

TOWN OF BRUNSWICK

INTRODUCTORY LOCAL LAW NO. 5 OF THE YEAR 2024

A LOCAL LAW ESTABLISHING THE RESIDENCY REQUIREMENTS FOR THE APPOINTED OFFICE OF TOWN ATTORNEY OF THE TOWN OF BRUNSWICK

Be it enacted by the Town Board of the Town of Brunswick as follows:

Section 1. Title.

The title of this local law is “A Local Law Establishing the Residency Requirements for the Appointed Office of Town Attorney” of the Town of Brunswick”.

Section 2. Legislative Intent.

The Town Board recognizes that Public Officers Law §3 and Town Law, §23, generally require that elected and appointed officers of the Town of Brunswick must be residents and electors of the Town of Brunswick. In order to expand the field from which the Town Attorney may be selected and appointed by the Town Board, it is the intent of this Town Board, by this local law, to supersede, and amend, those sections of law so as to provide that the person appointed to and holding the office of Town Attorney of the Town of Brunswick need not be a resident nor an elector of the Town of Brunswick, provided that such person is a resident and elector of the County of Rensselaer, State of New York, or any county in New York State adjoining Rensselaer County.

Section 3. Authority.

This local law is adopted pursuant to Municipal Home Rule Law §10(1)(i) and §10(1)(ii)(a)(1) which grants to local governments the authority to enact local laws pertaining to the qualifications of local officers, which are not inconsistent with general New York State statutes. Moreover, the Town Board recognizes that the State Legislature has, on various occasions, for various offices, in various municipalities, has amended Public Officers Law §3 and Town Law, §23 so as to create exceptions to the general residency requirements as set forth in those statutes, thereby rendering said statutes to be special laws, rather than general laws. Moreover, this Town Board recognizes that the New York State Legislature has heretofore amended §3 of the New York State Public Officers Law to add subdivision “24” thereof, which exempts any appointed officer of the Town of Greenburgh, New York, from its residency requirements, thereby allowing any appointed public officers of that town to reside anywhere in the State of New York. This amendment to Public Officers Law §3 by the State Legislature, therefore, has rendered Public Officers Law §3, in its applicability to all local appointive Town offices, a special law, rather than a general law, since in establishing residency requirements for appointive Town officers it does not, in terms or effects, apply alike to all towns in the State of New York. Accordingly, this Town Board may supersede, and amend, Public Officers Law §3 and

Town Law, §23 as regards the residency requirements for the appointed office of Town Attorney of the Town of Brunswick (see 1997 N.Y. Op. (Inf.) Att’y Gen. 11; 2000 N.Y. Op. Att’y. Gen. 1017).

**Section 4. Residency Requirements for the Appointed Office of Town Attorney of the Town of Brunswick.**

The person appointed to and holding the appointed office of Town Attorney of the Town of Brunswick need not be a resident nor an elector of the Town of Brunswick at the time of his or her appointment, and during his or her tenure in office, provided that such person is a resident and elector of the County of Rensselaer, State of New York, or any county in New York State adjoining Rensselaer County.

**Section 5. Supersession.**

This local law shall supersede and amend the residency requirements set forth in Public Officers Law §3, and §30.1.d, and Town Law §23.1(a), which require that the Town Attorney reside within and be an elector of the town in which he or she is appointed at the time of his or her appointment and during his or her tenure in office, except in towns having no resident attorney, in regard to their application to the appointed Office of Town Attorney of the Town of Brunswick.

**Section 6. Inconsistency.**

All other local laws and ordinances of the Town of Brunswick that are inconsistent with the provisions of this local law are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and in all other respects this local law shall be in addition to such other local laws and ordinances pertaining to the subject matter encompassed by this local law.

**Section 7. Savings Clause.**

Should any clause, sentence, paragraph, word, section, or part of this local law, or the application thereof to any person or circumstance, be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, or the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

**Section 8. Effective Date.**

This local law shall take effect immediately.