

SECOND CLASS CITIES

Laws 1909, Chap. 55.

AN ACT in relation to cities of the second class, constituting chapter fifty-three of the consolidated laws.

Became a law February 17, 1909, with the approval of the Governor.

Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER 53 OF THE CONSOLIDATED LAWS

SECOND CLASS CITIES LAW

- Article 1. Short title; definitions (Secs. 1, 2).
2. General provisions (Secs. 3, 4).
 3. Officers (Secs. 10-23).
 4. Common council (Secs. 30-44).
 5. Mayor (Secs. 50-57).
 6. Department of finance (Secs. 60-81).
 7. Department of public works (Secs. 90-103).
 8. Department of contract and supply (Secs. 120-125).
 9. Department of public safety (Secs. 130-157).
 10. Department of assessment and taxation (Secs. 160-167).
 11. Department of public welfare (Secs. 170-174).
 12. Judiciary (Secs. 180-191).
 13. Department of law (Secs. 200-206).
 14. Supervisors; sealer of weights and measures (Secs. 210, 211).
 16. Miscellaneous provisions (Secs. 240-245).
 17. Construction; saving clause; repeal (Secs. 250-253).

ARTICLE 1

SHORT TITLE; DEFINITIONS

Section 1. Short title.

2. Term city defined.

§ 1. Short title. This chapter shall be known as the "Second Class Cities Law."

§ 2. Term city defined. The term "city," when used in this chapter, means a city of the second class.

ARTICLE 2

GENERAL PROVISIONS

Section 3. Corporate Powers.

4. Application of chapter.

§ 3. Corporate powers. The citizens of the state of New York, from time to time inhabitants of the territory comprised within the boundaries of the city, shall continue to be a municipal corporation in perpetuity under its corporate name, and the same shall in that name be a body politic and corporate in fact and in law, with power of perpetual succession. The city shall have power:

1. To take, purchase, hold, lease, sell and convey such real and personal property as the purposes of the corporation may require.

2. To take by gift, grant, bequest and devise and hold real and personal estate absolutely or in trust for any public use including that of education, art, ornament, health, charity or amusement, for parks or gardens, or for the use or erection of statues, monuments, buildings or structures, upon such terms or conditions as may be prescribed by the grantor or donor and accepted by said corporation and to provide for the proper administration of the same.

3. To make, have and use, and from time to time alter, a common seal.

4. To contract and be contracted with, to sue and be sued, to complain and defend and to institute, prosecute, maintain and defend any action or proceeding in any court.

5. To have and exercise all of the rights, privileges and jurisdiction

essential to a proper exercise of its corporate functions, including all that may be necessarily incident to, or may be fairly implied from, the powers specifically conferred upon such corporation.

6. To have and exercise all the rights, privileges, functions and powers now prescribed and exercised by it under existing or subsequent laws and not inconsistent with the provisions of this chapter.

§ 4. Application of chapter. A provision of this chapter shall apply, according to its term, only to a city of the state which on the thirty-first day of December, nineteen hundred and twenty-three was a city of the second class, until such provision is superseded pursuant to the municipal home rule law, was superseded pursuant to the former city home rule law or is or was otherwise changed, repealed or superseded pursuant to law.

ARTICLE 3

OFFICERS

Section 10. Officers.

11. Elective officers.
12. Appointive officers.
13. Terms of office.
14. Elections.
15. Vacancies.
17. Additional fees or compensation not to be paid.
18. Official undertakings.
19. Holding more than one office.
20. Charges against city officers.
21. Office hours.
22. Officers, trustees of public property.
23. Annual reports of departments.

§ 10. Officers. City officers, within the meaning of this chapter, include all persons elected or appointed to any office of the city

created or authorized by this chapter or otherwise by law.

§ 11. Elective officers. There shall be elected by the qualified electors of the city, a mayor, comptroller, treasurer, president of the common council and four assessors. There shall be elected by the qualified electors of each ward of the city an alderman and a supervisor. There shall also be elected by the qualified electors of the city and of the wards thereof such other officers as may be provided by law.

§ 12. Appointive officers. There shall be appointed by the mayor a corporation counsel, city engineer, commissioner of public works, commissioner of public safety, commissioner of public welfare and sealer of weights and measures. The commissioner of public welfare shall be appointed in accordance with the provisions of section one hundred sixteen of the social welfare law. Other officers may be appointed as provided in this chapter or otherwise by law. All appointments to any city office shall be evidenced by a certificate in writing, signed by the appointing officer and filed forthwith in the office of the city clerk. If an appointment be made by the common council such certificate shall be signed by the officer presiding at the time the appointment was made and attested by the city clerk.

§ 13. Terms of office. The term of office of each elective officer, unless elected to fill a vacancy then existing, shall commence on the first day of January next succeeding his election. The term of office of each appointive officer shall commence on the day succeeding his appointment unless a different date is specified in the certificate of appointment. The term of office of the mayor, comptroller, treasurer and president of the common council shall be two years. The term of office of alderman and supervisor shall be two years. The term of office of the assessors shall be four years, except that at the city election first held in the city after the same shall have become a city of the second class and the provisions of this chapter relating to the election of its

officers shall have become applicable thereto, two of the assessors shall be elected for a term of two years and two for a term of four years. The term of office of the corporation counsel, city engineer, commissioner of public works and sealer of weights and measures shall be two years, unless sooner removed by the mayor. The term of office of the commissioner of public welfare shall be five years. Where the term of office of an appointive officer is not specifically fixed by statute it shall be deemed to continue only during the pleasure of the officer, officers, board or body authorized to make the appointment.

§ 14. Elections. All elections of city officers, including supervisors and judicial officers of a city court or inferior local court, shall be held on the Tuesday succeeding the first Monday in November, and, except to fill vacancies, in an odd-numbered year. All such elections shall be held at the same time and places as the general election held in such year, and shall be conducted in all respects in the same manner as general elections in cities are required to be conducted, and all the provisions of law relative to such elections shall be applicable to the election for officers of the city. In case of the failure to elect an elective city officer, except as otherwise provided herein, the office shall be deemed to be vacant for the purpose of choosing a successor and the vacancy shall be filled in the manner provided herein for the filling of a vacancy in such office happening otherwise than by expiration of term.

§ 15. Vacancies. If a vacancy shall occur, otherwise than by expiration of term, in an elective office of the city, including that of supervisor, the mayor shall appoint a person to fill such vacancy. The person so appointed to such vacancy shall hold office until the commencement of the political year next succeeding the first annual election after the happening of the vacancy at which a successor can be elected for the balance of the unexpired term, if any. If a vacancy shall occur in an appointive office of the city, otherwise than by expiration of term, the officer, officers, board or body authorized to make appointment to such office for the full term shall appoint a person

to fill such vacancy for the balance of the unexpired term.

§ 17. Additional fees or compensation not to be paid. No officer of the city, except corporation counsel, a justice of a city court, acting as clerk of said court, city marshal, marshal of a city or municipal court, commissioners of deeds and city officers acting as commissioners of deeds, shall have or receive to his use any perquisites, compensation or fees for services pertaining directly or indirectly, or which may hereafter be added to the duties of his office, in addition to his salary; and all perquisites, compensation and fees paid to and received by any such officer for services pertaining directly or indirectly, or which may hereafter be added to the duties of his office, other than his salary received from the city, shall be the property of the city, and shall be paid by the officer receiving the same into the city treasury. The compensation of all the officers, clerks and subordinates in the several departments shall not exceed in the aggregate the appropriation made by the board of estimate and apportionment for that purpose.

§ 18. Official undertakings. No person elected or appointed to a city office shall enter upon or continue in the discharge of the duties of his office until he shall have executed and filed with the city clerk the official undertaking, if any, required to be given and the same shall have been approved as to its form and validity by the corporation counsel and as to the sufficiency of the sureties by the mayor. All such undertakings shall be recorded in the office of the city clerk. In addition to the city officers required in this chapter, or otherwise by law, to give official undertakings, the common council may require any other city officer to give an official undertaking in such penal sum and with such conditions and sureties as it shall direct and approve. It may also, in a proper case, require an undertaking of any officer in addition to that required by law. The mayor shall examine the sufficiency of the proposed sureties of any officer or person from whom an official undertaking is required and may require such sureties to be examined on oath as to their property qualifications and liabilities. The deposition of each surety shall be reduced to writing, subscribed by

him, certified by the officer administering the oath and annexed to and filed with the undertaking. In case any city officer shall fail to file the required official undertaking, if an elective officer, within thirty days after receipt of his certificate of election, and if an appointive officer, within fifteen days after receipt of notice of his appointment, the office shall be deemed to be vacant and the vacancy shall be filled in the manner herein provided for the filling of a vacancy therein happening otherwise than by expiration of term. The official undertaking of a city officer shall not be a lien upon real estate owned by him or the sureties on such undertaking.

§ 19. Holding more than one office. No person shall, at the same time, hold more than one city office. Upon the acceptance by a city officer of a second office the office first held by him shall thereupon become vacant. The term "city officer" as used herein, however, shall not be deemed to include a commissioner of deeds.

§ 20. Charges against city officers. Whenever it is provided herein, or otherwise by law, that an officer of the city shall hold office during good behavior or shall be removed only upon charges, such charges shall be for disability for service or neglect or dereliction of official duty or incompetency or incapacity to perform his official duties or some delinquency materially affecting his general character or fitness for the office, unless otherwise specifically provided by law. Where the charges are for disability for service, the examination shall be one of inquiry only and the decision made in a proper case, may be for honorable discharge from service. In all other cases the examination shall be a trial, conducted under such reasonable rules and regulations as shall be prescribed by the officer, officers, board or body before whom the trial is held. Whenever an elective city officer shall be or become permanently disabled, or permanently incapacitated and is thereby rendered incapable of performing his official duties during the remainder of his term of office, such officer may be removed upon charges and after hearing, in the same manner as is provided herein or otherwise by law, for the removal of appointive officers of the city.

§ 21. Office hours. Unless otherwise provided by law, the city offices shall be kept open for the transaction of business each day in the year, Sundays and legal holidays excepted, from ten o'clock in the forenoon until four o'clock in the afternoon, except that the offices of comptroller, city treasurer and the office for the collection of water rents, shall be kept open as aforesaid from ten o'clock in the forenoon until three o'clock in the afternoon. The common council may from time to time direct any city office to be kept open at such other hours as public convenience may require.

§ 22. Officers, trustees of public property. The common council and the several members thereof, and all officers and employees of the city are hereby declared trustees of the property, funds and effects of said city respectively, so far as such property, funds and effects are or may be committed to their management or control, and every taxpayer residing in said city is hereby declared to be a cestui que trust in respect to the said property, funds and effects respectively; and any co-trustee or any cestui que trust shall be entitled as against said trustees and in regard to said property, funds and effects to all the rules, remedies and privileges provided by law for any co-trustee or cestui que trust; to prosecute and maintain an action to prevent waste and injury to any property, funds and estate held in trust; and such trustees are hereby made subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by the city or by any co-trustee or cestui que trust aforesaid. The remedies herein provided shall be in addition to those now provided by law.

§ 23. Annual reports of departments. The several heads of departments shall present to the mayor annually, on or before the first Monday of December, a report of their proceedings during the preceding year. The mayor shall transmit the same to the common council with any recommendation he may think proper to make, but nothing in this section contained shall be construed to relieve such heads of departments from

furnishing such other information as may be required by the mayor at any time.

ARTICLE 4
COMMON COUNCIL

Section 30. Legislative power.

- 31. Members; president; organization of council.
- 32. City clerk.
- 33. Meetings.
- 34. Powers.
- 35. Legislative acts.
- 36. Appropriations.
- 37. Disposition of real estate; franchises.
- 38. Procedure after passage of ordinance.
- 39. Record of ordinances.
- 40. Regulations of duties of officers.
- 41. Executive functions; how performed.
- 42. Penalties for violation of ordinances.
- 43. Designation of official papers; official printing.
- 44. Penalties.

§ 30. Legislative power. The legislative power of the city is vested in the common council thereof, and it has authority to enact ordinances, not inconsistent with law, for the government of the city and the management of its business, for the preservation of good order, peace and health, for the safety and welfare of its inhabitants and the protection and security of their property; and its authority, except as otherwise provided in this chapter, or by law, is legislative only.

§ 31. Members; president; organization of council. The aldermen of the city shall constitute the common council thereof. The members of the common council shall meet in the room provided for the purpose on the second day of January after their election, or if that be Sunday, then on the next day, and organize. The president shall preside at all

meetings and discharge such other duties as may be defined by ordinance of the common council and otherwise by law. The common council may at any regular meeting, elect one of its members president pro tempore to act during the temporary absence or disability of the president and who shall be the president of the common council in case of a permanent vacancy in that office. Until such permanent vacancy shall be filled, the mayor shall preside over the meetings of the common council. Until such a vacancy is filled the common council shall transact no business except to adjourn from time to time. The president may vote like other members of the common council upon all resolutions and ordinances submitted to the body for its action in case of a tie vote, and when a member of the common council is elected president, he shall be entitled to vote as a member of the common council. The president of the common council shall have the power of commissioner of deeds.

§ 32. City clerk. The common council shall choose a clerk to hold office during the term for which its members were elected, unless sooner removed by a vote of three-fourths of all the members of the common council. He shall be the city clerk and shall attend the meetings of the common council, keep a journal of its proceedings and discharge such other duties as may be prescribed by law or ordinance. He may appoint, to hold office during his pleasure, a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment. In case of the absence or disability of the city clerk or a vacancy in the office, the deputy shall discharge the duties of the office until the city clerk returns, his disability ceases or the vacancy is filled. It shall be the duty of the said clerk to transmit to the head of each department and the clerk of each board, copies of all ordinances in any manner affecting any of the matters of which any such department or board shall have jurisdiction. He shall have the custody of the city seal. Said clerk and deputy clerk shall each have the power of a commissioner of deeds.

§ 33. Meetings. The common council shall hold regular meetings at times to be determined by it from time to time. The president of the

common council, or a majority of its members, may call a special meeting of the common council by causing a written notice thereof, specifying the objects of the meeting, to be served by the city clerk upon each member personally or by mail, directed to his place of residence or place of business, at least twenty-four hours before the time fixed for such meeting.

§ 34. Powers. The common council shall determine the rules of its own proceedings and be the judge of the election, returns and qualifications of its members. Its meetings shall be public and its records open to public inspection, and a majority of all its members shall constitute a quorum to do business. The common council may compel the attendance of absent members at any meeting properly called, and may punish or expel a member for disorderly conduct, for a violation of its rules or for official misconduct, or declare his seat vacant by reason of absence, provided such absence has continued for the space of two months; but no expulsion shall take place and no vacancy on account of absence be declared except by the vote of three-fourths of all the members of the common council, nor until the delinquent member has had an opportunity to be heard in his defense. All appointments or designations made by the common council shall be determined upon a vote taken by a roll call of its members, and a statement of the choice of each member or the yeas and nays, if any, shall be entered upon the journal.

§ 35. Legislative acts. All the legislative acts of the common council shall be by ordinances, and on the passage of every ordinance, the yeas and nays of the members voting thereon shall be entered in full upon the journal. The passage of an ordinance shall require the affirmative vote of at least a majority of all the members of the common council. No ordinance shall be passed by the common council on the same day in which it is introduced, except by unanimous consent.

§ 36. Appropriations. No appropriation of money shall be made for any purpose except by ordinance specifying each item, the amount thereof,

and the department or specific purpose for which the appropriation is made.

§ 37. Disposition of real estate; franchises. No ordinance shall be passed making or authorizing a sale or lease of city real estate or of any franchise belonging to or under the control of the city except by vote of three-fourths of all the members of the common council. In case of a proposed sale or lease of real estate or of a franchise, the ordinance must provide for a disposition of the same at public auction to the highest bidder, under proper regulations as to the giving of security and after public notice to be published once each week for three weeks in the official paper or papers, provided, however, that where the real estate proposed to be sold or leased was acquired by the city pursuant to the provisions of section seventy-two-k or seventy-two-m of the general municipal law for the purposes set forth therein, or where such real estate is owned by the city and devoted to such purposes, the ordinance may provide that such real estate shall be sold or leased to the highest responsible bidder upon sealed bids after notice thereof has been published in the same manner as hereinbefore set forth for sale or lease by public auction. Such notice shall contain a statement of the time and place where all bids received in pursuance thereof will be publicly opened and read, and pursuant to such notice, all bids received shall be publicly opened and read at the time and place so specified. A sale or lease of real estate or a franchise shall not be valid or take effect unless made as aforesaid and subsequently approved by a resolution of the board of estimate and apportionment or other governing body. No franchise shall be granted or be operated for a period longer than fifty years. The common council may, however, grant to the owner or lessees of an existing franchise, under which operations are being actually carried on, such additional rights or extensions in the street or streets in which the said franchise exists, upon such terms as the interest of the city may require, with or without an advertisement, as the common council may determine; provided, however, that no such grant shall be operative unless approved by the board of estimate and apportionment or other governing body, and also by the mayor.

§ 38. Procedure after passage of ordinance. Every ordinance of the common council shall immediately after its passage be separately engrossed and signed by the president and attested by the clerk. The clerk shall thereupon present the same to the mayor. If the mayor approve it he shall sign it and return it to the clerk, and the ordinance shall thereupon take effect. If he disapprove it, he shall return it to the clerk with his objections stated in writing, and the clerk shall present the same with such objections to the common council at its next regular meeting. The common council may, within thirty days thereafter, reconsider the same; if, after such reconsideration, three-fourths of all the members of the common council shall vote to pass the ordinance the same shall take effect notwithstanding the objections of the mayor, unless a greater number of members were necessary according to the provisions of this chapter for the original passage of the ordinance, in which case unless as many members as were requisite for the original passage of the ordinance shall vote to pass the ordinance it shall not take effect. If any ordinance shall not be returned by the mayor to the clerk within ten days after it shall have been presented to him, or if such ordinance shall be returned within such period without the mayor's approval or disapproval, the same shall take effect in like manner as if the mayor had approved and signed it. If any ordinance presented to the mayor contains several items of appropriation of money or embraces more than one distinct subject, the mayor may approve the provisions relating to one or more items or one or more subjects and disapprove the others. In such case those items or subjects which he shall approve shall take effect and he shall append to the ordinance at the time of signing it a statement of the items or subjects which he disapproves and said items or subjects so disapproved shall not take effect. He shall return to the clerk a copy of such statement and the items or subjects disapproved may be separately reconsidered by the common council and shall only become effective if again passed by it as above provided. All the provisions of this section in relation to ordinances disapproved by the mayor shall apply in cases in which he shall disapprove any item or subject contained in an ordinance appropriating money or embracing more than one distinct

subject.

§ 39. Record of ordinances. Every ordinance shall, upon its taking effect as herein provided, be recorded in a book kept for that purpose by the clerk. Such records shall include the signature of the president, attestation of the clerk and the mayor's written approval, or in case of his disapproval a memorandum of its passage over his veto; or in case the ordinance took effect because he failed to approve or disapprove and return within ten days, then a memorandum to that effect. Such record or a certified copy thereof, shall be presumptive evidence of the passage of the ordinance and of the facts certified. The original engrossed ordinances for each year shall be bound together and kept in the custody of the clerk.

§ 40. Regulations of duties of officers. The common council may, by ordinance passed by three-fourths of all its members, not inconsistent with this chapter, or other laws of the state, regulate the powers and duties of any city officer or department; and it has power to investigate all city officers and departments and shall have access to all records and papers kept by every city officer or department, and has power to compel the attendance of witnesses and the production of books, papers or other evidence at any meeting of the common council or of any committee thereof, and for that purpose may issue subpoenas signed by the president.

§ 41. Executive functions; how performed. Whenever an executive or administrative function is by law or ordinance of the common council required to be performed, the same shall be performed by the proper executive or administrative officer or department, designated in the law or ordinance, and in case no such designation be thus made the mayor shall make the same, but no ordinance shall be passed interfering with the exercise of the executive functions of the officers, departments and boards of the city, as provided in this chapter or otherwise by law.

§ 42. Penalties for violation of ordinances. Any person violating an ordinance of the common council shall be guilty of a misdemeanor, except that an ordinance may provide that a violation thereof shall be an offense, and the common council may provide therein or by general ordinance, that any person guilty of such violation shall be liable to a fine which shall not exceed one hundred and fifty dollars in amount, or to imprisonment not exceeding one hundred and fifty days, or to both such fine and imprisonment, or such ordinance may provide for a penalty, not exceeding five hundred dollars to be recovered by the city in a civil action. The city may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to restrain by injunction the violation of, any ordinance of the common council or of the commissioner of public safety, notwithstanding that the ordinance may provide a penalty for such violation.

§ 43. Designation of official papers; official printing. At the first meeting of the common council for the purpose of organization, as provided herein, it shall designate not more than two newspapers published in the city to be the official paper or papers of the city. The common council may, by two-thirds vote of all its members, determine to designate but one official paper, in which case it shall designate a daily newspaper, and the paper receiving the highest number of votes shall be the official paper for two years and until a successor is designated. Unless the common council shall so determine to designate but one official paper, it shall designate two official papers, of opposite political faith, and of which at least one shall be a daily newspaper, and each member shall be entitled to vote for but one paper, and the two papers having the highest number of votes shall be the official papers for two years and until a successor or successors shall be designated. Such official paper or papers shall publish such matters and in such form as shall be prescribed by statute or otherwise by general ordinance of the common council. In case an official paper shall refuse or fail to act or perform as such, the common council may in its discretion, as hereinbefore provided, designate a successor. All bills and accounts for publication in official newspapers and all city

printing and advertising shall be a city charge, and shall be paid by the treasurer upon the audit of the comptroller. The common council may, by general ordinance, prescribe the form in which the proceedings and reports of the city officers, boards and departments shall be issued, and the printing and binding of the same shall be performed under contract awarded as in the case of other city contracts.

§ 44. Penalties. Any member of the common council who shall knowingly or unlawfully disregard any provision of law applicable to the members thereof, or who shall vote for any ordinance or measure in violation of the law, or any appropriation unauthorized by law or in excess of the amount authorized by law, or for any illegal or injurious disposition of corporate property rights or privileges, shall be guilty of a misdemeanor and liable to the punishment and penalty prescribed therefor, and every member voting in favor thereof shall be individually liable to refund the amount to the city at the suit of any taxpayer.

ARTICLE 5

MAYOR

Section 50. Executive power.

51. Acting mayor.

52. Secretary and assistants.

54. Duties of mayor.

55. Execution of deeds and contracts.

56. Examination of books and accounts.

57. Additional powers and duties.

§ 50. Executive power. The executive power of the city is vested in the mayor, and in such executive officers and departments as are or may be created by law, or by ordinance of the common council.

§ 51. Acting mayor. Whenever there shall be a vacancy in the office of mayor, or whenever by reason of sickness or absence from the city the

mayor shall be prevented from attending to the duties of the office, the president of the common council shall act as mayor and possess all the rights of mayor during such period of disability or absence. In case of a vacancy in the office of mayor he shall so act until noon of the first day of January next succeeding the election at which the mayor's successor shall be chosen. It shall not be lawful for the president of the common council when acting as mayor in consequence of the absence or sickness of the mayor to exercise any power of appointment or removal from office unless such sickness or absence shall have continued for a period of thirty days; or to sign, approve or disapprove any ordinance or resolution unless such sickness or absence shall have continued for a period of at least nine days.

§ 52. Secretary and assistants. The mayor shall appoint a secretary and such other assistants as may be prescribed by the board of estimate and apportionment.

§ 54. Duties of mayor. It shall be the duty of the mayor to see that the city officers and departments faithfully perform their duties; to maintain peace and good order within the city; to take care that the laws of the state and the ordinances of the common council are executed and enforced within the city; to communicate by written message to the common council at least once a year a statement of the finances and general conditions of the affairs of the city, and with such recommendations in relation thereto as he may deem proper; to give such information in relation to the same as the common council may from time to time require; and to call a special meeting of the common council whenever in his judgment it is required by public necessity. He shall also receive and examine into all complaints made against any city officer for neglect of duty or malfeasance in office.

§ 55. Execution of deeds and contracts. The mayor shall, on behalf of the city, execute all deeds and contracts made by it and shall cause to be affixed thereto the city seal.

§ 56. Examination of books and accounts. The mayor shall have authority at all times to examine the books and papers of any officer, employee or department of the city and, as often as he may deem proper, to appoint one or more competent persons to examine, without notice, the accounts of any city officer or department, and the money, securities and property belonging to the city in the possession or charge of any officer or department and to report the result of such examination; and he may administer oaths to witnesses and take affidavits in all cases relating to the affairs of the city.

§ 57. Additional powers and duties. The mayor shall have such other powers and perform such other duties as may be prescribed in this chapter or by other laws of the state or by ordinance of the common council, not inconsistent with law. In case of riot, conflagration or other public emergency requiring it, the mayor shall have power to call out the police and firefighters; he or she shall also have power to appoint such number of special police officers as he or she may deem necessary to preserve the public peace. Such special police officers shall be under the sole control of the regularly appointed and constituted officers of the police department. They have shall have power to make arrests only for disorderly conduct or other offenses against peace or good order. In case of riot or insurrection, he or she may take command of the whole police force, including the chief executive officer thereof.

ARTICLE 6

DEPARTMENT OF FINANCE

Section 60. Temporary and funded debts.

62. Comptroller and deputy comptroller.

63. Duties of comptroller.

64. Claims against the city.

65. Custody and management of sinking fund.

66. Accounts with treasurer.

67. Annual financial statement.
68. Treasurer and deputy treasurer.
69. Duties of treasurer.
70. Deposits and accounts.
71. Board of estimate and apportionment.
72. Sinking fund.
73. Fiscal year; departmental estimates.
74. Determination of positions and salaries.
75. Annual estimate.
76. Annual appropriations.
77. Tax budget.
79. Contracts and expenditures prohibited.
80. Penalties for violation of preceding section.
81. Appropriations for band concerts.

§ 60. Temporary and funded debts. (a) Whenever the finance board, as that term is defined in section 2.00 of the local finance law, shall authorize the issuance of bonds or notes, it shall do so by ordinance.

(b) Provision shall be made for the payment of each annual installment of a funded debt and accrued interest on such funded debt in the year in which such principal and interest shall become due by the insertion of the proper sum in the annual estimate for the year in question. Bonds issued to provide for the supply of water may be paid out of water rents received by the city.

§ 62. Comptroller and deputy comptroller. The comptroller may appoint, to hold office during his pleasure, a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment. In case of the absence or disability of the comptroller, or of a vacancy in the office, the deputy shall discharge the duties of the office until the comptroller returns, his disability ceases or the vacancy is filled. The comptroller and deputy comptroller, before entering upon the duties of their respective offices, shall each execute and file with the city clerk an official undertaking in such penal sum as may be prescribed by the common council. The comptroller and deputy comptroller shall each be

ex officio a commissioner of deeds.

§ 63. Duties of comptroller. The comptroller shall superintend the fiscal affairs of the city and manage the same pursuant to law and ordinance of the common council. He shall keep a separate account with every department and with each improvement for which funds are appropriated or raised by tax or assessment. No warrant shall be drawn by him for the payment of any claim against or obligation of the city unless it state particularly against which of such funds it is drawn. No fund shall be overdrawn nor shall any warrant be drawn against one fund to pay a claim chargeable to another. The comptroller shall perform such other and further duties, as may from time to time be prescribed by law, or by ordinance of the common council, not inconsistent with the provisions of this chapter or the other laws of the state.

§ 64. Claims against the city. No claim against the city except for a fixed salary, for the principal or interest on a bonded or funded debt or other loan, or for the regular or stated compensation of officers or employees in any city department, or for work performed or materials furnished under contract with the board of contract and supply, shall be paid unless a claim therefor, in such form as the comptroller shall prescribe, and approved by the head of the department or officer whose action gave rise or origin to the claim, shall have been presented to the comptroller, and shall have been audited and allowed by him. The common council, by resolution, may require that claims be certified or that they be verified by oath of the claimant or his duly authorized agent. The comptroller shall cause each such claim, upon presentation to him for audit, to be numbered consecutively and the number, date of presentation, name of claimant and brief statement of character of each claim shall be entered in a book kept for such purpose, which shall at all times during office hours be so placed as to be convenient for public inspection and examination. No claim shall be audited or paid until at least five days have elapsed after its presentation to the comptroller, and the comptroller shall not be required to audit a claim until two weeks have expired after the expiration of such period of five

days. The comptroller is authorized, in considering a claim, to require any person presenting the same for audit to be sworn before him touching the justness and accuracy of such claim, and to take evidence and examine witnesses in reference to the claim, and for that purpose he may issue subpoenas for the attendance of witnesses. If the claimant be dissatisfied with the audit he may appeal to the board of estimate and apportionment by serving notice of appeal in writing upon the comptroller and the common council at any time before the first regular meeting of the common council that is held after he receives the comptroller's audit. If the common council or any taxpayer be dissatisfied with such audit it, or he, may appeal to the same board on behalf of the city, in like manner, by serving notice of appeal upon the claimants and the comptroller and the treasurer within ten days after the meeting of the common council at which such claims shall have been reported by the comptroller. The board of estimate and apportionment shall make rules for the procedure upon the hearing of such appeals and the decision and audit of that board, after the hearing upon the appeal to it, shall be final and conclusive as to the amount of the claim; but if there be no appeal from the original audit it shall in like manner be final and conclusive. Upon the appeal herein provided for, the treasurer shall take the place of the comptroller as a member of the board. The comptroller and the board of estimate and apportionment upon an appeal to it, as herein provided, shall have authority to take evidence and examine witnesses in reference to the claim and for that purpose may issue subpoenas for the attendance of witnesses; and the comptroller and each member of the board of estimate and apportionment is hereby declared to be ex officio a commissioner of deeds. When a claim has been finally audited by the comptroller he shall indorse thereon or attach thereto his certificate as to such audit, and the same shall thereupon be filed in and remain a public record in his office. If any person shall present to the comptroller for audit a claim in the name of any person or firm other than that of the actual claimant he shall be guilty of a misdemeanor.

§ 65. Custody and management of sinking fund. The comptroller shall have, under the direction of the board of estimate and apportionment,

the custody, investment and management of any sinking fund provided for the payment or redemption of city debts.

§ 66. Accounts with treasurer. The comptroller shall keep an account between the city and the treasurer, and of all moneys received and disbursed by the treasurer, and for that purpose he shall procure daily statements from the treasurer as to the moneys received and disbursed by him, and shall also procure from the depositaries in which the city funds are deposited by the treasurer, monthly statements of the moneys which have been received and paid out on account of the city. He shall examine the treasurer's books, accounts and bank books, and ascertain as to their correctness, and shall render quarterly a detailed report to the mayor and common council of the funds and financial condition of the city.

§ 67. Annual financial statement. The comptroller shall, within thirty days after the close of each fiscal year, prepare and publish in book or pamphlet form a full and accurate statement in detail, verified by his oath showing: (1) the receipts and revenues of the city from all sources and the accounts which may be due to the city and uncollected at the close of the fiscal year; (2) the disbursements from all city funds and the expenditures in all branches of the city government during the fiscal year; (3) the indebtedness of the city at the close of the fiscal year, the provisions made for the payment thereof together with the purposes for which it was incurred; (4) the cost of the acquisition, construction and operation of each public utility owned, maintained, or operated by the city and the income derived therefrom. Such publication shall be accompanied by a statement in detail, in separate columns, showing the several funds belonging to the city, the amount drawn on each fund and its then present condition, also the several debts and obligations of the city, the character thereof, when the same are payable and the rate of interest on each.

§ 68. Treasurer and deputy treasurer. The treasurer may appoint, to

hold office during his pleasure, a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment. In case of the absence or disability of the treasurer, or of a vacancy in the office, the deputy shall discharge the duties of the office until the treasurer returns, his disability ceases or the vacancy is filled. The treasurer and deputy treasurer, before entering upon the discharge of the duties of their respective offices, shall each execute and file with the city clerk, an official undertaking in such penal sum as may be prescribed by the common council. Such undertaking, when approved as provided by law, shall have the same force and effect, and shall be filed and recorded in the office of the county clerk of the county in which the city is located in the same manner as is required in the case of an undertaking of a town collector.

§ 69. Duties of treasurer. The treasurer shall demand, collect, receive and have the care and custody of and shall disburse all moneys belonging to or due the city from every source, except as otherwise provided by law. All moneys of the city received by the treasurer shall be deposited and secured by him daily in such depositories as shall be designated by the board of estimate and apportionment in the manner provided by section ten of the general municipal law. The interest, if any, on all deposits shall be the property of the city and shall be accounted for and credited to the appropriate fund. No money shall be drawn from a city depository except on checks signed by the treasurer and countersigned by the comptroller and made payable to the person entitled to receive the same. He shall at no time permit any fund to be overdrawn, nor draw upon one fund to pay a claim chargeable to another. No money shall be paid out by him except upon the warrant of the comptroller. He shall render to the comptroller at the end of each day's business a detailed statement of all moneys received and paid out by him. He shall perform such other duties, as may from time to time be prescribed by law, or by ordinance of the common council, not inconsistent with the provisions of this chapter, or the laws of the state. By resolution duly adopted, the common council or other legislative body of the city, may determine to enter into a contract to provide for the deposit of the periodic payroll of the city in a bank or

trust company for disbursal by it in accordance with provisions of section ninety-six-b of the banking law.

§ 70. Deposits and accounts. All moneys deposited by the treasurer, as provided herein, shall be placed to the credit of the city. The treasurer shall keep bank books in which shall be entered his accounts or deposits in, and moneys drawn from, the banks or trust companies in which such deposits shall be made. He shall exhibit such books to the comptroller for his inspection at least once each month, and oftener if required. The banks or trust companies in which such deposits are made, shall respectively transmit to the comptroller monthly statements of the moneys which shall have been received and paid out by them on account of the city.

§ 71. Board of estimate and apportionment. There shall be a board of estimate and apportionment, which shall consist of the mayor, comptroller, corporation counsel, president of the common council, and the city engineer, except that when the number of subordinates, or the salaries thereof, in the department of any of the members of the said board are to be fixed and determined, the treasurer shall temporarily take the place of the member whose number of subordinates, or the salaries thereof, is under consideration, for the purpose of fixing such salaries or number of subordinates, and for that purpose alone. The members of the board shall meet upon the call of the mayor, or as directed by the board. The mayor shall be president of the board and the city clerk shall act as secretary thereof. The secretary shall keep a journal of all of the proceedings of the board.

§ 72. Sinking fund. Unless under special laws governing the city at the time this chapter takes effect provision is made for the creation or maintenance of a sinking fund or funds for any purpose, thirty per centum of all moneys or revenues received by any city which has term bonds outstanding and unpaid, or by any officer, board or department thereof, from any source other than taxes or loans shall, upon receipt

of the same, be forthwith deposited in a separate account or accounts in one or more of the designated fiscal depositories of the city to the credit of the bonded indebtedness of the city, and said deposit shall be known as the sinking fund. The sinking fund shall be used exclusively for the payment, as it matures, of the principal of the indebtedness of the city evidenced by term bonds other than bonds issued for improvements financed by assessments for benefit or bonds issued prior to the effective date of the local finance law, in anticipation of the collection of revenues. If, under the special laws governing the city at the time this chapter takes effect, provision is made for the creation or maintenance of a sinking fund or funds for any purpose, such sinking fund or funds shall continue and be maintained as provided in such laws.

§ 73. Fiscal year; departmental estimates. The fiscal year of the city shall commence on the first day of January. On or before the first day of November in each year all heads of departments and officers empowered by law or by city ordinance to control or authorize expenditures shall furnish to the mayor estimates in writing of the amount of expenditures for the next fiscal year in their respective departments or offices, including a statement of the salaries of all their subordinates, which estimates the mayor shall lay before the board of estimate and apportionment at its first meeting thereafter, and the same shall be entered in its minutes.

§ 74. Determination of positions and salaries. The board of estimate and apportionment, except as otherwise provided by law, shall have authority to fix the salaries or compensation, and determine the positions and numbers of all city officers and employees, of each office, board and department, but the salary or compensation of every officer and employee shall be thus fixed before his election or appointment, except in the first instance after the city shall have become a city of the second class and subject to the provisions of this chapter.

§ 75. Annual estimate. Within sixty days after the commencement of each fiscal year, the board of estimate and apportionment shall make an itemized statement, in writing, of the estimated revenues and expenditures of the city for the fiscal year, which shall be known as its annual estimate, provided, however, that if in the city the taxes for state, county and city purposes are included in one levy, the common council may, by ordinance, direct that the said estimate be made within sixty days prior to the commencement of such fiscal year. The estimate of revenues shall contain an estimate of the probable revenues which, in the judgment of the board of estimate and apportionment, will be received by the city during the fiscal year, less the amount required to be deposited to the credit of the sinking fund, if any; a statement of the amount of the sinking fund which, in the judgment of the board of estimate and apportionment, is available and should be applied to the payment of the principal of any bonded indebtedness of the city falling due during the said fiscal year; and a statement of all unexpended balances or estimated unexpended balances of the previous fiscal year remaining to the credit of the city, or of any office, board or department thereof. The estimate of expenditure shall contain an estimate of the several amounts of money which the board of estimate and apportionment deems necessary to provide for the expenses of conducting the business of the city in each board, department and office thereof and for the various purposes contemplated by this chapter and otherwise by law for the said fiscal year; to pay the principal and interest of any bonded or other indebtedness of the city falling due during the said fiscal year; and the amount of any judgments recovered against the city and payable during the said fiscal year. After said annual estimate shall have been completed, the board of estimate and apportionment shall submit the same in final form to the common council with a statement, in writing, of such reasons for such estimate as it may deem proper. The common council shall as soon thereafter as may be possible, convene and consider the said estimate. It shall give a public hearing to such persons as wish to be heard in reference thereto. After such hearing, and, within thirty days after such estimate shall have been submitted to it, the common council shall adopt such estimate so submitted or shall diminish or reject any items therein contained, and adopt said estimate as so amended. The common council shall not have the power to diminish

or reject any item which relates to salaries, the indebtedness or estimated revenues, or the sums directed by the board of supervisors of the county within which the city is situated to be levied within the city for state and county purposes, or the sums lawfully payable within said fiscal year upon judgments; nor shall the common council increase any item, for any purpose contained in said estimate.

In a year when a special city election may be held under the provisions of the city local option law, the board of estimate and apportionment shall include in the annual estimate an estimate of probable revenues from the excise tax based upon the number of liquor licenses in force, if any, in such city at the time such annual estimate is made; and in case there are no liquor licenses in force at the time the annual estimate is made, the board of estimate and apportionment shall omit from the annual estimate any estimate of probable revenues from the excise tax and include as its estimate of probable revenues only those derived from other sources. If such election be held and the result thereof alters the probable revenues from the excise tax, a supplemental estimate shall be made and filed, revising and supplying or striking out, according to the result of the election, any items omitted or included therein upon the basis of there being probable revenues or no probable revenues from such tax. Such supplemental estimate, if any, shall be made and filed as soon as practicable after such board shall ascertain the necessary facts and not later than the completion of the tax budget in time for the annual tax levy as provided by law. On demand by such board, the secretary of the board of canvassers shall certify as to the result of the vote at any such election. In any case where a special election or the result of a vote thereat is the subject of judicial proceedings a county clerk in whose office an order is filed or entered affecting such election or vote shall notify such board of the filing or entry of the order immediately thereafter. Any such supplemental estimate shall be deemed a part of the annual estimate and amendatory thereof.

§ 76. Annual appropriations. When the common council shall have adopted the final estimate of the board of estimate and apportionment or

said estimate as amended by it, the same shall be entered at large in its minutes and become a part of its proceedings. The several sums estimated for expenditures therein shall be and become appropriated in the amounts and for the several departments, offices and purposes as therein specified for the said fiscal year. The several sums therein enumerated as estimated revenues and the moneys necessary to be raised by tax in addition thereto to pay the expenses of conducting the business of the city and for the purposes contemplated by this chapter and otherwise by law, shall be and become applicable in the amounts therein named for the purposes of meeting said appropriations. In case the revenues received by the city exceed the amount of such estimated revenues named in said annual estimate, or in case there remain any unexpended balances of appropriations made for the support of the city government or for any other purpose, then such surplus revenues or such unexpended balances shall, except as otherwise provided by law, remain upon deposit and be included as a part of the estimated revenues for the succeeding year. When any moneys or revenues are received by any officer, board or department of the city, from any source other than by municipal tax, which are not otherwise appropriated, such moneys or revenues may be used and applied toward and in addition to the funds appropriated, as aforesaid, in such manner as in the judgment of the board of estimate and apportionment may be most beneficial to the city.

§ 77. Tax budget. The amount of estimated expenditures contained in the annual estimate adopted by the common council, less the amount of estimated revenues applicable to the payment thereof and the amount of all judgments payable prior to the tax levy, shall constitute the tax budget. The common council shall levy and cause to be raised by tax the amount of said budget, and the amount shall be levied, assessed and raised by tax upon the real and personal property liable to taxation in the city at the time and in the manner provided by law.

§ 79. Contracts and expenditures prohibited. No officer, board, or department shall, during any fiscal year, expend or contract to be expended any money or incur any liability, or enter into any contract

which, by its terms, involves the expenditure of money for any of the purposes for which provision is made in the annual estimate in excess of the amounts appropriated in said estimate, as adopted by the common council, for such officer, board, department or purpose, for such fiscal year. Any contract, verbal or written, made in violation of this section shall be null and void as to the city, and no moneys belonging to the city shall be paid thereon, provided, however, that nothing herein contained shall prevent the making of contracts for light or water, the collection and disposal or the disposal of garbage, the collection and removal of rubbish and ashes, the cleaning of streets, or the sprinkling of streets or public places by railway cars, for periods exceeding one year.

Nothing herein contained, however, shall be held to prohibit the expenditure of such sums as may be made available, pursuant to section seventy-six of this chapter or section 29.00 of the local finance law.

§ 80. Penalties for violation of preceding section. Any officer or member of any board or department of the city, making or voting for any contract prohibited by the preceding section, or auditing any account or claim under any such contract, shall be deemed guilty of a misdemeanor.

§ 81. Appropriations for band concerts. The board of estimate and apportionment may include in the annual estimate and appropriate an amount to be expended by the superintendent of parks under the supervision and direction of the commissioner of public works, in providing public band concerts in the public parks or places of the city.

ARTICLE 7

DEPARTMENT OF PUBLIC WORKS

- Section 90. Commissioner and deputy commissioner of public works.
91. Powers and duties of commissioner.
92. Repair of sidewalks; removal of snow and ice.

93. Performance of public work to be certified.
94. Water works.
95. Collection of water rents.
96. Superintendent of parks.
97. City engineer.
98. Duties of city engineer.
99. Alteration of grades and names of streets.
100. Apportionment of city's expense of improvements.
101. Discontinuance of streets.
102. Streets by prescription.
103. Acquisition of lands.

§ 90. Commissioner and deputy commissioner of public works. The commissioner of public works shall be the head of the department of public works. He shall appoint, to hold office during his pleasure, a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment. In case of the absence or disability of the commissioner or of a vacancy in the office, the deputy commissioner shall discharge the duties of the office until the commissioner returns, his disability ceases or the vacancy is filled. The commissioner and deputy commissioner before entering upon the discharge of the duties of their respective offices shall each execute and file with the city clerk an official undertaking in such penal sum as may be prescribed by the common council.

§ 91. Powers and duties of commissioner. The commissioner, subject to the provisions of law and ordinances of the common council, has cognizance, direction and control of the construction, maintenance, alteration, repair, care, cleaning, paving, flagging, lighting and improving of the streets, highways, sidewalks and public places of the city; of the construction, alteration and repair of all city buildings and of all docks and bridges belonging to the city; of all public sewers and drains in the city; of the construction, maintenance, extension, repair and care of the city waterworks; of the care, superintendence and management and improvement of all parks and grounds, public baths and

recreation piers belonging to the city. Except as otherwise provided by law, the commissioner shall have supervision of, control over and jurisdiction and authority to make all ordinary repairs or improvements upon the streets, parks, sidewalks, crosswalks, gutters, vaults, drains, culverts, bridges and public ways and places of the city, including the cleaning, sprinkling, laying of dust with substances other than water, watering and flushing of the same, and may employ such laborers and teams and incur such expenditures as may be necessary within the limits of the appropriations made therefor. It shall be his duty to inspect the same with sufficient frequency to ascertain their condition and cause the same to be kept free from obstructions and in good condition and repair and reasonably safe for public use. The commissioner shall also have general supervision and control of all work performed under any contract of the city for local or other improvements to be performed within or upon any of the public streets, parks, ways and places, or with reference to the public works and ways within the jurisdiction of his department, including the lighting, sprinkling, laying of dust with substances other than water, watering or flushing of the streets or public places, and shall cause the same to be performed in full compliance with the provisions of any contract therefor. Except as otherwise provided by law or ordinance of the common council, the commissioner of public works has, over the streets and public places within the city, all the jurisdiction and is charged with all the duties of commissioners of highways within the towns of the state.

§ 92. Repair of sidewalks; removal of snow and ice. The commissioner of public works shall have full power and authority to require the owner of property abutting upon a street to repair any sidewalk in front thereof or bring the same to true grade, and to remove the snow and ice therefrom. Where the owner of such property shall fail or neglect to repair any sidewalk or bring the same to true grade for five days after written notice so to do has been served on him, either personally or by delivering the same at his residence, or if he be a non-resident by mailing the same to him at his last known place of residence, or if the name of the owner or his place of residence can not be ascertained after due diligence, by posting the same in a conspicuous place upon the

premises; or where the owner of any such premises shall fail or neglect to remove snow and ice from any such sidewalk after the same has remained thereon for more than twelve hours, and the commissioner shall have repaired such sidewalk or brought the same to grade or removed the ice or snow therefrom, a bill for the expenses incurred thereby shall be presented to the owner personally or by leaving the same at his residence or, if he be a non-resident, by mailing the same to him at his last known place of residence, or, if the name of such owner or his place of residence can not be ascertained after due diligence, by posting the same in a conspicuous place on the premises; and, if he shall fail to pay the same within ten days thereafter, the commissioner shall file each year immediately preceding the time for making the annual assessment-roll his certificate of the actual cost of the work, together with a statement as to the property in front of which the repairing or grading or cleaning was done, with the assessors of the city, who shall, in the preparation of the next assessment-roll of general city taxes, assess such amount upon such property, and the same shall be levied, corrected, enforced and collected in the same manner, by the same proceedings, at the same time, under the same penalties and having the same lien upon the property assessed as the general city tax and as a part thereof.

§ 93. Performance of public work to be certified. All public work performed pursuant to contract under the supervision or control of the commissioner shall, before it is accepted, be certified to by him to the effect that such work has been performed in a good and substantial manner with the materials required, of the quality and in the manner directed by the terms of the contract under which the same was done. Within ten days after the completion of any such work the commissioner shall file a certificate of such completion with the comptroller and with the city clerk, to be reported by him to the common council. Such certificate shall state in substance that said work has been duly examined by the commissioner and that the same has been fully performed and completed in accordance with the terms of the contract therefor.

§ 94. Water works. In case the city owns and operates a system of municipal water works, the commissioner of public works shall appoint, to hold office during his pleasure, a superintendent of water works, who shall have, under the direction of the commissioner, the supervision, care, management and control of the water department and water-works system of the city. It shall be the duty of the commissioner of public works to see that the city has an abundant supply of pure and wholesome water for public and private use; to devise plans and sources of water supply; to plan and supervise the construction, maintenance and extension of the water system and the distribution of water throughout the city; to protect it from contamination; to prescribe rules and regulations for its use, which, when ratified and approved by the common council, shall have the same force and effect as city ordinances. He shall have power, with the assent of the board of estimate and apportionment, to establish rates of rents to be charged and paid annually for the supply of water or for the benefits resulting therefrom, to be called water rents, which shall be apportioned to the different classes of buildings in the city in reference to their dimensions and the ordinary uses of water for the same, and to different lots, as may be practicable, and from time to time to modify and amend, increase or diminish such rates and to extend them to other descriptions of buildings, lots, establishments and uses. He shall also have power, with like assent, to establish rates for the use of water in buildings, establishments, trades and other purposes in or for which water is consumed beyond the quantity required for ordinary purposes, and may require the same paid to him in advance, at the rates thus established, before permission to use such extra quantity of water shall be given.

§ 95. Collection of water rents. All water rents shall be collected from the owners of the lots and buildings which shall be situated upon any street or avenue upon which the distributing pipes are now or may hereafter be laid, and from which such lots and buildings can be supplied with water. Water rents, together with the amounts due and unpaid for the introduction and measurement of the supply of water, shall be, like other taxes of the city, a lien upon the lots and buildings against which the same are chargeable. It shall be the duty of

the commissioner each year, immediately preceding the time for the making of the annual assessment-roll, to make out a list or roll of each ward or assessment district of the city, in which he shall set out the amount of water rents accrued or chargeable upon each lot, part of lot or building, and which shall not have been paid to him, and file the same with the assessors of the city, who shall in the preparation of the next assessment-rolls for general city taxes, in a separate column thereof, assess such amount upon such property, and hearings shall be had thereon and the same shall be levied, corrected, enforced and collected in the same manner, by the same proceedings, at the same time, under the same penalties, and having the same lien upon the property assessed as the general city tax and as a part thereof.

§ 96. Superintendent of parks. Unless otherwise provided by law, the commissioner of public works shall appoint, to hold office during his pleasure, a superintendent of parks, who shall have, under the direction of the commissioner, the supervision, care, management and control of all the parks of the city and of such portions of the streets as pass through or intersect the same, and of the shade trees of the city. Subject to the direction of the commissioner and to the ordinances of the common council, he shall prescribe the powers and duties of his subordinates and shall, except as otherwise provided by law, superintend the expenditure of all moneys appropriated for park purposes. He shall keep an account of such expenditures and shall approve all claims against the city on account thereof before submission to the comptroller for audit. The superintendent, under the direction of the commissioner, may make all ordinary repairs and improvements upon the parks and such intersecting streets, may employ all laborers needed thereon, and fix their wages, subject to the approval of the commissioner and the board of estimate and apportionment. Except as otherwise provided by law, he shall conduct, with the aid of the corporation counsel, all negotiations and proceedings for the acquisition of lands for park purposes, when the same shall have been authorized by ordinance of the common council and approved by the board of estimate and apportionment. He shall make such rules and regulations, not inconsistent with the ordinances of the common council and laws of the state, as he shall deem proper for the

government, management and care of the parks and of the streets in and through the same, and of such other streets, being approaches thereto, as may be designated by ordinance of the common council as parkways, and such rules and regulations, when approved by the common council, shall have the force and effect of city ordinances. The superintendent shall have such other powers and be charged with such other duties, not inconsistent with the provisions of this chapter and the laws of the state, as the commissioner may direct, or as the common council by ordinance may define and prescribe.

§ 97. City engineer. No person shall be eligible to appointment as city engineer unless he be a civil engineer of at least five years' practical experience in his profession. He shall appoint, to hold office during his pleasure, a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment.

§ 98. Duties of city engineer. It shall be the duty of the city engineer to perform all the ordinary engineering and surveying services in the affairs and business of the city and to supervise, under the general direction of the commissioner of public works, all the work done for the city in which the skill of his profession may be required or useful. He shall, under the direction of the commissioner of public works and the ordinances of the common council, act as the superintendent of public buildings, bridges, docks and wharves. He shall perform such other duties as may be prescribed by the commissioner of public works or by ordinance of the common council. He shall devote his time exclusively to the service of the city.

§ 99. Alteration of grades and names of streets. The grade of any street shall not be fixed or established except by direction of the common council. The grade of a street heretofore or hereafter legally established shall not be changed, except by direction of the common council, and except also upon compensation for damages done, to be ascertained in and by the proceedings provided by law for ascertaining

damages for lands taken for the opening of streets. The common council shall not alter the name of any street except by ordinance. No ordinance altering the name of any street shall be passed by the common council until such ordinance shall have been published at least once in each of two successive weeks in the official paper or papers.

§ 100. Apportionment of city's expense of improvements. The common council may, by ordinance approved by the board of estimate and apportionment, fix and determine the amount and proportion of the expense which shall be borne by the city at large for opening, altering, grading, curbing or paving a street, or for constructing therein a public sewer which is not less than two feet in diameter. The amount and proportion of the expense of such improvements which shall be borne by the city at large shall be included in the budget and raised by tax the same as other general city charges or may be financed pursuant to the local finance law. An amount sufficient to pay, when due, any obligations issued to pay the portion of the expense of such improvements borne by the city at large, together with the accrued interest thereon, shall be included in the tax budget and raised by tax the same as other general city charges, and such obligations as they mature, together with the interest thereon, shall be paid out of the moneys so raised by tax. The proportion of the expense which is not borne by the city shall be assessed and charged upon the property affected by such improvement in the form and manner provided by law.

§ 101. Discontinuance of streets. Whenever the common council shall contemplate the discontinuance of any street, it shall cause a notice to be published for ten days in the official newspaper or newspapers of the city of its intention so to do, and that all persons interested may be heard in reference thereto at a time stated in such notice. If it shall be determined to discontinue the street and any person shall claim to be damaged by such discontinuance, such alleged damages, unless agreed to by the commissioner of public works and approved by the board of estimate and apportionment, must be ascertained and determined in the manner provided by law for ascertaining damages for lands taken for the

opening of streets. An ordinance discontinuing any street shall require the affirmative vote of three-fourths of all the members of the common council. Whenever a street, or any part thereof, the fee of which is in the city, shall be discontinued, the lands embraced within the limits of such street, or any part thereof, may be exchanged for other lands within the limits of the city, upon such terms and conditions as the common council may by ordinance prescribe.

§ 102. Streets by prescription. All lands which shall have been used by the public as a street for twenty years or more continuously shall be a street with the same force and effect as if it had been duly laid out and recorded as such.

§ 103. Acquisition of lands. Whenever any real estate or interest therein shall be required for any municipal purpose, except as otherwise provided by law, the commissioner of public works may acquire for the city the necessary land and real estate by gift or by purchase, at a price approved by the board of estimate and apportionment, or by the proceedings specified in the eminent domain procedure law, or in the case of property required for street purposes, by the proceedings provided by law for acquiring and ascertaining damages for property taken for purposes of street openings.

ARTICLE 8

DEPARTMENT OF CONTRACT AND SUPPLY

Section 120. Board of contract and supply.

121. Proposals.

122. Contracts for lighting.

123. Secretary of the board; commissioner of supplies.

124. Contracts for paving.

125. Power to purchase and contract limited.

§ 120. Board of contract and supply. There shall be a board of

contract and supply, composed of the mayor, comptroller, commissioner of public works, corporation counsel and city engineer. Except as otherwise provided by law, it shall be the duty of such board, after public notice and in accordance with regulations to be prescribed by general ordinance of the common council, to let to the lowest bidder, who will give adequate security therefor, all contracts for the performance of any work or for the supply of any material required by or for the use of any officer, board, body or department of the city, in all cases where the expense of such work or materials, or both, shall exceed the sum of five hundred dollars, unless by ordinance of the common council adopted by a vote of not less than four-fifths of all the members thereof and unanimously approved by the board of estimate and apportionment, it is determined that a public emergency exists in which case said ordinance shall state the circumstances and conditions that created the public emergency, which shall be limited to those arising out of an accident or other unforeseen occurrence or condition affecting public buildings, public property or the life, health, safety or property of the inhabitants of such city require immediate action which cannot await public bidding, and shall designate the officer, board or department to procure such work or purchase such materials. In case of public emergency involving accident or other injury by which the heating or plumbing of any of the public buildings or any of the fire or water-works apparatus or any of the machinery used in sewage-treatment plants, or for garbage disposal, or any equipment used by the water-works or department of public works shall become disabled, the commissioner having jurisdiction thereof shall cause repairs thereto to be made without a letting by contract, upon filing with the board of contract and supply a certificate, approved by the mayor, showing such emergency and the necessity for such repairs. The board shall have power to reject all bids or proposals if in its opinion the lowest bid or proposal is excessive. The said notice shall describe the work and materials for which contracts will be let and the day and hour and place of the meeting of the board at which proposals therefor will be opened. Specifications for the performance of any work and for the supply of any materials shall be prepared and set forth with sufficient details to inform all persons proposing to bid therefor of the nature of the work to be done and of the materials to be supplied, and written or printed

copies thereof shall be delivered to all applicants therefor. Every contract for a public improvement shall be based upon an estimate of the whole cost thereof, including all expenses incidental thereto and connected therewith, to be furnished by the proper officer, board or department having charge of such improvements. No bid or proposal shall be received or contract awarded, other than for a local improvement or work to be performed by the city, which involves the construction or maintenance of any structure, erection, obstruction or excavation within, under, over, along or upon any street or public place within the city, unless the person to whom such contract shall be awarded shall have a franchise permitting the same.

§ 121. Proposals. No contract shall be let, except after the receipt of sealed bids or proposals therefor, and no bids or proposals shall be received at any time other than at a regular meeting of said board, and unless they conform to the rules of the board and the general ordinances of the common council. All bids or proposals must be indorsed with the title of the work or materials to which they relate, the name of the bidder and his residence. It shall be the duty of each member of the board to be present at the time and place mentioned in the public notice for the receipt and opening of bids or proposals, and such meetings shall be open to the public. After all the bids or proposals have been presented, but not until one-half hour after the time stated in the public notice for holding the meeting, all bids or proposals shall be opened by some member of the board or by its secretary, publicly and in the presence of the bidders and other persons there present, and an abstract of all of such bids or proposals, with the prices and security offered, shall be transcribed in a book kept for that purpose, without any change, correction or addition whatever. A majority of the board need not be present when such bids or proposals are opened. The board may reject all bids or proposals received at any meeting and advertise again for new bids or proposals to be received at another meeting as above prescribed. No person submitting, or on whose behalf a bid or proposal is submitted, nor the principal or sureties on any bond or security accompanying the same, shall have the right to withdraw or cancel any such bid, proposal, or bond until the board shall have

awarded the contract for which such bid or proposal is made, and such contract shall have been duly executed.

§ 122. Contracts for lighting. All municipal lighting shall be supplied pursuant to contract therefor, awarded by the board of contract and supply as herein provided. Such contract shall cover and include the lighting and supplying of the lamps and the oil, gas, electric current, the cleaning, repair and renewal of the lamps and all the materials required in the use and care thereof. No bid or proposal for any such contract shall be received, nor contract awarded therefor, unless the bidder shall, prior to the making of such bid or proposal, have a franchise under the authority of which the proposed contract can be performed. No contract shall be advertised for or entered into for a period exceeding five years. Each bidder shall be required to furnish with each bid or proposal a certified check, payable to the order of the city treasurer, in such sum as the board of contract and supply shall prescribe, but not less than ten thousand dollars. Such sum shall be forfeited to and become the absolute property of the city in case the bidder depositing the same shall be awarded the contract and shall not execute the same and furnish a bond for the faithful performance of such contract, in the penal sum of not less than fifty thousand dollars, within thirty days after the award of such contract. Such certified check shall be returned to the bidder if the contract be not awarded to him, or, if awarded, he shall have executed and furnished the contract and required bond.

The common council may by ordinance establish a special lighting district or districts for the purpose of ornamental street lighting, and from time to time may alter or extend the same. The board of contract and supply may contract for lighting any such district or districts so established or extended, as such board may deem proper or expedient. Any contract so entered into shall be in conformity with the provisions of this section, except that the bond to be given for the faithful performance of the contract shall be in such amount as the board of contract and supply shall determine. The amount of any contract that may be entered into for such special lighting pursuant to the provisions of

this section, shall be assessed ratably upon the real property in such lighting district or districts in such manner as shall be provided by an ordinance duly adopted by the common council and approved by the board of estimate and apportionment; and such assessments shall be levied, enforced and collected upon and between the taxable property in said city and district or districts respectively, in the same manner, by the same proceedings, at the same time, under the same penalties and by the same officers as the city taxes, charges or expenses of said city are now levied, enforced and collected. The common council shall, by ordinance, approved by the board of estimate and apportionment, apportion the expense that shall be borne by the taxable property in such special lighting district or districts, and the city at large; but in no event shall the taxable property in any such special lighting district or districts be charged with less than fifty per centum of such charges or expenses.

§ 123. Secretary of the board; commissioner of supplies. The board of contract and supply shall appoint a secretary to hold office during its pleasure, whose duty it shall be to keep a full journal of all the proceedings of the board and to perform such additional duties as may be required by the board, or by law or ordinance of the common council. Where any work or repairs needed to be done, or materials or supplies to be furnished for any office, court, board or department shall not exceed two hundred and fifty dollars in cost, the board of contract and supply may by general or special rule authorize the commissioner of public works, or the commissioner of public safety, or the secretary of the board, or any of them, to give written orders therefor and purchase the same. No materials or supplies shall be purchased for, or delivered by or upon the order of the commissioner to any officer, board, court, body or department of the city, except upon the requisition in writing from the officer, board, body or head of the department for which the same are required. The commissioner shall require a receipt in writing from each officer, board, body or head of the department for all supplies delivered to him or it by the commissioner or on his order, and he shall approve, in writing, all claims for any such materials or supplies purchased by him, before the same shall be presented to the comptroller

for audit.

§ 124. Contracts for paving. The common council shall, by general ordinance, prescribe, approve and adopt the materials to be used in paving, repaving, repairing, surfacing or resurfacing the streets and public places of the city, and fix the standard of excellence and test required for each such material. The city engineer shall prepare standard specifications, in accordance with such ordinance, for the performance of the work involved in such improvements with each kind of materials so prescribed, approved and adopted therefor. Whenever the common council shall determine to make any such improvement, and the proceedings provided by law as preliminary thereto shall have been taken, the board of contract and supply shall advertise for proposals for the furnishing of the materials and the performance of the work involved in such improvements, and specifications shall be prepared and proposals shall be invited, pursuant to the provisions of this chapter, for the construction of such improvement with each kind of paving material so prescribed, approved and adopted by the common council. In case the expense of any such improvement is to be assessed upon the property abutting upon the street, or part thereof, to be improved and more than one kind of material is prescribed, approved or adopted therefor, the secretary of the board shall, within one week after proposals for such work have been received and opened, cause to be published in a daily official paper for four successive days, exclusive of Sunday, a notice containing a summary statement of all such proposals. A majority of said property owners, owning not less than one-third of the feet front of property abutting on such street, exclusive of city property, may present to the board of contract and supply a petition or other writing designating the general kind of pavement or material to be used in making said improvement. If no part of the expense of such improvement is to be assessed upon the property abutting upon said street, or if such expense is to be so assessed, but the property owners shall not have made a designation or shall have made more than one designation, as herein provided, the common council shall, not later than at its next regular meeting after the expiration of ten days from the service of such notice, designate the kind of pavement or

material to be used in making such improvement, and the contract for such improvement shall be awarded for the kind of pavement or material so designated by the property owners or common council as aforesaid, and to the lowest bidder for doing the work with the kind of pavement or material so designated. In case, however, two-thirds of the owners of property, owning at least three-fifths of the linear feet fronting upon said street, or part thereof, shall designate a particular make, style or brand of the kind of pavement or material to be used in making such improvement, the contract therefor shall be awarded to the lowest bidder for such make, style or brand of such kind of pavement or material, although the same is not the lowest bid for such kind of pavement or material so designated. Where a street surface railroad shall be laid in any street which it is determined to improve as herein provided, the proposals and contract for such improvement shall include the improvement of the space between the tracks of such street surface railroad, the rails of such tracks and two feet in width outside of such tracks, and the work of improvement in such space shall be done at the same time and under the same supervision as the work of improvement of the remainder of such street. After opportunity to be heard has been given to the company owning or operating such street surface railroad, the board of contract and supply may prescribe the materials to be used in improving such street within the railroad space above described. The entire expense of the improvement within such railroad space shall be assessed and levied upon the property of the company owning or operating such railroad and shall be collected in the same manner as other expenses for local improvements are assessed, levied and collected in the city; and an action may also be maintained by the city against the company in any court of record for the collection of such expense and assessment.

§ 125. Power to purchase and contract limited. No person shall have power to make any purchase or contract any debt for which the city shall be liable unless authorized by the provisions of this chapter or the local finance law.

ARTICLE 9

DEPARTMENT OF PUBLIC SAFETY

- Section 130. Commissioner of public safety; appointees.
- 131. Duties of commissioner.
 - 132. Deputy commissioner.
 - 133. Rules, orders and regulations.
 - 134. Constitution of police and fire departments.
 - 135. Membership.
 - 136. Terms of office.
 - 137. Discipline.
 - 138. Appeal from determination of commissioner.
 - 139. Exemptions.
 - 140. Pension funds.
 - 141. Chief of police.
 - 142. Powers and duties of members of police department.
 - 143. Service of process.
 - 144. Political activity prohibited.
 - 145. Department of health.
 - 146. Health officer.
 - 147. Deputy health officer.
 - 148. Appeals from orders of health officer.
 - 149. Inspection of public buildings.
 - 150. Approval of plans for sewers and drains.
 - 152. Actions to restrain nuisances.
 - 153. Duty in case of peril to public health.
 - 154. Public health law applicable.
 - 155. Subordinates.
 - 156. Duties of superintendent.
 - 157. Application of chapter limited.

§ 130. Commissioner of public safety; appointees. The commissioner of public safety shall be the head of the department of public safety. He may appoint, to hold office during his pleasure, a deputy, a health officer and a superintendent of buildings. Whenever a vacancy occurs in the office of the chief of police or chief of the fire department, the commissioner of public safety, shall appoint, in his discretion, a

person deemed by him to be suitable and competent to fill the same. The chief of police and chief of the fire department shall each hold office during good behavior, or until permanently incapacitated or unfit to discharge his duties. The commissioner may appoint such other subordinates as may be prescribed by the board of estimate and apportionment to hold office, except as otherwise provided by law, during his pleasure. In case of the absence or disability of the commissioner or a vacancy in the office, the deputy shall discharge the duties of the office until the commissioner returns, his disability ceases or the vacancy is filled. Before entering upon the discharge of the duties of their respective offices, the commissioner, deputy, health officer, superintendent of buildings, chief of police and chief of the fire department shall each execute and file with the city clerk an official undertaking in such penal sum as may be prescribed by the common council.

§ 131. Duties of commissioner. The commissioner of public safety shall have cognizance, jurisdiction, supervision and control of the government, administration, disposition and discipline of the police department, fire department, buildings department and health department, and of the officers and members of said departments, and shall possess and exercise fully and exclusively all powers and perform all duties pertaining to the government, maintenance and direction of said departments, and the apparatus and property thereof and buildings furnished therefor, and shall have the general direction and supervision of the expenditure of all moneys appropriated to said departments. He shall possess such other powers and perform such other duties as may be prescribed by the law or by ordinance of the common council.

§ 132. Deputy commissioner. The deputy commissioner shall have authority to administer oaths and take evidence, affidavits and acknowledgments in all matters and proceedings pertaining to the department. He shall have general supervision over the records of the department and its officers and shall perform such other duties as may be prescribed by the commissioner or by law or by ordinance of the

common council.

§ 133. Rules, orders and regulations. The commissioner of public safety shall make, adopt and enforce such reasonable rules, orders and regulations, not inconsistent with law, as may be reasonably necessary to effect a prompt and efficient exercise of all the powers conferred and the performance of all duties imposed by law upon him or the department under his jurisdiction. He is authorized and empowered to make, adopt, promulgate and enforce reasonable rules, orders and regulations for the government, discipline, administration and disposition of the officers and members of the police and fire departments, and for the hearing, examination, investigation, trial and determination of charges made or prepared against any officer or member of said departments for neglect of official duty or incompetency or incapacity to perform his official duties or some delinquency seriously affecting his general character or fitness for the office, and may, in his discretion, punish any such officer or member found guilty thereof by reprimand, forfeiting and withholding pay for a specified time, suspension during a fixed period or dismissal from office; but no officer or member of said departments shall be removed or otherwise punished for any other cause, nor until specific charges in writing have been preferred against and served upon him, and he shall have been found guilty thereof, after reasonable notice and upon due trial before said commissioner in the form and manner prescribed by law and the rules and regulations of the department.

§ 134. Constitution of police and fire departments. The police and fire departments shall, as to their membership and component parts, remain as now constituted until the same shall be changed by action of the common council. The common council has power at all times by ordinance to determine the number of officers and members of each of said departments and the classes and grades into which they shall be divided, except that it shall not have the power to diminish the number of the members of either of said departments as now fixed. The number of officers or members of either of said departments shall not be increased

without the approval of the board of estimate and apportionment. The common council may pass ordinances not inconsistent with law for the government of the police and fire departments, and regulating the powers and duties of their officers and members. The commissioner shall appoint, as vacancies in said department occur, all officers and members thereof, and classify and apportion them into grades to conform to such ordinances.

§ 135. Membership. No person shall be appointed to membership in the police or fire departments of the city, or continue to hold membership therein, who is not a citizen of good moral character, who has ever been convicted of a felony, who can not understandingly read and write the English language, and who shall not have resided in the city during the two years next preceding his appointment. The commissioner shall make all appointments, promotions and changes of status of the officers and members of the police and fire departments in accordance with the provisions of the civil service law of the state, except as otherwise provided herein. In making promotions, seniority and meritorious service in the department, as well as superior capacity, as shown by competitive examination, shall be taken into account. Individual acts of bravery may be treated as acts of meritorious service, and the relative weight therefor shall be fixed by the municipal civil service commission. No member of the police or fire departments shall hold any other office nor be employed in any other department of the city government.

§ 136. Terms of office. All members of the police and fire departments, subject to the power of removal hereinafter specified, shall hold their respective offices during good behavior or until by age or disease they shall become permanently incapacitated to discharge their duties.

§ 137. Discipline. If a charge may be made by any person against any officer or member of the police or fire departments that he has been negligent or derelict in the performance of his official duties, or is

incompetent or without capacity to perform the same or is guilty of some delinquency seriously affecting his general character or fitness for the office, the charge must be in writing, in the form prescribed by the rules and regulations of the commissioner of public safety, and a copy thereof must be served upon the accused officer or member. The commissioner shall then proceed to hear, try and determine the charge. The accused shall have the right to be present at his trial and to be heard in person and by counsel and to give and furnish evidence in his defense. All trials shall be open to the public. The commissioner has power to issue subpoenas, in his name, to compel the attendance of witnesses, and shall upon the oral application of the accused issue a subpoena on the behalf of the accused, leaving the space for the names of his witnesses blank that he may fill in their names, upon any proceeding authorized by the rules and regulations of the department, and any person served with a subpoena is bound to attend in obedience to the command thereof; and the commissioner shall compel the attendance of witnesses and compel them to testify in the same manner as in the case of any officer or board authorized by law to issue subpoenas and take testimony. If the accused shall be found guilty of the charge made against him, the commissioner may punish him by reprimand, by forfeiting and withholding pay for a period not to exceed thirty days, by suspension without pay during a period not to exceed thirty days, or by dismissal from office. At any time within one year after the date of dismissal, any officer or member dismissed may make application to the commissioner for reinstatement. Such application must be in writing and contain a release of the city from all claims for back compensation. The commissioner may, in his discretion, rehear and redetermine the charges and reinstate such officer or member, with or without an allowance of the whole or a part of the time since such dismissal to be applied on his time of service in the department, or may affirm such dismissal. At any time within one year after this chapter takes effect or within one year after the date of resignation, an officer or member who has resigned may make application to the commissioner for reinstatement and the commissioner may, in his discretion, reinstate him, but the time between the date of resignation and reinstatement shall not apply on his time of service in the department.

§ 138. Appeal from determination of commissioner. In case any such officer or member is aggrieved by the determination of the commissioner on any trial of charges, as specified in the preceding section, he may, within thirty days after the rendering of such determination, take an appeal therefrom on questions of law to the appellate division of the supreme court. An appeal taken, as prescribed herein, shall be perfected by the service of notice of appeal upon the commissioner. He shall, within ten days thereafter, make and file with the county clerk of the county in which the city is situated a complete return of the proceedings on such trial. For the use of the parties and the court on such appeal, the appellant shall cause a certified or stipulated copy of said return to be printed and issued and all the rules and statutes concerning the correction and service and use of a printed case on appeal shall as far as appropriate be applicable to the correction, service and use on appeal of said records.

§ 139. Exemptions. No member of the police or fire department shall be liable to military or jury duty or to arrest on criminal or civil process while on duty.

§ 140. Pension funds. The provisions of law governing the establishment and maintenance of pension funds for the benefit of members of the police and fire departments shall be unimpaired by this chapter. The mayor, comptroller and commissioner of public safety and their successors in office shall constitute the trustees of each such fund and shall have the care, control, management and distribution thereof.

§ 141. Chief of police. The chief of police shall have the power and it shall be his duty to enforce all rules and regulations of the commissioner of public safety relating to the police department; to commit any person charged with a criminal offense until an examination shall be had before the proper magistrate; to administer oaths and take

affidavits in respect to all matters pertaining to his official duties, and to perform such other duties as may be prescribed by law, the commissioner of public safety, or ordinance of the common council.

§ 142. Powers and duties of members of police department. The members of the police department, other than surgeons, in criminal matters have all the powers of police officers under the general laws of the state, and they shall also have the power and it shall be their duty to arrest any person found by them violating any of the penal ordinances of the city or laws of the state, and to take such person before the proper city magistrate. Such person shall be dealt with in the same manner as if he had been arrested upon a warrant theretofore duly issued by such magistrate. They shall report violations of law and ordinances coming to their knowledge in any way under regulations to be prescribed by the commissioner of public safety. They shall also have, in every other part of the state, in criminal matters all the powers of constables and any warrant for search or arrest issued by any magistrate of the state may be executed by them in any part of the state according to the tenor thereof without indorsement. They shall possess such other powers and perform such other duties as may be provided by law or ordinance of the common council.

§ 143. Service of process. All criminal process for any offense committed within the city, and all process to recover or to enforce any penalty for the violation of any city ordinance issued out of any court or by any magistrate within the city, and every process, subpoena or bench warrant issued by the district attorney of the county in which the city is situated, relating to any offense committed within the city, and every process, subpoena or warrant issued by any coroner of such county in any inquest held in the city relative to the death of any person, may be served by any member of the police department.

§ 144. Political activity prohibited. Any officer or member of the police department who violates any provision of section 17-110 of the

election law shall be dismissed from office.

§ 145. Department of health. The commissioner of public safety shall exercise all the powers and be charged with all the duties conferred upon or required of local boards of health by the laws of this state, so far as the same pertain to cities, with the exceptions, limitations and additions herein contained.

§ 146. Health officer. No person shall be eligible to appointment as health officer unless he shall be a physician and surgeon duly licensed to practice under the laws of this state, and who has practiced as such for at least ten years. The health officer shall possess such powers and perform such duties as shall be delegated to or prescribed by the commissioner of public safety or by ordinance of the common council.

§ 147. Deputy health officer. The health officer by the authority and under the direction of the commissioner of public safety may appoint a deputy, to hold office during his pleasure. He may, when authorized by the commissioner and subject to the approval of the board of estimate and apportionment, appoint such other assistants and employ such health and sanitary experts as may be required to carry into effect the powers, decisions, orders and directions vested in said commissioner and health officer by this chapter and otherwise by law. The compensation of such deputy, assistants and experts shall be fixed by the commissioner, subject to the approval of the board of estimate and apportionment.

§ 148. Appeals from orders of health officer. Any person aggrieved by an order, decision or direction of the health officer, may appeal therefrom to the commissioner, who may affirm, reverse or modify the order, decision or direction appealed from. Such appeal must be made by serving on the health officer a written notice of appeal within two days, Sundays and legal holidays excepted, or within such further time as shall be allowed by the commissioner after the appellant receives

notice of the order, decision or direction appealed from. Within two days after receiving such notice of appeal, Sundays and legal holidays excepted, the health officer shall make a written return to the commissioner of the facts and evidence on which such an order, decision or direction is founded. Upon receipt of such return, or if no return be made within the time specified, the commissioner shall forthwith proceed to hear and determine the matter. Upon such appeal the commissioner need not be confined to the evidence contained in the return but in his discretion may take additional evidence. Until the decision of the appeal be made, the order, decision or direction appealed from shall be suspended. In case of failure to sustain the appeal, the commissioner may, in his discretion, impose costs not exceeding ten dollars upon the appellant.

§ 149. Inspection of public buildings. The health officer and superintendent of buildings may inspect and advise as to the proper heating, ventilation and drainage of public buildings under the control of the city or any of its departments, and in case any such building is in use or in process of erection without, in the opinion of either, proper arrangements for heating, ventilation or drainage, he shall, subject to the right of appeal herein provided, stop the use or the erection of such buildings, direct such arrangements to be made and restrain further work upon the building until they are made.

§ 150. Approval of plans for sewers and drains. All plans for sewers and drains shall be submitted to the health officer for his approval before contracts are let for the construction of the same, and, in case he shall disapprove the same, such sewer and drains shall not be constructed unless, on appeal to the commissioner, he shall approve the same. The health officer has power, subject to the right of appeal herein provided, to stop the construction or use of drains and sewers which are not properly constructed or properly used, or which are not in accordance with plans previously approved and adopted.

§ 152. Actions to restrain nuisances. The commissioner is authorized, by and with the advice and consent of the corporation counsel, in the name of the city, to maintain actions to restrain the threatened performance of any act contrary to his orders, directions, decisions or ordinances or those of the superintendent of public buildings or any violation of the rules and regulations of the department of buildings and to restrain and abate nuisances; and for the purpose of obtaining a temporary injunction in any such action no undertaking shall be required.

§ 153. Duty in case of peril to public health. In case of great and imminent peril to the public health of the city, by reason of impending pestilence, it shall be the duty of the commissioner, with the sanction of the common council, if it be practicable to convene that body for prompt action, or if not, when approved by the board of estimate and apportionment, to take such measures, and to do, order, or cause to be done, such acts, and to make such extraordinary expenditures in excess of the sum appropriated to the department of health from moneys made available pursuant to section seventy-six of this chapter or section 29.00 of the local finance law, for the preservation and protection of the public health, as he may deem necessary and proper. Such peril to public health shall be deemed to exist only when and for such period as the commissioner and the board of estimate and apportionment, by unanimous vote, shall determine.

§ 154. Public health law applicable. The public health law, so far as it pertains to cities, shall be applicable to cities of the second class, except as herein expressly modified.

§ 155. Subordinates. The superintendent of buildings may appoint such subordinates as may be prescribed by the board of estimate and apportionment to hold office during his pleasure, and who shall receive such compensation as shall be fixed by said board.

§ 156. Duties of superintendent. In addition to the duties of the superintendent of buildings prescribed herein, or otherwise by law, the common council shall by ordinance prescribe his duties, and he shall have such power and authority in regard to the supervision and inspection of the erection, construction or alteration of buildings and other structures as shall be conferred by ordinance, not inconsistent with the other laws of the state. The common council shall also have power to establish by ordinance, and from time to time amend, a "building code," providing for all matters concerning, affecting or relating to the construction, alteration, repair or removal of buildings and structures heretofore or hereafter erected; but no ordinance amending, repealing or modifying such building code or any provision thereof shall be passed by the common council until notice shall have been published for at least ten days in the official paper or papers of the city that on a day stated in such notice, the common council will consider the adoption of a proposed ordinance amending, repealing or modifying the building code, or a part thereof, generally or in respect of a specified subject, and that a copy of such proposed ordinance is on file in the office of the city clerk.

§ 157. Application of chapter limited. Where, by special or local laws affecting the city, a superintendent of buildings is provided for, the provisions of this chapter shall not affect the manner of appointment, tenure or term of office, removal or salary or compensation of such superintendent, or impair any of the powers or duties possessed by or conferred upon him under or by virtue of such special or local laws.

ARTICLE 10

DEPARTMENT OF ASSESSMENT AND TAXATION

Section 160. Department of assessment and taxation; powers and duties of assessors.

161. Description of premises.

162. Rebates and deficiencies.

163. Assessment not invalidated by irregularities.

- 164. Right to review assessment or tax for local improvement limited.
- 165. Procedure on review.
- 166. Consolidation of separate proceedings.
- 167. State lands.

§ 160. Department of assessment and taxation; powers and duties of assessors. The assessors shall be the head of the department of assessment and taxation. They shall appoint, to hold office during their pleasure, such deputies, clerks, assistants and subordinates as the board of estimate and apportionment shall prescribe. The assessors and their deputies shall possess all the powers conferred, be subject to all the obligations imposed and perform all the duties appertaining to the office of assessors in the towns of the state in reference to the assessment of property within the city, except as otherwise provided by law. They shall perform all the duties now provided by law in reference to the assessment of property for the purpose of levying taxes and assessments for local improvements, imposed according to law. It shall also be their duty to install scientific systems of assessment with tax maps, unit rules and such other systems and records as may be necessary and to gather and file useful and available information that appertains to the value of property subject to their assessment.

§ 161. Description of premises. In the assessment of any lands in the city for any purpose, it shall be sufficient to state the name of one of the owners of such lands if the owner or owners or any of them be residents of the city and known to the assessors; if the owner or owners be unknown to the assessors or if they be nonresidents and the ownership is unknown to the assessors, then the assessment may be designated unknown, and there shall be stated the number of the lot and the block, if subdivided into lots and blocks and so designated upon the city map last adopted by the common council, or the number of the lot or farm lot, if not so subdivided into blocks and lots and so designated, and also the street and number of any building thereon; but if the land be vacant or the building thereon be not numbered, then the name of the

street on which it fronts and a brief description of the premises shall be given. In case no inhabited building be on the land and the residence of the owner be unknown, such owner may be designated as unknown. No assessment hereafter made in said city shall be held to be invalid because the same may be made out in terms against owner or owners unknown or the estate of a deceased person, naming such person, or the executor, administrator, heirs or devisees of a deceased person, naming such person, or any of them or against a company or a firm name, or against a person in whom is the record title, though not the actual title of the property, or for any cause arising through ignorance or mistake as to the names of the owner or owners of the property assessed, whether individually or a corporation, provided such property is sufficiently described on the assessment-rolls to reasonably identify and indicate to a person familiar with the same the particular property which it was intended to assess. Every assessment-roll shall be considered as referring to the last adopted map, unless it be otherwise stated therein.

§ 162. Rebates and deficiencies. In all cases of assessment for improvements the assessors shall include in the apportionment all the expenses connected with or which were incident to the making of the improvement and assessment. Whenever the amount apportioned shall exceed the actual cost of the improvement, including all expenses connected therewith or incidental thereto, the comptroller shall certify the amount of the surplus to the assessors and they shall thereupon declare a rebate and the excess shall be refunded pro rata to the persons who paid their assessments. If the amount assessed for any improvement shall be insufficient to cover the cost of the improvement, including all expenses connected therewith and incidental thereto, the comptroller shall certify the amount of the deficiency to the common council and assessors, and the common council and assessors shall forthwith cause to be assessed and levied the amount of such deficiency pro rata upon the property included within the original assessment and the same shall be assessed, levied and collected in like manner as other assessments of a like character.

§ 163. Assessment not invalidated by irregularities. No assessment or tax shall be vacated, set aside, canceled, annulled, reviewed or otherwise questioned or affected by reason of any error, omission, irregularity or defect, not actually fraudulent, in any of the steps or proceedings required to be had or taken as preliminary to, or in the making of, the assessment, or in the levying or collection of the tax, nor in relation to or in connection with any proposal, designation of materials, contract, work or improvement for or on account of which such assessment was made or tax imposed. But all property shall be liable to assessment and all assessments shall be valid and of full force and effect notwithstanding any such error, omission, irregularity or defect.

§ 164. Right to review assessment or tax for local improvement limited. No action or proceeding to set aside, vacate, cancel or annul any assessment or tax for a local improvement shall be maintained, except for total want of jurisdiction to levy and assess the same on the part of the officers, board or body authorized by law to make such levy or assessment or to order the improvement on account of which the levy or assessment was made. No action or proceeding shall be maintained to modify or reduce any such assessment or tax except for fraud or substantial error by reason of which the amount of such tax or assessment is in excess of the amount which should have been lawfully levied or assessed.

§ 165. Procedure on review. No action or proceeding shall be maintained to set aside, vacate, cancel, annul, review, reduce or otherwise question, test or affect the legality or validity of any assessment or tax for a local improvement, except in the form and manner and by the proceedings herein provided. If, in the proceedings relative to an assessment or tax, entire absence of jurisdiction on the part of the officers, board or body authorized by law to levy or assess the same or to order the improvement on account of which the assessment was made or tax imposed, is alleged to have existed or in case any fraud or substantial error, other than the errors or irregularities specified in

the preceding section, by reason of which substantial damages have been sustained, are alleged to have existed or to have been committed, any party aggrieved thereby, who shall have filed objections thereto within the time and in the manner specified by law therefor, may apply to the supreme court at any special term thereof, held within the judicial district in which the city is situated, for an order vacating or modifying such assessment as to the lands in which he has an interest, upon the grounds in said objections specified, and no other, and upon due notice of such application to the corporation counsel. Each such application shall be made within twenty days after the confirmation of the assessment. Thereupon such court may proceed to hear the proofs and allegations of the parties and determine the same, or may appoint a referee to take the proof and report thereon, or to hear, try and determine the same. If it shall be determined in such proceeding that the officers, board or body had no jurisdiction to make the levy or assessment complained of or to order the improvement, the court may order such assessment or tax vacated. If it shall be determined therein that any such fraud or substantial error has been committed and that the party applying for such relief, has suffered substantial damages by reason thereof, the court may order that the assessment or tax be modified as to such party and as so modified that it be confirmed. A like application may be made to secure a modification or reduction of any such assessment or tax on account of fraud or such substantial error occurring in the performance of the work of the improvement on account of which such assessment or tax is made or levied, and it shall be determined in like manner. If, in any such proceeding, it shall be determined that such fraud or substantial error has been committed, by reason of which any such assessment or tax upon the lands of any such aggrieved party has been unlawfully increased, the court may order that such assessment or tax be modified by deducting therefrom such amount as is in the same proportion to such assessment or tax as the whole amount of such unlawful increase is to the whole amount of the assessment or tax for the improvement. An order so made in any such proceeding shall be entered in the clerk's office of the county in which the city is situated, and shall have the same force and effect as a judgment. The court may, during the pendency of any such proceeding, stay the collection of any assessment or tax involved therein as against the

parties thereto. Costs and disbursements of any such proceeding may be allowed in the discretion of the court. No appeal shall be allowed or taken from the order made in any such proceeding, but the determination so made therein shall be final and conclusive upon all parties thereto. No assessment or tax shall be modified otherwise than to reduce it to the extent that the same may be shown by the parties complaining thereof to have been in fact increased in dollars and cents by reason of such fraud or substantial error. In no event shall that proportion of any such assessment which is the equivalent of the fair value or fair cost of the improvement be disturbed for any cause. No money paid on account of any assessment or tax shall be recovered for any cause, except the amount of the excess of such assessment or tax over and above the fair value and cost of the improvement. In case of the failure of any assessment or tax for any cause, the comptroller shall certify such fact to the common council and it shall be its duty to forthwith cause the same to be relieved and reassessed in a proper manner.

§ 166. Consolidation of separate proceedings. Two or more persons may unite in commencing and prosecuting the proceedings to vacate or modify assessments; and when two or more persons have commenced separate proceedings to vacate or modify assessments for the same improvement, the court before whom the same are commenced or pending, or a judge thereof at special term or chambers may, by order, upon due application and notice, consolidate such separate proceedings into one proceeding.

§ 167. State lands. Nothing herein contained shall affect any assessment upon lands owned by the state nor be deemed to repeal or modify any of the provisions of section twenty-one of the public lands law.

ARTICLE 11

DEPARTMENT OF PUBLIC WELFARE

Section 170. Commissioner; deputy.

171. Powers and duties of commissioner.

173. City owner of supplies.

174. Liability of city.

§ 170. Commissioner; deputy. The commissioner of public welfare may appoint one or more deputies, and such other subordinates as may be prescribed by the board of estimate and apportionment. In case of the absence or disability of the commissioner or of a vacancy in the office, a deputy shall discharge the duties of the office until the commissioner returns, his disability ceases or the vacancy is filled. The commissioner, and the deputies before entering upon the discharge of the duties of their respective offices, shall each execute and file with the city clerk an official undertaking in such penal sum as may be prescribed by the common council.

§ 171. Powers and duties of commissioner. The commissioner of charities shall have the general care, management, administration and supervision of the charities, almshouses, hospitals, houses of correction, orphan asylums and all other similar institutions, the control or government of which belongs or is intrusted to the city. He shall make regulations for the expenditure of the moneys appropriated for the support or relief of the poor and for the general supervision of such expenditures. He shall investigate fully the circumstances of all persons alleged to be destitute or without proper means of support, or without proper guardianship, or who are in danger of becoming or are a public burden in any respect; and also the circumstances of their relatives or other persons whose duty it is to relieve or maintain them or contribute to their support; also to institute and prosecute any and all actions and proceedings authorized by law to compel any and all persons liable for the care, maintenance, education or support of any such destitute or dependent persons to contribute thereto, and to indemnify the city and public against any expenditures on account thereof. He shall also prosecute any and all bonds, undertakings or recognizances given for any of the purposes herein mentioned or in any manner relating thereto. Any and all moneys recovered in any such suit, action or proceeding or otherwise paid to or received by the said

commissioner on account of the care, maintenance, relief, education or support of any such persons shall be deposited by the commissioner with the city treasurer as a trust fund, and the same shall be applied and expended by the said commissioner for the purpose on account of which the same were paid. Any surplus remaining in said fund at the close of the fiscal year shall be treated as an unexpended balance of money appropriated for such department. The commissioner shall furnish to and file with the comptroller a monthly statement in detail of all receipts and expenditures, including the aid and relief granted by him, with the names and addresses of all recipients.

§ 173. City owner of supplies. The city shall continue to be the owner of supplies furnished to any poor person or applicant for relief until the same are consumed. If any person to whom the same shall be furnished shall sell or exchange the same for money or intoxicating liquors or in any way dispose of the same other than in the manner directed, such conduct shall be deemed a misdemeanor.

§ 174. Liability of city. Nothing contained in this chapter shall be deemed to make the city liable for the support or relief of any poor person when it is not otherwise so liable.

ARTICLE 12

JUDICIARY

Section 180. Jurisdiction of police court.

181. Police justice.

182. Vacancy, how filled.

183. Jurisdiction and powers.

184. Further jurisdiction.

186. Office hours.

187. Clerk.

188. Trial by jury.

189. Jurors and juries.

191. Pay of jurors.

§ 180. Jurisdiction of police court. If, under the general or local laws, there now exists or shall hereafter be established in the city a court of criminal jurisdiction known as the police court, it shall have the jurisdiction and powers hereinafter provided.

§ 181. Police justice. There shall be one justice of the court to be known as the police justice. Said office shall be filled by election by the electors of the city at the city election. The term of the police justice shall be six years and he shall receive an annual salary, to be fixed by the board of estimate and apportionment, provided, however, that if the city does not have or is not authorized by law to have more than one officer possessing the jurisdiction of a court of special sessions, such salary shall be fixed at not less than thirty-five hundred dollars per annum. If a police justice in any city shall have served as such for more than twelve consecutive years, the board of estimate and apportionment may, notwithstanding the provisions of section seventy-four of this chapter, increase the salary of such justice, from time to time, during his term of office, to take effect at the time of any such increase or from the first day of January of the current calendar year, as the board may determine. No person shall be eligible for election to the office of police justice unless he be an elector and has been an attorney of the supreme court of the state for five years. In case of the absence or disability of the police justice or of a vacancy in the office, any city judge or judge of the municipal court shall perform the duties of the office until the police justice returns, his disability ceases or the vacancy is filled. In the city of Albany, in the case of the absence, disability or unavailability of the police justice or of a vacancy in the office, the recorder of the city or any justice of the city court of Albany shall perform the duties of the office of police justice until such justice returns, his disability ceases or the vacancy is filled.

§ 182. Vacancy, how filled. When a vacancy shall occur, otherwise than

by expiration of term, in the office of police justice, the same shall be filled, for the balance of the unexpired term, at the next city election happening not less than thirty days after such vacancy occurs. Until such vacancy shall be so filled, the mayor may appoint a qualified attorney to fill the same, who shall hold office until the first day of January after the election at which his successor is elected.

§ 183. Jurisdiction and powers. The police court shall have, in the first instance, exclusive jurisdiction to try and determine all charges of misdemeanor, committed within the city and shall also have exclusive jurisdiction to try and determine all complaints and charges for violation of city ordinances, and shall have the power and jurisdiction now or hereafter conferred upon local criminal courts by section 10.30 of the criminal procedure law. But any charge of misdemeanor pending before said police court or police justice may be removed to a court sitting with a grand jury by the same method now or hereafter provided in sections 170.20 and 170.25 of the criminal procedure law; but a complaint or charge for a violation of a city ordinance shall not be removed.

§ 184. Further jurisdiction. The police justice shall also possess all the powers and jurisdiction of a magistrate, which are or may be conferred by law upon justices of the peace, concerning offenses committed within the city. He shall possess such other powers and perform such other duties as are now or may be conferred or imposed by law.

§ 186. Office hours. It shall be the duty of the police justice to be present at the police court rooms at such times and during such hours as the public interest may require, unless necessarily detained therefrom.

§ 187. Clerk. The police justice shall have a clerk of the court, who shall be the confidential appointee of said justice, and who shall have

the power to take informations upon which warrants for the arrest of persons charged with the commission of crimes may be issued by said justice. The clerk shall also have the power to issue and sign subpoenas, to administer oaths to witnesses, to make and sign executions, commitments and certificates of conviction and to certify to and sign copies thereof for the execution of any judgment rendered in police court, as police justice or as a court of special sessions. The clerk of the court shall receive all penalties and other moneys or fees payable in such court, and shall pay the same into the city treasury once in each week, and shall file with the comptroller, monthly, an itemized statement of the same. The said justice shall have such other clerical assistance as the board of estimate and apportionment may prescribe; and, if said board creates the office of deputy clerk, then said deputy clerk shall have the same powers as the clerk of the court. All clerks appointed by the justice shall serve during his pleasure. Said appointments shall be in writing and filed with the clerk of the county in which the city is located and with the city clerk. Said clerk and deputy, if any, before entering upon the discharge of the duties of their respective offices shall each execute and file with the city clerk an official undertaking in such penal sum as may be prescribed by the common council. The police justice may appoint, and at pleasure remove, a police court attendant, who shall perform such services as may be required of him by the police justice and shall be subject to the order and control of said justice and of no other person. He shall be in the exempt class of the civil service, and shall receive such salary as shall be fixed by the board of estimate and apportionment. The police justice may appoint a member of the police department to said position, and in such case said appointee shall be paid upon the certificate of the police justice from the same fund as other police officers, and when he shall retire from office he shall be reassigned to duty by the chief of police to the rank from which he came.

§ 188. Trial by jury. In the police court, at the time of interposing any plea which forms an issue of fact, the defendant may demand a trial by jury, and unless so demanded then a trial by jury is waived.

§ 189. Jurors and juries. Jurors for the trial of an action in which a jury has been demanded shall be drawn and summoned and a trial jury shall be procured in all respects in accordance with the provisions of the justice court act. A police officer shall have all the powers and duties of a constable under those provisions.

§ 191. Pay of jurors. Jurors in the police court shall receive the same compensation as jurors in justice's court held by justices of the peace except that in the police court of the city of Albany jurors shall receive such compensation as may be provided by the board of estimate and apportionment of the city of Albany.

ARTICLE 13 DEPARTMENT OF LAW

Section 200. Corporation counsel.

201. Duties of the corporation counsel.

202. Costs.

203. Account of moneys collected.

204. Certification and approval of contracts and conveyances.

205. Compromise of claims.

206. Judgments against the city.

§ 200. Corporation counsel. The corporation counsel shall be the head of the department of law. He may appoint, to hold office during his pleasure, a first assistant and such other subordinates as may be prescribed by the board of estimate and apportionment. In case of the absence or disability of the corporation counsel, or of a vacancy in the office, the first assistant shall discharge the duties of the office until the corporation counsel returns, his disability ceases or the vacancy is filled. The corporation counsel and first assistant before entering upon the discharge of the duties of their respective offices, shall each execute and file with the city clerk an official undertaking in such penal sum as may be prescribed by the common council.

§ 201. Duties of the corporation counsel. The corporation counsel shall be and act as the legal adviser of the common council and of the several officers, boards and departments of the city. He shall appear for and protect the rights and interests of the city in all actions, suits and proceedings brought by or against it or any city officer, board or department, including the commissioner of charities in bastardy proceedings; and such officer, board or department shall not employ other counsel. The corporation counsel may, however, with the written consent of the mayor, employ counsel, at such compensation as may be approved by the board of estimate and apportionment, to assist him in the argument and conduct of important cases or proceedings in which the city or any officer, board or department thereof is interested or a party.

§ 202. Costs. Neither the corporation counsel, deputy, clerk, or any other subordinate or assistant, shall receive any fee or compensation of any kind, other than the salary fixed by law or by the board of estimate and apportionment.

§ 203. Account of moneys collected. The corporation counsel shall pay over at once to the city treasurer, for and on behalf of the city, all moneys collected by him for and on behalf of the city, including fines and penalties.

§ 204. Certification and approval of contracts and conveyances. No written contract providing for the payment of two hundred dollars or more, entered into by the city or any of its officers, boards or departments, shall become effective or be acted under until there shall be indorsed thereon by the corporation counsel or an assistant, a certificate to the effect that the city officer, board or department which has executed the same on behalf of the city, had authority and power to make such contract, and that such contract is in proper form

and properly executed; he shall approve all deeds, conveyances, leases and abstracts of title affecting property acquired, conveyed to or leased by the city; and he shall attend to all the law business of the city and discharge such other duties as may be prescribed by law or ordinance of the common council.

§ 205. Compromise of claims. The corporation counsel shall, whenever he considers that the interests of the city will be subserved thereby, enter into an agreement in writing, subject to the approval of the board of estimate and apportionment, to compromise and settle any claim against the city, which agreement shall constitute a valid obligation against the city; and the amount therein provided to be paid shall, with interest thereon from its date, be included in the next city tax budget and be collected and paid the same in all respects as a judgment against the city. If, however, before the adoption of the city tax budget there shall be received by the city treasurer from any source any moneys not otherwise appropriated, the amount in the agreement provided to be paid out of such moneys so received, so far as they will satisfy the same.

§ 206. Judgments against the city. The amount of any judgment recovered against the city and payable by it, remaining unpaid, with the interest due thereon, in case the time to appeal therefrom has expired and no appeal has been taken, or a certificate of no appeal therefrom has been given by the corporation counsel, or in case such judgment is finally affirmed, or an appeal taken and the execution thereon shall not be stayed, shall be reported to the common council immediately after the same shall have become payable, as aforesaid; and the amount thereof shall be included in the next city tax budget. Such judgments shall be paid in the order of their recovery out of the moneys first paid into the city treasury on account of the annual taxes or, prior thereto, out of the proceeds of tax anticipation notes issued in anticipation of the collection of such taxes or out of the proceeds of budget notes. If, however, there be any moneys in the treasury to the credit of any fund derived from city revenues, other than taxation, in excess of the estimated revenues from such source, and not otherwise appropriated,

sufficient to satisfy judgments against the city, the comptroller shall issue warrants for the payment of such judgments out of said funds in the order of their recovery. Until the moneys applicable to the payment of a judgment have been raised and paid into the city treasury and payment of the judgment has been refused, no execution shall issue against the city unless the amount of such judgment shall not have been included in the tax budget.

ARTICLE 14

SUPERVISORS; SEALER OF WEIGHTS AND MEASURES

Section 210. Supervisors.

211. Sealer of weights and measures.

§ 210. Supervisors. Supervisors shall have the powers and perform the duties of supervisors of towns under the general laws of the state, and other laws applicable thereto.

§ 211. Sealer of weights and measures. The sealer of weights and measures shall, within the city, have the powers and perform the duties of sealers of weights and measures of towns under the general laws of the state. He shall supervise the weighing of coal and perform such other duties as may be prescribed by law or ordinance of the common council. He shall receive a salary, to be fixed by the board of estimate and apportionment, and no fees shall be charged or collected by him or by the city for his services.

ARTICLE 16

MISCELLANEOUS PROVISIONS

Section 240. Additional allowances.

241. Books and papers to be public records.

242. Inhabitants not incompetent; place of trial of actions and proceedings.

243. Witnesses not to be excused from testifying.

244. Liability of city in certain actions; commencement of actions.

245. Definition of words.

§ 240. Additional allowances. No allowance or compensation, in addition to the salary or compensation prescribed by law or authorized by this chapter or otherwise by law, shall be paid to any officer or employee of the city or to any person paid out of the city funds, nor shall any amount in excess of the sum payable under any contract be paid on account thereof.

§ 241. Books and papers to be public records. All books, papers and documents filed with or constituting a part of the records or proceedings of any officer, board or department of the city, shall be deemed to be public records and shall, during office hours, be open to public inspection.

§ 242. Inhabitants not incompetent; place of trial of actions and proceedings. Upon the trial of any issue or the prosecution of any proceeding, or upon the taking or making of any inquisition, appraisal or award, or upon the judicial investigation of any facts whatever, to which issue, proceedings, inquest, investigation or award the city is a party, or in which the city may, in any way, be interested, no person shall be deemed incompetent as a judge, referee, commissioner, witness or juror by reason of his being an inhabitant, freeholder or taxpayer of the city. The place of trial of all actions and proceedings against the city, or any of its officers, boards or departments shall be the county in which the city is situated.

§ 243. Witnesses not to be excused from testifying. In any criminal proceeding before a court or grand jury or in any investigation or inquiry before the common council, or any committee thereof, or before

any officer conducting an investigation, touching the knowledge of such witness as to any offense committed in violation of the provisions of this chapter or ordinance of the city; the court or grand jury, or the common council, committee or officer, may confer immunity in accordance with the provisions of section 50.20 or 190.40 of the criminal procedure law; provided, however, that no immunity shall be conferred except upon twenty-four hours prior written notice to the appropriate district attorney having an official interest therein.

§ 244. Liability of city in certain actions; commencement of actions.

No civil action shall be maintained against the city for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed unless it appears that written notice of the defective, unsafe, dangerous, obstructed condition of such street, highway, bridge, culvert, sidewalk or crosswalk was actually given to the commissioner of public works, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair, or remove the defect, danger or obstruction complained of, or, in the absence of such notice, unless it appears that such defective, unsafe, dangerous or obstructed condition existed for so long a period that the same should have been discovered and remedied in the exercise of reasonable care and diligence. But no such action shall be maintained for damages or injuries to the person sustained solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk or street, unless written notice thereof, relating to the particular place, was actually given to the commissioner of public works and there was a failure or neglect to cause such snow or ice to be removed, or the place otherwise made reasonably safe within a reasonable time after the receipt of such notice. The city shall not be liable in a civil action for damages or injuries to persons or property or invasion of personal or property rights, of any name or nature whatsoever, whether casual or continuing, arising at law or in equity, alleged to have been caused or sustained, in whole or in part, by or because of any omission of duty, wrongful act, fault, neglect, misfeasance or negligence on the part of the city, or any of its agents, officers or employees, unless a notice

of claim shall have been made and served in compliance with section fifty-e of the general municipal law. Every action upon such claim shall be commenced pursuant to the provisions of section fifty-i of the general municipal law.

§ 245. Definition of words. The word "his," as used in this chapter shall, in all proper cases, be held to include and be co-extensive with the words "her," "it" and "their;" the word "person," shall be held to include and be co-extensive with the words "persons," "company," "joint-stock association" and "corporation." The word "street" shall be held to include and be co-extensive with "roads," "avenues," "highways," "alleys" and "squares;" the word "work" shall be held to include and be co-extensive with "improvements" and "repairs;" the word "materials" shall be held to include and be co-extensive with "supplies," "stationery," "books," "furniture" and "repairs to furniture;" the word "tax" shall in all proper cases be held to include and be co-extensive with "water rents or rates," "assessments or reassessments for local improvements," and the singular noun shall be held to include and be co-extensive with the plural.

ARTICLE 17

CONSTRUCTION; SAVING CLAUSE; REPEAL

Section 250. Construction.

251. Saving clause.

252. Laws repealed.

253. When to take effect.

§ 250. Construction. The provisions of this chapter have reference only to a city of the second class. This chapter is intended to be and shall be deemed and held in all courts and jurisdictions to be a public act of which the courts shall take judicial notice. This chapter shall be construed not as an act in derogation of the powers of the state but as one intended to aid the state in the execution of its duties, and shall be liberally construed so as to carry into effect the objects and

purposes thereof.

§ 251. Saving clause. Nothing contained in this chapter shall be construed to repeal any statute of the state or ordinance of the city or rule or regulation of the board of health, not inconsistent with the provisions of this chapter, and the same shall remain in full force and effect, when not inconsistent with the provisions of this chapter, to be construed and operated in harmony with its provisions. The powers which are conferred and the duties which are imposed upon any officer or department of the city under any statute of the state, or any city ordinance which is in force at the time of the taking effect of this chapter shall, if such office or department be abolished by this chapter, be thereafter exercised and discharged by the officer, board or department upon whom is imposed corresponding or like functions, powers and duties under the provisions of this chapter. Where any contract has been entered into by the city prior to the time of the taking effect of this chapter, or any bond or undertaking has been given to or in favor of the city, which contains provisions that the same may be enforced by some officer, board or department therein named, but by the provisions of this chapter such office, board or department is abolished, such contracts, bonds and undertakings shall not in any manner be impaired, but shall continue in full force, and the powers conferred and the duties imposed with reference to the same upon the officer, board or department which has been abolished, shall thereafter be exercised and discharged by the officer, board or department upon whom is conferred or imposed like powers, functions or duties under the provisions of this chapter. The park commission, in any city, which at the time this chapter takes effect, has jurisdiction of its park system, is continued in office notwithstanding the provisions of this chapter, with all the powers and subject to all the duties, conferred and imposed upon such commission by law.

§ 252. Laws repealed. The following acts and parts of acts are hereby repealed:

1. Of the laws enumerated in the schedule annexed, that portion thereof specified in the last column.

2. All acts or parts of acts and ordinances of the city, in so far as inconsistent with the provisions of this chapter.

Nothing herein contained, however, shall be deemed to repeal or in any wise affect the validity of the provisions of chapter five hundred and sixty of the laws of nineteen hundred and two; chapter three hundred and seventy-eight of the laws of nineteen hundred and three; chapters one hundred and seventeen, three hundred and ninety-four and five hundred and fifty-three of the laws of nineteen hundred and three; chapter three hundred and eighty of the laws of nineteen hundred and four; chapters one hundred and eighteen, one hundred and ninety-one, two hundred and twenty-three, five hundred and forty, five hundred and forty-one, five hundred and forty-three, six hundred and forty-five, six hundred and seventy-six and six hundred and eighty-six of the laws of nineteen hundred and five; but all of such acts are hereby continued in full force and effect.

§ 253. When to take effect. This chapter shall take effect immediately.