

**A LOCAL LAW TO BE SUBMITTED BY****LEGISLATOR BURKE****COUNTY OF ERIE****LOCAL LAW INTRO NO. 3-1 - 2016****LOCAL LAW NO. \_\_\_\_\_ - 2016**

A Local Law Entitled, “**SPRAWL PREVENTION ACT**” otherwise known as “**MUNICIPAL AND REGIONAL INTERESTS ACT**” for the creation of an Erie County Planning Board.

**LEGISLATIVE INTENT**

On April 19, 2007 the Erie County Legislature (“Legislature”) adopted the Erie Niagara Framework for Regional Growth (“Framework”) as the guiding policy document concerning land use decisions throughout Erie County (“County”). The Framework identifies the establishment of an Erie County planning Board (“Planning Board”) as an important first step in implementing the policies set forth in Framework.

New York General Municipal Law provides for the counties of New York State (“State”) to form county planning boards to focus on opportunities and issues best addressed on the county-wide scale, help establish productive linkages between communities as well as with State and federal agencies, foster cooperation among governmental agencies in the planning and implementation of capital projects, and promote inter-municipal cooperation in the provision of public services.

The Legislature hereby finds and determines that:

- Policy and action recommendation regarding land use in the County of Erie, the effects of which can impact future generations from the standpoint of environmental protection, transportation, population density, resource allocation, clean air, clean water, public health, economic growth, groundwater protection, and sustainable and balanced development, should be made independent, informed and qualified members of a County Planning Board;
- Almost all of the 62 Counties in New York State and almost all other metropolitan areas of the United States have some form of regional planning body;
- Long-term decision-making and policy recommendations should be made by people with a diversity of opinions and interests and who are not controlled or dominated by outside forces;
- A County Planning Board can assist Erie County Executive, the Erie County Legislature and the many municipalities of the County by providing balanced,

thoughtful and informed guidance on matters of land planning, land use and capital planning;

- The voting members of the County Planning Board are required to be people who have demonstrated by experiences or advocacy, a knowledge of matters related to land use, planning or the environment and shall include representatives of “developing”, “developed” and “rural” areas of the County as categorized by the Framework.

The purpose of this law is to establish an Erie County Planning Board consistent with the foregoing intent and New York General Municipal Law Article 12-B.

**Therefore, BE IT ENACTED BY THE LEGISLATURE AS FOLLOWS:**

## **OPERATIVE SECTIONS**

### **Section 1. Creation and Membership of the Planning Board**

- a. An Erie County Planning Board shall be created consisting of nineteen (19) members.
- b. The members of the Planning Board shall, subject to the further qualifications in Section 2 below, be as follows:

Thirteen (13) Voting Members. The Planning Board shall have thirteen (13) voting members appointed as follows:

- Eight (8) members based on their residency (“Resident Members”), four (4) of which to be appointed by majority vote of the Erie County Legislature and four (4) of which to be appointed by the Erie County Executive, in conformity with the municipality categories identified in Section 2-c below;
- Two (2) members (“Certified Planner Members”) who shall be planners certified by the American Institute of Certified Planners (“AICP”) of the American Planning Association, one of which to be (1) appointed by majority vote of the Erie County Legislature and one of which to be (1) appointed by the Erie County Executive;
- One (1) member (“Municipal Planning Member”) who shall be a municipal planner or a member of a municipal planning board and who shall be appointed by majority vote by the Erie County Legislature from up to three (3) persons recommended by the Association of Erie County Governments;
- One (1) member (“For-Profit Member”), appointed by the Erie County Executive, who shall be affiliated with a for-profit entity involved in real estates sales, development or construction; and

- One (1) member (“Not-For-Profit Member”), appointed by majority vote of the Erie County Legislature, who shall be affiliated with a not-for-profit organization with a mission that includes in improvement of : land use, transportation, equitable public investment or preservation of the built or natural environment.

Six (6) Non-Voting Members. The Planning Board shall have six (6) ex-officio, non-voting member who shall be:

- i. The director or commissioner of the Erie County Department of Environment and Planning or such person’s designee;
- ii. The director or commissioner of the Erie County Department of Public Works or such person’s designee;
- iii. The executive director of the Greater Buffalo Niagara Regional Transportation Council or such person’s designee;
- iv. The executive director of the Erie County Industrial Development Agency or such person’s designee;
- v. The chair of the Erie County Soil and Water Conservation District or such person’s designee; and
- vi. The director of the Erie County Agricultural and Farmland Protection Board or such person’s designee.

**Section 2. Qualifications for Members of the Planning Board**

- a. Each Planning Board voting member shall be a resident of Erie County at the time of appointment and shall remain a resident of Erie County while holding a position as a member of the Planning Board
- b. Prior to appointment each Planning Board voting member shall have demonstrated to the appointing authority a verifiable involvement in or advocacy for the improvement of: land use, real estate development, equitable public investment, growth management, transportation, the environment or regional, urban or rural planning, for a period of not less than three (3) years.
- c. In order to assure a geographical and population balance of Resident Members and to have voting member representation from “developed”, “developing” and “rural” areas of the County as categorized in the Erie Niagara Framework for Regional Growth:
  - I. one (1) of the Resident Members appointed by the Erie County Legislature and one (1) of the Resident Members appointed by the Erie

- County Executive shall be a resident of the City of Buffalo (“City of Buffalo Resident Members”);
- II. one (1) of the Resident Members appointed by the Erie County Legislature and one (1) of the Resident Members appointed by the Erie County Executive, shall be a resident of one of the six (6) most populous cities and towns (or of any village within such towns) in the County excluding the City of Buffalo (the “Large Municipality Resident Members”);
  - III. one (1) of the Resident Members appointed by the County Legislature and one (1) of the Resident Members appointed by the County Executive shall be a resident of one of the nine (9) most populous cities and towns (or of any village within such towns) in the County, excluding the City of Buffalo and the six (6) cities and towns references in subsection 2-c-(ii) above (“ the Mid-Size Municipality Resident Members”); and
  - IV. one (1) of the Resident Members appointed by the County Executive shall be a resident of a city or town (or of any village within any such town) other than the City of Buffalo and the 16 cities or towns referenced in subsection 2-c-(ii) and 2-c-(iii) above (“The Small Municipality Resident Members”).

The Cities and towns that shall be the basis for the selection of Large Municipality, Mid-Size Municipality and Small Municipality Resident Members shall be determined by the municipality population statistics available from the United States Census Bureau’s most recent actual census as of a date 90 days prior to the first day of the term of the Resident Member positions being filled by the appointment.

Not Less than 30 days prior to the making of the appointments based on municipal residence, the County of Erie shall seek solicitations of interest for these positions. Such solicitations shall be made in the customary form of public notice advertisements utilized by the county for positions of employment and such other forms of notification for the appointing authority shall deem appropriate.

d. Prior to making the appointment of a Certified Planner Member the appointing authority shall seek solicitations of interest and recommendations for such position from individuals and organizations such as the chapter of the American Planning Association the encompasses Erie County.

e. No person shall be reappointed as a voting member unless such person has, for each year as a voting member, fulfilled the current training and continuing education requirements for Planning Board members as established by the State of New York and the County Legislature.

f. Vacancies occurring among the appointed voting members shall be filled within 75 days by the respective appointing body or officer and be subject to the same qualifications, procedures and other requirements as provided herein.

### **Section 3. Term of Planning Board Members**

Voting members shall be appointed to serve for a terms of three (3) years except that the terms of the initial voting members shall be as follows:

#### One (1) Year -

- The city of Buffalo Resident Member appointed by the Erie County Legislature;
- The Large Municipality Resident Member appointed by the Erie County Executive;
- The Mid-Size Municipality Resident Member appointed by the Erie County Legislature;
- The Small Municipality Resident Member appointed by the Erie County Executive.

#### Two (2) Years -

- The City of Buffalo Resident Member Appointed by the Erie County Executive;
- The Certified Planner Member appointed by the Erie County Legislature;
- The Large Municipality Resident Member appointed by the Erie County Legislature;
- The Mid-Size Municipality Resident Member appointed by the Erie County Executive;
- The Municipal Planning Member appointed by the Erie County Legislature.

#### Three (3) Years -

- The For-Profit Member appointed by the Erie County Executive;
- The Not-for-Profit Member appointed by the Erie County Legislature;
- The Small Municipality Resident Member appointed by the Erie County Legislature;
- The Certified Planner Member appointed by the Erie County Executive;

No person shall serve more than two (2) consecutive three-year terms as a voting member on the Board, including the completion of a term of another voting member. Any previous member who has served such two (2) consecutive three-year terms shall not be eligible to serve again until two (2) years following the last date of the most recent of such consecutive terms served.

### **Section 4. Meetings**

- a. At the first meeting of the Planning Board in each calendar year, the Board shall elect a voting member as chairperson and another voting member as vice-chairperson. The chairperson and vice-chairperson shall serve in such positions for that year. The vice-chairperson shall serve in the absence of the chairperson and in such other capacity as the chairperson shall delegate.
- b. The Planning Board shall annually establish a schedule of regular meetings for the year.
- c. Unless otherwise provided by law, a majority of the currently appointed voting members shall constitute a quorum at any duly held meeting of the Planning Board.
- d. The affirmative vote of a majority of all voting members shall be required for Planning Board action on any matter.

### **Section 5. Procedures**

- a. The director or commissioner of the Erie County Department of the Environment and Planning or such person's designee shall serve as secretary of the Planning Board.
- b. The Planning Board shall adopt standards of conduct and disclosure of interests intended to ensure that the actions of the Planning Board are carried out in an ethical manner which standards shall be consistent with the standards, if any, recommended for planning board by the State of New York or by any national organization of municipal planners.
- c. The Planning Board may adopt such rules and procedures for the efficient and orderly conduct of its business as it deems necessary or appropriate. Such rules and procedures shall provide reasonable opportunity for public comment and engagement.
- d. The Planning Board may adopt requirements for attendance by Planning Board members at educational programs that exceed the requirements of the State of New York.

#### **Section 6. Powers**

- a. Powers. The Planning Board shall have all powers and perform all the duties now or hereafter conferred or imposed on it by law, including those powers conferred by New York State General Municipal Law Sections 239-c, 239-l, 239-n and 239-m.
- b. Functions. Consistent with its powers the Planning Board may undertake functions and activities intended to improve land use in the County such as:
  - assisting municipalities in local land use decisions;
  - educating elected and appointed officials on matters relating to planning and land use;
  - assisting developers in planning and facilitating new developments consistent with the recommendations of the Erie Niagara Framework for Regional Growth or otherwise deemed to be beneficial to the County;
  - providing a collective location for information relating to land use, land availability, applicable land use controls and demographics;
  - coordinating land use decisions between and among municipalities and governmental agencies; and
  - serving as a forum for public input and discussion on significant land use projects and issues.

The Planning Board shall report annually to the County Legislature as required by New York General Municipal Law and to the County Executive, the County Legislature and each municipality of the County. Such reports to be delivered within 60 days after the end of each calendar year, shall include the current state of land use planning in the County and the relationship of such planning with the guidelines of the Erie Niagara Framework for Regional Growth and any other comprehensive plans, guidelines and policies established by the County.

#### **Section 7. Staffing**

The Planning Board shall be staffed by:

- (1) an Executive Director who shall be selected by and serve at the will of the Planning Board and who shall have the following qualifications:
  - (a) A minimum of three (3) years of administrative experience in a private, public or not-for-profit organization involved in issues of land use, development or the improvement or preservation of the built or natural environment;
  - (b) experience interacting with a variety of constituencies such as board members, staff members, volunteers, land owners, developers and other real estate professionals, government officials, media, not-for-profit groups;
  - (c) familiarity with state and local requirements relating to land use and development, and
  - (d) a demonstrated understanding of urban and regional planning; and
- (2) an Administrative Assistant who shall be selected by and serve at the will of the Executive Director. All personnel and other Board expenditures shall be subject to appropriation of funding by the Erie County Legislature.

**Section 8. Severability**

Should any provision of this Local Law be deemed void or invalid or become unenforceable, the validity, enforceability or effect of the balance of this local law shall not be deemed impaired or affected in any manner.

**Section 9. Effective Date**

The Planning Board established by this local law shall commence operations as of January 1, 2017 but this law shall become effective immediately to allow the process of selection and appointment of Planning Board voting members to commence and to enable the hiring of an Executive Director and staff person(s) prior to the commencement of Planning Board operations.

SPONSOR:                      Legislator Patrick B. Burke