§ 20. Town officers. 1. (a) Every town of the first class shall have a supervisor, four town council members, unless the number of council members shall have been increased to six or decreased to two as provided by this chapter, a town clerk, two town justices, a town superintendent of highways, one assessor, a receiver of taxes and assessments, as many town police officers and such other employees as the town board may determine necessary for the proper conduct of the affairs of the town. The supervisor, town counsel members, town clerk, town justices, town superintendent of highways and receiver of taxes and assessments in every such town shall be elective. All other officers and employees in such a town shall be appointed by the town board, except as otherwise provided by law. In any town in which a town police department has been established pursuant to law, or which town is a part of a county police district, the town board may appoint not more than four civil officers who shall possess all the powers and duties of constables in civil actions and proceedings only, and shall be paid no salary by the town board but shall be entitled to collect the statutory fees allowed by law in such civil actions and proceedings. The clerk of the court of a town shall be employed and discharged from employment only upon the advice and consent of the town justice or justices.

(b) Except as otherwise provided by law, every town of the second class shall have a supervisor, two justices of the peace, two town council members, a town clerk, a town superintendent of highways, three assessors, a collector, and, if there be no town police department, as many constables as the town board may determine necessary. In any such town in which a town police department has been established pursuant to law, the town board may appoint not more than four civil officers who shall possess all the powers and duties of constables in civil actions and proceedings only, except that the town board of the town of Southold, county of Suffolk, may appoint four additional constables, who shall possess all the powers and duties of constables in civil and criminal actions and proceedings, solely for the benefit of Fishers Island located in such town; provided, however, that nothing in this paragraph shall be deemed to authorize such constables to carry, repair or dispose of a firearm unless the appropriate license therefore has been issued pursuant to section 400.00 of the penal law; and shall be paid no salary by the town board but shall be entitled to collect the

statutory fees allowed by law in such civil actions and proceedings. Every town of the second class may have in addition such other employees as the town board may determine necessary for the proper conduct of the affairs of the town. The supervisor, justices of the peace, town council members, town clerk, town superintendent of highways, assessors and collector in every such town shall be elected. All other town officers and employees in such a town shall be appointed by the town board, except as otherwise provided by law. Provided, however, that in a town having less than three hundred inhabitants according to the latest federal census and having a taxable property valuation of less than one hundred thousand dollars according to the latest assessment roll, there shall be elected one justice of the peace for a term of four years and one assessor for a term of two years, but no town council member. Successors to such officers shall be elected for like terms at the biennial town election prior to the expiration of their terms of office. The clerk of the court of a town shall be employed and discharged from employment only upon the advice and consent of the town justice or justices.

(c) Notwithstanding the provisions of this section or the provisions of any other general or special law, in the town of Smithtown in the county of Suffolk, a proposition calling for the abolition of the office of justice of the peace within such town, as authorized by chapter two hundred seventy-eight of the laws of nineteen hundred fifty-eight, as amended by chapter eight hundred eleven of the laws of nineteen hundred sixty-two, constituting the Suffolk county charter, having been submitted to the electors of such town at the general election held in nineteen hundred sixty-two and having at such election received a majority of affirmative votes, the justices of the peace holding office in such town at the time of such vote shall continue in office until the end of the respective terms for which they were elected. At the general election immediately preceding the expiration of the term of the justice of the peace in such town whose term shall first expire an additional town council member shall be elected, and at the general election preceding the expiration of the term of the justice of the peace in such town whose term shall be the second such term to expire another additional town council member shall be elected, so that thereafter such town shall have four town council members. Each town council member so

elected shall be elected for a term of four years and shall hold office during such term.

(d) Notwithstanding the provisions of this chapter or of any other general or special law, any town, which by the latest federal census or special census has a population of more than fifty thousand inhabitants, may, by a resolution, submit to a referendum a proposition calling for the establishment of the office of a third town justice and a town with a population of more than seventy-five thousand may, by a resolution, submit to a referendum a proposition calling for the establishment of the offices of a third, of a fourth or of a third and fourth town justice. Such referendum must be submitted to the voters at least one hundred twenty days prior to the next biennial town election. At the next biennial town election immediately succeeding the approval of the proposition hereinabove provided for, said town justices shall be elected for a term of four years and shall hold office during such term. Provided, however, such justice so elected shall not serve as a member of the town board but shall exercise all other powers and duties necessary or incident to such office. Successors to such office shall be elected for like terms and shall exercise like powers and duties.

(e) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Southampton, county of Suffolk, may adopt a resolution, subject to a permissive referendum as provided by article seven of this chapter, at least one hundred fifty days prior to any biennial town election determining that such town shall have four town justices. If the town board of such town shall have adopted such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding biennial election, and quadrennially thereafter, such additional town justice for a term of four years beginning on the first day of January next succeeding such biennial town election.

(f) Notwithstanding the provisions of paragraph (b) of this subdivision, every town of the second class which has not exercised the option to retain elective assessors in the manner provided by former section fifteen hundred fifty-six of the real property tax law shall have one assessor to be appointed in the manner and for the term

prescribed by section three hundred ten of the real property tax law.

(g) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Clarkstown, county of Rockland, may adopt a resolution at least one hundred fifty days prior to any biennial town election determining that such town shall have four town justices. If the town board of such town shall have adopted such a resolution, the electors of such town shall elect at the succeeding biennial election, and quadrennially thereafter, such additional town justice for a term of four years beginning on the first day of January next succeeding such biennial town election.

(h) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Henrietta, county of Monroe may adopt a resolution, subject to a permissive referendum as provided by article seven hereof, at least sixty days prior to any regular or special election determining that such town shall have three town justices. If the town board of such town shall have adopted such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to the vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding general election a town justice who shall take office for a term of four years beginning on the first day of January next succeeding such biennial town election.

(i) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Orangetown, county of Rockland may adopt a resolution, subject to a permissive referendum as provided by article seven hereof, at least sixty days prior to any regular or special election determining that such town shall have three town justices. If the town board of such town shall have adopted such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to the vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding general election a town justice who shall take office for a term of four years beginning on the first day of January next succeeding such biennial town election.

(j) Notwithstanding the provisions of any general, special or local

law to the contrary, the town board of the town of Champlain, county of Clinton may adopt a resolution, subject to a permissive referendum as provided by article seven of this chapter, at least sixty days prior to any regular or special election determining that such town shall have three town justices. If the town board of such town shall have adopted such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to the vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding general election a town justice who shall take office for a term of four years beginning on the first day of January next succeeding such biennial town election.

* (k) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Unadilla, county of Otsego may adopt a resolution, subject to a permissive referendum as provided by article seven hereof, at least sixty days prior to any regular or special election determining that such town shall have three town justices. If the town board of such town shall have adopted such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to the vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding general election a town justice who shall take office for a term of four years beginning on the first day of January next succeeding such biennial town election.

* NB There are 3 par (k)'s

* (k) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Sennett, county of Cayuga may adopt a resolution, subject to a permissive referendum as provided by article seven hereof, at least sixty days prior to any regular or special election determining that such town shall have three town justices. If the town board of such town shall have adopted such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to the vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding general election a town justice who shall take office for a term of four

years beginning on the first day of January next succeeding such biennial town election.

* NB There are 3 par (k)'s

* (k) Notwithstanding the provisions of any general, special or local law to the contrary, every town which has a contract in force and effect with another municipality for the municipality to provide highway, road and street maintenance and repair for a period of not less than five years may adopt a local law, subject to permissive referendum as provided by article seven of this chapter, not later than July fifteenth of the year prior to which the term of office of the current elected town superintendent of highways shall expire, that the office of the town superintendent of highways shall be abolished. A town which thereafter terminates such a contract shall re-establish the position of town superintendent of highways by local law as an appointive office.

* NB There are 3 par (k)'s

(l) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of East Bloomfield, county of Ontario may adopt a resolution, subject to a permissive referendum as provided by article seven hereof, at least sixty days prior to any regular or special election determining that such town shall have three town justices. If the town board of such town shall have adopted such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to the vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding general election a town justice who shall take office for a term of four years beginning on the first day of January next succeeding such biennial town election. Upon the election of a third town justice, the town board shall adopt a resolution to abolish one of the offices of town justice for the purpose of staggering the elections of its town justices.

(m) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Guilderland, county of Albany may adopt a resolution, subject to a permissive referendum as provided by article seven of this chapter, at least sixty days prior to any regular or special election determining that such town shall have three town justices. If the town board of such town shall have adopted

such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to the vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding general election a town justice who shall take office for a term of four years beginning on the first day of January next succeeding such biennial town election.

(n) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Sodus, county of Wayne may adopt a resolution, subject to a permissive referendum as provided by article seven hereof, at least sixty days prior to any regular or special election determining that such town shall have three town justices. If the town board of such town shall have adopted such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to the vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding general election a town justice who shall take office for a term of four years beginning on the first day of January next succeeding such biennial town election. Upon the election of a third town justice, the town board shall adopt a resolution to abolish one of the offices of town justice for the purpose of staggering the elections of its town justices.

(o) In the event the village court of the village of Ossining, county of Westchester, is abolished effective January first, two thousand twelve, the town court of the town of Ossining, county of Westchester, shall thereupon have three town justices. The third town justice established by this paragraph shall first be filled by election at the regular election held immediately prior to the date of abolition of the village court of the village of Ossining as provided by the election law and the public officers law.

(p) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Wallkill, county of Orange may adopt a resolution, subject to a permissive referendum as provided by article seven of this chapter, at least sixty days prior to any regular or special election determining that such town shall have three town justices. If the town board of such town shall have adopted

such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to the vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding general election a town justice who shall take office for a term of four years beginning on the first day of January next succeeding such biennial town election.

(q) In the event the village court of the village of Port Chester, county of Westchester, is abolished effective May fifteenth, two thousand twenty-one, the town court of the town of Rye, county of Westchester, shall thereupon have four town justices. The third and fourth town justices established pursuant to this paragraph shall be filled by election at the regular election held immediately after the date of abolition of the village court of the village of Port Chester as provided by the election law and the public officers law.

(r) Notwithstanding the provisions of any general, special or local law to the contrary, the town board of the town of Rotterdam, county of Schenectady may adopt a resolution, subject to a permissive referendum as provided by article seven of this chapter, at least one hundred fifty days prior to any biennial election determining that such town shall have three town justices. If the town board of such town shall have adopted such a resolution and no petition shall have been filed within the time specified for a referendum thereon, or if a majority of the votes cast on any such proposition submitted to vote of the electors be in the affirmative, the electors of such town shall elect at the succeeding biennial election, and quadrennially thereafter, such additional town justice for a term of four years beginning on the first day of January next succeeding such biennial town election.

2. (a) The town board of every town may establish the office of town attorney or town engineer, or both. If the town board shall so establish the office of town attorney or town engineer, or both, it shall fix the salary of such officer or officers. In addition, the town board of any such town may employ counsel to the town attorney in respect to any particular subject matter, proceeding or litigation, or it may employ such expert engineering service in respect to any particular subject matter, improvement or proceeding, as it may necessarily require. A town

of the first class shall have the authority to appoint such deputies in the offices of the town attorney and town engineer as may be provided by resolution of such board and fix the salaries therefor. A town of the second class having a population of over seventy-five thousand according to the latest federal census or state enumeration shall have the authority to appoint such deputies in the office of the town attorney as may be provided by resolution of such board and fix the salaries therefor. The terms of such offices shall be indefinite and the appointees thereto shall be removable at the pleasure of the town board.

(b) The town board of any town which shall not have established the office of town attorney may employ an attorney to give it such professional service and advice as it may require, and the town board of any town which shall not have established the office of town engineer may employ an engineer to give it such professional service and advice as it may require.

3. (b) The town board of any town of the first class, or any town of the second class having a population of over forty thousand according to the latest federal census or state enumeration, may adopt a resolution establishing the office of town comptroller and appoint a town comptroller who shall hold office until the first day of January next succeeding the first biennial town election held after the time of his appointment. On the first day of January next succeeding the first biennial town election held after the time of the establishment of such office, and biennially thereafter, the town board shall appoint a comptroller who shall hold office for a term of two years. The town board of any town in which the office of town comptroller shall have been established may adopt a resolution abolishing such office and upon the expiration of the term of office of the incumbent such office shall be abolished and no successor shall be appointed.

(c) The town board of any town of the first class may establish the office of deputy receiver of taxes and assessments and fix the salary therefor; and the town board of any such town in which such office shall have been established may abolish such office. It shall be the duty of the deputy receiver of taxes and assessments to assist the receiver of taxes and assessments in the performance of his duties. The town board of any such town wherein the office of deputy receiver of taxes and

assessments has been created may also establish one additional office of deputy receiver of taxes and assessments and may fix the salary therefor and prescribe his duties and where such additional office has been established may abolish same.

(d) The town board of any town which has established the office of town comptroller pursuant to the provisions of paragraph (b) of this subdivision, may establish the office of deputy comptroller and fix the salary therefor; and the town board of any such town in which such office shall have been established may abolish such office. It shall be the duty of the deputy comptroller to assist the comptroller in the performance of his duties and if and when the comptroller is absent or is unable to perform the duties of his office for any other reason, such deputy shall have full power and authority to perform all the duties of the comptroller so long as such officer is either absent or otherwise incapable of performing his duties.

(e) The town board of any town may adopt a resolution establishing the office of director of purchasing and appoint a director of purchasing who shall hold office until the first day of January next succeeding the first biennial town election held after the time of his appointment. On the first day of January next succeeding the first biennial town election held after the time of the establishment of such office, and biennially thereafter, the town board shall appoint a director of purchasing who shall hold office for a term of two years. If a town board so determines, the duties of director of purchasing may be combined with the duties of any other town officer, official or employee except members of the town board or comptroller. The town board of any town in which the office of director of purchasing shall have been established may adopt a resolution abolishing such office and upon the expiration of the term of office of the incumbent such office shall be abolished and no successor shall be appointed.

4. No person shall be eligible to hold more than one elective town office but the town board for the purpose of consolidating offices and positions, may at any time by resolution enlarge, increase and impose further and other duties than those prescribed by law upon any elective or appointed officer or employee and fix a single compensation for the performance of all such duties. No member of the town board shall,

however, be comptroller of such town.

5. The term "officer" and/or "officers" whenever used in this chapter shall include the incumbents of the offices of supervisor, council member, town clerk, justice of the peace, superintendent of highways, assessor, receiver of taxes and assessments and collector, or any of them.

5-a. The terms "council member" and "council members" whenever used in this chapter shall include all persons eligible to hold such office.

6. (a) At least one hundred fifty days prior to any biennial town election, the town board of any town in which the appointive office of town clerk shall exist, may adopt a resolution, subject to a permissive referendum, that the office of town clerk shall be an elective office in such town. Every elector of the town shall be entitled to vote at any referendum held thereon pursuant to the provisions of article seven of this chapter. If the town board shall have adopted such a resolution and no petition shall have been filed within the time specified in article seven for a referendum thereon, or, if a majority of the votes cast on any such proposition submitted pursuant to the provisions of article seven be in the affirmative the office of town clerk shall thereafter be an elective office in such town, and a town clerk shall be elected at the succeeding biennial town election for the term provided by this chapter, beginning on the first day of January next succeeding such biennial town election and the term of office of the appointive town clerk for whom such successor shall be elected shall expire on said first day of January.

(b) At least one hundred fifty days prior to any biennial town election the town board of any town in which the appointive office of town superintendent of highways shall exist, may adopt a resolution, subject to a permissive referendum that the office of town superintendent of highways shall be an elective office in such town. Every elector of the town shall be entitled to vote at any referendum held thereon pursuant to the provisions of article seven of this chapter. If the town board shall have adopted such a resolution and no petition shall have been filed within the time specified in article

seven for a referendum thereon, or, if a majority of the votes cast on any such proposition submitted pursuant to the provisions of article seven be in the affirmative the office of town superintendent of highways shall thereafter be an elective office in such town, and a town superintendent of highways shall be elected at the succeeding biennial town election for the term provided by this chapter, beginning on the first day of January next succeeding such biennial town election and the term of office of the appointive town superintendent of highways for whom such successor shall be elected shall expire on said first day of January.

(c) At least one hundred fifty days prior to any biennial town election, the town board of any town of the first class in which the appointive office of receiver of taxes and assessments shall exist, may adopt a resolution, subject to a permissive referendum, that the office of receiver of taxes and assessments shall be an elective office in such town. Every elector of the town shall be entitled to vote at any referendum held thereon pursuant to the provisions of article seven of this chapter. If the town board shall have adopted such a resolution and no petition shall have been filed within the time specified in article seven for a referendum thereon, or, if a majority of the votes cast on any such proposition submitted pursuant to the provisions of article seven be in the affirmative the office of receiver of taxes and assessments shall thereafter be an elective office in such town, and a receiver of taxes and assessments shall be elected at the succeeding biennial town election for the term provided by this chapter, beginning on the first day of January next succeeding such biennial town election and the term of office of the appointive receiver of taxes and assessments for whom such successor shall be elected shall expire on said first day of January.