



CITY OF ITHACA  
108 East Green Street Ithaca, New York 14850-5690

OFFICE OF THE CITY ATTORNEY

Aaron O. Lavine, City Attorney  
Robert A. Sarachan, Assistant City Attorney  
Patricia M. O'Rourke, Assistant City Attorney  
Krin Flaherty, Assistant City Attorney  
Jody Andrew, Executive Assistant

Telephone: 607/274-6504  
Fax: 607/274-6507

## MEMORANDUM

To: Mayor Svante Myrick  
Common Council

From: Aaron Lavine, City Attorney

Date: October 24, 2012

Subject: Departmental Consolidations

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As the Mayor shared in his budget message, the City is considering a process of departmental consolidation in the form of Controller-Chamberlain and Planning-Building departmental mergers. As you know, a couple weeks ago I shared with all of you a set of draft legislation in support of these goals. We have since received a variety of useful feedback, and have revised the legislation in a few respects to take account of that feedback.

First, as requested, I have divided the legislation into separate pieces of legislation for the Planning-Building merger and for the Controller-Chamberlain merger. This may best assist Council in considering the merits of these two actions individually. Second, the enclosed draft legislation leaves the *Director* of Planning and Development with an unchanged title, and the *Department* of Planning and Development with the new title "Department of Planning, Building and Development." Third, as described below, an additional Local Law—ideally for action at December Council—will be forthcoming to enact, pursuant to mandatory referendum, the elimination of the position (but not the employment of the person—see below) of Building Commissioner.

After additional discussions with the Human Resources Department, the Director of Planning and Development, the Building Commissioner, and the Deputy Building Commissioner, the following structural changes are proposed through (or in concert with) the draft legislation:

- A. On the departmental level, the Building Department and the Office of the Chamberlain would of course merge into the Planning and Development Department and the Office of the Controller, respectively. The Planning and Development Department would also be renamed the Planning, Building, and Development Department (“PB&D”).
- B. On the positional level, all positions in all involved departments would continue to exist, except that—per a proposed Local Law with which I can soon provide you—the position of Building Commissioner would exist only until eliminated at a November 2013 referendum on that subject. Additionally, a draft resolution to be provided shortly by the Human Resources Department would create the position of Director of Zoning Administration (previously referred to as Codes Commissioner).
- C. On the individual level, the proposed mergers would not affect the existing employment status (i.e., compensation, benefits, job duties, etc.) of any employees of affected departments, with the exception that the person currently serving as Building Commissioner has agreed that she will leave the position of Building Commissioner just prior to the departmental merger so as to serve in the position of Director of Zoning Administration upon completion of the merger. This in turn would leave the Building Commissioner position (by then merged into the PB&D Department) vacant, such that the Deputy Building Commissioner would fulfill the duties of Building Commissioner within the PB&D Department until such time as the position of Building Commissioner may be eliminated at referendum (as described in (B), above). Thereafter, Council might consider creating the position of Director of Code Enforcement into which the Deputy Building Commissioner could then transition (all within the PB&D Department).

## **A Local Law to Consolidate Office of the City Chamberlain into Office of the City Controller**

WHEREAS, the intent of the following legislation is to reduce the costs and increase the efficiency of the City's government in light of record budget deficits; and

WHEREAS New York State has granted to the City the power to organize its own government and the departments therein as the City deems necessary; and

WHEREAS The Common Council has determined that certain operations of the City's government could efficiently be consolidated and overseen by a single department head rather than by multiple separate departments; and

WHEREAS, the Office of the City Chamberlain only came into existence late in the City's long history, prior to which the Office of the City Controller handled the financial affairs of the City, and

WHEREAS, the Office of the City Controller is well equipped, with the assistance of appropriate staff of the Office of the City Chamberlain, to handle the financial affairs of the City both as a matter of spending and receiving City funds, now therefore,

**BE IT NOW ENACTED BY** the Common Council of the City of Ithaca as follows:

### **Section 1.** Legislative Intent and Purpose.

The Common Council of the City of Ithaca determines that it is in the interest of the public welfare to consolidate the Office of the City Chamberlain into the Office of the City Controller, such that the City Chamberlain and all appropriate staff of the Office of the City Chamberlain shall hereafter report to the City Controller as members of the Office of the City Controller. Subject only to the requirement that the City Chamberlain report to the City Controller, the City Chamberlain shall retain all powers, duties, and functions otherwise possessed by the City Chamberlain unless explicitly altered herein.

### **Section 2.** Appointive Officers Not Serving In Their Respective Department.

The text of Section C-5(C)(4), a subsection of "Elective and Appointive Officers", as currently contained in the Ithaca City Charter and last ratified by Local Law No. 5 of 2011 is hereby repealed and replaced with the following text, said replacement text to be read in concert with any other text duly enacted to replace portions of the hereby-repealed text:

**(i)** Officers who serve as the heads of their respective departments, and who are appointed by the Mayor with the approval of Common Council: Building Commissioner, [~~City Chamberlain,~~] City Clerk, Controller, Director of Human Resources, Director of Information Technology, Director of Planning and Development, Fire Chief, Greater Ithaca Activities Center Director, Police Chief, Superintendent of Public Works, Youth Bureau Director.

**(ii) Officers who are appointed by the Mayor with the approval of Common Council to a specific department: City Chamberlain as appointed to the Office of the City Controller.**

### **Section 3.** Consolidated Office of the City Controller.

The text of Section C-19(B)(7), a subsection of “Financial Officers”, as currently contained in the Ithaca City Charter and last ratified by Local Law No. 1 of 2011 is hereby repealed and replaced with the following text:

~~“[Organize the work of the Office of the City Chamberlain. The City Chamberlain may assign and transfer administrative functions, powers and duties within the Office of the City Chamberlain as the best interest of the City may appear, subject to the Charter, local law or ordinance.]~~ **Be a member of the Office of the City Controller, such that, notwithstanding any other provision of the City Code, all powers, responsibilities, procedures, rights, and penalties in this Charter or in the City Code or in rules created thereunder specifying, compelling, or permitting the administration, enforcement, or other participation of the “Office of the City Chamberlain” shall be invested in and associated with the Office of the City Controller.**”

**Section 4.** Severability. If any clause, sentence, paragraph, section, or part of this local law 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 clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 5.** Effective Date.

This Local Law shall take effect on January 1, 2013 or 45 days after its adoption, whichever is later, and after filing in the office of the Secretary of State. This Local Law is subject to referendum on petition pursuant to Municipal Home Rule Law Section 24.

## **A Local Law to Consolidate the Building Department into the Department of Planning and Development**

WHEREAS, the intent of the following legislation is to reduce the costs and increase the efficiency of the City's government in light of record budget deficits; and

WHEREAS New York State has granted to the City the power to organize its own government and the departments therein as the City deems necessary; and

WHEREAS The Common Council has determined that certain operations of the City's government could efficiently be consolidated and overseen by a single department head rather than by multiple separate departments; and

WHEREAS, the Building Department executes Code Enforcement as to numerous Code Provisions, many of which are promulgated by the Department of Planning and Development, including zoning, and

WHEREAS, the Department of Planning and Development is well equipped, with the assistance of appropriate staff of the Building Department, to handle the code enforcement functions of the City, now therefore,

**BE IT NOW ENACTED BY** the Common Council of the City of Ithaca as follows:

### **Section 1.** Legislative Intent and Purpose.

The Common Council of the City of Ithaca determines that it is in the interest of the public welfare to consolidate the Building Department into the Department of Planning and Development so as to form the Department of Planning, Building, and Development, such that the Building Commissioner and all appropriate staff of the former Building Department shall hereafter report to the Director of Planning and Development as members of the Department of Planning, Building, and Development. Subject only to the requirement that the Building Commissioner report to the Director of Planning and Development, the Building Commissioner shall retain all powers, duties, and functions otherwise possessed by the Building Commissioner unless explicitly altered herein.

### **Section 2.** Appointive Officers Not Serving In Their Respective Department.

The text of Section C-5(C)(4), a subsection of "Elective and Appointive Officers", as currently contained in the Ithaca City Charter and last ratified by Local Law No. 5 of 2011 is hereby repealed and replaced with the following text, said replacement text to be read in concert with any other text duly enacted to replace portions of the hereby-repealed text:

**(i)** Officers who serve as the heads of their respective departments, and who are appointed by the Mayor with the approval of Common Council: [~~Building Commissioner,~~] City Chamberlain, City Clerk, Controller, Director of Human Resources, Director of Information Technology, Director of Planning and Development, Fire Chief, Greater Ithaca Activities Center Director, Police Chief, Superintendent of Public Works, Youth Bureau Director.

**(ii) Officers who are appointed by the Mayor with the approval of Common Council to a specific department: Building Commissioner as appointed to the Department of Planning, Building, and Development.**

**Section 3.** Department of Planning, Building, and Development.

- (a) The text of the title of Chapter 4, Article V as currently contained in the Ithaca City Code and last ratified by Local Law No. 5 of 2011 is hereby repealed and replaced with the following text:

Department of Planning, **Building,** and Development

- (b) The text of the first sentence of Section 4-22, a subsection of “Department of Planning and Development”, as currently contained in the Ithaca City Code and last ratified by Local Law No. 5 of 2011 is hereby repealed and replaced with the following text:

“There shall be a Department of Planning, **Building,** and Development headed by a Director of Planning and Development.”

- (c) A new subsection L shall be added to the text of Section 4-22 beneath subsection K, a subsection of “Department of Planning and Development,” as currently contained in the Ithaca City Code and last ratified by Local Law No. 5 of 2011 to read as follows:

**“L. Notwithstanding any other provision of the City Code, all powers, responsibilities, procedures, rights, and penalties in this Code or in rules created thereunder specifying, compelling, or permitting the administration, enforcement, or other participation of the “Department of Planning and Development” shall be invested in and associated with the Department of Planning, Building, and Development.”**

**Section 4.** Severability. If any clause, sentence, paragraph, section, or part of this local law 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 clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 5.** Effective Date.

This Local Law shall take effect on January 1, 2013 or 45 days after its adoption, whichever is later, and after filing in the office of the Secretary of State. This Local Law is subject to referendum on petition pursuant to Municipal Home Rule Law Section 24.

**An Ordinance to Amend Chapter 146 of the City of Ithaca Municipal Code entitled “Building Code Enforcement” Section 146-4(A) related to Administrative Officers and Functions**

**BE IT ORDAINED AND ENACTED** by the Common Council of the City of Ithaca, as follows:

**ORDINANCE NO. 2012-**

**Section 1.** The text of 146-4(A) as currently contained in the Ithaca City Code is hereby repealed and replaced with the following text:

“The Office of Code Enforcement Officer is hereby created. The Office of Code Enforcement Officer shall be [~~known as the City of Ithaca~~] **the Department of Planning, Building, and Development** [~~Department~~]. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. The Building Commissioner [~~as appointed by the Mayor~~] shall be the Code Enforcement Officer for the City of Ithaca.

**Notwithstanding any other provision of the City Code, all powers, responsibilities, procedures, rights, and penalties in this Code or in rules created thereunder specifying, compelling, or permitting the administration, enforcement, or other participation of the “Building Department” or the “office of the Building Commissioner” shall be invested in and associated with the Department of Planning, Building, and Development, wherein the Building Commissioner shall serve as the Code Enforcement Officer as specified in Chapter 146 of the City Code.**”

**Section 2.** All employees and functions of the City of Ithaca Building Department shall be transferred to the Department of Planning, Building, and Development, pursuant to Section 70.2 of New York State Civil Service Law.

**Section 3.** Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this ordinance.

**Section 4.** Effective date. This Ordinance shall take effect on January 1, 2013 or 45 days after its adoption, whichever is later, and after filing in the office of the Secretary of State.