or to any other county district of a similar nature shall be by the county executive, and shall be subject to confirmation by the board of supervisors. Except as otherwise provided in this charter or the administrative code, other appointments to boards and like units shall be made in the manner provided by applicable law.

§ 1608. Additional appointments by county executive. The director of civil defense, the fire coordinator, the county historian, the medical director, the superintendent of penitentiary, the veterans' service officer, and the head of any other county administrative unit except as otherwise provided in this charter, shall be appointed by the county executive, subject to confirmation by the board of supervisors. All such appointees shall serve during the pleasure of the county executive.

§ 1609. Miscellaneous administrative functions. Administrative functions not otherwise assigned by this charter or the administrative code shall be assigned by the county executive to an administrative unit under his supervision.

## ARTICLE XVII

### SERVICE RELATIONSHIPS WITH LOCAL MUNICIPALITIES

Section 1701. Local government functions, facilities and powers not transferred, altered or impaired.

1702. Contracts with public corporations.

§ 1701. Local government functions, facilities and powers not transferred, altered or impaired. This charter shall not transfer, alter or impair any function, facility or power of any city, town, village, school district or other district.

§ 1702. Contracts with public corporations. The county of Erie shall have power to contract with any municipality or public authority situated within or adjacent to the county, or with any combination of such municipalities or public authorities, for the establishment, maintenance and operation of any facility and the rendering of any service which each of the contracting parties would have legal authority to establish, maintain, operate or render for itself. A municipality or authority receiving the benefit of a facility or service provided under any such contract shall bear all the costs and expenses occasioned by the provision thereof for such municipality or authority, including but limited to a just proportional charge for central facilities and central or administrative services related thereto.

## ARTICLE XVIII

### FINANCIAL PROCEDURES

Section 1801. Fiscal year.

1802. Tentative budget and capital program by county executive.

1803. Adoption of budget.

1804. Levy of taxes; inclusion of reserve for uncollected taxes; county tax act continued.

1805. Appropriations: supplemental and emergency.

1806. Appropriations: reduction and transfer after budget adoption.

1807. Certain resolutions of board of supervisors subject to executive veto.

1808. Certain obligations and payments prohibited.

1809. Erie county budget act repealed.

§ 1801. Fiscal year. The fiscal year of the county shall begin with the first day of January and end with the last day of December in each year.

§ 1802. Tentative budget and capital program by county executive. On or before the tenth day of November of each year, after holding one or more public hearings thereon, the county executive shall submit to the board of supervisors a tentative budget for the ensuing fiscal year, a capital program for the next six fiscal years, and an accompanying message.

Upon submission, the tentative budget, the capital program and the message shall become a public record in the office of the clerk of the board of supervisors. Copies of the same shall be made available by the county executive for distribution.

The budget as submitted by the county executive shall present a complete financial plan for the county and its administrative units for the ensuing fiscal year, and shall include: (1) an operation and maintenance expense budget and (2) a capital budget covering debt service, down payments and other current capital financing, and proposed borrowing. Unencumbered balances at the end of each completed fiscal year, except where appropriated for a capital improvement or other authorized continuing project, shall be treated as revenues for the county budget of the second ensuing fiscal year. The county executive's message shall outline the proposed financial policies of the county and shall describe each capital improvement proposed to be undertaken within the ensuing fiscal year, showing the estimated cost, the pending or proposed method of financing it and the projected operation and maintenance expense.

§ 1803. Adoption of budget. A. The board of supervisors may strike items of appropriation from the tentative budget or reduce items therein, excepting appropriations required by law or for debt service. The board may add items to or increase items in such budget, provided that such additions or increases are stated separately and distinctly. Decreases shall not require executive approval.

B. If the budget is passed by the board of supervisors with no additions or increases, such budget shall be deemed to have been adopted without any further action by the county executive; if, however, the budget as passed by the board of supervisors contains any such additions or increases, the same shall be presented by the clerk of the board to the county executive not later than the Wednesday following the last Tuesday in November, for his consideration of such additions or increases. If the county executive approves all the additions and increases, he shall affix his signature to a statement thereof and return the budget and such statement to the clerk of the board. The budget, including the additions and increases as part thereof, shall then be deemed adopted.

C. The county executive may object to any one or more of such added or increased items, and in such case shall append to the budget a statement of the added or increased items to which he objects with the reasons for his objections, and shall return the budget with his objections to the clerk of the board who shall present the same to the board of supervisors at its next stated meeting. The board of supervisors shall thereupon enter the objections upon its journal and proceed to reconsider the additions and increases so objected to. If upon such reconsideration two-thirds of all members of the board of supervisors vote to approve such additions and increases, or any of them, the budget with the additions and increases so approved, together with any additions and increases not so objected to by the county executive, shall be deemed adopted.

D. If a budget with additions or increases is not returned by the county executive to the clerk of the board with his objections on or before the Monday preceding the first Tuesday in December, it shall be deemed adopted.

E. If a budget has not been adopted, as herein provided, on or before the first Tuesday of December in each year, then the tentative budget as submitted by the county executive, plus all additions and increases to which he has failed to object, shall be the budget for the ensuing fiscal year.

F. Four copies of the budget as adopted shall be certified by the county executive and by the clerk of the board of supervisors. One such copy shall be filed in the office of the county executive, and one each in the offices of the county comptroller, the commissioner of finance and the clerk of the board of supervisors. The budget as so certified shall be printed or otherwise reproduced and copies shall be made available.

§ 1804. Levy of taxes; inclusion of reserve for uncollected taxes; county tax act continued. The net county tax requirement, determined by subtracting the total estimated revenues from the total proposed expenditures as set forth in the adopted budget,

shall be levied in advance by the board of supervisors on the taxable real property of the several tax districts of the county. The tax levy for state and county purposes shall include, in addition to the amount of state taxes to be raised and the net county tax requirement as above determined, an amount to be known as "reserve for uncollected taxes" which shall be a county charge. The board of supervisors shall fix the amount of such reserve at such a sum as they may deem sufficient to produce in cash from the collection of taxes and other revenues during the year moneys required to meet the estimated expenditures of such year, provided, however, that such reserve shall be not less than the face amount of taxes for the preceding completed fiscal year on real estate sold for such taxes bid in by the county but not redeemed at the end of such preceding completed fiscal year. Except as otherwise provided in this charter, the Erie county tax act, being chapter eight hundred twelve of the laws of nineteen hundred forty-two as amended, shall remain in full force and effect.

**§ 1805. Appropriations: supplemental and emergency.** If during any fiscal year there are available for appropriation (1) revenues received from sources not anticipated in the budget for that year or (2) revenues received from anticipated sources but in excess of the budget estimates therefor, the board of supervisors may make supplemental appropriations for the year up to the amount of such additional revenues.

To meet a public emergency affecting life, health or property, the board of supervisors may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the board of supervisors may authorize the issuance of budget notes or notes in anticipation of the collection of taxes or revenues.

**§ 1806. Appropriations: reduction and transfer after budget adoption.** If at any time during the fiscal year it appears that the revenues available will be insufficient to meet the amounts appropriated, the county executive shall report to the board of supervisors without delay the estimated amount of the deficit, remedial action taken by him, and his recommendations as to further action. The board of supervisors shall take such action as it deems necessary to prevent or minimize any deficit. For that purpose it may by resolution reduce one or more appropriations; but no appropriation for debt service may be reduced, and no appropriation may be reduced by more than the unencumbered balance thereof or below any amount required by law to be appropriated.

The county executive may at any time during the fiscal year transfer part or all of any unencumbered appropriation balance between classifications of expenditures within the same administrative unit, provided that prior approval by resolution of the board of supervisors shall be required if the proposed transfer (1) would result in an increase exceeding one thousand dollars, or such larger amount as may be prescribed by local law, during the fiscal year in any one line item in the budget as adopted, or (2) would affect any salary rate or salary total. If the county executive requests in writing, the board of supervisors by resolution effective immediately may transfer part or all of any unencumbered appropriation balance from one county administrative unit to another. But no transfer shall be made from appropriations for debt service, and no appropriation may be reduced below any amount required by law to be appropriated.

**§ 1807. Certain resolutions of board of supervisors subject to executive veto.** A resolution of the board of supervisors for any of the following specified purposes shall be submitted to the county executive for his approval or veto in the same manner as provided in this charter for the adoption of ordinances: (a) an allocation from the budget contingency fund; (b) a supplemental or emergency appropriation; (c) the issuance of budget notes or notes in anticipation of the collection of taxes or revenues; and (d) the issuance of bonds, bond anticipation notes or capital notes.

**§ 1808. Certain obligations and payments prohibited.** No payment shall be authorized or made and no obligation incurred against

the county except in accordance with appropriations duly made, or except as permitted otherwise by the Local Finance Law; provided that this shall not be construed to prevent contracting for capital improvements to be financed by borrowing, or entering into any lawful contract or lease providing for the payment of funds beyond the end of the current fiscal year.

§ 1809. Erie county budget act repealed. The Erie county budget act, being chapter three hundred eighty-three of the laws of nineteen hundred forty-four as amended, is hereby repealed as of January first, nineteen hundred sixty-one.

## ARTICLE XIX

### GENERAL PROVISIONS

Section 1901. Administrative unit defined; administrative and advisory boards.

1902. Approval of contracts.

1903. Civil service rights continued; status of certain county officers previously appointed; removal of certain county officers hereafter appointed.

1904. Filling vacancy in elective office of county executive or comptroller.

1905. Filling vacancy in elective office of county clerk, district attorney or sheriff.

1906. Power to administer oaths and issue subpoenas.

§ 1901. Administrative unit defined; administrative and advisory boards. "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.

The board of trustees of the Buffalo and Erie county public library and the board of trustees of the Erie county technical institute shall continue to be administrative boards heading the respective administrative units. Every other board, all appointive members of which are appointed by the county executive, shall be an advisory board. An advisory board shall have no administrative or appointive powers but, when requested by the county executive, shall assist him in the recruitment of candidates to fill a vacant position as head of the respective administrative unit.

Except as otherwise provided in this charter, advisory boards shall consist of such numbers and the members thereof shall be appointed for such terms as may be provided in the administrative code. In the absence of any such provision, the number of members shall be not less than five nor more than fifteen, as determined by the board of supervisors, and appointments shall be for five-year staggered terms. Initial appointments shall be for such periods as will result, as nearly as practicable, in the same number of term expirations each year. If a vacancy occurs other than by the expiration of a term, appointment to fill such vacancy shall be for the unexpired portion of such term.

Before approving or vetoing any local law or ordinance specifying functions affected thereby of any administrative unit in which an advisory board has been appointed, the county executive shall refer such local law or ordinance to such advisory board for consideration and recommendation.

It shall be the duty of each advisory board to study conditions in its respective field, with particular reference to the policies and programs in Erie county, and to report its findings and recommendations to the county executive, who shall forward the same, together with any comments he may choose to make, to the board of supervisors.

§ 1902. Approval of contracts. Except as otherwise provided in this charter or the administrative code, any contract to which the county is a party shall require approval by the board of supervisors if said contract is for: (a) the sale or purchase of real property; (b) the erection, alteration or demolition of a building or other structure; (c) professional, technical or other consultant services; or (d) the provision of facilities or the rendering of services by or for any other unit of government. The county executive shall execute all contracts on behalf of the county, except as otherwise provided in the administrative case.

§ 1903. Civil service rights continued; status of certain county officers previously appointed; removal of certain county officers hereafter appointed. The civil service status and rights of all county employees and their beneficiaries, including but not limited to those with respect to retirement and social security, shall not be affected by this charter. The terms of all county officers whose appointment under this charter is vested in the county executive shall terminate with December thirty-first, nineteen hundred sixty; provided that any such officer, unless removed, shall continue to serve until his successor is appointed and has qualified or until an interim appointment is made. Provided, further, that the term of the appointive comptroller shall terminate with December thirty-first, nineteen hundred sixty-one. Any county officer appointed by the county executive for the term or balance thereof of such executive may be removed, prior to the end of such term, after written notice from the county executive. Upon written request, such county officer shall be given an opportunity to be heard by a board of review consisting of (1) the county executive, (2) the chairman of the board of supervisors and (3) the comptroller. Upon such hearing, removal shall be effected only by a two-thirds vote of such board of review.

§ 1904. Filling vacancy in elective office of county executive or comptroller. A vacancy, otherwise than by expiration of term or removal by the governor, in the elective office of county executive or comptroller shall be filled by appointment, by the board of supervisors, of a qualified elector of the county having the same political affiliation as the person last elected to such office. A vacancy occurring in such office as the result of removal of the incumbent by the governor shall be filled by appointment,

by the governor, of a qualified elector of the county having the same political affiliation as the person last elected to such office. The person appointed by either the board of supervisors or the governor shall hold office by virtue of such appointment until the commencement of the political year next succeeding the first annual election after the happening of the vacancy, at which election a county executive or comptroller, as the case may be, shall be elected for the balance of the term, if any.

§ 1905. Filling vacancy in elective office of county clerk, district attorney or sheriff. A vacancy, otherwise than by expiration of term or removal by the governor, in the elective office of county clerk, district attorney or sheriff shall be filled by appointment, by the board of supervisors, of a qualified elector of the county having the same political affiliation as the person last elected to such office. A vacancy occurring in such office as the result of removal of the incumbent by the governor shall be filled by appointment, by the governor, of a qualified elector of the county having the same political affiliation as the person last elected to such office. The person appointed by either the board of supervisors or the governor shall hold office by virtue of such appointment until the commencement of the political year next succeeding the first annual election after the happening of the vacancy, at which election a county clerk, district attorney or sheriff, as the case may be, shall be elected for the balance of the term, if any.

§ 1906. Power to administer oaths and issue subpoenas. The chairman of the board of supervisors, the county executive, the county comptroller, and such other county officers as may be authorized by law shall have the power to subpoena and compel the attendance of witnesses and the production of books and papers, as the same may be pertinent to their respective offices. Any county officer authorized to hold a hearing or conduct an investigation shall have the power to administer oaths or affirmations in connection therewith.

## ARTICLE XX

### APPLICATION OF CHARTER; WHEN AND HOW OPERATIVE AND EFFECTIVE

Section 2001. Adoption of charter; when effective.

2002. Amendment of charter.

2003. Terms of certain elective county officers.

2004. Continuity of authority; completion of unfinished business.

2005. Separability.

2006. Charter to be liberally construed.

§ 2001. **Adoption of charter; when effective.** This charter shall be effective immediately upon approval by referendum in the manner provided by law. The administrative code may be adopted by local law at any time thereafter. The first county executive shall be elected at the general election in nineteen hundred sixty and shall take office on January first, nineteen hundred sixty-one. The county comptroller shall be first elected at the general election in nineteen hundred sixty-one and the person then elected shall, upon qualifying, take office on January first, nineteen hundred sixty-two. Pending such election and qualifying for office, the incumbent county comptroller shall have the powers and perform the duties prescribed in this charter for the elective office of county comptroller.

§ 2002. **Amendment of charter.** This charter may be amended in the manner provided by law. Any local law which would create or abolish an elective county office, change an elective office to appointive or an appointive office to elective or change the powers of an elective county officer shall be subject to mandatory referendum. No local law which would abolish or change an administrative unit prescribed in this charter or the power of an appointive county officer in the executive branch may be passed before January first, nineteen hundred sixty-one.

§ 2003. **Terms of certain elective county officers.** The terms of office for the county executive, comptroller, county clerk, district attorney and sheriff shall be four (4) years, and the election of any such officer shall be held in an odd-numbered year. Provided that any such officer elected in nineteen hundred sixty or nineteen hundred sixty-two shall be elected for three (3) years; and provided, further, that an interim election to fill the remainder of an unexpired term may be held in any year.

§ 2004. **Continuity of authority; completion of unfinished business.** The performance of functions pursuant to the provisions of this charter 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 charter may be conducted and completed by the county officer or administrative unit responsible therefor under this charter or the administrative code.

§ 2005. **Separability.** If any clause, sentence, paragraph, section or article of this charter 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.

§ 2006. **Charter to be liberally construed.** This charter shall be liberally construed to effectuate its objectives and purposes.

§ 2. This charter shall be submitted to the electors of Erie county at the next general election occurring November third, nineteen hundred fifty-nine.

§ 3. This local law shall take effect immediately.