Town of Barrington
Local Law No. 3 of 2025 to Supersede the Whitehall Doctrine

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

Section I. Title.

A local law to supersede the common law Whitehall Doctrine and Doctrine of Incompatibility.

Section II. Background.

Whitehall Doctrine: Pursuant to the common law doctrine established in Wood vs. Town of Whitehall, it is the general rule that a body having the power of appointment may not appoint one of its own members in the absence of precise statutory authority to do so (Macrum vs. Hawkins, 141 Misc. 358, affd. 235 App. Div. 370, rev. on other grounds, 261 N.Y. 193, rearg. den. 261 N.Y. 691; Wood vs. Town of Whitehall, 120 Misc. 124, affd. 206 App. Div. 786).

Doctrine of Incompatibility: The common law doctrine of incompatibility declares to be incompatible any town public offices in which there exists an inconsistency of function or where the holder of one would be required to account or to be subordinate in some way to the other (People ex rel Ryan vs. Green, 58 NY 295; Corsall vs. Gover, Atty. Gen. (Inf.) 231).

The Attorney General's Office has, however, opined that upon a finding that the public interest would be served, a local legislative body may enact a local law overcoming incompatibility and the Whitehall doctrine. Incompatibility and the Whitehall doctrine are court-made rules of law based upon public policy concerns. We (Attorney General's Office) have expressed the opinion that these doctrines can be overcome by local law (1983 Op Atty Gen [Inf] 157; 1960 Op Atty Gen [Inf] 198). A local government is authorized to adopt and amend local laws, consistent with the Constitution and general State law, relating to the powers, duties and qualifications of its officers and employees (Municipal Home Rule Law, §10 [1] [ii] [a] [1]). Provided there is a finding by the local legislative body that such a local law would be in the overall public interest, it could enact a local law overcoming the Whitehall doctrine and incompatibility (1983

Op Atty Gen [Inf] 157). We (Attorney General's Office) must emphasize, however, that the local legislative body, based upon local conditions, must first find that the overall public interest would be served by the local law. (1987 N.Y. Op. Atty. Gen. [Inf.] 109).

Section III. Authority.

This local law is adopted pursuant to Municipal Home Rule Law, §10 [1] [ii] [a] [1], which grants to local governments the authority to enact local laws regarding the qualifications of local officers.

Section IV. Finding of Public Interest

The Town Board of the Town of Barrington hereby finds that the public interest would be served in that:

-The Town of Barrington is in a rural area where it has often been difficult to fill vacancies and to find dual expertise for many positions.

-The current Zoning Board of Appeals (ZBA) Chairperson and Board of Assessment Review (BOAR) Member has been a great asset to the Town attending most all Town meetings, keeping up on required training and showing strong public relation and accounting skills.

-In the event of being elected to the Town Board the current Town Board doesn't want the appointed Board member of the ZBA and BOAR to resign.

-In the event of a conflict-of-interest involving authority on different boards, the board member must recuse themselves from the vote on that matter. Recusal is an appropriate remedy where there are occasional conflicts between two positions.

Section V. Supersession.

This local law shall supersede the common law Doctrine of Incompatibility and the common law Whitehall Doctrine with respect to, but not limited to the offices of Town Council, Zoning Board of Appeals and Board of Assessment Review.

Section VI. Inconsistency.

All other local laws and ordinances of the Town of Barrington 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 or ordinances regulation and governing the subject matter covered by this local law.

Section VII. Savings Clause.

If any clause, sentence, paragraph, word, section or part of this local law shall 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, but shall be confined in its operation of the clause, sentence, paragraph, worked section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section VIII. Effective Date.

This law shall become effective upon filing with the Secretary of State.