

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2016**

**A LOCAL LAW AMENDING CHAPTER 23 OF THE TOWN CODE
ENTITLED "GOVERNMENTAL DEPARTMENTS"**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

In order to promote the efficient discharge of Town functions, the Board finds that it is in the best interest of the Town of North Hempstead that Chapter 23 of the Town Code be amended in order to include the Division of Highways as a division in the Department of Public Works.

Section 2.

Article VIII of Chapter 23 of the Town Code is hereby amended as follows:

Article VIII. Department of Public Works

[Added 12-31-74 by L.L. No. 20-1974]

§ 23-8. (Reserved)

§ 23-8.1. Definitions.

A. Whenever used in this local law, words used in the singular include the plural and vice versa.

B. As used in this local law, the following terms shall have the meanings indicated:

ASSISTANT TO THE COMMISSIONER

A designated officer of the Department appointed by the Commissioner to aid and advise the Commissioner in planning and coordinating projects and policies of the Department.

COMMISSIONER

The Commissioner of Public Works, as chief executive officer of said Department.

DEPARTMENT

The Town of North Hempstead Department of Public Works, a major function of Town government.

DEPUTY COMMISSIONER

The Deputy Commissioner of the Town of North Hempstead Department of Public Works, who shall generally act for and in place of the Commissioner.

§ 23-8.2. Department established; Commissioner.

A. Commissioner. There shall be in the Town of North Hempstead a Department of Public Works. The principal executive officer and administrative head of such

Department shall be the Commissioner of Public Works, who shall be appointed by the Town Board for the term fixed by law at such salary as may from time to time be fixed by the said Town Board. The Commissioner of Public Works shall be appointed on the basis of his administrative experience and qualifications for the duties of such office and such additional standards as may be required by the Town Board. The Commissioner shall be the head of the Department with power and authority to appoint and remove officers and employees under his jurisdiction in accordance with Civil Service Law and other applicable laws.

B. The Commissioner is empowered herein to appoint two Deputies who shall generally act for and on his behalf and who shall perform such duties as are vested in and imposed upon that office by the provisions of this local law, by statute or by other lawful authority. He may also appoint one Assistant to the Commissioner.

C. Before entering upon the duties of his office, he shall execute and file an official undertaking, if the same be required by the Town Board, in such sum as prescribed by the Town Board and in such form as approved by the Town Attorney. Except as otherwise provided for herein, the Commissioner of Public Works shall have charge of the administration of the Department.

§ 23-8.3. Powers of Commissioner; departmental organization.

A. The Commissioner shall have such powers as shall be necessary for the proper administration of the Department consistent with applicable provisions of law.

B. Until such time as the same may be either amended or modified, the Department shall be divided into the following divisions:

[Amended 9-9-2014 by L.L. No. 14-2014]

(1) Division of Engineering.

(2) Division of Civil Defense.

(3) Division of Highways

(4) Division of Trees

(5) Division of Signs

§ 23-8.4. General powers and duties.

A. The powers and duties of such divisions therein shall be under the administration, direction and control of the Commissioner of Public Works, and each of the said divisions shall be supervised by a division head who shall be designated as Superintendent.

B. The Commissioner may, with the approval of the Town Board, establish, consolidate or abolish any divisions now existing or hereafter created in said Department, and establish, consolidate or abolish any bureau now existing or hereafter created in any such division.

C. The powers and duties of the divisions shall be as follows:

[Amended 9-9-2014 by L.L. No. 14-2014]

(1) Division of Engineering.

(a) It shall perform the duties of a Town Engineer and have general charge and supervision of the design and construction of Town buildings, parks and grounds, and also other structures or improvements in the nature of public works as the Town, or any of its special districts or departments, may construct.

(b) Furthermore, the division head of the Division of Engineering will continue with all of the powers and be subject to all of the duties of a Town Engineer.

(2) Division of Civil Defense. (Reserved).

(3) Division of Highways

(a) It shall have charge and supervision of the design, construction, repair, maintenance, cleaning and lighting of all highways, roads, streets, bridges and stormwater drainage systems and other outdoor facilities under the jurisdiction of the Town or any special districts thereof, and further shall provide for, maintain and operate municipal off-street public parking areas, including metered parking, and further shall supervise and have jurisdiction over any improvement districts related thereto.

(b) Furthermore, the division head of the Division of Highways shall have all of the powers and duties of a Town Superintendent of Highways as prescribed by law.

(4) Division of Trees. (Reserved)

(5) Division of Signs. It shall have the power, duty and responsibility of preparing, erecting and maintaining street, traffic regulatory and such other signs as may be required by the various Town of North Hempstead departments and divisions.]

D. Other powers of Commissioner.

(1) The Commissioner, acting by and through any of the said existing or hereafter named divisions, shall be empowered to perform such other duties and functions that are prescribed to be performed by him in any law, ordinance or resolution of the Town Board, or lawful directive of the Supervisor. However, the Commissioner may delegate any of his powers to or direct any of his duties to be performed by a Deputy Commissioner or head of a division.

(2) Furthermore, the Commissioner is hereby authorized and empowered, subject to prior approval of the Town Board, except that such prior approval will not be required in cases of emergency, to retain and employ private engineers, architects and consultants, or firms practicing such profession, for the purposes of:

(a) Preparing designs, plans and estimates of structures of projects of any type and character.

- (b) Rendering assistance and advice in connection with any project, whether defined or proposed, under the supervision of the Department of Public Works.
- (c) Performing such other and necessary services as the Commissioner may deem necessary in the administration of the Department.

§ 23-8.5. Special costs and expenses.

All costs and expenses incurred by the Department or its officers or employees on behalf of a special improvement district or special Town project shall be charged against such district or project and paid from the funds duly appropriated for the purpose of such district or project.

§ 23-8.6. Powers of Supervisor.

Nothing herein contained shall be construed to delegate or transfer any power of the Town Supervisor contained in §§ 29, 52 and 125 of the Town Law of the State of New York, or any other powers which may be lawfully exercised by said Supervisor.

§ 23-8.7. Fees.

The Commissioner may establish a schedule of fees to be collected by him for the filing in his office or department of any map or written instrument required to be so filed; for the preparation of any copy of a map or written instrument filed in his office or department; for the certification of any such map or written instrument; and for any other service rendered in connection with the work of his department, and for which he deems it necessary to charge and to collect a fee therefor.

§ 23-8.8. Severability.

If any section, provision or part thereof in this local law shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of the local law as a whole, or any section, provision or part thereof not so adjudged invalid or unconstitutional.

§ 23-8.9. When effective.

This local law shall **take** [be] effect[ive immediately] upon **the later of (i)** filing with the Secretary of State **or (ii) January 1, 2017.**

Section 3.

Article XII of Chapter 23 of the Town Code is hereby amended as follows:

[Article XII. Department of Highways

[Added 9-9-2014 by L.L. No. 14-2014]

§ 23-12. (Reserved)

§ 23-12.1. Definitions.

A. Whenever used in this article, words used in the singular include the plural and vice-versa.

B. As used in this article, the following terms shall have the meanings indicated:

DEPARTMENT

The Town of North Hempstead Department of Highways.

DEPUTY SUPERINTENDENT

The Deputy Town Superintendent of Highways, as such office is described in § 32 of the New York Town Law.

SUPERINTENDENT

The Superintendent of Highways, as such office is described in § 32 of the New York Town Law.

§ 23-12.2. Department established; office of Superintendent continued.

A. There shall be in the Town of North Hempstead a Department of Highways.

B. The office of Town Superintendent of Highways is hereby continued. The principal executive officer and administrative head of the Department shall be the Superintendent of Highways, who shall be appointed by the Town Board in accordance with applicable law. The Superintendent shall be the head of the Department with power and authority to appoint and remove officers and employees under his or her jurisdiction in accordance with Civil Service Law and other applicable laws.

C. The office of Deputy Town Superintendent of Highways is hereby continued. The appointment of the Deputy Superintendent and the powers and duties of the Deputy Superintendent shall be governed by § 32 of the New York Town Law.

D. Before entering upon the duties of his or her office, the Superintendent shall execute and file an official undertaking as required by § 10 of the New York Public Officers Law and § 25 of the Town Law, in such form as approved by the Town Attorney.

E. Except as otherwise provided for herein, the Superintendent shall have charge of the administration of the Department.

§ 23-12.3. Powers of Superintendent.

The Superintendent shall have such powers as are conferred by § 32 of the New York Town Law and Article VII of the New York Highway Law. The Superintendent shall also have such powers as shall be necessary for the proper administration of the Department consistent with applicable provisions of law.

§ 23-12.4. General powers and duties.

A. The powers and duties of the Department shall be under the administration, direction and control of the Superintendent.

B. The Superintendent may, with the approval of the Town Board, create divisions within the Department and assign duties and powers of the Department to such divisions. After such divisions are created, the Superintendent may appoint heads of such divisions that shall be under the supervision of the Superintendent.

C. The powers and duties of the Department shall be as follows:

- (1) It shall have charge and supervision of the design, construction, repair, maintenance, cleaning and lighting of all highways, roads, streets, bridges and stormwater drainage systems and other outdoor facilities under the jurisdiction of the Town or any special districts thereof, and further shall provide for, maintain and operate Town off-street public parking areas.
- (2) It shall have the power, duty and responsibility of preparing, erecting and maintaining street, traffic regulatory and such other signs as may be required by the various Town of North Hempstead departments and divisions.
- (3) It shall have such other powers and duties as may be consistent with applicable law.

~~§ 23-12.5. Special costs and expenses.~~

~~All costs and expenses incurred by the Department or its officers or employees of a special improvement or special Town project shall be charged against such district or project and paid from the funds duly appropriated for the purposes of such district or project.~~

~~§ 23-12.6. Powers of Supervisor.~~

~~Nothing herein shall be construed to delegate or transfer any power of the Town Supervisor contained in §§ 29, 52 and 125 of the Town Law of the State of New York, or any other powers which may be lawfully exercised by said Supervisor.~~

~~§ 23-12.7. Fees.~~

~~The Superintendent may establish a schedule of fees for filing any map or written instrument required to be so filed; for the preparation of any copy of a map or written instrument filed in his or her office or department; for the certification of any such map or written instrument; and for any other service rendered in connection with the work of the Department and for which he or she deems it necessary to charge and to collect a fee therefor.~~

~~§ 23-12.8. Severability.~~

~~If any section, provision or part thereof in this article shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of this article as a whole, or any section, provision or part thereof not so adjudged invalid or unconstitutional.~~

~~§ 23-12.9. When effective.~~

~~This article shall take effect upon the later of:~~

- A. Filing with the Secretary of State; or
- B. January 1, 2015.]

Section 4.

This Local Law shall take effect upon the later of (i) filing with the Secretary of State or (ii) January 1, 2017.