

LOCAL LAW NO. 4-98
CHAUTAUQUA COUNTY

A LOCAL LAW AMENDING THE CHAUTAUQUA COUNTY CHARTER

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York, as follows:

SECTION 1. The Chautauqua County Charter shall be hereby amended by substitution as follows:

CHAUTAUQUA COUNTY CHARTER

**A LOCAL LAW PROVIDING A COUNTY CHARTER FOR
THE COUNTY OF CHAUTAUQUA**

Article 1

GOVERNMENT OF CHAUTAUQUA COUNTY

Section 1.00 Government of Chautauqua County

Section 1.01 Purpose

Section 1.02 Continued Status and Powers

Section 1.03 Effect of Charter on State Laws

Section 1.04 Existing Legislation Continued

Section 1.05 Charter and Administrative Code Review Commission

Section 1.06 Definitions

Section 1.00 Government of Chautauqua County

This Charter together with any subsequent amendments hereto shall constitute the form of government for the County of Chautauqua, and shall be known and may be cited as the Chautauqua County Charter.

Section 1.01 Purpose

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; the providing of optimum authority and freedom to county elected officials to enable them to most effectively do their jobs; the ensuring of flexibility in the structure of county government to allow easy adaptability to change; the encouraging of the development, implementation and enhancement of public policy rather than the perpetuation of bureaucracy; the fostering of intermunicipal agreements and cooperation; the establishment of separate executive and legislative branches of county government and the allocation of functions, powers, and duties.

Section 1.02 Continued Status and Powers

The County of Chautauqua shall continue to be a municipal corporation and shall have all the powers and perform all the duties not or hereafter conferred or imposed upon it by this Charter or applicable law, together with all rights, privileges, functions and powers necessarily implied or incidental thereto.

Section 1.03 Effect of Charter and Administrative Code on State Laws

Within the limits prescribed in Article 4 of the Municipal Home Rule Law, wherever and whenever any State Law, general, special, or local in effect, is inconsistent with the Charter or the Administrative Code, such law shall be deemed to the extent of such inconsistency to be superseded by the Charter and the Administrative Code insofar as the County of Chautauqua and its government are affected.

Section 1.04 Existing Legislation Continued

Except to the extent to which they may be inconsistent with the provisions of the Charter, all existing laws, resolutions, rules and regulations heretofore adopted, shall continue in force and effect until amended, superseded, or repealed. All commissions, agencies, committees, and boards of the County of Chautauqua shall cease three years from this law's filing in the Office of the Secretary of State, and every three years thereafter, unless the County Legislature, and County Executive, by affirmative action, extend and continue said commissions, agencies, committees and boards.

Section 1.05 Charter and Administrative Code Review Commission

Not later than July 1, 2004, and at least every ten (10) years thereafter, a Charter and Administrative Code Review Commission shall be established to review and make recommendations to the County Executive and Legislature on amendments, additions or revisions to the County Charter and Administrative Code. The Commission shall consist of not more than ten citizens of Chautauqua County, with five (5) of said members appointed by the County Executive and the remaining five to be appointed by the Legislature.

The Legislature shall provide such funds as are necessary for the Commission to conduct its business properly.

The County Executive, any Legislator, the Legislature collectively or any other person shall have the right to make recommendations for amendments, additions, or revisions to the Charter and/or Code.

The report of such Commission shall be presented to the Executive and Legislature not later than July 1 of the year following the appointment.

Section 1.06 Definitions

All words and phrases in this Code and in the Charter are used according to their accepted and ordinary meaning except where another meaning is specifically indicated or manifest. Words used in the singular number, and words used in the plural number, shall extend to and include the singular number. Words used in the masculine or feminine gender shall extend to and include the feminine or masculine.

Article 2

COUNTY LEGISLATURE

Section 2.00 County Legislature

Section 2.01 Changes in Districts

Section 2.02 Terms of Office; Qualifications

Section 2.03 Vacancies

Section 2.04 Organization

Section 2.05 Powers and Duties of Legislature

Section 2.06 Submission of Enactments for Executive Approval

Section 2.07 Reconsideration

Section 2.08 Legislature Financial Analyst, Policy Analyst, and Counsel

Section 2.00 County Legislature

The legislative powers of the County shall be vested in an elective body which shall be known as the County Legislature, comprised of members elected as the County Legislature may determine.

Section 2.01 Changes in Districts

The County Legislature shall, within six (6) months after the publication of the results of each regular federal census, appoint a bi-partisan committee or commission to evaluate the existing county legislative districts. Such committee or commission shall study the population data and, within three (3) months after appointment, make recommendations, if necessary, in the form of a proposed local law as to changes in the boundaries of county legislative districts to be effective at the end of the then terms of office of incumbent county legislators.

Section 2.02 Terms of Office; Qualifications

The terms of office of County Legislators shall be two (2) years and shall begin on the first day of January following their election. Each member of the County Legislature shall, at the time of the Legislator's nomination and election and throughout the Legislator's term of office, be and remain a qualified elector of the district from which the Legislator is elected. No County Legislator shall hold at the same time any other elective public office.

Section 2.03 Vacancies

A vacancy in the County Legislature shall be filled by the County Legislature within thirty (30) days of the time when such vacancy occurs. The appointee shall serve until the commencement of the political year next succeeding the first general election after the happening of the vacancy at which a successor may be elected, and the vacancy shall be filled at such election for the unexpired term. Any person appointed to fill a vacancy shall be a member of the same political party as the person who vacated the office and shall be nominated by the district committee of said party. In the event the person vacating the office was elected with no party affiliation, the County Legislature may appoint any qualified elector who resides in the district where the vacancy exists.

Section 2.04 Organization

On January first of each year or within eight (8) days thereafter, the County Legislature shall meet and organize by electing from among its members a chairman and such other officials as are deemed required.

Section 2.05 Powers and Duties of Legislature

Except as otherwise provided in this Charter, the County Legislature shall have and exercise all such powers and duties conferred on County Legislatures in the State of New York by applicable law, and all powers necessarily incidental thereto.

In addition to any other powers conferred upon the County Legislature by this Charter and by any other applicable law the County Legislature shall have, but not by way of limitation, the following powers and duties:

(a) To adopt by resolution all necessary rules and regulations for its conduct and procedures by majority of the whole number of its membership.

(b) To make appropriations, incur indebtedness, adopt the budget, and levy taxes. Legislative appropriations will be made on a lump sum basis for each program of County government. In the event the Legislature fails to finally adopt a budget for an ensuing fiscal year on or before December 1, the tentative budget shall constitute the budget for such ensuing fiscal year. The appropriation resolution and the resolution authorizing the levy of taxes shall be deemed to have been passed by the Legislature as of such date.

(c) To adopt general policy for County government including enacting, amending, or rescinding local laws, charter laws, legalizing acts or resolutions, except that local laws and resolutions may not supersede the enumerated powers of other County officials set forth in this Charter without a duly adopted Charter amendment. On at least an annual basis prior to the County Executive's preparation of the tentative budget, the County Legislature shall adopt by resolution goals and objectives, as well as specific performance measures for those goals and objectives, which shall be utilized in the formulation of the budget and in measuring

the success of its implementation. Resolutions adopting goals, objectives, and specific performance measures shall not be subject to veto by the County Executive.

(d) To fix the compensation of all officers and employees paid from county funds. With respect to employees not represented by a bargaining unit who are employed by the Sheriff, District Attorney, Comptroller, County Clerk, or in the executive branch, the County Legislature shall establish salary ranges and the appointing authority shall have discretion to set the actual salary within the range.

(e) To make or cause to be made such studies, audits and investigations as it deems to be in the best interests of the County, and in connection therewith to obtain or employ professional, legal 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 such study, audit, or investigation.

(f) To establish the compensation for all County Legislators, including, at its discretion, additional compensation for the Chairman of the Legislature, Majority and Minority Leaders, Committee Chairmen, and such other positions as it may deem appropriate.

(g) To approve all labor contracts.

(h) To appoint a Public Defender and four (4) Coroners to serve as provided by law. They shall have and exercise all powers and duties now or hereafter conferred or imposed upon them by applicable law, and be directly responsible to the County Legislature.

Section 2.06 Submission of Enactments for Executive Approval

Except as otherwise provided by this Charter, every Local Law and Legislative Resolution adopted by the County Legislature, except legislative branch appointments not otherwise subject to County Executive approval by applicable law and resolutions establishing rules and regulations or other matters pertaining solely to the conduct of its own procedures, shall be submitted within five (5) days after passage, to the County Executive for the County Executive's approval.

Section 2.07 Reconsideration

After resubmission to the County Legislature of a vetoed enactment together with the veto message, at its next following regular or special meeting such message shall be entered in its journal. Within thirty (30) days after such receipt and entry, the County Legislature may reconsider such vetoed enactment and pass the same over the objections thereto by a favorable vote of at least two-thirds of the whole number of its members on a roll-call vote.

Section 2.08 Legislature Financial Analyst, Policy Analyst, and Counsel

There shall be appointed at the commencement of each new legislative term or in the event of a vacancy: (1) a full-time Financial Analyst to assist the Legislature's members and committees in analyzing and recommending alterations to the Executive budget and to advise on other financial matters relating to county government; (2) a full-time Policy Analyst to assist the Legislature's members and committees in the execution of their duties, including research and the development of legislative policy; and (3) a Legislative Counsel on a full or part-time basis to provide legal advice to the Legislature's members and committees, assist in the drafting of legislation, and act as parliamentarian in legislative proceedings. The Legislature Financial Analyst, Policy Analyst, and Counsel shall be appointed by mutual agreement of the Chairman and Minority Leader of the Legislature, and shall serve at their pleasure. This section shall not preclude the Legislature from establishing by resolution other legislative staff positions within budget appropriations.

Article 3

COUNTY EXECUTIVE

Section 3.00 County Executive

Section 3.01 Election and Qualifications

Section 3.02 Powers and Duties of County Executive

Section 3.03 Executive Approval

Section 3.04 Acting County Executive

Section 3.05 Vacancy in the Office

Section 3.00 County Executive

The Executive power of the County shall be vested in a County Executive, who shall be responsible for the proper administration of all County affairs placed in the County Executive's charge by law or under any of the provisions of this Charter.

Section 3.01 Election and Qualifications

The County Executive shall be elected from the county at large and, at the time of the County Executive's nomination and election and throughout the County Executive's term of office, be and remain a qualified elector of Chautauqua County. The County Executive's term of office shall begin with the first day of January following the County Executive's election and shall be for four (4) years. The County Executive shall hold no other elected public office and shall devote full time to the duties of the office.

Section 3.02 Powers and Duties of County Executive

The County Executive shall be responsible for the administration of all county affairs. In addition to any other powers and duties provided by this Charter the Executive shall:

(a) Be the chief executive officer and administrative head of the executive branch of county government. The executive branch shall be responsible for the administration, organization, and implementation of all functions of County government, except: (1) those functions under the control and supervision of the Sheriff, District Attorney, Comptroller, County Clerk, and Board of Elections; (2) the internal functions of the County Legislature; and (3) the administration of the public defender and coroners, which shall be the responsibility of the County Legislature.

(b) Promulgate an administrative code for the administration, organization, and implementation of all functions of County government, except those excluded in Section 3.02(a) above, to include:

(i) the details of the organizational structure of the executive branch of County government, to be grouped into five general areas:

- (1) Administrative Services;
- (2) Human Services;
- (3) Planning and Economic Development;
- (4) Public Facilities; and
- (5) Intermunicipal Services.

(ii) uniform financial procedures to be followed by all County officers and entities, with the following minimum time requirements in the budget adoption process:

- (1) Legislative goals, objectives, and performance measures pursuant to County Charter Section 2.05(c) - by June 15th;
- (2) Tentative budgets of elected officials other than the County Executive - by August 25th; and
- (3) Tentative budget of County Executive - by September 25th.

The administrative code and any amendments thereto shall take effect thirty (30) days after it is promulgated unless rejected by a 2/3 majority of the County Legislature. The administrative code shall include any functions, offices, or procedures mandated by State law, but pursuant to Section 1.03 of this Charter, the administrative code may supersede and be inconsistent with State law to the extent allowed by Municipal Home Rule Law or other applicable law, and may supersede any existing local laws, resolutions, or rules and regulations heretofore adopted.

(c) Exercise supervision and control of all executive branch entities, and shall prescribe, within budget appropriations, the staffing, internal organization and reorganization of

such entities, including appointment of any heads of such entities. In this connection, the Executive shall have the power to determine who shall perform such duties and have such powers not otherwise clearly defined by the Charter.

(d) Secure proper accounting for all funds, provide for the audit of claims in a manner consistent with generally accepted accounting principles (including claims relating to the functions of elected officials and the internal functions of the County Legislature), oversee the physical property of the county, exercise general supervision over all county institutions and agencies, and coordinate the various activities of the county and unify the management of its affairs.

(e) Execute and enforce all local laws and resolutions of the County Legislature and see that all laws required to be enforced through the County Legislature or other county officers subject to its control are faithfully executed.

(f) Be responsible for the preparation and submission to the County Legislature of the annual budget, and capital program, other than budgets of other elected officials, and to execute the same in accordance with the resolutions and appropriations made by the County Legislature. For this purpose, the Executive shall have the power to obtain estimates of revenue and expenditures from all County entities. The County Executive shall have the power to determine the portions of program appropriations expended for personnel, equipment, or contractual purposes, but may not transfer funds between program appropriation accounts.

(g) Be responsible for keeping the County Legislature fully advised as to the financial condition and needs of the county and file with the County Legislature an annual report of the financial affairs of the county.

(h) Except as otherwise provided in this Charter, make, sign, execute, and implement all contracts on behalf of the County, within the amounts appropriated by the County Legislature, except that a contract for: (1) the sale, purchase, or transfer of real property, or (2) the provision of facilities or the rendering of services by or for any other government must be approved by the County Legislature. In lieu of individual approval of each contract described in (1) and (2) above, the County Legislature may adopt policies authorizing the County Executive to execute and implement classes of such contracts. The County Executive shall have the power to delegate the making, signing, executing, and implementing of contracts to other County officers.

(i) Be responsible for procuring legal services for all County entities, officers, and employees, other than the County Legislature and its employees, including prosecution and defense of all civil matters or proceedings involving the County.

(j) Be responsible for the negotiation of all employee contracts.

(k) Perform such other duties and have such other powers as may be prescribed for the County Executive by law, administrative code 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 and incidental powers to perform and exercise any of the duties and functions lawfully delegated to the County Executive.

(n) Have exclusive authority to establish executive and administrative policies for carrying out all of the Executive's powers and duties, including those duties specifically enumerated in this Charter.

Section 3.03 Executive Approval

Within ten (10) days after receipt of a legislative resolution as passed by the County Legislature, the County Executive shall approve or veto the same. A local law as passed by the County Legislature shall be submitted to the County Executive for action in accordance with Sections 20 and 21 of the Municipal Home Rule Law.

(a) APPROVAL. If the legislative resolution is approved by the County Executive the County Executive shall endorse the original document and return it to the Clerk of the County Legislature within ten (10) days from the date on which the County Executive received the resolution.

(b) VETO. If the legislative resolution is vetoed by the County Executive the County Executive shall so indicate in writing setting forth the County Executive's objections thereto and within ten (10) days after receipt of such resolution, return the original document to the Clerk of the County Legislature, with the County Executive's veto message attached. In the case of adoption of the annual budget, the County Executive shall have power to veto specific items, which the County Legislature may have changed from the original budget proposal submitted by the County Executive, without vetoing the entire budget. The County Executive shall also have power to veto a portion or all of the dollar amount of each specific item (whether or not changed by the County Legislature) in the budgets of other elected county-wide officials, without vetoing the entire budget.

(c) FAILURE TO ACT. In the event that the County Executive fails to approve or veto a legislative resolution within ten (10) days following the date of its receipt from the Clerk of the County Legislature, such resolution shall be deemed enacted.

Section 3.04 Acting County Executive

The County Executive shall designate, within thirty (30) days of assuming office, subject to confirmation by the County Legislature, an appointive officer of the Executive Branch to be known as the Acting County Executive to perform the duties of such Executive during the

Executive's absence from the county or the Executive's inability to act for any reason. Such designation shall be made in writing and filed with the Clerk of the County Legislature, and may be changed by the County Executive at any time by a new designation, confirmed by the County Legislature and filed with said Clerk. In the event that no Acting County Executive has been so designated or that the Acting County Executive is unable to serve during an absence or disability of the County Executive, the County Legislature shall designate such Acting Executive.

Section 3.05 Vacancy in the Office

If a vacancy occurs in the office of County Executive, the County Executive's successor shall be chosen at the next general election scheduled not less than sixty (60) days after such vacancy occurs.

Article 4

OTHER ELECTED OFFICIALS

Section 4.00 Other Elected Officers

Section 4.01 County Clerk

Section 4.02 District Attorney

Section 4.03 County Sheriff

Section 4.04 County Comptroller

Section 4.05 Salary Commission

Section 4.00 Other Elected Officers

There shall be other County officers elected to a specific term of office from the County at large as provided for in this Article. Elected county-wide officials specified in this Article shall be responsible for preparing and submitting tentative budgets to the County Legislature for their functions, and shall make, sign, and implement all contracts utilizing funds appropriated for their use. Said officials shall have the power to determine the portions of program appropriations expended for personnel, equipment, or contractual purposes, but may not transfer funds between program appropriation accounts.

Section 4.01 County Clerk

There shall be elected from the County at large a County Clerk. The County Clerk shall be elected for a four (4) year term and, at the time of the County Clerk's election and throughout the Clerk's term of office, shall be a qualified elector of the County. The County Clerk shall be the official registrar of the County, and except where inconsistent with this Charter, the County Clerk shall have and exercise all powers and duties not or hereafter conferred or imposed upon the County Clerk by any applicable law.

Section 4.02 District Attorney

There shall be elected from the County at large a District Attorney. The District Attorney shall be elected for a four (4) year term of office and, at the time of the District Attorney's election and throughout the District Attorney's term of office, shall be a qualified elector of the County and shall have been duly admitted to the practice of law in the State of New York. The District Attorney shall have and exercise all powers and duties now or hereafter conferred or imposed upon the District Attorney by applicable law.

Section 4.03 County Sheriff

There shall be elected from the County at large a County Sheriff. The Sheriff shall be elected for a four (4) year term of office and, at the time of the County Sheriff's election and throughout the Sheriff's term of office, shall be a qualified elector of the County. The Sheriff shall have and exercise all powers and duties now or hereafter conferred or imposed upon the County Sheriff by applicable law.

Section 4.04 Comptroller

There shall be elected from the County at large a Comptroller. The Comptroller shall be elected for a four (4) year term of office in odd numbered years, but in the alternate election from that in which the County Executive is elected. The first Comptroller shall be elected in the General Election of 1975. The Comptroller, at the time of the Comptroller's election and throughout the Comptroller's term of office, shall be a qualified elector of the County. The Comptroller may appoint a deputy and such other officers, assistants, and employees as may be authorized by the County Legislature.

The County Comptroller shall:

(a) Be the auditing authority of the County and examine, audit, and verify all books, records, and accounts kept by the various administrative units, offices, officials paid from County funds, institutions and other agencies of the County, including bond and note registers and trust accounts, and the accrual and collection of all County revenues and receipts, and for this purpose have access to all such books, records, and accounts at any time.

(b) Procure from the depositories with which the Director of Finance shall have deposited the funds and monies coming into the Comptroller's possession, statements, at least monthly, of all monies deposited by the Director of Finance or paid out pursuant to the Comptroller's order, and reconcile such statements with the County accounts.

(c) Make reports from time to time when requested by the County Executive or the County Legislature on the financial condition of the County.

(d) Submit to the County Legislature an annual report of audit and such periodic reports in such form and detail as may be prescribed by the County Legislature.

(e) Have the power to investigate and inquire into all matters relating to or affecting the finances of the County and for such purpose and for the purpose of carrying out the Comptroller's powers and duties, shall have the power to require the attendance of and take the testimony under oath of such persons as the Comptroller may deem necessary.

(f) Perform such additional and related duties as the County Legislature may direct.

Section 4.05 Salary Commission

There shall be appointed a bi-partisan County Salary Commission to review and recommend the salaries of all elected officials except those whose salaries are established, directly or indirectly, by State Law. The salary of all officers elected for a fixed term shall not be increased or diminished between the date of such election and the expiration of such term except (1) in accordance with a schedule adopted prior to the time such officer was elected to office which provides higher or lower rates of compensation during said term, or (2) as otherwise mandated by state or federal laws, rules or regulations. Said Commission shall be composed of seven (7) citizens appointed by the County Legislature.

The Commission shall recommend to the County Executive and County Legislature salary adjustments for elected offices at least one (1) year prior to the general election in which that office is scheduled to be filed.

Article 5

INTERMUNICIPAL RELATIONS

Section 5.00 Local Government Functions, Facilities and Powers Not Transferred, Altered, or Impaired

No function, facility, duty or power of any city, town, village, school district, or other district is transferred, altered, or impaired by this Charter.

Article 6

GENERAL AND TRANSITIONAL PROVISIONS

Section 6.00 General Provisions

Section 6.01 Charter Clarification

Section 6.02 Amendment of Charter

Section 6.03 Separability

Section 6.04 Charter to be Liberally Construed

Section 6.00 General Provisions

Except as may be otherwise provided in the Charter, the provisions set forth in this article shall apply to the operation of the County government.

Section 6.01 Charter Clarification

If any provision of this Charter is not clear or requires elaboration in its application to the County, the County Legislature may interpret such provision in a Local Law not inconsistent with the provision of the Municipal Home Rule Law. Where any question arises concerning the transition to a Charter which is not provided for herein, the County Legislature may provide for such transition by a Local Law not inconsistent with the provisions of the Municipal Home Rule Law.

Section 6.02 Amendment of Charter

This Charter may be amended by a Local Law enacted by a two-thirds affirmative vote of the total membership of the County Legislature, subject to a referendum to the extent required by the Municipal Home Rule Law.

Section 6.03 Separability

If any provision of this Charter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the particular provision directly involved in the controversy.

Section 6.04 Charter to be Liberally Construed

This Charter shall be liberally construed to achieve its objectives and purposes.

SECTION 2. This Local Law shall become effective sixty (60) days after adoption, or upon approval by a majority of the qualified electors in the event a permissive referendum is held in accordance with Municipal Home Rule Law.

Introduced: 4/8/98

Adopted: 5/13/98 (Roll Call Vote: 19 Yes, 5 No, 1 Absent. No: Abram, Caflisch, Crowe,
Dahlgren, Herby)

Adopted as LL 4-98