

CHARTER

GENERAL REFERENCES

Payment of bills — See Ch. 6.
Budget and finance — See Ch. 10.
City Council — See Ch. 20.
Fire Department — See Ch. 42.
Fire insurance claims — See Ch. 46.
Officers and employees — See Ch. 65.
Police Department — See Ch. 80.
Purchasing — See Ch. 85.
Recreation Department — See Ch. 91.

ARTICLE I

Corporate Capacity, Name and Boundaries

§ C1.00. Corporate capacity and name. [Amended 10-13-1952 by L.L. No. 7-1952]

The citizens of the State of New York, from time to time inhabitants of the territory in the County of Orange, included in the boundaries set forth in § C1.10 hereof, and known as the "City of Newburgh," are continued a municipal corporation in perpetuity under the name of the "City of Newburgh."

§ C1.10. City boundaries. [Amended by L. 1922, c. 562; L. 1926, c. 336; 10-13-1952 by L.L. No. 7-1952; 11-28-1983 by L.L. No. 3-1983; 2-23-1987 by L.L. No. 2-1987]

The territory comprising said city shall be bounded as follows: Beginning at a bolt set in a rock on the west shore of the Hudson River and in the north line of North Street as the same is described in the Commissioner's report of the streets and roads in the City of Newburgh dated February 11, 1868, and run thence south 78° 25' 00" east 310 feet, plus or minus, to a point under the waters of the Hudson River; thence, north 11° 09' 30" seconds east 327.57 feet, along the exterior line of a grant made by the People of the State of New York to Daniel Rogers (D.L. 230, P. 431), to a point under the waters of the Hudson River; thence, north 79° 55' 30" west 103.71 feet to a point at the most southerly corner of a 30-foot wide strip of land conveyed by Northman Realty Corporation to Cooperative G.L.F. Holding Corporation (D.L. 1114, P. 525); thence, north 9° 16' 30" east 30.00 feet to a point in the line of lands formerly of Salerno; thence, south 79° 55' 30" east 3.00 feet to a point in the Hudson River; thence, north 9° 16' 30" east 249.27 feet, along said Hudson River to a point in same; thence, north 71° 20' 00" west 5.60 feet to the southeasterly corner of lands formerly of Costa; thence along the exterior line of the above-mentioned grant the following 2 courses, namely, north 09° 06' 00" east 1.86 feet and north 03° 54' 00" west 224.08 feet to a point in the line of lands now or formerly of Whitehill; thence, north 80° 06' 00" west 197.23 feet, along the line of said Whitehill to a point in the easterly line of said railroad; thence, along the easterly line of said railroad the following 3 courses, namely, south 16° 44' 00" west 421.10 feet, south 17° 03' 30" west 30.06 feet and south 15° 21' 30" west 368.12 feet to a point in the northerly line of North Street; thence, north 78° 25' 00" west along

the north line of North Street about 100 feet to the westerly right-of-way line of the West Shore Railroad Company; thence, running northerly along the westerly right-of-way line of the West Shore Railroad Company about 155 feet to the southeast corner of lands of Magdelene Coffin; thence, north $78^{\circ} 56'$ west, along the southerly line of lands of said Magdelene Coffin 472 feet 9 inches to the east line of Barclay Avenue; thence, north $12^{\circ} 05'$ east along the east line of Barclay Avenue 150 feet 6 inches to the southerly line of lands of Oswald J. Cathcart; thence, north $79^{\circ} 49'$ west along the southerly line of lands of said Cathcart 333 feet to the center of Grand Avenue; thence, south $12^{\circ} 5'$ west, along the center of Grand Avenue 292 feet 7 inches to the north line of the City of Newburgh as established in 1868; thence, north $78^{\circ} 25'$ west, along the north line of the city as a monument set at the northeast corner of Liberty and North Streets for a distance of 1,595 feet 4 inches to a point where said north line of city intersects the northerly line of the North Plank Road, said point being 39 feet 10 inches east of the easterly side of the brick house situated on the northerly side of said North Plank Road, formerly owned by H.H. Daughaday and more recently owned by Sarah Ryan; thence, leaving the boundary line as established in 1868 and running along the northerly line of the North Plank Road as follows: North $75^{\circ} 3'$ west for 17 feet 5 inches; north $77^{\circ} 1'$ west for 125 feet 7 inches; north $74^{\circ} 44'$ west for 300 feet 8 inches; north $63^{\circ} 35'$ west for 443 feet 4 inches; north $56^{\circ} 11'$ west for 125 feet 8 inches; north $53^{\circ} 15'$ west for 206 feet; thence, still along the northerly site or line of the North Plank Road north $47^{\circ} 53'$ west for 597 feet 6 inches to a point in range with the division line between lands of Beakes estate and lands of Maharay; thence, along said division line south $25^{\circ} 19'$ west for 592 feet 2 inches to the north line of the city as established in 1868; thence, along said north line north $78^{\circ} 25'$ west passing over a monument set in the road on top of Limestone Hill and over a monument set in the center of Gidney Avenue; also, over a monument set on the east bank of Gidneytown Creek for a distance of 4,011 feet 2 inches to the middle of said creek; thence, southwesterly along the middle of said creek to the intersection of the center line of said creek with the west line of the Pierce Road, being a point in said creek 24 feet on a course north $9^{\circ} 12'$ east from a monument set in the west line of the city and center line of said road; thence, running along the west line of the city as established in 1868, south $9^{\circ} 12'$ west passing over said monument, 231 feet 8 inches to the northerly line of the Newburgh and Ellenville Plank Road; thence, leaving the boundary line as established in 1868 and running along the northerly line of the Newburgh and Ellenville Plank Road as the needle points in 1922, north $63^{\circ} 36'$ west 406 feet 2 inches; thence, north $61^{\circ} 10'$ west 146 feet 1 inch; thence, north $53^{\circ} 58'$ west 89 feet 11 inches; thence, north $38^{\circ} 3'$ west still along the northerly line of the Newburgh and Ellenville Plank Road 171 feet 7 inches to a point in range with a stone wall which is the westerly boundary of lands formerly known as the Wisner Farm; thence, south $27^{\circ} 37'$ west crossing the Newburgh and Ellenville Plank Road, and running along aforesaid stone wall 1,741 feet to the easterly bank of Quassaick Creek; thence, southerly and southeasterly along the easterly bank of Quassaick Creek and the northerly bank of Harrison's pond about 2,950 feet to the west line of the city as established in 1868, said point being distant 922 feet on a course of south $9^{\circ} 12'$ west measured along the west line of the city as established in 1868, from a monument in the center of the Newburgh and Cohecton Turnpike; thence, south $9^{\circ} 12'$ west along the west line of the city as established in 1868, 1262.48 feet to a point in the southerly line of Little Britain Road; thence, along the southerly line of Little Britain Road, south $50^{\circ} 12' 00''$ west 93.90 feet to a point and south $52^{\circ} 22' 00''$ west 262.80 feet to a point; thence, leaving little Britain Road and running the following 5 courses:

1. South $8^{\circ} 16' 20''$ east 487.09 feet to a point;

2. South 70° 30' 00" west 229.61 feet to a point;
3. South 20° 33' 20" east 73.52 feet to a point;
4. North 58° 30' 00" east 109.84 feet to a point;
5. North 27° 00' 00" west 581.32 feet to a point in the previously established west line of the City of Newburgh;

thence, south 9° 12' 00" west 598 feet, more or less, to a monument set in the west slope of Snake Hill; thence, south 67° east on a division line between the City of Newburgh and the Town of New Windsor 1,374 feet to a bolt in the rocks on the east slope of Snake Hill; thence, north 53° east 2,160 feet to a monument set in the lands of the home of the City and Town of Newburgh; thence, south 67° 15' east 999 feet to a monument set in lands belonging to the Erie Railway Company; thence, south 52° 45' east 507 feet to a cross in the middle of a large rock in J.B. Walsh's, now Little Falls Paper Company, Mill Pond; thence, eastwardly along the center of Quassaick Creek 6,100 feet to the Hudson River; thence, northerly along said river about 2 miles to the place of beginning.

Also, beginning at the northeast corner of the land above described and running thence due east to the east line of Orange County, being the center of the Hudson River; thence, southerly along the same to a point due east from the southeast corner of the lands above described; thence, due west to the southeast corner of said lands; thence, northerly along the easterly line of the lands above described about 2 miles to the place of beginning.

§ C1.20. Ward boundaries. [Amended by L. 1921, c. 102; 6-22-1925 by L.L. No. 3-1925; 6-29-1942 by L.L. No. 5-1942; 10-13-1952 by L.L. No. 7-1952]

The city shall be divided into nine (9) wards, bounded as follows:

A. The First Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center line of Broadway, on the east by the east line of the city, on the south by the south line of the city and on the west by the center line of William Street and the same extended to the south line of the city.

B. The Second Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center of Third Street, on the east by the east line of the city, on the south by the center line of Broadway and on the west by the center line of Dubois Street.

C. The Third Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center line of South Street, on the east by the east line of the city, on the south by the center line of Third Street and on the west by the center line of Carpenter Avenue.

D. The Fourth Ward shall be that portion of the city included within the following boundaries: bounded on the north by the north line of the city, on the east by the east line of the city, on the south by the center line of South Street and on the west by the center line of Carpenter Avenue.

E. The Fifth Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center line of Broadway, on the east by the center line of William Street and the same extended to the south line of the city, on the south by the south line of the city and on the west by the center line of Lake Street.

F. The Sixth Ward shall be that portion of the city included within the following boundaries: bounded on the north by the center line of Third Street, on the east by the center line of Dubois Street, on the south by the center line of Broadway and on the west by the center line of West Street.

G. The Seventh Ward shall be that portion of the city included within the boundaries: bounded on the north by the north line of the city, on the east by the center line of Carpenter Avenue, on the south by the center line of Third Street and on the west by the center line of West Street and Gidney Avenue.

H. The Eighth Ward shall be that portion of the city included within the following boundaries: beginning at the intersection of the south line of the city with the center line of Lake Street and running, thence northerly along the center line of Lake Street to the center line of Broadway; thence, westerly along the center line of Broadway to the center line of West Street; thence, northerly along the center line of West Street and the center line of Gidney Avenue to the north line of the city; thence, westerly along the north line of the city to the west line of the city; thence, southerly along the west line of the city to the center line of Pierce's Road; thence, southerly from the center line of Pierce's Road to the center line of South Street; thence, southeasterly from the center line of South Street and along the center line of Pierce's Road south to the center line of Thompson Street; thence, southwesterly along the center line of Thompson Street to the center line of Dupont Avenue; thence, southeasterly along the center line of Dupont Avenue to the center line of Wisner Avenue; thence, southerly along the center line of Wisner Avenue and on the extension of same to the south line of the city; thence, easterly along the south line of the city to the place of beginning.

I. The Ninth Ward shall be that portion of the city included within the following boundaries: beginning at a point in the southerly line of the city where the same is intersected by the extension of the center line of Wisner Avenue and running, thence westerly along the southerly line of the city to the westerly line of same; thence, northerly along the westerly line of the city to the northerly line of the city; thence, easterly along the northerly line of the city to the center line of Pierce's Road; thence, from the center line of Pierce's Road and southeasterly along the center line of Pierce's Road south to the center line of Thompson Street; thence, westerly along the center line of Thompson Street to the center line of Dupont Avenue; thence, southeasterly along the center line of Dupont Avenue to the center line of Wisner Avenue; thence, southerly along the center line of Wisner Avenue and on the extension of the same to the place of beginning.

§ C1.30. Title to lands under river. [Amended 10-13-1952 by L.L. No. 7-1952]

For the purposes of ensuring a connection between the shore of said city and the navigable waters of the Hudson River and enabling the authorities of the city to extend the streets thereof terminating at the river into the waters aforesaid, all the estate, title and interest of the People of the State of New York in and to all the lands under the waters of such river in front of said streets, from the line of high

water mark as it formerly existed and extending therefrom easterly five hundred (500) feet from such high water mark and of the same width as the said streets respectively, as the same may be measured from north to south, is granted to and declared to be vested in the City of Newburgh for the uses and purposes of public streets and highways forever.¹

ARTICLE II Municipal Powers

§ C2.00. General powers. [Amended 10-3-1937 by L.L. No. 1-1938; L. 1943, c. 710; 2-24-1947 by L.L. No. 2-1947; 11-8-1949 by L.L. No. 2-1949; 11-8-1949 by L.L. No. 3-1949; 10-13-1952 by L.L. No. 8-1952]

The city shall have power to regulate, manage and control its property and local affairs and shall have the rights, privileges and jurisdiction necessary for carrying such power into execution. No enumeration of powers in this Charter or in any other law shall operate to restrict this general power.

§ C2.01. Specific powers. [Added 10-13-1952 by L.L. No. 8-1952]

The city shall have all the specific powers enumerated in § 20 of Article 2-A of the General City Law.

§ C2.02. Further specific powers.

A. In addition to all other powers possessed by the city under this Charter or under any other law, the city shall have the power:

(1) To construct, maintain and clean sidewalks, gutters and curbs in the public streets and to regulate the grade, width, materials and construction thereof; to construct the same either as a public or as a local improvement or to permit the owners of abutting property to construct the same at their own expense under the direction and supervision of the Superintendent of Public Works.

(2) To prevent and extinguish fires and to protect the inhabitants of the city and property within the city from loss or damage by fire; to establish and maintain a Fire Bureau of volunteer members or partly of paid members and partly of volunteer members or wholly of paid members; and to purchase apparatus, equipment and appliances for such Fire Bureau.

(3) To establish and maintain a Police Bureau; to purchase apparatus, equipment and appliances for such Police Bureau.

(4) To establish and maintain nurseries for the planting and culture of trees; to plant and preserve trees in the public streets and places of the city; to remove them therefrom; and to prohibit the injury, defacement or destruction of such trees.

1. Editor's Note: former Secs. 1.60 and 1.60A, which immediately followed this section, have been renumbered as §§ C3.93 and C3.94A, respectively, pursuant to L.L. No. 4-1987, adopted 9-14-1987, and now appear in Art. III.

(5) To designate streets by name or number and to change such designations; to designate lots and buildings by number; to change such designation; and to compel the owners of such lots or buildings to place the proper designated number in a prominent place thereon.

(6) To regulate the use of public streets and places; to regulate parades and public assemblages in the public streets and places; to regulate and control the opening of street surfaces; to regulate and prevent the depositing of refuse of any kind upon the public streets; to regulate advertising and noise in the streets; and to make such regulations for the operation of omnibuses, trucks, taxicabs and other vehicles as may be necessary for the safe and convenient use of the streets and public places. [Amended 9-14-1987 by L.L. No. 4-1987]

(7) To require of any officer or employee of the city a satisfactory bond for the faithful performance of his duty and, in its discretion, to pay the premium thereon.

(8) To provide, subject to the general laws of the state, for licensing and otherwise regulating auctioneers, pawnbrokers, junk dealers, dealers in secondhand articles, hawkers, vendors, peddlers, public cartmen, truckmen, hackmen, cabmen, expressmen, car drivers, bootblacks, porters, scavengers, sweepers, theaters, bowling alleys, shooting galleries, billiard parlors, skating rinks, circuses, menageries, public exhibitions, places of amusement and noxious businesses.

(9) To regulate the rates of fare to be taken by owners or drivers of hackney coaches, cabs, carriages, taxicabs, omnibuses and other vehicles for public hire. [Amended 9-14-1987 by L.L. No. 4-1987]

(10) To license, regulate or prohibit, within the limits of the city, the manufacture, sale, transportation, storage or use of explosives, combustibles and other dangerous materials.

(11) To license, regulate or prohibit, in its discretion, within the limits of the city, the placing of tanks or containers for the storage of gasoline, kerosene and other oils within the bounds of any public street and beneath the surface thereof and to permit proper arrangements for the drawing therefrom at the curblines of such public street.

(12) To regulate or prohibit the emission of smoke, gas, deposits or other pollutions from buildings, locomotives, engines, boats or other sources.

(13) To regulate building and construction and to prohibit the building or construction or repair of buildings, docks, walls, billboards or other structures within the city, except in compliance with such regulations.

(14) To fix and alter the limits of fire districts and to prohibit the erection therein of buildings, except in compliance with such regulations as to construction and materials as may be prescribed.

(15) To regulate the use of all buildings used for public assemblages; to prohibit the use of such buildings except in compliance with its requirements for the safety, security and health of persons therein; to raze any building which, by reason

of faulty construction or of fire or of any other reason, may be dangerous to human life or health.

(16) To provide for the collection, removal and disposal of refuse of all kinds.

(17) To determine the number of and to appoint Commissioners of Deeds in the city.

(18) To determine the existence of and to direct the removal of a public nuisance in any part of the city.

(19) To regulate or prohibit bathing in the rivers, streams and ponds within the city.

(20) To regulate or prohibit coasting on the streets of the city.

(21) To establish and regulate public pounds.

(22) To regulate the burial of the dead within the city and to control the establishment of (cemeteries or the extension of their limits.

(23) To require the owners of lots abutting on public streets to enclose the same by suitable fences.

(24) To proclaim local holidays; to appropriate city funds for the celebration of general or local holidays or for the expense of conferences or conventions held in the city; and to contribute funds toward the maintenance of Washington's Headquarters in the city.

(25) To regulate by ordinance any matter within the powers of the city and to provide for the enforcement of such ordinances by proper penalties, forfeitures or imprisonments.

(26) To appropriate funds, including funds raised by local tax, for any purpose herein specified or for any other purpose within the powers or duties of the city.

(27) To determine whether improvements made by virtue of any of the powers of the city are general improvements and/or to determine, in case of local improvements, the property benefited thereby and to assess the cost of such local improvement, either in whole or in part, against such benefited property.

(28) To pay for the use of personally owned cars of city officers or employees used in or about the business of the city at a mileage rate to be fixed by the City Manager.

(29)² To lease space, to private parties, on city-owned buildings, fences or structures within the Recreation Park for the purpose of advertising, provided that rent is paid therefor in an amount consistent with fair market value,

2. Editor's Note: Former Sec. 2.02, Subsection (29), which was added 10-13-1952 by L.L. No. 8-1952 and dealt with inmates of the city home, was repealed 9-14-1987 by L.L. No. 4-1987. Also, former Sec. 2.60, which followed Sec. 2.02, Subsection (29), was repealed 10-13-1952 by L.L. No. 8-1952.

and to ratify any agreements for the erection of such signs entered into before the effective date of this subsection. [Added 5-14-1990 by L.L. No. 1-1990]

§ C2.03. Power to impose administrative penalties. [Added 7-17-1992 by the Legislature of the State of New York as L. 1992, c. 361]

A. The City of Newburgh shall have the jurisdiction to adopt or amend ordinances and regulations, not inconsistent with any provisions of law, regulating or prohibiting discharges into its publicly owned or operated sewer systems or through its publicly owned or operated wastewater treatment works and shall have the power to provide for the enforcement of such ordinances and regulations by administrative order imposing civil penalties not to exceed one thousand dollars (\$1,000.) per violation, each day a violation continues being a separate violation, and to provide for the enforcement of said penalties imposed as if they were money judgments, without court proceedings, in the manner described herein. Such enforcement authority may be delegated to the City Manager or by him or her to any subordinate official of the city. After four (4) months from the issuance of such administrative order, a copy of such order shall be filed in the office of the Clerk of the County. In the event that the order was issued as a result of the respondent being in default, a notice of default shall be mailed to such respondent, by regular mail, at least seven (7) days before such filing, and a copy of such notice, with affidavit of service by mail thereon, shall be filed with the copy of such order. Upon such filing, the County Clerk shall enter and docket such order in the same manner and with the same effect as a money judgment. Upon such entry and docketing, such decision and order may be enforced as provided in Article 52 of the Civil Practice Law and Rules.

B. No final decision or order shall be entered pursuant to Subsection A of this section unless notice of such order shall have been served in the same manner as prescribed for service of process by Article 3 of the Civil Practice Law and Rules or Article 3 of the Business Corporation Law.

C. The authority granted herein shall be in addition to any other authority otherwise granted by law.

ARTICLE III Municipal Officers

§ C3.00. Municipal officers enumerated. [Amended 1-14-1935 by L.L. No. 1-1935; 4-27-1942 by L.L. No. 2-1942; 11-4-1946 by L.L. No. 2-1946; L. 1948, c. 569; 3-17-1952 by L.L. No. 3-1952; 4-28-1952 by L.L. No. 4-1952; 11-10-1952 by L.L. No. 9-1952; 1-23-1956 by L.L. No. 2-1956; 8-12-1957 by L.L. No. 1-1957; 8-17-1964 by L.L. No. 1-1964; 2-26-1968 by L.L. No. 1-1968; 12-11-1972 by L.L. No. 3-1972; 3-25-1974 by L.L. No. 1-1974; 6-18-1974 by L.L. No. 5-1974; 9-23-1974 by L.L. No. 7-1974; 9-1-1979 by L.L. No. 1-1979; 2-11-1985 by L.L. No. 2-1985]

The officers of the city or municipality shall be as follows:

A. One (1) Mayor, four (4) Councilmen and one (1) City Judge, elected by the qualified voters of the city.

B. One (1) City Manager, three (3) Civil Service Commissioners, one (1) City Clerk and the members of the Traffic and Parking Advisory Committee, appointed by the Council.

C. One (1) Corporation Counsel, one (1) City Comptroller, one (1) City Assessor, one (1) City Collector, one (1) City Purchasing Agent, one (1) City Engineer, one (1) Superintendent of Public Works, one (1) Superintendent of Water, one (1) Police Chief, one (1) Fire Chief, one (1) Building Inspector, one (1) Plumbing Inspector, one (1) Registrar of Vital Statistics, one (1) Deputy Registrar of Vital Statistics and one (1) Youth Bureau Director. [Amended 9-14-1987 by L.L. No. 4-1987; 2-8-1993 by L.L. No. 2-1993]

D. The provisions of this section or of § 3 of the Public Officers Law of the State of New York or of any other provisions of law requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised shall not apply to the appointment of the officers of the City of Newburgh enumerated in Subsections B and C of this section, except the City Manager and the members of the Civil Service Commission, provided that such appointed officers reside within twenty-five (25) miles of the City of Newburgh or within the County of Orange. [Added 12-11-1995 by L.L. No. 5-1995³]

§ C3.01. Deputies and assistants. [Amended 11-10-1952 by L.L. No. 9-1952]

The Council may, by ordinance, authorize the appointment by the City Manager of deputies or assistants to any appointive office. Deputies shall be empowered in case of the absence or disability of their respective principal officers to act, during the continuance of such absence or disability, in the stead of such principal officers.

§ C3.02. Offices may be combined. [Amended 1-14-1935 by L.L. No. 1-1935; 11-10-52 by L.L. No. 9-1952; 9-14-1987 by L.L. No. 4-1987]

The Council may, by ordinance, combine any two (2) or more appointive offices. The City Manager may, in addition to his duties and powers as the chief administrative and executive officer of the city and without additional compensation, assume the duties and powers of the Director of Finance. The City Manager may direct that the City Comptroller, without additional compensation, assume the duties and powers of Director of Finance and that the City Engineer, without additional compensation, assume the duties and powers of Superintendent of Public Works. The foregoing shall not be construed to prevent salary increases for the City Manager, for the City Comptroller and for the City Engineer acting in their respective capacities.

§ C3.10. Terms of office. [Amended 6-29-1942 by L.L. No. 6-1942; 7-13-1942 by L.L. No. 7-1942; L. 1948, c. 569; 11-2-1948 by L.L. No. 2-1948; L. 1949, c. 435; 11-10-1952 by L.L. No. 9-1952; 9-14-1987 by L.L. No. 4-1987]

3. Editor's Note: This local law also provides that it is specifically intended to supersede the provisions of § 3 of the Public Officers Law as it applies to said appointed officers of the City of Newburgh.

The terms of office of the elective officers of the city shall be as follows: Mayor, four (4) years; Councilman, four (4) years; and City Judge, six (6) years. The terms of office of the Civil Service Commissioners shall be six (6) years. The terms of office of the City Manager and of the City Clerk shall be at the pleasure of the Council. The terms of office of all city officers appointed by the City Manager shall be at the pleasure of the City Manager. Any or all such appointive city officers may, by action of the City Manager and with the approval of the Council, be placed in the competitive class of the municipal civil service. No such action shall be taken less than ninety (90) days prior to a general city election.

§ C3.11. Residential qualifications of elective officers. [Amended 11-10-1952 by L.L. No. 9-1952; 9-14-1987 by L.L. No. 4-1987]

All elective officers of the city shall be qualified electors of the city, and the removal of any such officer from the city during his term of office shall render the office held by him vacant.

§ C3.20. City elections. [Amended 7-13-1942 by L.L. No. 8-1942; 11-10-1952 by L.L. No. 9-1952; 9-14-1987 by L.L. No. 4-1987]

The elections of city officers, except to fill vacancies, shall be held on the Tuesday following the first Monday in November in an odd-numbered year, and the term of each and every such officer shall expire at the end of an odd-numbered year.

§ C3.21. Failure to elect [Amended 11-10-1952 by L.L. No. 9-1952]

In case of failure to elect an elective city officer, 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.

§ C3.22. Vacancies in office. [Amended 2-19-1945 by L.L. No. 1-1945; 11-10-1952 by L.L. No. 9-1952]

Any vacancy in an elective office occurring from any cause other than expiration of term shall be temporarily filled by appointment of the Council. Such temporary appointment shall continue in effect until the first day of January next following the next general election held after such appointment. At the next general election following any such vacancy in an elective office, a successor shall be elected to serve the unexpired portion of the term for which the vacating officer was elected, unless such term shall expire on or before the first day of January next following such general election in which case such successor shall be elected for a full term.

Notwithstanding the provisions hereof, the City Manager shall have the power and authority to designate a person to fill any such vacancy, except that of member of the Council, until the same shall be filled by temporary appointment of the Council.

§ C3.30. Resignations. [Amended 11-10-1952 by L.L. No. 9-1952]

Any officer of the city may resign by filing his written resignation with the City Clerk, and the office held by him shall be deemed vacant upon the filing of such resignation.

§ C3.31. City property in possession of resigned officer. [Amended 11-10-1952 by L.L. No. 9-1952]

Any officer or employee of the city who shall have resigned or shall have been removed from office or whose term of office shall have expired shall deliver to the City Manager, or person designated by the City Manager, within ten (10) days after notification and request, all property, papers and effects of every description in his possession or under his control which belong to the city or which appertain to the office held by him. In default thereof such property, papers and effects may be recovered in any action or proceeding authorized by law, and such persons shall forfeit and pay to the use of the city the sum of five hundred dollars (\$500.) besides all damages caused by his neglect or refusal so to deliver.

§ C3.40. Oath of office. [Amended 5-4-1942 by L.L. No. 4-1942; L. 1948, c. 569; 11-10-1952 by L.L. No. 9-1952; 9-14-1987 by L.L. No. 4-1987]

Every elective and appointive city officer shall take the oath prescribed by the Constitution of the state and file the same with the City Clerk before exercising the powers or discharging the duties of such office. The Mayor, City Judge and City Clerk shall each file a similar oath with the Clerk of Orange County. Commissioners of Deeds shall take the oath prescribed by the Constitution of the state and file the same with the City Clerk and with the Clerk of Orange County.

§ C3.41. Official bonds. [Amended 11-10-1952 by L.L. No. 9-1952]

If any officer who shall be required by any provision of law or by ordinance of the Council to execute any bond before or after entering upon the duties of his office shall fail to execute the same in the manner prescribed by law or by ordinance within ten (10) days after he shall have been duly notified to do so, the Council may declare his office vacant, and the same shall be filled in the manner provided in § C3.22 hereof for filling a vacancy in office.

§ C3.50. Powers and duties of appointive officers. [Amended 11-10-1952 by L.L. No. 9-1952]

In addition to the powers conferred and the duties imposed upon the respective appointive officers of the city by this Charter, each officer shall perform such duties, exercise such functions and have such powers as are conferred and imposed by law upon such officers generally and shall have such additional powers, exercise such additional functions and perform such additional duties as may be conferred or imposed upon them respectively by order of the City Manager or by ordinance of the Council.

§ C3.51. Compensation of appointed officers. [Amended 11-8-1949 by L.L. No. 2-1949; 11-8-1949 by L.L. No. 3-1949; 11-10-1952 by L.L. No. 9-1952; election of 11-5-1963; 9-14-1987 by L.L. No. 4-1987]

The Council shall, by ordinance, determine and regulate the compensation of all appointive officers.

§ C3.80. Salaried officers not to receive fees. [Amended 11-10-1952 by L.L. No. 9-1952]

No salaried officer of the city, except as otherwise provided herein, shall have or receive to his use, in addition to his salary and perquisites, compensation or fees for services pertaining directly or indirectly to the present duties of his office or to duties which may hereafter be added to the duties of his office. All such perquisites, compensation or fees so received by any such officer, 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.⁴

§ C3.91. City Historian. [Amended 11-4-1946 by L.L. No. 2-1946; 11-10-1952 by L.L. No. 9-1952]

There shall be a City Historian, appointed by the City Manager, whose duty it shall be to collect, arrange, keep and preserve all historical data of events in the life of the City of Newburgh as a permanent record.

§ C3.92. Defense and indemnification of officers and employees. [Added 10-13-1981 by L.L. No. 6-1981; amended 10-22-2001 by L.L. No. 1-2001]

A. The City of Newburgh hereby elects to confer upon its officers and employees, except its officers and non-bargaining-unit employees as set forth in Subsection D below, the benefits provided by Chapter 277 of the Laws of 1981 and § 18 of the Public Officers Law and to be held liable for the costs incurred under the provisions of such law for the defense and indemnification of its officers and employees.

B. The City of Newburgh further elects, under § 18, Subdivision 2(b), of the Public Officers Law, to confer the benefits of such section on the employees of the Newburgh Industrial Development Agency, except its non-bargaining-unit employees as set forth in Subsection D below, and to be held liable for the costs incurred under these provisions.

C. The benefits conferred by this section on the members of the Police Department shall be in addition to the benefits conferred upon such employees by § 50-j of the General Municipal Law and contractual provisions.

D. Intent; definitions; defense and indemnification; conditions; limitations.

4. Editor's Note: Former Sec. 3.90, which was amended by L. 1943, c. 710, and 11-10-1952 by L.L. No. 9-1952 and which immediately followed this section and dealt with Ward Supervisors, was repealed 9-14-1987 by L.L. No. 4-1987.

(1) Council intent. The purpose of this section is to provide legal and financial protection for those employees and officers defined in Subsection D(2) below from lawsuits and other proceedings which may be brought against them in their individual capacity for omissions or actions taken while acting within the scope of their employment. By enactment of this section, the City does not intend to establish or enlarge any direct liability of the City, or to limit or otherwise abrogate any existing right or responsibility of the City or its officers or employees with regard to indemnification or legal defense.

(2) Definitions. As used in this section, the following terms shall have the meanings indicated:

(a) EMPLOYEE — Any person, whether or not compensated, holding a position by election, appointment or employment as a non-bargaining-unit employee in the service of the City, or a volunteer expressly authorized by the appropriate City official to act for the benefit of the City, including any of its agencies, boards or commissions, but shall not include an independent contractor or any member of any district or authority created by the City. The term "employee" shall include a former non-bargaining-unit employee, a non-bargaining-unit employee's estate, or a judicially appointed personal representative. For purposes of this

section, the term "employee" shall also include members, officers and other persons appointed to, or employed as non-bargaining-unit employees of the Industrial Development Agency of the City.

(b) CORPORATION COUNSEL — The duly appointed Corporation Counsel or such Assistant Corporation Counsel designated to act on behalf of the Corporation Counsel.

(3) City to provide for defense of employees.

(a) If an employee complies with the provisions of Subsection D(5) of this section, the City, through the office of the Corporation Counsel, or through any applicable insurance program maintained by the City, shall provide for the defense of the employee in any civil action or proceeding in any state or federal court, or any proceeding before an administrative agency, arising out of any alleged act or omission which occurred or is alleged to have occurred while the employee was acting within the scope of his or her public employment or duties. For purposes of this section, the determination of whether an employee was acting within the scope of his or her employment will be made by the City Manager, upon the advice of the Corporation Counsel, consistent with then prevailing law. Notwithstanding the above, no act can be so determined to be within the scope of employment if the commission of such act resulted in a conviction of a Class A misdemeanor or higher crime under the New York State Penal Law or similar federal crime under Title 18 of the United States Code. This duty to provide for a defense shall not arise where such action or proceeding is brought by or on behalf of the City against such employee.

(b) Subject to the conditions set forth in Subsection (a) of this subsection, the employee shall be entitled in such action or proceeding to be represented by the Corporation Counsel, or counsel designated by the Corporation

Counsel, at no cost to the employee. The employee shall be entitled to representation by private counsel of his or her choice in such action or proceeding at the expense of the City whenever the Corporation Counsel determines, based upon an investigation and review of the facts and circumstances of the case and of the prevailing law, that a conflict of interest exists between the employee and the City, or whenever a Court of competent jurisdiction determines that a conflict of interest exists and that the employee is entitled to be represented by counsel of his or her choice at the expense of the City. Upon such a determination, the Corporation Counsel shall notify the employee in writing that the employee is entitled to be represented by private counsel of his or her choice at the expense of the City. The Corporation Counsel may require, as a condition of the payment of the fees and expenses of such private counsel, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this section at the expense of the City, the Corporation Counsel shall so certify this to the City Manager. Attorney fees and litigation expenses shall be paid to such private counsel only to the extent of appropriate and reasonable rates prevailing in Orange County, as determined by the Corporation Counsel. Such attorney fees and litigation expenses shall be paid by the City to such private counsel from time to time while such action or proceeding is pending, upon submission by the private attorney of a detailed bill itemizing a description of the work performed, the hours worked, the rate per hour, and disbursements. However, no extraordinary disbursements or fees shall be paid to such private counsel unless prior written consent of the Corporation Counsel was obtained. Such private counsel shall conform to all record keeping and notifications required by the Corporation Counsel. [Amended 8-11-2003 by L.L. No. 2-2003]

(c) Any dispute with respect to representation of multiple employees by a single counsel, the reasonableness of attorney fees, or the amount of litigation expenses, shall be resolved by a court of competent jurisdiction upon motion or by way of a special proceeding.

(d) Where the employee delivers process and a written request for a defense to the Corporation Counsel as required by Subsection D(5) of this section, the Corporation Counsel shall take the necessary steps on behalf of the employee, including the retention of private counsel as provided in this section, to avoid entry of a default judgment against the employee pending a resolution of any issue pertaining to the obligation of the City to provide a defense.

(4) City to provide for indemnification of employees.

(a) If an employee complies with the provisions of Subsection D(5) of this section, the City shall indemnify and save harmless the employee in the amount of any final judgment, order or decision obtained against such employee in any civil action or proceeding in any state or federal court, or any proceeding before an administrative agency, or in the amount of any City-approved settlement of any such action or proceeding, arising out of any alleged act or omission which occurred or is alleged to have occurred while the employee was acting within the scope of his or her public employment. For purposes of this section, the determination of whether an employee was acting within the scope of his or her public employment will be made by the City Manager, upon the advice of the Corporation Counsel, consistent with then prevailing law. Notwithstanding the above, no act can be so determined to be within the scope of employment if the commission of such act resulted in a conviction of a Class A misdemeanor or higher crime under the New

York State Penal Law or similar federal crime under Title 18 of the United States Code. This duty to indemnify shall not arise where such action or proceeding is brought by or on behalf of the City against such employee.

(b) The amount of any such judgment, order, or decision obtained against such employee, or the amount of any City-approved settlement, for which the City will indemnify and save harmless an employee consistent with this section, includes any amounts designated as compensatory, special, punitive, or other damages, including sanctions, fines, costs and attorneys' fees.

(c) Any proposed settlement of such action or proceeding, for which indemnification by the City is sought, shall be reviewed and approved only in accordance with this section. No employee will be indemnified or saved harmless by the City in accordance with this section in connection with any settlement unless such settlement is so reviewed and approved.

(d) Upon the entry or finalization of such final judgment, order or decision against the

employee, or upon the settlement of the action or proceeding, the employee shall cause a copy of such judgment, order, decision or approved settlement to be served personally, or by certified or registered mail, within 30 days of the date of entry, finalization or settlement, upon the Corporation Counsel. If such judgment, order, decision or settlement is not inconsistent with the provisions of this section, the City Manager, upon the advice of the Corporation Counsel, shall certify it for payment.

(5) Conditions.

(a) The duty to defend, indemnify and save harmless as set forth by this section shall be conditioned upon delivery by the employee to the Office of the Corporation Counsel of the original or a true and complete copy of any notice of claim, summons, complaint, process, notice, demand or pleading as soon as possible, but in no event later than 10 days after the employee is served with such document or prior to the return date of such document, whichever is sooner, and the full cooperation of the employee in the defense of such action or proceeding, and in the defense of any action or proceeding against the City based upon the same or related acts or omissions, and in the prosecution of any appeals thereof. The above-noted delivery of said notices of claim, summonses, complaints, processes, notices, demands or pleadings shall be deemed as a request by the employee that the City provide for his or her defense and indemnification pursuant to this section.

(b) Consistent with this section, the determination as to whether the City will defend and/or indemnify the employee will be based upon an investigation of the facts and circumstances of the matter. The City Manager, in accordance with this section, shall make this determination within a reasonable time after the completion of such investigation. Such determination shall be final, except as provided below.

(c) Such determination shall be in writing and mailed promptly by the Corporation Counsel to the employee. If the determination is adverse in whole or in part to the employee, it shall state the facts and reasons therefor.

(d) A determination favorable to the employee may thereafter be revised and/or revoked for good cause. The revised determination, or the revocation of such determination, shall be in writing and mailed by the Corporation Counsel promptly to the employee, and shall state the facts and reasons therefor.

(e) A special proceeding brought pursuant to Article 78 of the New York Civil Practice Law and Rules shall be the exclusive method by which an employee aggrieved by a determination may seek review of the determination. If, as a result of such judicial review, the employee ultimately obtains a reversal of the determination, the City shall reimburse the employee for the attorney fees and costs charged the employee in obtaining the reversal, to the extent that such fees and costs were reasonable and necessary.

(6) Limitation of benefits. The benefits of this section shall inure only to employees as defined herein and shall neither enlarge nor diminish the rights of any other party, nor shall any provision of this section be construed to affect, alter or repeal any provision of the Workers' Compensation Law.

(7) Effect on other laws. This section shall not in any way affect the obligation of any claimant to give notice to the City under § 50-e of New York General Municipal Law, or any other provision of any law.

(8) Applicability. The provisions of this section shall apply to all actions and proceedings then pending on the effective date of this section, or thereafter instituted.

(9) Construction of provisions. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to establish or enlarge any direct liability of, or to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon, the City or any unit, entity, officer or employee of the City, or any right to a defense and/or indemnification provided for any City officer or employee by, in accordance with, or by reason of, any other provision of county, state or federal statutory, regulatory or common law.

(10) Savings clause. If any provision of this section, or the application thereof to any person or circumstance, is held unconstitutional or invalid in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such other provision to any other person or circumstance.

§ C3.93. Certain officials authorized to issue and serve legal process. [Added 6-13-1977 by L.L. No. 1-1977; amended 9-14-1987 by L.L. No. 4-1987]

All building, electrical, fire, plumbing and sanitation inspectors of the city are authorized to issue and serve legal process, as directed by the laws of the state, for any violation of the Code of the City of Newburgh.

§ C3.94. Appearance tickets. [Amended 5-12-1980 by L.L. No. 5-1980; 9-22-1980 by L.L. No. 6-1980; 9-14-1987 by L.L. No. 4-1987]

A. Mayor and Council members.

(1) The Mayor and the members of the Council, being public servants, shall have the power to issue and serve appearance tickets pursuant to the Criminal Procedure Law of the State of New York for littering and trash violations under the provisions of Chapter 183, Garbage, Rubbish and Refuse, and §§ 190-45, 190-46, 190-50, 190-51 and 190-57 of Chapter 190, Housing and Property Standards of the Code of the City of Newburgh.

(2) The services described in this section shall be rendered by the Mayor or Council members without forfeiting any office, rights or privileges, without receiving any additional compensation and with the services of the Mayor or Council member in serving such papers being in addition to their regular duties.

B. Power of City Manager to authorize issuance of tickets.

(1) The City Manager shall have the power to authorize the issuance of appearance tickets by public servants of the City of Newburgh who, by virtue of office, title or position, are authorized or required to enforce any statute, local law, ordinance, rule or regulation relating to parking, licensing of occupations or businesses, fire prevention and safety, health and sanitation and building, zoning and planning; provided, however, that a peace officer may be so authorized to issue an appearance ticket relating to any statute, local law, ordinance, rule or regulation affecting the public health, safety and welfare.

(2) The services described herein shall be rendered by the officer or employee without forfeiting any office, rights or privileges, without said officer or employee receiving any additional compensation therefor and with the services of said officer or employee in serving such appearance tickets being in addition to that officer's or employee's regular duties.

§ C3.95. Appointive officers and employees prohibited from holding elective city office. [Added 12-11-2000 by L.L. No. 3-2000]

No person who holds any appointive city office or who is an employee of the city, including but not limited to the City Manager, may also hold an elective city office. The acceptance of an elective city office by any appointed officer or employee of the city shall render such appointive office or employment held by him vacant.

ARTICLE IV
City Council⁵

§ C4.00. Legislative powers fixed in Council. [Amended 11-10-1952 by L.L. No. 9-1952; 12-29-1960 by L.L. No. 2-1960; 12-8-1969 by L.L. No. 1-1969; 12-27-1976 by L.L. No. 2-1976; 1-26-1981 by L.L. No. 2-1981; 12-14-1981 by L.L. No. 1-1982; 12-14-1992 by L.L. No. 5-1992]

All the legislative powers of the city, however conferred upon or possessed by it, are hereby fixed in a board to be known as the "Council of the City of Newburgh" and to be composed of the Mayor and four (4) Council members. It shall be, for all purposes, the Common Council of the city. The Mayor and the other four (4)

5. Editor's Note: See also Ch. 20, Council, City.

members of the Council shall each receive an annual salary of nine thousand dollars (\$9,000.), payable in equal monthly installments.

§ C4.01. Rules of order. [Amended 5-5-1941 by L.L. No. 1-1941; 2-24-1947 by L.L. No. 1-1947; 12-26-1951 by L.L. No. 3-1951; 3-3-1952 by L.L. No. 2-1952; 12-22-1952 by L.L. No. 10-1952; 2-12-1980 by L.L. No. 1-1980; 1-24-1983 by L.L. No. 1-1983]

A. The Council shall determine the rules of its own proceedings and be the judge of the election, returns and qualifications of its members. The Council may compel the attendance of absent members at any meeting properly called and may punish or expel a member for disorderly conduct or declare his seat vacant by reason of inexcusable absence, provided that such absence has continued for four (4) consecutive regular meetings, but no expulsion shall take place and no vacancy on account of absence shall be declared until the delinquent member has had an opportunity to be heard in his defense.

B. Except as in this section especially regulated, the legislative powers of the Council may be exercised as provided by rules or ordinances adopted by it.

C. Each member of the Council shall have the right to vote on any question coming before it. A majority of the Council shall constitute a quorum, and the affirmative vote of a majority of all the members of the Council shall be necessary to adopt any motion, resolution or ordinance.

D. Regular meetings of the Council shall be held on the second and fourth Mondays of each month, except the months of June, July and August. Regular meetings of the Council shall be held on the second Mondays of June, July and August. If a regular meeting falls on a legal holiday, the meeting shall be held on the day following such legal holiday. All regular meetings shall be held at the time and place fixed by ordinance or resolution of the Council. Special meetings may be called by any member of the Council on three (3) days' notice, which notice shall specify the object of the meeting. All legislative sessions shall be open to the public, and every matter coming before the Council for disposition shall be put to a vote whereon the ayes and nays shall be called and recorded. A full and accurate journal of the proceedings of the Council shall be kept by the City Clerk, which journal shall be open to the inspection of any elector of the city at any reasonable time.

E. The Council may change the date, time or place of any regular or special meeting provided for in Subsection D of this section or may cancel such meeting either by resolution passed at the immediately preceding regular or special meeting or by consent of the Council at any time prior to the scheduled meeting.

F. An emergency meeting may be called on less than three (3) days' notice by the City Manager or a majority of the City Council upon reasonable notice, which notice shall specify the object of the meeting. [Added 12-11-1995 by L.L. No. 4-1995]

§ C4.10. Mayor. [Amended 12-22-1952 by L.L. No. 10-1952]

The Mayor shall preside at all meetings of the Council. He shall be the official head of the city for service of civil process and under the military law and for all ceremonial purposes. He shall have no power of veto but shall have the same power as a Councilman to vote upon all matters coming before the Council. He shall have

the custody of the Seal of the city and shall authenticate the acts of the Council and all instruments and papers authorized so to be authenticated. He shall have charge of all civic functions, celebrations, receptions and courtesies and shall perform such ministerial functions as the Council may, from time to time, direct.

§ C4.11. President Pro Tem. [Amended 12-22-1952 by L.L. No. 10-1952]

The Council may appoint one (1) of its members as President Pro Tem, who, in the absence or other disability of the Mayor, shall preside over the meetings of the Council and perform all the duties, exercise all the functions and have all the powers of the Mayor during the continuance of such absence or other disability.

§ C4.12. Power of Mayor to administer oaths. [Amended 12-22-1952 by L.L. No. 10-1952]

The Mayor shall have the power to administer any oath or to take any affidavit in respect to any matter pending before the Council.

§ C4.20. Legislative employees. [Amended 12-22-1952 by L.L. No. 10-1952; 4-24-1989 by L.L. No. 2-1989]

The legislative employees of the city shall be the City Clerk, the Deputy City Clerk and the Sergeant at Arms and shall hold office during the pleasure of the Council.

§ C4.21. City Clerk. [Amended by L. 1943, c. 710; 12-22-1952 by L.L. No. 10-1952; 9-23-1974 by L.L. No. 8-1974; 9-14-1987 by L.L. No. 4-1987; 4-24-1989 by L.L. No. 2-1989]

A. The Council shall appoint a City Clerk, who shall have such powers and perform such duties as may be prescribed by law.

B. The Council may appoint so many Deputy City Clerks as it may deem necessary who shall act generally for or in place of the City Clerk and who shall have such powers and perform such duties as prescribed by law or assigned by the Council to the City Clerk. Where the Council appoints more than one Deputy City Clerk it shall designate the order in which they shall act in place of the City Clerk. Failing such designation by the Council the City Clerk shall designate the order in which they shall so act. [Amended 6-10-1996 by L.L. No. 2-1996]

C. The City Clerk shall have all the powers and discharge all the duties of a town clerk insofar as the same shall be consistent with the provisions hereof, and his office is hereby declared a town clerk's office for the purpose of depositing and filing therein all books, chattel mortgages and papers required by law to be filed in a town clerk's office, except as otherwise provided in the Local Finance Law.

D. The City Clerk shall have the same power to administer oaths and take affidavits and acknowledgements within the city as Justices of Peace have and shall be entitled to receive therefor from any person, except an officer or employee of the city, the same fees and compensation.

E. The City Clerk of the City of Newburgh shall also be the Registrar of Vital Statistics.

F. The Council shall designate the Deputy City Clerk who shall be the Deputy Registrar of Vital Statistics. In the absence of such designation the City Clerk, in the capacity of Registrar of Vital Statistics, shall so designate the Deputy Registrar of Vital Statistics. The City Clerk shall designate so many subregistrars of vital statistics as may be deemed necessary. [Amended 6-10-1996 by L.L. No. 2-1996]

§ C4.30. Council powers exercised by ordinance. [Amended 12-22-1952 by L.L. No. 10-1952]

The powers enumerated in §§ C2.01 and C2.02 hereof shall be exercised by ordinance of the council.

§ C4.31. Ordinances effective immediately. [Amended 12-22-1952 by L.L. No. 10-1952]

Every ordinance and resolution passed by the Council shall take effect immediately, unless in said ordinance or resolution the Council shall direct that it shall take effect at some other specified time.

§ C4.32. Penal ordinances. [Amended 12-22-1952 by L.L. No. 10-1952; 9-14-1987 by L.L. No. 4-1987]

A. The Council may provide that a violation of any ordinance shall constitute a misdemeanor or a violation.

(1) Any person guilty of a misdemeanor shall be punished as follows:

(a) Class A misdemeanor: by a fine of not more than one thousand dollars (\$1,000.) or by imprisonment for not more than one (1) year, or both.

(b) Class B misdemeanor: by a fine of not more than five hundred dollars (\$500.) or by imprisonment for not more than three (3) months, or both.

(c) Unclassified misdemeanor: A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, in accordance with the provisions of the ordinance that defines the crime. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed, the term shall be fixed by the court, and shall be in accordance with the sentence specified in the ordinance that defines the crime. In the event the ordinance that defines the crime does not set forth a sentence, such crime shall be punished in the same manner as provided in this Charter for a person found guilty of a Class A misdemeanor. [Added 10-10-2000 by L.L. No. 2-2000]

(2) Any person guilty of a violation shall be liable to a fine not exceeding two hundred fifty dollars (\$250.) in amount or to imprisonment for a term not exceeding fifteen (15) days, or both such fine and imprisonment.

B. Such ordinance may also provide for a penalty, not exceeding five hundred dollars (\$500.), 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 Council notwithstanding the fact that the ordinance may provide a penalty for such violation.

§ C4.33. Recording of ordinances. [Amended 12-22-1952 by L.L. No. 10-1952; 9-14-1987 by L.L. No. 4-1987]

Every ordinance shall be recorded in a book kept for that purpose by the Clerk. Such record shall include the signature of the Mayor attested by the Clerk, and to such records shall be attached proof of the publication of such ordinance. Such record, or a certified copy thereof, shall be presumptive evidence of the passage of the ordinance and of the facts certified.

§ C4.34. Advertising of ordinances. [Amended 11-27-1933 by L.L. No. 1-1933; 12-22-1952 by L.L. No. 10-1952; 4-14-1980 by L.L. No. 4-1980; 9-14-1987 by L.L. No. 4-1987; 10-13-1992 by L.L. No. 3-1992]

The title or a brief description of the contents of every ordinance, together with a statement that said ordinance is recorded in the office of the City Clerk, shall be published at least once in at least one (1) newspaper having general circulation within the city.

§ C4.50. Canvass of votes by Council. [Amended 12-22-1952 by L.L. No. 10-1952]

On the Monday next following the general election at which candidates for any of the elective offices of the city have been voted for, the Council shall convene at its usual place of meeting at 9:00 a.m. to canvass such vote. The City Clerk shall produce the statement of votes cast filed with him by the inspectors of election, and the Council shall forthwith ascertain, declare and certify in the manner prescribed by law who has been elected to the various city offices voted for. The certificate made by the Council shall be made in duplicate, and one (1) of such certificates shall be filed in the office of the Clerk of the County of Orange and the other in the office of the City Clerk. The City Clerk shall thereupon forthwith notify every person certified to have been elected of his election.⁶

ARTICLE V City Manager

6. Editor's Note: Former Sec. 4.90, which was amended 12-22-1952 by L.L. No. 10-1952 and which immediately followed this section and dealt with the Council acting as the Board of Health, was repealed 9-14-1987 by L.L. No. 4-1987.

§ C5.00. Selection; qualifications; removal from office. [Amended 5-5-1941 by L.L. No. 1-1941; 2-19-1945 by L.L. No. 1-1945; 2-24-1953 by L.L. No. 1-1953; L. 1953, c. 878]

The City Manager shall be the chief administrative and executive officer of the city. He shall be selected by the Council upon the basis of his administrative and executive qualifications. He may be suspended or removed from office at the pleasure of the Council.

§ C5.01. Acting City Manager. [Amended 2-24-1953 by L.L. No. 1-1953; 1-23-1956 by L.L. No. 1-1956; 4-28-1958 by L.L. No. 1-1958]

The City Manager may designate any officer of the city to act as City Manager during the absence or disability of the City Manager, and the person so designated, during the continuance of such absence or disability, shall perform all the duties and have all the powers of the City Manager. In the absence of a designation by the City Manager or in the event of a vacancy in the office of City Manager, the Council may make such designation.

§ C5.05. Duties of City Manager. [Added 2-24-1953 by L.L. No. 1-1953]

The City Manager shall be responsible to the Council for the administration of all city affairs. Specifically, it shall be his duty:

- A. To see that the laws of the State of New York and the ordinances of the Council are enforced within the city.
- B. To appoint and to remove the heads of all departments, the members of all boards and commissions and all subordinate officers and employees of the city, except as otherwise provided herein.
- C. To exercise supervision and control over the administrative departments of the city government, comprising a Law Department, a Finance Department, a Public Works Department, a Fire Department, a Police Department and a Water Department and such other officers, employees, bureaus, agencies and departments as may be added from time to time. [Amended 9-14-1987 by L.L. No. 4-1987]
- D. To attend all meetings of the Council.
- E. To recommend to the Council such measures as he may deem necessary or expedient.
- F. To keep the Council at all times fully advised as to the financial condition and needs of the city.
- G. To prepare and to submit to the Council the annual city budget.
- H. To see that all terms and conditions imposed in favor of the city in any public utility franchise are faithfully performed.

I. To execute all deeds and all contracts on behalf of the city and to sign all warrants, certificates, licenses and other instruments issued by or in behalf of the city, except as otherwise provided by law or by ordinance.

J. To perform such other duties as may be required of him by the Council.

§ C5.06. Powers of City Manager. [Added 2-24-1953 by L.L. No. 1-1953]

The City Manager shall have all the powers necessary for the performance of his duties, general and specific, as defined in § C5.05 hereof. In addition, he shall have power:

A. To designate a qualified person to fill any vacancy in any elective city office, except that of member of the Council, until the same shall be filled by temporary appointment of the Council.

B. To supervise and control the use of all streets, bridges, wharfs, waterworks, sewers, parks, playgrounds, parking areas, buildings, machinery, apparatus, equipment and personal property and other public works and public property belonging to the city. [Amended 9-14-1987 by L.L. No. 4-1987]

C. To make and enforce reasonable regulations for the government and discipline of any officer or employee of the city and for the hearing and determination of charges made against any such officer or employee for neglect of official duty, for incompetency, for incapacity to perform his official duties or for any delinquency seriously affecting his general character. The City Manager may, in his discretion, punish any such officer or employee found guilty on any such charges, by reprimand, by forfeiture and withholding of pay for a specified time, by suspension during a specified period or by dismissal from office. [Amended 9-14-1987 by L.L. No. 4-1987]

D. To administer any oath or to take any affidavit in respect to any hearing, trial or matter pending before him.

§ C5.08. Counsel and consultants. [Added 2-24-1953 by L.L. No. 1-1953]

The City Manager may employ counsel or consultants for special services at a compensation fixed by the Council.⁷

§ C5.12. Public emergencies. [Added 2-24-1953 by L.L. No. 1-1953]

In case of public emergency such as conflagration, riot, storm, flood, earthquake or other unusual peril to the lives and property of the citizens of Newburgh, it shall be the right and duty of the City Manager to summon all the forces of the city for the purpose of protecting the lives and property of the citizens. The City Manager shall also have power to summon, deputize and otherwise employ such other persons as he may deem necessary for the purpose of rendering protection to the

7. Editor's Note: Former Sec. 5.10, which immediately followed this section, was repealed 2-24-1953 by L.L. No. 1-1953.

citizens and the City of Newburgh. Any expense incurred by the City Manager in the case of any such public emergency shall be a proper charge against the city.⁸

ARTICLE VI Department of Law

§ C6.00. Establishment; head. [Added 3-23-1953 by L.L. No. 2-1953]

There shall be a Department of Law of which the Corporation Counsel shall be the head. The Corporation Counsel shall be an attorney admitted to practice in the courts of the State of New York and shall have had at least ten (10) years' practice in his profession prior to his appointment.

§ C6.10. Duties and powers of Corporation Counsel. [Amended 5-1-1944 by L.L. No. 1-1944; 3-23-1953 by L.L. No. 2-1953]

The Corporation Counsel shall act as the legal advisor of the Council, of the City Manager and of the several officers, departments, bureaus and boards 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 by or against any city officer, department, bureau or board. Such officer, department, bureau or board shall not employ other counsel in any official matter. The Corporation Counsel may, with the written consent of the City Manager and at a compensation fixed by the Council, employ counsel to assist him in the argument and conduct of important cases and proceedings in which the city or any officer, department, bureau or board thereof is interested or is a party thereto.

§ C6.45. Prior notice of dangerous conditions. [Amended 3-23-1953 by L.L. No. 2-1953; 7-9-1973 by L.L. No. 2-1973; 11-25-1991 by L.L. No. 8-1991; 5-12-1997 by L.L. No. 1-1997]

No civil action shall be maintained against the city for damages or injury to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk, crosswalk, wharf, public building, parking area, street sign or traffic sign being out of repair, unsafe, dangerous, obstructive, damaged or missing or for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk, street, highway, bridge, culvert, wharf, public building or parking area unless written notice of the defective, dangerous, unsafe or obstructed condition or the existence of the snow or ice, relating to the particular place and specifying the alleged condition, was actually given to the City Clerk and there was neglect or failure within a reasonable time after the giving of such notice to remedy, repair or remove the defect, danger or obstruction complained of or cause the snow or ice to be removed or the place otherwise made reasonably safe.

§ C6.47. Nontort claims against the city. [Added 9-26-1988 by L.L. No. 6-1988]

8. Editor's Note: Former Secs. 5.20, 5.30 and 5.31, which immediately followed this section were repealed 2-24-1953 by L.L. No. 1-1953.

A. No action or special proceeding, for any cause whatever, except as hereinafter provided, relating to city property or involving the rights or interests of the city shall be prosecuted or maintained against the city unless it shall appear by and as an allegation in the complaint or necessary moving papers that a written verified claim upon which such action or special proceeding is founded was served on the city, in the same manner as a summons under the Civil Practice Law and Rules, within three (3) months after the accrual of such claim. The provisions of this section shall not apply to an action or special proceeding founded upon tort which shall be governed by the provisions of §§ 50-i and 50-e of the General Municipal Law.

B. This section shall apply to claims accruing after January 1, 1989.

§ C6.50. Civil actions against city. [Amended 4-2-1945 by L.L. No. 2-1945; 4-28-1952 by L.L. No. 5-1952; 3-23-1953 by L.L. No. 2-1953]

A. All claims against the city for damages or injury to persons or property alleged to have been caused by the misfeasance or negligence of the city or of any of its officers or employees shall be presented to the Council in writing within sixty (60) days after the happening of the accident or injury out of which the claim arose. Such writing shall describe the time when, the particular place where and the circumstances under which damages or injuries were sustained and the cause thereof. It shall also state, so far as then practicable, the nature and extent of the damages or injury. It shall also state the place of residence of the claimant by street and number, or, if there be no street and number, it shall contain such statement as will disclose the place of residence. All such claims shall be verified by the oath of the claimant. A copy of each such claim shall be served by mail on the Corporation Counsel. The omission to present such claim within sixty (60) days of such alleged injuries and to commence on action thereon within one (1) year from the time of such alleged injuries shall be a bar to any claim or action therefor against the city, but no action shall be brought upon any such claim until three (3) months have elapsed after the presentation of the claim to the Council.

B. The Corporation Counsel shall cause all claims for personal injuries to be thoroughly investigated, and to that end the Corporation Counsel or his duly authorized representative may take proof, examine witnesses and require the claimant, with the privilege of counsel, to appear before and be sworn by a Judge of a court of record, the Mayor of the city or any notary public and answer orally any questions relative to the claim or that may assist the Corporation Counsel in ascertaining the city's liability or the extent thereof. The claimant may designate another time and place for the examination if he shall be physically unable so to appear. Such examination shall be held within ninety (90) days after the presentation of such claim, but the time therefor may be further extended by any Judge of a court of record on notice to both parties. Where such examination is required, no action shall be commenced on the claim until the examination is held.

C. Nothing contained in this section shall be held to repeal or modify any existing requirement or statute of limitations applicable to this class of injury but, on the contrary, shall be held to be an additional requirement for the right to maintain such action; nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the city any greater duty or obligation than that it shall keep its streets and public places in a reasonably safe condition for public use and travel.

D. The Council shall have the power to pay, compromise or settle any such claim as may be made against the city for damages, provided that such claim is presented within the time and in the manner hereinbefore prescribed and the sum or sums so expended shall be included in the amount to be raised by tax for general purposes as herein provided.

E. The City Manager, upon the recommendation of the Corporation Counsel or such other attorney as may be retained to represent the city in regard to such claim, shall have the power to pay, compromise or settle any such claim for a sum of money not to exceed twenty-five hundred dollars (\$2,500.). [Added 9-27-1999 by L.L. No. 2-1999]

§ C6.51. Judgments against city. [Amended 3-23-1953 by L.L. No. 2-1953]

The amount of any judgment recovered against the city and payable by it remaining unpaid, with the interest thereon, in case an appeal is intended to be taken or in case such judgment is finally affirmed on an appeal taken, shall be reported by the Corporation Counsel to the Council immediately after the same shall have become payable. Such amount shall be raised in the next levy of taxes for the expenses of the city, unless execution upon such judgment shall be stayed. Such judgments shall be paid out of the first moneys into the city treasury on account of such levy, in order of their recovery. Until the money so raised shall be paid into the treasury and payment of judgments refused, no execution shall issue against the city, unless the amount of such judgments shall not have been included in the tax levy.

§ C6.90. City cases in city court. [Amended L. 1948, c. 569; 3-23-1953 by L.L. No. 2-1953]

No City Judge or Acting City Judge shall be deemed disqualified from hearing any action or proceeding in which the City of Newburgh is a party or is interested, nor shall any person be deemed disqualified from acting as a juror in any case in which the City of Newburgh is a party or is interested for the reason that he is a resident of or a taxpayer in the City of Newburgh.

§ C6.95. Commissioners of Deeds. [Amended 3-23-1953 by L.L. No. 2-1953]

The term of office of all Commissioners of Deeds shall be two (2) years from the dates of their appointment respectively. Commissioners of Deeds shall have all the powers of a notary public within the City of Newburgh.

ARTICLE VII
Department of Finance

§ C7.00. Establishment; head; bureaus. [Added 5-25-1953 by L.L. No. 3-1953]

There shall be a Department of Finance, headed by the Director of Finance and including a Bureau of Audit and Control, a Bureau of Collections, a Bureau of Assessments and a Bureau of Purchase and Supply.

§ C7.01. Director of Finance. [Added 5-25-1953 by L.L. No. 3-1953]

A. The Director of Finance, as the head of the Department of Finance, shall have supervision and control of the Bureau of Audit and Control, the Bureau of Collections, the Bureau of Assessments and the Bureau of Purchase and Supply.

B. The City Manager may elect to act as Director of Finance or may designate the City Comptroller to act in such capacity. In case the City Manager shall elect to act as such Director of Finance, he shall so notify the Council. Thereafter he shall assume all the duties and possess all the powers of the Director of Finance in addition to performing all the duties and exercising all the powers of the chief administrative and executive officer of the city. In case the City Manager shall designate the City Comptroller to act as such Director of Finance, the said Comptroller shall assume all the duties and possess all the powers of the Director of Finance in addition to performing all the duties and exercising all the powers of City Comptroller.

§ C7.10. City Comptroller. [Amended 1-14-1935 by L.L. No. 1-1935; 5-5-1947 by L.L. No. 7-1947; 5-25-1953 by L.L. No. 3-1953; 3-22-1965 by L.L. No. 1-1965; 9-14-1987 by L.L. No. 4-1987]

The City Comptroller, appointed by the City Manager, shall have supervision and control of the Bureau of Audit and Control under the general supervision of the Director of Finance. He shall receive and shall have the care and custody of all moneys belonging to the city. He shall deposit all such moneys in such depositories as may be designated by the Council and shall, under the direct supervision of the City Manager, pay out such moneys upon warrants signed by such officers as the Council may, by ordinance, direct. He shall, under the direction of the Council, have the management and investment of any sinking fund provided for the payment or reduction of the city debts. He shall exercise budgetary control over all appropriations and approve all expenditures and commitments as to sufficiency of funds. No warrant shall be drawn by him for the payment of any claim against or obligation of the city unless it states particularly against which of such funds it was drawn.⁹ No fund shall be overdrawn, nor shall any warrant be drawn against one fund or appropriation to pay a claim chargeable to another. The Comptroller may advance to city officials and employees a reasonable sum for financing travel on official business, pursuant to established rules and regulations with respect to proper accounting procedures and with appropriate provisions for adjustments.

§ C7.20. City Assessor. [Amended 5-25-1953 by L.L. No. 3-1953; 9-14-1987 by L.L. No. 4-1987]

The City Assessor, appointed by the City Manager, shall have supervision and control of the Bureau of Assessments under the general supervision of the Director of Finance. He shall have all the powers and shall perform all the duties conferred or imposed by law upon Assessors or Boards of Assessors both for purposes of general taxation and for purposes of assessment for local improvements, except such powers and duties as are conferred or imposed upon Assessors or Boards of Assessors acting as Boards of Review of Taxes and Assessments.

9. Editor's Note: See also Ch. 6, Bills, Payment of.

§ C7.30. Board of Assessment Review. [Added 3-27-1972 by L.L. No. 1-1972; amended 9-14-1987 by L.L. No. 4-1987]

The Board of Assessment Review shall hear and determine complaints in relation to assessments and shall have all the powers and duties imposed by law on Boards of Review by Article 5 of the Real Property Tax Law and by any other law.

A. Procedure.

(1) The Board of Assessment review shall fix the hours for such meeting or meetings to hear complaints, which hours shall be for a period of at least four (4) hours, not necessarily continuous, between 9:00 a.m. and 10:00 p.m., but in no event less than two (2) hours after 6:00 p.m.

(2) The members of the Board of Assessment Review, as a majority of them, shall prepare and verify a statement showing the changes determined to be made by them in the assessments. Such verified statement shall be delivered to the Assessor on or before the date required by law for the final completion of the assessment roll.

(3) The Assessor, as soon as possible after receiving such verified statement, shall make the changes in assessment on the assessment roll in accordance with such verified statement and shall certify on such verified statement that he has recorded on the assessment roll the changes set forth in such verified statement of the Board of Assessment Review.

B. Appointment; terms.

(1) The members of the Board of Assessment Review shall be appointed by the City Council and shall have a knowledge of property values in the City of Newburgh. Neither the Assessor nor any member of his staff may be appointed to the Board of Assessment Review. A majority of such Board shall consist of members who are not officers or employees of the City of Newburgh.

(2) The Board of Assessment Review shall consist of not fewer than three (3) nor more than five (5) members.

(3) The terms of office of members of the Board of Assessment Review shall be five (5) years; however, the terms shall be of such length that not more than one (1) term will expire in any one (1) year of the first five (5) years after the members of such Board are appointed.

§ C7.40. City Collector. [Amended 1-14-1935 by L.L. No. 1-1935; 5-25-1953 by L.L. No. 3-1953]

The City Collector, appointed by the City Manager, shall have supervision and control of the Bureau of Collections under the general supervision of the Director of Finance. He shall collect all taxes, assessments and water rents collectible within the city and shall pay over the same to the City Comptroller at such time and in such manner as the Council may direct. He shall have the same powers and duties as collectors in towns, except as otherwise provided in this Act.

§ C7.60. City Purchasing Agent [Added 5-25-1953 by L.L. No. 3-1953; 9-14-1987 by L.L. No. 4-1987]

The City Purchasing Agent, appointed by the City Manager, shall have supervision and control of the Bureau of Purchase and Supply under the general supervision of the Director of Finance. He shall make all purchases for all city departments, boards and commissions under the provisions of this Charter or city ordinances or in conformity with rules and regulations issued by the City Manager.¹⁰

ARTICLE VIII Financial Procedures

§ C8.00. Annual assessment rolls. [Amended by L. 1920, c. 436; 8-10-1953 by L.L. No. 4-1953; 4-26-1971 by L.L. No. 1-1971; 4-8-1974 by L.L. No. 3-1974; 10-15-1985 by L.L. No. 6-1985; 9-14-1987 by L.L. No. 4-1987]

A. All real property subject to taxation shall be valued as of the preceding first day of January. The taxable status date of real property in the city shall be determined annually as of the first day of March.

B. All real property shall be assessed in the city according to its condition and ownership as of such date. The annual assessment rolls of the city shall be completed by the City Assessor on or before the first day of May in each year and shall be filed immediately with the Assessor's office. The Assessor shall cause a notice to be published in the official newspaper of the City of Newburgh to the effect that the said annual assessment rolls have been completed, are on file in his office and are open for inspection by any interested person during office hours until a day specified in such notice, such day being not less than fifteen (15) calendar days after the publication of the said notice. During such inspection period, any taxpayer feeling himself aggrieved by the valuation placed on his property by the Assessor may file a written appeal from such assessments with the Assessor. At the close of the inspection period, the Assessor shall present the assessment rolls, together with all written appeals received by him as aforesaid, to the Chairperson of the Board of Review for transmission to the members of the Board of Review, said Board of Review created by appointment and confirmed by the Mayor and City Council, Said Board of Review shall cause a notice to be published in all official newspapers designated in § 20-8 of the Code of Ordinances of the City of Newburgh to the effect that the assessment rolls are in the hands of the Board of Review and that the said Board of Review will meet in regular session on the third Tuesday in May to consider such rolls and to hear objections thereto. The Board of Review shall, at said regular session on the third Tuesday in May, consider such assessment rolls and all appeals that have been filed in writing with the Assessor or have been presented in person at said meeting. The Board of Review may amend or correct any item on the said rolls and may defer action from time to time, but not later than the first day of July. On or before the first day of July, the Board of Review shall confirm the said annual assessment rolls as prepared by the Assessor or as amended and corrected by the Board of Review. After confirmation by the Board of Review, the annual assessment rolls shall be returned to the Assessor who shall cause a note to be published in all official newspapers designated in § 20-8 of the Code of Ordinances

10. Editor's Note: See also Ch. 85, Purchasing.

of the City of Newburgh to the effect that the completed assessment rolls have been filed with him as required by law. [Amended 12-14-1998 by L.L. No. 6-1998]

C. After the confirmation of the assessment rolls, the Council may, on the petition of the City Assessor, correct the said assessment rolls in the following instances:

(1) Where the same property has been assessed more than once on the said rolls, the excess assessment or assessments shall be canceled.

(2) Where any unimproved property has been assessed as improved property, the assessment may be reduced to such sum as may be fixed by the City Assessor.

(3) Where any taxable property has been omitted from the rolls of the preceding year, it may be placed on the rolls for the current year at a valuation to be fixed for the preceding year by the Assessor and shall be taxed at the rate per centum of the preceding year.

(4) Where any taxable property has been omitted from the rolls for the current year, it may be placed thereon at a valuation to be fixed by the Assessor and shall be taxed at the rate per centum of the current year.

§ C8.01. Description of assessed properties. [Amended 8-10-1953 by L.L. No. 4-1953]

In the assessment of any properties in the city for any purpose, it shall be sufficient to state the name of one (1) of the owners of such properties if the owner or owners or any of them be known to the Assessor. If the owner or owners be unknown to the Assessor, the assessment may designate the owner as unknown. There shall be stated the number of the lot and block if subdivided into lots and blocks and so designated upon the City Map last adopted by the Council. If not so divided into lots and blocks and so designated, the street and number of any building thereon shall be deemed an adequate description. If the property assessed is a vacant lot, the name of the street on which it fronts and a brief description of the property shall be deemed an adequate description. No assessment hereafter made in the city shall be held invalid because the same may be made out in terms against owner or owners unknown; or against the estate of a deceased person, naming such person or the executor, heirs or devisees of such person; or against a company or firm name; or against a person in whom is the record title, though not the actual title, of the property. No assessment hereafter made in the city shall be held invalid for any cause arising through ignorance or mistake as to the names of the owners or owners of the property assessed, whether an individual or a corporation, provided that such property is sufficiently described on the assessment rolls or on any maps therein referred to to identify and indicate to a person reasonably familiar with the same the particular property which it is intended to assess. Every assessment roll shall be considered as referring to the last adopted or last filed map, unless it be otherwise stated in said roll.

§ C8.02. Assessments not invalidated by errors. [Amended 8-10-1953 by L.L. No. 4-1953]

No assessment or tax for any purpose shall be canceled or otherwise affected by reason of any error or defect not actually fraudulent in any of the proceedings required to be taken as preliminary to or in the making of the assessment or in the levying or collection of the tax,

§ C8.05. Filing and certification of assessment rolls. [Amended by L. 1920, c. 436; 6-23-1941 by L.L. No. 2-1941; 8-10-1953 by L.L. No. 4-1953; 9-14-1987 by L.L. No. 4-1987]

A. The Assessor shall correct all clerical errors in the description or valuation of property pursuant to the Real Property Tax Law of the State of New York and make a correct and exact copy of the assessment roll so made as aforesaid, certify the same to be correct and deliver the same to the Clerk of the Orange County Legislature on or before the 15th day of October in each year. In the event that state and county taxes and the taxes for general city purposes are combined as hereinafter provided, the Assessor shall certify to the County Legislature the total amount of the assessed valuation of the City of Newburgh as shown by said roll and shall not be required to deliver a copy of the assessment roll as hereinbefore provided. In such event, however, the Chairman and Clerk of the Legislature of the County of Orange shall certify to the City Council the total amount of the state and county tax to be levied upon the property within the City of Newburgh. Such certification shall be made to the City Council not later than December 10 of each year.

B. Nothing herein shall be construed to prevent the County Legislature from exercising, in respect to the assessment roll of said city delivered to it or the taxes imposed by it thereby, the same powers which are vested in Boards of Supervisors in respect to town assessment rolls and town and county taxes or any correction thereof.

§ C8.10. Annual budget. [Amended by L. 1929, c. 73; 5-5-1941 by L.L. No. 2-1941; L. 1943, c. 710; 3-10-1947 by L.L. No. 4-1947; 11-8-1949 by L.L. No. 2-1949; 11-8-1949 by L.L. No. 3-1949; L. 1953, c. 878; 8-10-1953 by L.L. No. 4-1953]

The fiscal year of the city shall begin on the first day of January. On or before the second Monday in October of each year, the City Manager shall submit to the Council a budget estimate for the ensuing fiscal year. The classification of the estimate for the various departments shall be as uniform as possible, and the estimate shall contain the following information:

A. An estimate of the operating expense of each department, bureau, office, court, commission and board for the ensuing fiscal year.

B. A statement of the amounts required during the ensuing fiscal year for the maturing bonds, for other maturing debt, for sinking fund installments and for interest on the city debt.

C. A statement of the amounts required during the ensuing fiscal year for other fixed charges.

D. A statement of the estimated revenues and receipts, receivable during the ensuing fiscal year, available for meeting the proposed expenditures.

E. A statement of the expenditures of the city for the last completed fiscal year.

F. A statement of the appropriations for the current year as such appropriations existed on the last day of August.

G. A statement of the city's debt as of the first day of October of the current fiscal year.¹¹

§ C8.15. Annual tax levy. [Added 8-10-1953 by L.L. No. 4-1953]

A. Upon receipt of the budget estimate in each year, the Council shall order a copy thereof to be filed in the office of the City Clerk, who shall cause a notice to be published in the official newspaper of the City of Newburgh to the effect that the Council will consider and hold a hearing on the budget estimate at its regular meeting on the second Monday in November and that the said budget estimate may be inspected at any time during office hours and prior to the said second Monday in November in the office of the City Clerk. The said notice shall be published in two (2) successive issues of such newspapers, the first of which shall be within one (1) week after the day of the first regular meeting of the Council in October. [Amended 12-14-1998 by L.L. No. 7-1998]

B. Not later than at its regular meeting on the fourth Monday in November, the Council shall adopt or shall amend and adopt the budget estimate as submitted by the City Manager. In amending the budget estimate, the Council may increase or decrease or reject any item contained in the said estimate, except items relating to indebtedness, fixed charges or estimated revenues.

C. If, not later than at its meeting on the fourth Monday in November, the Council does not adopt or amend and adopt the budget as submitted by the City Manager, it shall be deemed to have been adopted unchanged as submitted by the City Manager.

D. The adoption of the budget estimate as submitted or as amended shall constitute appropriations of the various amounts contained therein for the use of the various departments, offices, courts, commissions and boards named therein. After the adoption of the budget, the City Manager may transfer any unencumbered balance in any item within an appropriation for any department, office, court, commission or board to any other item within the appropriation for the same department, office, court, commission or board. All other transfers from budget item to budget item may be made only with the approval of the Council.

E. At its regular meeting on the fourth Monday in November, after the adoption of the budget estimate as submitted or as amended, the Council shall levy a general tax on all taxable property in the city, as contained in the last adopted assessment rolls of the city. Such general tax shall be in an amount equal to the sum of all appropriations contained in the annual budget estimate as adopted by the Council less all estimated revenues and receipts available to meet such appropriations from any and all sources, except the said general tax on taxable property.

11. Editor's Note: Former Secs. 8.11 and 8.12, which were amended 11-8-1949 by L.L. No. 3-1949 and which immediately followed this section, were repealed 8-10-1953 by L.L. No. 4-1953.

F. The Council shall, at the same time, include in the tax levy the amount of any special tax which shall have been voted as provided in § C8.17 hereof. The Council shall also add any items, with interest and penalties, to the tax levy which are unpaid and which are authorized by law to be added to and included with the tax levy. The City Collector, at such time as may be directed by the Council, shall cause the said general tax to be extended and apportioned, together with the county tax in the event that the same is combined with the tax for general city purposes, as provided in § C8.16 hereof. Such roll shall be completed with a warrant annexed under the Seal of the city commanding the Collector to receive and collect, in the manner provided by law for the collection of county taxes by town collectors, the several sums in the roll specified as assessed against the persons or property therein mentioned or described, with such rate per centum upon such sums for collecting the same as the Council shall have fixed and to make such returns upon the said warrants as specified therein.

§ C8.16. Combining of state, county and city taxes for collection. [Amended 6-23-1941 by L.L. No. 2-1941; 8-10-1953 by L.L. No. 4-1953]

A. The Council may, by ordinance, combine the taxes levied for state and county purposes and the taxes levied for general city purposes and provide for the collection thereof at such time or times and in not more than three (3) installments as it may determine; provided, further, however, that such installments must be paid in the order in which they become due.

B. In such case, the Council shall direct the payment to the County Treasurer of the tax levied for state and county purposes and which is payable to him as follows: on February 10 of each year, eighty-five percent (85%) of one-third (1/3) of the total state and county levy; on May 10 of each year, eighty-five percent (85%) of one-third (1/3) of the total state and county levy; on August 10 of each year, eighty-five percent (85%) of one-third (1/3) of the total state and county levy; and on October 10 of each year, the entire balance of the state and county levy.

C. Upon such payments being made, the tax so assessed for state and county purposes, together with such fees, interest and penalties as may be directed by the Council to be added, shall be and become the property of the City of Newburgh, shall be a lien in favor of the City of Newburgh against the property against which it is assessed and may be collected by the City of Newburgh by sale or in any other manner provided for the collection of taxes raised for city purposes, and all the provisions of this Act relating to the collection of taxes for general city purposes by suit or by sale are hereby made applicable to the collection of such taxes for state and county purposes. Nothing in this Act contained shall be deemed to authorize or empower the Council to levy or collect more than one (1) tax for general city purposes in the same fiscal year.

§ C8.17. Special tax levies. [Amended by L. 1943, c. 710; 8-10-1953 by L.L. No. 4-1953]

Whenever the Council shall be of the opinion that the interests of the city require the expenditure of money for any extraordinary or special purpose not specifically authorized by this Act, it may make an estimate of the sum necessary to be raised for such purpose, stating the amount and object for which it is required, and cause such statement and estimate to be published in at least one (1) of the newspapers

published in said city and to give notice that a special election will be held at which the question of whether such sum shall be raised or not will be submitted to the resident taxpayers for their determination. Such notice and statement shall be published at least once in each of three (3) successive weeks next preceding such election. Every corporation and every resident of the city not less than twenty-one (21) years of age whose name shall be on the assessment roll of the city last made and adopted before such election, whether individually or in a respective capacity, or both, and no other person shall be entitled to a vote at such election. The assessment roll or a copy thereof certified by the Clerk or the presiding officer of the Council shall be evidence of the names aforesaid. Such election shall be held at such place, in such manner, at such time and during such hours and under the supervision of such officers as the Council, by ordinance, may direct. The officers under whose supervision such election is held shall certify to the Council the number of votes cast for and against each proposition submitted at such election, and the Council shall thereupon ascertain, declare and certify whether such proposition has been carried or defeated. A sum of money authorized to be raised for any extraordinary or special purpose at such an election may be raised by including such sum in the amount of taxes to be levied for the year in which such expenditure is to be made.

§ C8.18. Excess revenues. [Added 8-10-1953 by L.L. No. 4-1953]

Whenever revenues are received by the city in excess of those estimated in the annual budget from sources other than the general city tax, which excess revenues are not otherwise appropriated by statute or by ordinance, the Council may, upon the recommendation of the City Manager, appropriate such excess revenues as it may deem proper. Unappropriated excess revenues shall lapse to surplus at the end of each year.

§ C8.20. Collection of taxes.¹² [Amended 1-14-1935 by L.L. No. 1-1935; 6-23-1941 by L.L. No. 2-1941; 8-10-1953 by L.L. No. 4-1953; 5-28-1974 by LL. No. 4-1974]

A. After the delivery of the roll and warrant to the City Collector, he shall publish notice thereof once a week for two successive weeks in the official newspaper of the City of Newburgh that he will attend at some convenient place within the city for at least fifteen (15) consecutive days, Saturdays, Sundays and holidays excepted, with said roll and warrant for the purpose of receiving payment of taxes; and it shall be the duty of said Collector to attend accordingly, and any person may pay his taxes at the time and place so designated on paying such fees thereon as the City Council shall authorize and direct, which fees shall be so fixed and graduated by the City Council as to encourage prompt payment of the taxes and shall not exceed one per centum (1%) on the taxes paid within fifteen (15) days after the first day designated for receiving taxes nor five per centum (5%) on the taxes paid thereafter. [Amended 12-14-1998 by L.L. No. 5-1998]

B. At the time of delivery to him of any such roll and warrant, the Collector shall deliver a receipt to the City Clerk, acknowledging the receipt by him of such roll and warrant, and he shall then proceed to collect the unpaid taxes in said roll specified in the manner provided by law for collection of county taxes and shall have and possess all the powers and authority conferred by law on the

12. Editor's Note: See also Ch. 270, Taxation.

collectors of county taxes and shall, in like manner, pay over all revenue collected by him to the City Comptroller and shall take his receipt therefor and shall make return to said Comptroller of the amount collected and paid over by him and of taxes remaining unpaid; and, upon making oath similar in all respects to the oath required by law of collectors of county taxes, he shall be credited by the City Comptroller with the amount so remaining due and unpaid. The Collector shall deposit all moneys in his hands with the City Comptroller from time to time, as the Council shall direct; but no such deposit nor any settlement had by the Council or by any city officer with the Collector shall be final or conclusive, and no bond or other security given by the Collector shall be invalidated by or canceled on any such settlement but shall remain in full force and effect.¹³

§ C8.22. Interest on unpaid taxes. [Amended 6-23-1941 by L.L. No. 2-1941; 8-10-1953 by L.L. No. 4-1953; 11-14-1983 by L.L. No. 2-1983]

All taxes or installments thereof, assessments and water rents remaining unpaid for ninety (90) days after the first date designated for the collection of same shall bear interest at the rate of ten percent (10%) per annum from said first date of collection.

§ C8.23. City may sue for taxes. [Amended 8-10-1953 by L.L. No. 4-1953; 5-13-1985 by L.L. No. 4-1985]

At any time after the return of any warrant for any tax, assessment or water rent, suit may be brought, upon authorization by the Council, by and in the name of the City of Newburgh for the recovery of any tax, assessment or water rent included in said warrant and remaining unpaid, with interest thereon at the rate of ten percentum (10%) per annum from the date of the original warrant and the highest rate of fees for collecting the same, together with the costs and disbursements of the action.

§ C8.24. Suits not to affect tax liens, [Amended 8-10-1953 by L.L. No. 4-1953]

No suit or proceedings brought for the recovery of any tax, assessment or water rent, nor any judgment or determination in any such suit or proceedings, shall operate to release any real property in the city from the lien of such tax, assessment or water rent or to interfere with the collection of such tax, assessment or water rent by sale in the manner herein provided.

§ C8.25. Claims against fire insurance proceeds.¹⁴ [Added 11-28-1977 by L.L. No. 2-1977]

A. The proceeds of every fire insurance policy insuring the interest of an owner and insuring any real property within the city upon which there is erected any residential, commercial or industrial building or structure other than a one- or

13. Editor's Note: Former Sec. 8.21 which immediately followed this section was renumbered as Sec. 8.16 by L.L. No. 4-1953, adopted 8-10-1953.

14. Editor's Note: See also Ch. 46, Fire Insurance Claims.

two-family residential structure shall be subject to a lien in favor of the city for any unpaid taxes, special ad valorem levies, special assessments and municipal charges arising by operation of law against such property in favor of the city and remaining undischarged for a period of one (1) year or more, which lien shall be prior to all other liens and claims, except the claim of a mortgage of record named in such policy; provided, however, that the City Collector shall release or return to the assured any amounts to which the city is otherwise able to claim if the insured agrees with the city in writing to restore the affected premises to the same or improved condition that it was in prior to the time that the lien arose.

B. The provisions of this section shall not be deemed or construed to alter or impair the right of the city to acquire or enforce any lien against such property but shall be in addition to any other power provided by law to acquire or enforce such right.

§ C8.30. Tax sales. [Amended by L. 1920, c. 436; 1-30-1934 by L.L. No. 1-1934; 1-14-1935 by L.L. No. 1-1935; 1-11-1937 by L.L. No. 1-1937; 8-10-1953 by L.L. No. 4-1953; 4-27-1981 by L.L. No. 4-1981; 9-22-1986 by L.L. No. 6-1986]

A. Every tax, assessment or water rent, for whatever purposes imposed or charged, upon real property within the city, by virtue of any provision of this Act, shall be a lien upon the real property so charged from time to time of the delivery to the collector of the roll containing the same with the warrant for the collection thereof, thereto annexed; and, if such tax, assessment or water rent shall be returned as unpaid by any officer authorized to collect the same, the Council may direct the Corporation Counsel or other proper officer to advertise and sell such real property in the manner hereinafter provided, or, in the alternative, the Council may direct that the City Manager or other designated officer shall purchase all such liens for the City of Newburgh at a sum sufficient to pay such tax or assessment, interest, cost and expenses without public auction. Such purchase of liens without public auction shall be advertised in the same manner as provided for a sale of liens at public auction and shall have the same legal effect in all respects as a tax sale at public auction.

B. The officer conducting such sales shall be entitled to demand and receive such fees as the Council may fix, not exceeding fifty dollars (\$50.), for each parcel of land so ordered to be sold, whether such sale shall be stopped by payment after advertisement and before sale or whether such parcel of land shall be actually sold, which fees shall be paid by such officer to the City Comptroller. Whenever the City Council shall order any parcel of land to be sold for tax assessment, water rent or other tax, the order shall be made for all such taxes, assessments, water rents and other liens which have been returned unpaid thereon. [Amended 10-28-1991 by L.L. No. 6-1991]

C. Before any such sale, a resolution shall be adopted by the City Council, which shall be entered at large in the records of the city, designating and directing the Corporation Counsel or other officer of the city to sell and describing the premises to be sold, as the same are described upon the assessment roll of the city, and the owner or agent thereof, so far as the same is known to the City Council, and the tax, assessment or water rent for which the sale is to be made, a copy of which order shall be delivered to the officer so designated, who shall forthwith advertise the sale of said premises in the same manner as in the case of sales of real estate on execution, except that the time required for the posting of the notices of sale shall be

fourteen (14) days before the sale, and the publication of the notices of the sale shall be at least once two (2) weeks immediately preceding the sale, and the sale shall be conducted in the same manner, except as herein provided. The cost of such advertisement shall be added to and form a part of the taxes, assessments or water rent.

D. [Amended 10-28-1991 by L.L. No. 6-1991] The proceeding may be stopped at any time before the sale by paying the said officer his fee and the amount of tax or assessment with the interest allowed thereon by this Act and the expense of advertising and mailing. All sales shall be at public auction, between the hours of 8:30 a.m. and 4:00 p.m. and shall be made to the highest bidder therefor. Three (3) certificates of sale of each parcel of land so sold shall be made out, subscribed and acknowledged by said officer; one (1) of which certificates shall be delivered to the purchaser, another filed in the City Clerk's office and another recorded in the office of the Clerk of the County of Orange. If there are two (2) or more purchasers, the certificate may be delivered to either. Such certificates shall contain a description of the premises sold, as the same are described on the assessment roll of the city and the price bid for each distinct lot or parcel, the whole consideration money paid, the name of the person or persons against whom such tax or assessment was made, the name of the purchaser, the particular tax or assessment for which the sale was made and the time when such sale will become absolute and the purchaser entitled to a conveyance according to law and shall also contain a statement that the purchaser of such certificate, heretofore or hereafter executed, instead of taking a conveyance of the property purchased, may, at his option, maintain an action in the Supreme Court to foreclose such certificate of sale after six (6) months from the date of service of a notice to redeem as provided for by § C8.41 hereof, such statement to be in the following form:

The purchaser, if hereunder the lands herein described are not redeemed, may either complete the purchase and take a conveyance of the lands or an estate for years in the lands as provided by law or, at his option, foreclose his lien pursuant to Article VII-A of the Tax Law.¹⁵

E. All provisions of the Civil Practice Law¹⁶ relating to action of the foreclosure of mortgages shall apply to the action hereby authorized. The certificate herein required to be recorded in the office of the County Clerk shall be duly recorded by said Clerk in the same manner as deeds are required to be recorded and, being so recorded, shall have the same effect as against subsequent purchasers and encumbrances as deed and conveyances duly proved and recorded; and such certificate or record thereof, or a duly authenticated copy of such record, shall be received in all courts and places as prima facie evidence of the facts therein stated. In indexing any certificate so to be recorded in his office or any deed which may be given pursuant thereto, the County Clerk shall index the same by indexing as grantor the name of the person named in such certificate as the owner thereof, adding thereto the words "by the City of Newburgh" and by indexing as grantee the name of the person named in such certificate as the purchaser. The City Clerk shall provide and keep in his office a suitable book in which he shall enter at length all such certificates of sale filed therein and shall index all such certificates in the manner above required of the County Clerk.

15. Editor's Note: For current provisions, see Article II of the Real Property Tax Law.

16. Editor's Note: See now Civil Practice Law and Rules.

F. The right and title of the person to any real property which shall be sold as hereinbefore provided shall not be divested by such sale until the expiration of twelve (12) months from the time of such sale; but, if such real property shall not have been redeemed as herein provided and a deed shall be executed in pursuance of a sale, the grantee in such deed shall be deemed vested with the legal estate from the time of such sale for the purpose of maintaining an action for any injury to such real estate.

§ C8.31. Tax deeds. [Amended 8-10-1953 by L.L. No. 4-1953]

After the expiration of eighteen (18) months from the time of the sale of any real property as herein provided, if any part of the premises sold shall remain unredeemed as hereinafter provided, the Council shall cause to be executed by the City Manager and delivered to the purchaser, his legal representatives or assigns a conveyance by the city of the premises so remaining unredeemed, which conveyance shall be valid and effectual to convey all the right, title and interest, which may have been sold in manner aforesaid. But no such conveyance shall be executed or delivered unless the notice provided for by § C8.41 hereof shall have been served or published, and proof of such service or publication shall accompany the application for such conveyance. The recital in the conveyance that proof of the service or publication of such notice has been presented to the Council on the application for the conveyance shall be presumptive evidence in all courts and places that such notice has been duly served or published as required by law. Such conveyance shall be presumptive evidence, in all courts and places, that the tax or assessment for which such real property may have been sold was legally imposed and that the proceedings to authorize such sale and such sale were regular. The grantee named in any such conveyance may obtain possession of the real property therein described in the manner prescribed by law in relation to persons holding over demised premises after the expiration of their terms without the consent of their landlords; and said grantee, by virtue of such conveyance, shall acquire all the right, title and interest in the real property therein described and the right to the possession of the same and shall have, hold and enjoy such real property free and clear from all other claims, liens and encumbrances, except such taxes and assessments as may have been charged thereon at the time of such sale or at any time thereafter.

§ C8.32. Tax certificates assignable. [Amended 8-10-1953 by L.L. No. 4-1953]

The certificates of sale hereinbefore mentioned shall be assignable by the purchaser or his legal representatives, and such assignments shall be acknowledged or proven in the manner required by law to entitle deeds to be recorded, and the Council may give to the assignee of any such certificate a conveyance of the real property therein described as provided for in the preceding section, provided that all assignments thereof shall have been duly recorded in the County Clerk's office of Orange County.

§ C8.33. Conditions of tax sales. [Amended 1-14-1935 by L.L. No. 1-1935; 8-10-1953 by L.L. No. 4-1953]

In making sales of real property under the provisions of this Charter, the officer making the same shall sell upon the following terms of sale: In case the tax or assessment, together with the interest thereon, and the proper expenses and

charges attending the sale do not exceed the sum of five hundred dollars (\$500.), then he shall require the purchaser to pay at the close of the sale a sum sufficient to pay said tax or assessment, interest, expenses and charges exceed five hundred dollars (\$500.), he shall sell on such terms as the Council may direct, but in no case shall the purchaser be required to pay, until after the time for the redemption of such real property shall expire, according to the provisions of this title, more than sufficient to pay the tax or assessment, interest, expenses and charges, and the said terms of sale shall, in all cases, require the purchaser, when the purchase money is more than sufficient to pay such tax or assessment, interest, expenses and charges, to pay the balance of the purchase money to the City Comptroller within five (5) days after the time for the redemption of such real property shall expire, according to the provisions of this Act. Said officer shall, in all cases, reduce his terms of sale to writing and require the purchaser to subscribe the same, which terms of sale shall be annexed to the certificate of sale which is herein required to be filed with the City Clerk and shall be filed with the same.

§ C8.34. Disposition of proceeds of tax sales. [Amended 1-14-1935 by L.L. No. 1-1935; 8-10-1953 by L.L. No. 4-1953]

The purchase money for which any real estate may be sold as hereinbefore provided shall be paid to the City Comptroller, and any balance of the same, after paying the tax or assessment for which the sale may have been made, with the interest thereon, together with the costs and expenses of the sale, shall remain in the treasury of the city and shall be paid out as in this section provided. The person against whom such tax or assessment was made or any person claiming to be the owner or having any interest in the land sold or any person having any judgment or mortgage which was a lien upon the real estate sold or claiming a right to said moneys may apply to the Supreme Court for an order directing the City Comptroller to pay the balance of said moneys to him, and the said court may make an order directing the said City Comptroller to pay said moneys to such persons as it may ascertain is properly entitled thereto, and said City Comptroller shall pay over said moneys pursuant to any such order. When the full amount of taxes for county and state purposes shall have been paid to the County Treasurer, the roll and warrant therefor and any and all taxes, sums or amounts unpaid thereon shall belong to the city and shall thereafter be enforced and collected in the manner provided for city taxes, and any and all sums collected thereon shall be placed in the general city funds.

§ C8.35. Redemption of property sold for taxes.

A. At any time within twelve (12) months after such sale, any owner of any parcel of real estate so sold as aforesaid or any specific part of undivided interest in or share of such parcel may redeem the same by paying to the purchaser the amount paid by the purchaser and all other sums which he may have paid for taxes or assessments on said real estate, together with the interest thereon from the time such payments were made, at the rate of twenty-five per centum (25%) per annum and the actual and necessary expense he may have incurred in the service of notices provided for in § C8.41 hereof; and on such payment being made, the title acquired by such sale shall cease and determine. In case such payment is made by the owner of the said real estate, then and in that event all mortgages, judgments, decrees and claims which were liens on said real estate at the time the tax or assessments for which the sale has been made became a lien thereon shall be and remain liens upon

said real estate, anything hereinbefore contained to the contrary notwithstanding. Upon such payment being made by any such person so entitled to redeem any real estate so sold, the sale of the premises so redeemed and the certificates of such sale shall be null and void, and the person so redeeming shall be entitled to three (3) certificates canceling of record the certificates of sale therefor made and filed. [Amended 8-10-1953 by L.L. No. 4-1953; 1-12-1981 by L.L. No. 1-1981]

B. In any case where a proceeding has been commenced by the city to foreclose a tax lien pursuant to Article 11, Title 3, of the New York State Real Property Tax Law, there shall be added to the amount of such tax lien the actual and necessary expense incurred in searching the title to the property involved and of providing such notice of said tax lien foreclosure upon such parties as may be required by law. [Added 11-24-1986 by L.L. No. 8-1986]

§ C8.36. Liens prior to tax sales. [Amended 8-10-1953 by L.L. No. 4-1953]

Any person having a mortgage, judgment, decree or claim, which was a lien on the premises sold at the time the tax or assessment for which the same were sold became a lien thereon, may, at any time within three (3) months after the expiration of the twelve (12) months mentioned in § C8-35 hereof, defeat such sale by making the payments provided in said § C8.35 and in the manner provided therein and shall, thenceforward, have a further lien on such premises for the amount paid by him to defeat the sale thereof and which shall be added to his mortgage, judgment, decree or claim and be enjoyed or enforced by him in the same manner as though it formed a part thereof. Such further lien shall date back to the time when said mortgage, judgment, decree or claim became a lien on such real estate. Upon such payment being made by any person so entitled to defeat such sale, the said sale and the certificate thereof shall be null and void and the person so defeating the same shall be entitled to have such certificates cancelled of record.

§ C8.37. Liens subsequent to tax sales. [Amended 8-10-1953 by L.L. No. 4-1953]

Any person having a mortgage, judgment, decree or claim, which shall become a lien on the premises sold subsequent to the lien of the tax or assessment for which the same was sold, may, at any time within three (3) months after the expiration of the twelve (12) months mentioned in § C8.36 hereof, provided that said sale has not already been defeated as provided in said § C8.36, defeat said sale by making the payments provided in § C8.35 hereof and in the manner therein provided, in which event, the person making such payment and defeating such sale shall be entitled to have and receive from the city a conveyance of said real estate as the purchaser thereof, subject to the same requirements and with the same effect as provided in § C8.31 hereof.

§ C8.38. Comptroller to give receipts. [Amended 1-14-1935 by L.L. No. 1-1935; 8-10-1953 by L.L. No. 4-1953]

The City Comptroller is hereby required to give proper receipts for payments made to him under any of the preceding sections, and any receipts taken for payments provided for therein, acknowledged or proven in due form of law to entitle conveyances of real estate to be recorded, shall be evidence of such payments and

may be recorded and indexed in the County Clerk's office of Orange County in the same manner as deeds are required by law to be recorded and indexed.¹⁷

§ C8.40. Mortgagee may pay delinquent taxes. [Amended 8-10-1953 by L.L. No. 4-1953]

In case any person having a mortgage, judgment, decree or claim on lands about to be sold for any tax or assessment shall stop sale by paying the amount of the tax or assessment, fees and interest as hereinbefore provided, then, and in that event, the person making such payment shall have a further lien on said lands for the amount so paid by him, which shall be added to his said mortgage, judgment, decree or claim and become a part thereof; and such further lien shall be of even date with said mortgage, judgment, decree or claim.

§ C8.41. Notice of purchase at tax sale. [Amended 8-10-1953 by L.L. No. 4-1953]

No owner whose deed, or, in case he holds such property by descent or devise, the deed of his ancestor or devisor, shall have been duly recorded in the office of the Clerk of the County of Orange before the sale thereof for any tax or assessment, and no mortgagee, lessee or assignee of either whose mortgage, lease or assignment shall have been so recorded shall be divested of his rights in such property by reason of such sale unless six (6) months' notice in writing thereof shall have been given by the purchaser or those claiming under him to such owner, mortgagee, lessee or assignee either personally or by publication of such notice once a week for six (6) weeks in the official paper or papers published in said city.

§ C8.42. Filing of notice with deed. [Amended 8-10-1953 by L.L. No. 4-1953]

A copy of the notice served or published, together with an affidavit proving the due service or publication of said notice, shall be filed in the office of the Clerk of the County of Orange with any deed which the purchaser may receive from the Council for the lands sold.

§ C8.43. Purchasing by city at tax sales. [Amended 8-10-1953 by L.L. No. 4-1953]

The City of Newburgh may become the purchaser at any sale which may be made under the provisions of this Act, and in such case, the said city shall be vested with the same rights as any other purchaser, but in no case shall the city at any such sale bid a sum or become the purchaser for a greater amount than sufficient to pay the tax or assessment, with interest, including the cost and expenses of such sale, and in all cases of such sales, the said city shall bid a sum sufficient to pay such tax or assessment, interest, cost and expenses. The City Manager or other officer designated by the Council shall attend all such sales and make such bid. Any sale made in violation of this provision shall be void.

§ C8.44. Mortgagee and purchaser defined. [Amended 8-10-1953 by L.L. No. 4-1953]

17. Editor's Note: Former Sec. 8.39, which immediately followed this section, was repealed 8-10-1953 by L.L. No. 4-1953.

The term "mortgagee," as used in this Act, shall be construed to include assignee of mortgagees, whose assignment shall be duly recorded, and the personal representatives of mortgagees; and the term "purchaser" shall be construed to include assignees and real and personal representatives, as the case may be.¹⁸

§ C8.45. Interest rate on liens for delinquent taxes, water and sewer charges and sanitation fees.[Added 11-14-1994 by L.L. No. 5-1994]

All delinquent taxes, water and sewer charges and sanitation fees included on a list of delinquent taxes prepared in accordance with Real Property Tax Law, Article 11, Title 3, shall bear interest at the rate of twenty-five percentum (25%) per annum from the time of recording of the list of delinquent taxes with the Clerk of the County of Orange, pursuant to the Real Property Tax Law of the State of New York, Article 11, Title 3.

§ C8.80. Annual audits.[Amended 8-10-1953 by L.L. No. 4-1953]

The Council may provide for independent annual audits of the fiscal transactions of all departments, offices, courts, commissions and boards of the city government. Such audits, if authorized, shall be made by certified public accountants holding certificates issued by the Regents of the University of the State of New York.

§ C8.81. Record of receipts and expenditures.[Amended 8-10-1953 by L.L. No. 4-1953]

The Council shall cause accurate account to be kept of all receipts and expenditures received or paid on account of the city, which account shall be open to inspection at all times, subject to such reasonable restrictions as may be imposed by the Council.

§ C8.82. Bonds.[Amended 10-29-1945 by L.L. No. 5-1945; 8-10-1953 by L.L. No. 4-1953; 3-8-1954 by L.L. No. 1-1954]

Bonds of the city may be either coupon or registered bonds and shall be issued in such denominations as the Council may direct. They may be sold at either public or private sale and upon such terms and under such conditions as the Council by ordinance may prescribe.

§ C8.85. Water rents.[Amended 3-10-1947 by L.L. No. 5-1947; 8-10-1953 by L.L. No. 4-1953]

A. On or before the first days of July, October, January and April in each year there shall be prepared a roll of water rents in which shall be set down in two (2) separate columns, according to the best information to be had, the following: in the first column, the name of the owner and location of the property chargeable with

18. Editor's Note: Former Secs. 8.45 and 8.50 were repealed and Sec. 8.60 was renumbered as Sec. 8.17 8-10-1953 by L.L. No. 4-1953, all of which immediately followed this section.

water rents as fixed or metered; in the second column, the amount due from each of said owners for said water meter rents.

B. After such roll of water rents has been completed, it shall be filed in the office of the City Clerk, and the City Clerk shall deliver the same to the Council of the City of Newburgh at its next regular meeting for confirmation, and the Council shall then confirm the same and deliver the roll of water rents to the Collector of Taxes of said city with a warrant, under the Seal of the city annexed thereto, commanding him to collect from the several persons named in said roll of water rents the several sums mentioned in the last column of such roll opposite their respective names, together with the fees for collecting, to be fixed by said Council, and pay over the same to the Comptroller of said city. Said water rents so charged shall be collected in the same manner as is or may be prescribed by law for the collection of taxes for city purposes of the City of Newburgh; the like notices shall be given by the Collector of Taxes of said city, like fees and penalties shall be fixed by the Council, and in all respects like proceedings shall be had by said Collector, as is or may be provided by law for the collection of taxes for city purposes. If said Collector shall be unable to collect any of such water rents, he shall make return thereof, under oath, to the Council, and thereupon and thereafter the city shall have power to sue for and collect such rents, together with all fees, penalties and interest and the costs and disbursements of the action. Said water rents shall be liens upon the property in respect to which they are assessed and may be collected by a sale of such property in the manner hereinbefore provided for the collection by sale of taxes and assessments for city purposes.

C. In case the Collector shall return any water rents uncollected, the City Manager, when authorized by the Council, may also cut off the supply of water leading to the premises upon which such water rents are assessed and prevent the further use of water from the waterworks of said city, until said rents, with interest, fees and penalties, by fully paid, provided that five (5) days' notice thereof in writing shall have been previously given to either the occupant or owners of said premises.

§ C8.86. Water bills. [Added 8-10-1953 by L.L. No. 4-1953]

The Council may, by ordinance, elect to substitute quarterly, semiannual and/or annual water bills for the roll of water rents specified in § C8.85 hereof. In such case the ordinance shall provide, among other things, that all water bills submitted to water users on or before the first day of September in any year and remaining unpaid on the first day of November in the same year shall, with ten per centum (10%) added thereto, be entered on the assessment rolls of the city against the proper parcel of taxable property. Such addition shall thereafter be subject to all the provisions of this Charter relating to the general city tax and shall be a lien against the said property.

§ C8.87. City contracts. [Added 6-13-1988 by L.L. No. 5-1988]

A. All contracts to which the city is a party shall be in writing and shall require the approval of the Council.

B. No contract of the city shall be valid unless signed by the City Manager and unless before being signed by the City Manager and before becoming effective it

shall have endorsed thereon the written approval of the Corporation Counsel and the Comptroller.

C. Notwithstanding the provisions of any general or special law to the contrary, no officer, department, board, commission or other spending agency shall, during any fiscal year, expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amount appropriated for that general classification of expenditure in the appropriation for such fiscal year or in supplementary appropriation as hereinafter provided or in excess of funds made available therefor, pursuant to the Local Finance Law. Any contract made in violation of this section shall be null and void.

§ C8.88. Homestead base proportions. [Added 2-27-1989 by L.L. No. 1-1989]

A. The provisions of Real Property Tax Law § 1903, concerning homestead base proportions, are hereby adopted.

B. The homestead base proportions shall be established by resolution of the Council of the City of Newburgh, New York, in accordance with the Rules of the State Board of Equalization and Assessment, and shall apply to taxes levied on the 1989 final assessment roll and to taxes levied on subsequent rolls, until this section shall be repealed.

§ C8.89. Water and sewer bills; relevy of unpaid charges with general city tax. [Added 5-13-1996 by L.L. No. 1-1996]

A. The Council shall establish, from time to time, the water rates to be paid by the consumers of water. Such water charges shall be a lien upon the real property on which or in connection with which the water was used. Unpaid water charges in arrears for 30 days or longer shall be subject to a penalty of 10% per annum of the amount due. Bills for water charges shall be prepared and sent to each owner of real property on which or in connection with water used on a quarter annual basis commencing on October 1, 1996, and thereafter on each January 1, April 1, July 1 and October 1, following in the same manner as water and sewer charges have heretofore been billed.

B. The City Collector, on or before the second Monday in October of each year, shall report all water and sewer charges that remain unpaid as of the first day of October in any year and shall file annually with the Council a statement containing a brief description of the property upon which or in connection with which the water was used, the name of the owner and the amount chargeable to each. The Council shall then, no later than its regular meeting on the fourth Monday in November of each year, levy all amounts remaining unpaid on the date taxes are levied against the real property for which or in connection with which such water was provided. All of the provisions of the laws of the State of New York and this charter covering the enforcement and collection of unpaid city taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid water charges.

C. Sewer rents shall continue to be calculated and imposed in accordance with Local Law No. 1-1970, as amended, and shall be billed, relieved and enforced at the same times and in the same manner as provided herein for water charges.

D. This section shall take effect on October 1, 1996 for all water and sewer bills rendered on October 1, 1996, or thereafter.

ARTICLE IX¹⁹
Department of Public Works

§ C9.00. Department established; composition. [Added 9-14-1987 by L.L. No. 4-1987]

There shall be a Department of Public Works, headed by the Superintendent of Public Works and including a Division of Streets and Bridges and a Division of Sanitation. The Department shall also have control over all city parks and rivers.

§ C9.01. Superintendent of Public Works. [Added 9-14-1987 by L.L. No. 4-1987]

The Superintendent of Public Works, as the head of the Department of Public Works, shall have supervision and control of the Division of Streets and Bridges and the Division of Sanitation. He shall have administrative control over the Department and such other functions and duties as may be assigned by the City Manager.

§ C9.03. Dumpster user fees. [Added 1-25-1988 by L.L. No. 2-1988]

A. The owners of all properties where dumpsters are serviced by the city, within the City of Newburgh, shall be charged for the removal of wastes generated by such properties at a rate of one hundred twenty dollars (\$120.) per month per dumpster for waste generated at said property. A dumpster is defined as having a volume not exceeding two (2) cubic yards. Dumpsters exceeding two (2) cubic yards will not be serviced by the city. [Amended 10-10-1989 by L.L. No. 3-1989]

B. The above charges shall be made on all properties where collection of dumpster wastes by the city has been requested. The owner of each such property must file an application or a dumpster permit for such property.

C. The charges imposed by this local law shall be billed to each owner on a monthly basis. No refunds or proration shall be made for rendering of only a partial month's services. No change in charge or service shall become effective other than as of the first day of a month.

D. The Council shall adjust the above rates from time to time so that the amount charged shall be sufficient to fund the operating costs of garbage collection services offered to commercial properties together with an appropriate proportional share of such capital improvements, principal and interest payments on bonds that

19. Editor's Note: Local Law No. 5-1986, adopted 9-22-1986, establishing a system of user fees for sanitation services supplied to commercial properties, added Secs. 9.01 to 9.04 to this Article, which local law was subsequently repealed 11-24-1986 by L.L. No. 7-1986.

may be issued to finance such garbage collection operations and such other related expenses as the Council may deem necessary to fund the collection operation related to commercial properties.

§ C9.04. Overdue and unpaid dumpster user fees to become liens; collection and enforcement. [Added 1-25-1988 by L.L. No. 2-1988]

A. Overdue and unpaid dumpster user fees shall become liens against the real property to which they relate at the same time and in the same manner as uncollected water rents become liens and shall be collectible against such real property in the same manner as is or may be prescribed by law for the collection of taxes for the City of Newburgh for city purposes. Like notices shall be given by the City Collector.

B. Interest, penalties and fees shall be the same as for the collection of water rents, and, in all respects, like proceedings shall be had by the City Collector as is or may be provided by law for the collection of water rents.

C. The amount so charged shall be collected and enforced in the same manner and in the same time as may be provided by law for the collection and enforcement of city taxes and such service charges, interest and penalties thereon shall be a lien on the real property on which the charges accrued.

§ C9.05. City Engineer and Surveyor.

The City Engineer and Surveyor shall do all the civil engineering and surveying of the city, prepare the specifications for all public works and public buildings when required by the Council and shall supervise such public works and the construction of such public buildings as may be directed by the Council. Nothing herein provided, however, shall be construed as restricting or limiting the power of the Council to employ consulting engineers in special or difficult cases.

§ C9.10. Designation of public streets.

All streets, avenues, roads, alleys, lanes, concourses and public squares in public use within the city heretofore or hereafter laid out as streets or public highways under any law of this state or under any proceedings authorized by the statutes of this state; all streets, avenues, roads, alleys, lanes, concourses and public squares not laid out or opened under any statute of this state or by proceedings authorized by such statute but which have been worked or improved by the city and used as public streets or highways for ten (10) years or more; and all streets heretofore dedicated to the public use in pursuance of law or hereafter dedicated and accepted by the Council as provided in this Act, shall be deemed public streets of the city.

§ C9.11. Dedication of streets, parks, squares or other land.

Whenever any street, park, square or other land shall have been dedicated to the public use, the Council shall accept such dedication by ordinance. Before any street, park or square shall be so accepted, the Council shall cause a survey, map or description thereof either to be made by the City Engineer or approved by him in

writing and by him reported to the Council, stating the exact location, the course, distance, width and boundary of the street, park, square or land so accepted. Such description shall be entered at length in the minutes of the Council, and such map shall be filed in the office of the City Clerk, and copies thereof duly certified by the City Clerk shall be presumptive evidence in any suit or proceedings of the location of such street, park, square or land.

§ C9.12. Streets and public places not sufficiently described.

The Council may, by ordinance, cause all streets, public parks, squares or other public places in said city that have been used for ten (10) years or more and are not sufficiently described or have not been duly recorded in the public records to be ascertained, described and entered of record in its minutes, and a record thereof and of such as shall hereafter be laid out, or of such as have been dedicated and accepted by the Council, or a copy of such record certified by the City Clerk shall be evidence of the existence and location of such street, park, square and other public places as therein described.

§ C9.20. Change of street grade.

The Council shall not change the grade of any street which has been legally established, except upon compensation for damages done, but nothing herein contained shall be construed to require compensation for damages to be ascertained or paid prior to the making of change in grade.

§ C9.29. Power of city to perform required work and to collect cost thereof. [Added 12-9-1996 by L.L. No. 3-1996]

Where the owner of any premises shall fail or neglect to perform any work required by this charter, by any ordinance of the city or by any order of a City Officer having jurisdiction, the City Manager or other City Officer having jurisdiction may cause such work to be performed. A bill for the expenses incurred by such work shall be mailed to such owner at his last place of residence or, if his place of residence is unknown, it shall be mailed him addressed to him at the property affected. If he shall fail to pay the same within 10 days thereafter, the City Manager or other City Officer having jurisdiction shall file his certificate of the actual cost of the work, together with a statement of the property in front of which the cleaning was done, with the officer or board charged with the assessment of the property. Such officer or board shall, in the preparation of the next assessment roll of general city taxes, assess said amount with 8% interest to date 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 penalty and shall constitute the same lien upon the property assessed as the general city tax and shall be considered a part thereof. Said authority shall be in addition to all other powers of the city to seek a civil judgment, prosecute for a violation of law or ordinance or any other authority granted by charter, statute, law, ordinance or regulation of the city.

§ C9.30. Duty of abutting owner to repair and maintain sidewalk and for removal of snow and ice. [Amended 12-9-1996 by L.L. No. 3-1996]

It shall be the duty of the owner or occupant of property abutting a street, highway, travelled road, public lane, alley or space to maintain and repair the sidewalk adjoining his land and keep such sidewalk and the gutter free and clear of snow and ice and other obstructions. Such owner or occupant shall and each of them shall be liable for any injury or damage by reason of commission, failure or negligence to make, maintain or repair such sidewalk.

§ C9.31. Organization and duties of Division of Sanitation. [Added 7-8-1991 by L.L. No. 3-1991]

The Division of Sanitation shall be responsible for the collection and disposal of garbage, trash, refuse and recyclables throughout the city, the sweeping of streets and the enforcement of all ordinances and regulations relating to the collection, carting and disposal of garbage, trash, refuse and recyclables.²⁰ The Division of Streets and Bridges shall be responsible for the maintenance and repair of all streets and other public property within the city. Each division shall have all other duties as are currently assigned or may be in the future assigned to it by the City Manager.

§ C9.32. Definitions. [Added 7-8-1991 by L.L. No. 3-1991]

As used herein, the following terms shall have the meanings indicated:

COMMERCIAL PROPERTY — Any commercial building or portion thereof containing five thousand (5,000) square feet or more, devoted in whole or in part to nonresidential purposes. This term shall include, but not be limited to, clubs, retail stores, offices, restaurants, banks, recreational facilities and enterprises involving the sale of goods or services at retail to the general public conducted for profit or not-for-profit, but not including industrial properties.

DWELLING UNIT — One (1) or more rooms with provisions for living, sanitary and sleeping facilities arranged for the use of one (1) family.

INDUSTRIAL PROPERTY — Any premises or portion thereof devoted to the manufacture, compounding, processing or treatment of goods or to the storage and shipping of goods which do not involve the sale of goods or services at retail to the general public.

OWNER — The person or entity to whom a piece of real property is assessed on the current assessment roll of the city.

RESIDENTIAL PROPERTY — A building or structure containing one (1) or more dwelling units which are intended to serve as permanent places of abode and not transient or emergency accommodations. The term "residential property" shall not include hotels, motels, boarding or rooming houses, hospitals, clubs, schools or dormitories.

SMALL COMMERCIAL PROPERTY — Any commercial building or portion thereof containing five thousand (5,000) square feet or less, devoted in whole or in part to nonresidential purposes. This term shall include, but not be limited to,

20. Editor's Note: See Ch. 183, Garbage, Rubbish and Refuse.

clubs, retail stores, offices, restaurants, banks, recreational facilities and enterprises involving the sale of goods or services at retail to the general public conducted for profit or not-for-profit, but not including industrial properties.

§ C9.33. User fees to be charged for garbage collection. [Added 7-8-1991 by L.L. No. 3-1991]

A. Small commercial properties. The owner of each small commercial property within the City of Newburgh where commercial wastes are removed by the city shall be charged for the removal of commercial wastes generated by such properties at a rate of one (1) stop fee plus two (2) dwelling unit fees per month.

B. Residential properties. The owner of each property within the City of Newburgh in the residential classification where wastes are removed by the city shall be charged per month for the removal of such waste at the rate of one (1) stop fee plus one (1) dwelling unit fee for each dwelling unit in the residential building. The number of dwelling units to be charged fees with regard to any property shall be determined by the number of dwelling units indicated on the certificate of occupancy for said property. A property containing rooming and boarding units shall be charged one (1) dwelling unit fee for each rooming or boarding unit as indicated upon such property's certificate of occupancy. [Amended 10-12-1999 by L.L. No. 3-1999]

C. Commercial properties. The owner of each commercial property within the City of Newburgh where wastes are removed by the city shall be charged for the removal of such wastes at the rate of one (1) stop fee plus four (4) dwelling unit fees for each month.

D. Fees defined and set. [Amended 12-13-1999 by L.L. No. 4-1999²¹]

(1) Stop fee. A stop fee is the fee for the garbage truck making a stop in front of a property. The stop fee is set at ten dollars (\$10) per month for each tax lot within the city, whether or not a building is erected thereon.

(2) Dwelling unit fee. A dwelling unit fee is the fee charged for collection of garbage from one (1) dwelling unit for a period of one (1) month. The dwelling unit fee shall be twelve dollars (\$12.) per month per dwelling unit.

E. Bills for sanitation user fees. Bills for sanitation user fees shall be prepared and sent to each owner on a quarterannual basis, starting on August 1, 1991, in the same manner as water and sewer charges are now billed and distributed. Bills for user fees shall be payable within the same time limits as may be prescribed in the Charter for the payment of water bills.

§ C9.34. Overdue and unpaid sanitation user fees to become liens; collection; interest and penalties; enforcement. [Added 7-8-1991 by L.L. No. 3-1991; amended 10-28-1991 by L.L. No. 5-1991]

A. The amounts charged as sanitation user fees shall become liens against the real property to which they relate at the time rendered and in the same manner

21. Editor's Note: This local law provided that it would take effect on January 1, 2000.

as water rents become liens and shall be collectible against such real property as provided by law.

B. Overdue and unpaid sanitation user fees shall be subject to the same interest, penalties and fees as provided for the collection of water rents and, in all respects, like proceedings shall be had by the City Collector as are or may be provided by law for the collection of water rents if they remain unpaid. The City Collector shall report to the Council all user fees imposed after January 1, 1993, with the interest and penalties thereon, which remain unpaid as of thirty (30) days prior to the last date prescribed by law for the annexation of tax warrant to the assessment roll, together with a brief description of the property for which said sanitation services were provided and the name and address of the person or corporation liable to pay such amount. The Council shall then, no later than its regular meeting on the fourth Monday in November of each year, levy all amounts remaining unpaid on the date taxes are levied against the real property for which or in connection with which such sanitation service was provided. [Amended 10-26-1992 by L.L. No. 4-1992]

C. The amount so charged as a sanitation user fee and all interest, fees and penalties thereon shall be a lien on the real property on which the charges accrued and shall be collected and enforced as provided by law.

D. In case the City Collector shall return any sanitation user fees uncollected, the City Manager may cut off sanitation service to the property charged until such sanitation user fees and all interest, penalties and fees are fully paid.

§ C9.35. Application for reduction or elimination of service charge. [Added 7-8-1991 by L.L. No. 3-1991]

A. Any person applying to the Superintendent for a reduction or elimination in the service charge imposed on his property by § C9.33 of the City Charter shall do so on an application form to be provided by the Superintendent, which form shall be signed and notarized by the property owner. Upon receipt of such a request, the Superintendent shall investigate the facts of the application and offer the applicant an informal hearing as to why the application should be granted and shall make a written determination granting or denying the application. The Superintendent's determination shall be final.

B. [Amended 1-25-1993 by L.L. No. 1-1993; 10-12-1999 by L.L. No. 3-1999] The only grounds for reduction or elimination of such service charge are as follows:

(1) That a mistake was made on the part of the city in classifying the property.

(2) A senior citizen tax exemption shall have been granted pursuant to Chapter 270, Article II, of the Code of Ordinances in regard to the property, in which case a percentage reduction in the service charge shall be granted equal to the percentage exemption of assessed valuation granted by said Article for the same property.

C. Residential property with an adjoining vacant lot, owned by the same entity, shall be charged only one (1) stop fee per month, including both parcels. The

property owner must request this exemption or the billing shall reflect a separate stop fee.

D. Reductions in the amount of the user charge applying to any particular property shall be for the current billing period only. Applications for reduction must be made for each and every quarter that the unit remains unoccupied. Applications shall only be accepted for a period of twenty (20) days after the billing date indicated on the sanitation bill. Incomplete applications will not be considered. [Amended 6-13-1994 by L.L. No. 4-1994]

§ C9.36. Duties of property owner to report changes in occupancy. [Added 7-8-1991 by L.L. No. 3-1991]

Any person being the owner of residential property within the city shall have an affirmative duty to report to the Division of Sanitation, on a form to be provided by the Superintendent, by change in occupancy of that property which would have the effect of increasing the sanitation service charge. Such increases in the amount of the user charge shall become effective immediately, and any portion of a month shall constitute a full month.

§ C9.37. Penalties for offenses. [Added 7-8-1991 by L.L. No. 3-1991]

Any person making a false statement on any application made pursuant to this Article, on any report made, or any violation of this Article shall be guilty of a violation and, upon conviction, shall be subject to a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

ARTICLE IX-A Water Department

§ C9.50. Department established; Superintendent.

There shall be a Water Department headed by the Superintendent of Water. The Superintendent shall have administrative control and direction of the Department and such other functions and duties as may be assigned by the City Manager.

§ C9.60. Water supply; maintenance, operation and control; imposition and collection of water rents.

It shall be the duty of the Council, and it shall have the power to:

A. Keep the property and works belonging to the city and used and provided for the purpose of furnishing a supply of water in good order and repair and to see that all proper measures are taken to preserve the purity of the water and a sufficient supply thereof.

B. When the Council shall deem it advisable, cause the line of waterpipes connected with such waterworks to be laid down and extended through any of the public streets, lanes or alleys of said city.

C. Make such bylaws and regulations for the preservation, management and protection of the waterworks and the use and control of the water, including the installation of meters for measuring the consumption of water upon the premises of any consumer thereof, as may be deemed advisable and prescribe the penalty for any violation of such bylaws or regulations or for tampering or in any manner interfering with such water meters and to alter or amend the same at any times.

D. Establish a scale of annual rates to be charged and paid annually by the owners of all 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. Such water rents, together with all fees and interest thereon and 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. Such rents may be based on the consumption of water as measured by meters installed or may 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 may, from time to time, be modified and amended, increased or diminished as well as extended to other descriptions of buildings, factories, stables, breweries, mills, foundries and other buildings, establishments and trades which consume extra quantities of water.

§ C9.61. Water supply pipes.²²

The water supply pipes leading from the buildings to the distributing pipes shall be inserted and kept in repair at the expense of the owners or occupants of the buildings and shall not be inserted or connected with the main pipes until a permit therefor shall be obtained from the City Manager or other person having charge thereof, and all such connecting or supply pipes and fixtures shall be constructed under the supervision of the City Manager or a person designated by him.

§ C9.62. Right of entry to survey property.

The Council of the City of Newburgh is hereby authorized by its members or its authorized officers, agents or employees to enter on any land or water for the purposes of making surveys of such property as it may deem necessary for the enlargement, alteration or improvement of the waterworks.

§ C9.63. Acquisition of property.

The Council is hereby authorized to make agreement with any owner or owners of lands, lakes, ponds, springs or streams of water or other property which may be required for the enlargement, alteration or improvement of the waterworks of said city or which may be injuriously affected thereby as to the price to be paid to such owner or owners and may buy, in the name of the City of Newburgh, any such lands, lakes, ponds, springs or streams of water or other property which may be so required or any easements in any land for the purposes aforesaid, and such acquisition shall be held in the City of Newburgh for waterworks purposes.

22. Editor's Note: See also Ch. 293, Water.

§ C9.64. Commissioners appointed to fix compensation for property taken for waterworks.

In case of disagreement between the Council and the owner or owners of any lands, lakes, ponds, springs or streams of water or other property or easement thereon which may now or hereafter be required for the enlargement, alteration or improvement of said waterworks as to the amount of compensation to be paid to such owner or owners or in case any such owner shall be an infant or insane or absent from the state or the owner of an uncertain or contingent interest, the Supreme Court at any Special Term thereof in the Ninth Judicial District shall, on the application of either party, after ten (10) days' personal notice in writing or, when such notice cannot be served within this state, after three (3) weeks' notice of such application published in one (1) of the newspapers published in the City of Newburgh, nominate and appoint three (3) disinterested persons Commissioners to examine such property, who, being duly sworn faithfully and impartially to perform their duties, shall estimate and report to said Court the several sums which shall be a just compensation to such owners for the appropriation to the purposes of this Act, for the waterworks aforesaid, of any lands or property or easements therein or of any lakes, ponds, springs or streams of water, or interest or estate therein, which may be required for the enlargement, alteration, improvement or betterment of said waterworks or which may be injuriously affected by any operation connected therewith; and the said Commissioners, before proceeding make such estimate, shall publish a notice once in each of two (2) successive weeks in at least one (1) newspaper published in the City of Newburgh, stating a time when and a place where they will meet to perform their said duties. At such time and place, they are authorized and required to take and hear such proofs and allegations as may be offered by any of the said owners, showing in what manner and to what extent they will sustain injury by reason of such appropriation and also such proofs and allegations in relation thereto as may be offered by the City of Newburgh; and the said commissioners may adjourn from time to time as may be necessary to enable them to take such proofs.

§ C9.65. Payment of compensation for property taken for waterworks.

Whenever such report described in § C9.64 shall have been confirmed by the Supreme Court at any Special Term in the Ninth Judicial District, upon notice of eight (8) days in writing of the motion confirm the same served upon the attorney or attorneys of the several parties who shall have appeared by attorney upon the hearing before said Commissioners, the said City Council may deposit as the said Court may direct or pay to the said owner or owners or to such person or persons as the said court may direct the sum mentioned in said report, in full satisfaction for all damages sustained by such owner or owners or such person or persons and in full compensation for the property required and taken.

§ C9.66. Authority to construct aqueducts and reservoirs and lay mains and pipes.

The authority of this Act, conferred on the Council of said city, to enlarge, alter and improve the waterworks of said city is hereby declared to include the authority to construct such additional aqueducts and reservoirs and to lay such additional mains and other distributing pipes in connection with said waterworks and to acquire the title to such lands, water and other property necessary thereto as it

shall, from time to time, determine necessary for the purposes of supplying the City of Newburgh with pure and wholesome water or for the extinguishing of fires.

§ C9.67. Use of ground under streets.

The Council in behalf of the City of Newburgh and all persons acting under its authority shall have the right to use the ground or soil under any street, highway or road within the Towns of New Windsor and Newburgh for the purpose of introducing water into and through any portion of the City of Newburgh on condition that they shall cause the surface of said street, highway or road to be relaid and restored to its former state and cause all damages thereto to be repaired.²³

§ C9.68. Extension of water and sewer service outside of corporate limits prohibited. [Added 2-15-1995 by L.L. No. 1-1995]

A. No extension shall be made of water or sewer lines or service outside of the corporate limits of the city unless said extension shall first have been authorized by a majority of votes cast at a special election at which all qualified voters of the city shall be entitled to vote. The notice, officers, polling places, manner of conducting and other details shall be determined by ordinance of the Council.

B. This section is intended to apply only to agreements with individual property owners or groups of owners for utility service but not to major agreements with the adjoining towns for sharing of utility service with all or a part of such town or towns.

ARTICLE X
Local and Public Improvements

§ C10.00. Determination as to whether improvement is local or public.

The Council may determine that the cost of improving or paving any street or the cost of constructing any sewers, bridge or wharf shall be chargeable against the city at large or may determine that it is a local improvement and that the cost thereof shall be chargeable in whole or in part against the property benefited.

§ C10.10. Procedure in making public improvements or purchases. [Amended by L. 1943, c. 710]

The Council shall proceed to make all public improvements or purchases for the cost of which obligations of the city (other than tax anticipation notes) are issued or the cost of which is assessed in whole or in part against the property benefited in the following manner:

23. Editor's Note: Former Sec. 9.68, which immediately followed this section and dealt with contaminating the water supply, was deleted from the Charter 9-14-1987 by L.L. No. 4-1987 and transferred to Ch. 295, Water Pollution. Also, former § C9.69, Extension of water or sewer service outside corporate limits, added 3-12-1984 by L.L. No. 1-1984, was repealed 12-12-1988 by L.L. No. 7-1988.

A. A detailed estimate of the cost of such public improvement or purchase shall be filed in the office of the City Clerk pursuant to order of the Council.

B. A notice signed by the City Clerk shall be published at least once in each of two (2) successive weeks in the official newspaper of the City of Newburgh stating that such detailed estimate is on file in the City Clerk's office and open for inspection and that the Council will meet on a day and at a time and place to be therein specified to hear all persons who wish to be heard either for or against the making of the public improvement or purchase. [Amended 12-14-1998 by L.L. No. 4-1998]

C. After such hearing, the Council shall determine whether or not such public improvement or purchase shall be made and shall record its determination by resolution.

D. If it shall determine to make the improvement or purchase, the City Manager shall proceed to advertise and let the contract therefor in accordance with specifications to be prepared by such officer as the Council may designate and report his action to the Council.

E. Where the improvement determined on is the paving of a street, the Council may either determine the material therefor before the contract is advertised or may call for alternative bids and determine the material thereof after the opening of the bids and before the letting of the contract.

F. The City Manager shall have the right to reject any and all bids, but any person who for any cause may deem himself aggrieved by the award of any contract by the City Manager under this section may, within forty-eight (48) hours after the report of such award is presented to the Council, appeal to the Council from such award by filing with the City Clerk written notice of such appeal. The Council shall, with all convenient speed thereafter, after giving all persons interested an opportunity to be heard, either confirm or reject such award. In case the award is rejected by the Council, the City Manager shall readvertise and relet the contract.

§ C10.20. Acquisition of property for municipal purposes.

Whenever any real property, real estate or interest therein shall be required for any municipal purpose, except as otherwise provided by law, the City Manager may acquire for the city the necessary lands and real estate or interest therein by gift or purchase at a price approved by the Council or by the proceedings specified in the Condemnation 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 opening.

§ C10.30. Apportioning and collecting cost of local improvements. [Amended by L. 1927, c. 329; L 1943, c. 710]

A. Upon the completion of any local improvement, the City Clerk shall compute and ascertain the total cost thereof. In the total cost shall be included awards for the taking of real estate, rights or easements, awards for damages resulting from such improvements, all sums paid by the city for surveyors, engineers, inspectors, commissioners and witnesses' fees, the costs and

disbursements of the Corporation Counsel for and on account of such improvement, the interest paid or accrued at the time of the computation on notes issued by the city to pay the expense of such improvement and all expenses incident to the improvement and the assessment therefor. After the City Clerk shall compute and ascertain the total cost of any local improvement as aforesaid, he shall certify the same to the Council.

B. The Council, by resolution, shall determine the improvement to be a local improvement, determine the property benefited thereby and fix the proportion of the cost thereof to be assessed against the property benefited and the proportion thereof, if any, to be borne by the city at large.

C. The proportion determined to be borne by the city at large may be included in the general tax levy for city purposes for the next succeeding fiscal year.

D. The proportion determined to be assessed against the property benefited shall be assessed against such property, and the assessment, when completed, shall be filed in the office of the City Clerk, who shall publish a notice in at least one (1) newspaper published in said city that such assessment has been completed and will remain on file in the City Clerk's office for inspection by any person interested until a day to be in said notice specified and that on that day, at a time and place to be specified, the Council will meet to review such assessment and to hear any objections that may be made to any assessment thereon, and the Council shall have the power to correct, alter, amend, subtract from or add to any of the several assessments in such manner as, in its judgment may be proper and shall then confirm the said assessment. Such assessment shall then be delivered to the Collector with a warrant annexed under the Seal of the city commanding him to receive and collect the same in the manner provided by this Act for the collection of taxes for general city purposes, together with such fees, interest and penalties as may be fixed by the Council.

§.C10.40. Inclusion of all expenses in assessments for improvements; street surface railroads.

A. In all cases of assessment for improvements, there shall be included in the apportionment all the expenses connected with or which were incident to the making of the improvement and assessment.

B. Where the payment of any portion of the cost of improving or paving any street in which the tracks of a street surface railroad corporation are laid is imposed by law upon such corporation, that portion of the cost of such improvement may, in the discretion of the Council, be included in the total cost of the improvement for which obligations of the city are issued and may be levied as an assessment against such street surface railroad corporation and made payable in one (1) payment or in such annual installments, bearing such equitable rate of interest as the Council may determine.

C. where a street surface railroad corporation is chargeable with the duty of paving or otherwise improving any portion of any street in which tracks of such street surface railroad corporation are laid and has actually made such improvement at its own expense in compliance with an order or resolution of the Council, the city, in the discretion of the Council and upon written request of such street surface railroad corporation, may pay to such street surface railroad

corporation the whole or any portion of the actual cost of such improvement paid by such street surface railroad corporation and levy the amount of such payment as an assessment against such street surface railroad corporation, payable in such annual installments bearing such equitable rate of interest as the Council may determine.

§ C10.50. Grounds for institution of proceedings to contest assessments for local improvements.

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 officer, 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 proceedings 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 substantial excess of the amount which should have been lawfully levied or assessed.

§ C10.51. Procedure for contesting assessments for local improvements.

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 assess the same or 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 (§ C10.50), 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 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 (20) 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 the assessment or tax of any such aggrieved

party has been unlawfully substantially 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 County Clerk's office of Orange County and shall have the same force and effect as a judgment. The Court may, during the pendency of 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 reasons 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 changed or modified 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, it shall be the duty of the Council to forthwith cause the same to be reassessed and levied in a proper manner.

§ C10.52. Consolidation of proceedings to vacate or modify assessments.

Two (2) or more persons may unite in commencing and prosecuting the proceedings to vacate or modify assessments; and when two (2) or more persons have commenced separate proceedings to vacate or modify assessments for the same improvement, the court before which 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 (1) proceeding.

§ C10.53. Reassessment after invalidation of assessment or tax.

Whenever any assessments made or tax levied under the provisions of this Act shall be set aside or shall be decided by any court having jurisdiction thereof to have been improperly or illegally made or whenever it shall be ascertained that the proceedings under which said assessment has been made or said tax levied shall have been so far irregular and erroneous as to make the collection of such assessment illegal, then and in that case a reassessment shall be made with the same force and effects as if it had been an original assessment.

§ C10.60. Ordinance directing raising of money for local improvements. [Amended by L. 1943, c. 710]

Whenever the City Clerk shall certify to the Council the total cost of any local improvement, the Council may, by ordinance, direct that the amount of money necessary for the payment of the cost of such improvement shall be raised by the city.

ARTICLE XI

Department of Police

§ C11.01. Department created. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-1-1979 by L.L. No. 1-1979; 3-3-1980 by L.L. No. 2-1980]

There is hereby created a Police Department for the city, which shall consist of a Police Chief, Deputy Police Chiefs, Captains, Lieutenants, Sergeants, Police Officers, matrons and such other members as may be provided for by the City Council.

§ C11.02. Appointments, promotions and changes in status of members. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-1-1979 by L.L. No. 1-1979]

A. No person shall be appointed to membership in the Police Department or continue to hold membership therein who is not a citizen of good moral character or who has ever been convicted of a felony or who cannot understandingly read and write the English language.

B. The City Manager shall make all appointments, promotions and changes of status of the officers and members of the Police Department in accordance with the provisions of the Civil Service Law of the state, except as otherwise herein provided. In making promotions, seniority and meritorious service in the Department, as well as superior capacity, as shown by competitive examination or otherwise, 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.

C. No member of the Police Department shall hold office or be employed in any other department of the city government.

§ C11.03. Rank. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-1-1979 by L.L. No. 1-1979; 3-3-1980 by L.L. No. 2-1980]

The Police Chief shall be the head of the department and its chief executive officer. He shall have supervision over all officers and members thereof. Following him in rank shall be the Deputy Police Chiefs, Captains, Lieutenants, Sergeants and police officers in order of seniority in each group.

§ C11.04. Duties of Police Chief. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-1-1979 by L.L. No. 1-1979; 3-3-1980 by L.L. No. 2-1980]

A. The Police Chief shall be responsible for the city jail and shall have custody of all persons incarcerated therein. He shall keep such records and make such reports concerning the activities of his Department as may be required by statute or by the City Council.

B. The Police Chief shall be responsible for the performance by the Police Department of its functions, and all persons who are members of the Police Department shall serve subject to the orders of the Police Chief.

C. The Police Chief shall have the power and it shall be his duty to enforce all rules and regulations of the City Manager and ordinances, local laws and statutes relating to the Police Department, and he shall perform such other duties as may be prescribed by law by the City Manager or the City Council. [Amended 3-23-1992 by L.L. No. 1-1992]

§ C11.05. Duties. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-1-1979 by L.L. No. 1-1979]

A. Deputy Police Chiefs shall perform the duties assigned to them by the Police Chief. Each Deputy Police Chief shall possess the powers and perform the duties of the Police Chief in his absence or during his inability to act or during a vacancy in the office of the Police Chief. The order in which the Deputy Police Chiefs shall so act shall be determined by the City Manager.

B. It shall be the duty of the members of the Police Department to see to the enforcement of all of the ordinances of the city, state and federal laws and all statutes applicable therein and to preserve order and prevent infractions of the law and arrest violators thereof.

§ C11.06. Service of process. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-14-1987 by L.L. No. 4-1987]

No member of the Police Department shall serve any process except by order of the Police Chief or his designated representative.

§ C11.07. Conduct of members. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-14-1987 by L.L. No. 4-1987]

It shall be the duty of every member of the Police Department to conduct himself in a proper and law abiding manner at all times and to avoid the use of unnecessary force. Each member of the Department shall obey the orders and directions of his superior and any rules, regulations and general orders promulgated by the Police Chief.

§ C11.08. Witness fees. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-14-1987 by L.L. No. 4-1987]

Every member of the Police Department shall appear as a witness whenever this is necessary in a prosecution for a violation of an ordinance or of any state or federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the city is a party; any fees paid for such services shall be turned over to the Police Chief, who shall deposit the same with the City Treasurer.

§ C11.09. Rules and regulations. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-1-1979 by L.L. No. 1-1979]

The City Manager may make or prescribe such rules and regulations, including general orders, as he shall deem advisable, and they shall be binding on all

members of the Department. Such rules, regulations and general orders may cover, besides the conduct of the members, uniforms and equipment to be worn or carried, hours of service, vacations and all other similar matters necessary or desirable for the discipline and efficiency of the Department.

§ C11.10. Auxiliary police officers. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-1-1979 by L.L. No. 1-1979]

A. Pursuant to the New York State Defense Emergency Act, any person of good character, having duties which require it, may be appointed an auxiliary police officer by the City Manager, provided that, except upon authorization by the Council, no such auxiliary officer shall be entitled to any compensation from the city, nor shall such auxiliary police officer be considered an employee of the city by reason of such appointment.

B. Auxiliary police officers shall obey all rules of the Police Department applicable to them and may be deprived of their appointment by the City Manager at any time.

C. The City Manager or his designated representative may authorize said auxiliary police officers to perform duty, including any defense drill or training exercise, while armed with a loaded firearm; provided, however, that all such officers have a valid permit to carry a firearm.

D. The City Manager has absolute discretion in determining which, if any, auxiliary police officers may perform duty while armed and may withhold permission from any auxiliary police officer at any time. Said auxiliary police officer must undergo and satisfactorily complete a firearms training program under the auspices of the Police Chief or his designated representative prior to performing any duty while armed.

E. Said auxiliary police officers must obey all laws pertaining to the use of firearms and deadly physical force and all rules, regulations and general orders of the Police Department.

§ C11.11. Custody of stolen property. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-1-1979 by L.L. No. 1-1979]

The Police Chief shall have the custody of all lost, abandoned or stolen property recovered in the city, except as provided in Chapter 288 of the Code of the City of Newburgh.

§ C11.12. Organizational structure. [Added 2-24-1975 by L.L. No. 1-1975; amended 9-1-1979 by L.L. No. 1-1979]

The organizational structure of the Police Department shall be determined by the City Manager and shall be as promulgated in the rules and regulations of the Police Department.²⁴

§ C11.14. Powers of police. [Amended 2-24-1975 by L.L. No. 3-1975; 9-1-1979 by L.L. No. 1-1979]

The members of the Police Department in criminal matters have all the powers of police officers under the general laws of the state. Auxiliary police officers of the City of Newburgh in criminal matters shall have all the powers of peace officers under the general laws of the state. Both categories of officers shall also have the power to arrest any person found by them violating any penal ordinances of the city or laws of the state and to take such person before the proper magistrate, where 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 Police Chief. Police officers 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 as provided in the Criminal Procedure Law. They shall possess such other powers and perform such other duties as may be provided by law or ordinance of the Council; provided, however, that auxiliary police officers shall have peace officer status and powers only within the Newburgh City limits and only during periods while such members are actually performing duty prescribed or ordered by the Police Chief during an attack or defense drill or training exercise.

§ C11.14a. Meter checkers. [Added 4-28-1975 by L.L. No. 4-1975]

Meter checkers are members of the Police Department and as such are public servants. It shall be their duty and they shall have the power to enforce all the laws and ordinances of the city and laws of the state pertaining to parking violations. For this purpose, they are authorized to issue and serve legal process as defined by the laws of the state for violations of parking laws and ordinances, including the authority to issue and serve appearance tickets, as defined by the Criminal Procedure Law.

§ C11.15. Service of criminal process by police. [Amended 2-24-1975 by L.L. No. 3-1975]

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 or subpoena 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.

24. Editor's Note: Former Sec. 11.13, which immediately followed this section and dealt with the tenure of office of the Police Commissioner, was added 2-24-1975 by L.L. No. 1-1975 and subsequently repealed 9-1-1979 by L.L. No. 1-1979.

§ C11.16. Pension funds. [Amended by L. 1948, c. 569; 2-24-1975 by L.L. No. 3-1975]

The provisions of law governing the establishment and maintenance pension funds for the benefit of the members of the Police Department shall not be affected by this Charter, except that the care, control, management and distribution of such funds shall be vested in the City Judge, City Manager and City Comptroller, who shall hereafter be the trustees thereof.²⁵

ARTICLE XII Department of Fire

§ C12.00. Department established; head; bureaus. [Added 9-14-1987 by L.L. No. 4-1987]

There shall be a Department of Fire headed by the Fire Chief and including the Bureau of Fire, the Bureau of Fire Prevention and the Bureau of Code Compliance.

§ C12.01. Fire Chief. [Added 9-14-1987 by L.L. No. 4-1987]

The Fire Chief as the head of the Department of Fire shall have supervision and control of the Bureau of Fire, the Bureau of Fire Prevention and the Bureau of Code Compliance. He shall also have such other functions and duties as may be assigned by the City Manager.

§ C12.02. Bureau of Code Compliance. [Added 10-13-1981 by L.L. No. 7-1981]

There shall be a Bureau of Code Compliance headed by the Code Compliance Supervisor, who shall be under the direct supervision of the Fire Chief. The offices of the Building Inspector and the Plumbing Inspector shall be within the Bureau of Code Compliance.²⁶

§ C12.09. Compensation of Fire Department personnel. [Added 11-5-1963; amended 9-14-1987 by L.L. No. 4-1987]

A. The Council shall, by ordinance, determine and regulate the compensation of all personnel of the Fire Department, except as otherwise provided by law.

B. Any member of the Fire Department shall, while serving in an acting capacity in a grade or position above that regularly held by such a member, be entitled to receive the same minimum compensation as that provided for the position or grade in which he is so acting.

25. Editor's Note: Former Sec. 11.17, which immediately followed this section and dealt with appointments, promotions and changes in status of police, as amended 2-24-1975 by L.L. No. 3-1975, was repealed 9-1-1979 by L.L. No. 1-1979.

26. Editor's Note: Former Secs. 12.05 and 12.08, as amended, which immediately followed this section and dealt with the authority of the Police Commissioner and subordinate officers and minimum salaries in the Police Department, were repealed 2-24-1975 by L.L. No. 2-1975.

§ C12.10. Organization of Police and Fire Departments; rules for operation of Police, Fire and Health 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 Council. The 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 and may pass ordinances not inconsistent with law for the government of Police, Fire and Health Departments and regulating the powers and duties of their officers and members. Members of the Fire Department shall continue to be elected by the several companies composing the Fire Department of said city in the manner provided by the bylaws and rules of said companies and in existing ordinances of the city.²⁷

§ C12.13. Issuance of appearance tickets. [Added 3-28-1988 by L.L. No. 3-1988]

Members of the Fire Department are public servants and as such shall have the power to enforce all the laws, ordinances and regulations of the city and the state pertaining to fire prevention and fire safety, including those sections of the Vehicle and Traffic Law regulating parking in the vicinity of a fire station, parking in the vicinity of a fire hydrant, following or parking in the vicinity of emergency fire vehicles, crossing of a fire hose and parking in a designated fire lane. For this purpose, they are authorized to issue and serve legal process as defined by the laws of the state for violations of the aforesaid laws, ordinances and regulations, including the authority to issue and serve appearance tickets as defined by the Criminal Procedure Law. The City Manager shall designate those members of the Fire Department who shall exercise this function and shall have the authority to make regulations governing its exercise.

§ C12.14. Exemption of police and firemen from military and jury duty or arrest.

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.²⁸

§ C12.40. Powers and duties of Building Inspector. [Amended 9-14-1987 by L.L. No. 4-1987]

The Building Inspector shall pass upon all plans and specifications for buildings or other structures to be erected within the city. He shall not approve any such plans or specifications unless they shall comply in all respects with the ordinances of the city relating thereto. He shall generally inspect all buildings and other structures erected in the city during the course of their construction. He shall have power summarily to stop the construction of any building or structure which is not being constructed in accordance with the ordinances of the city relating thereto and

27. Editor's Note: Former Sec. 12.12, which immediately followed this section, was renumbered as Sec. 11.17 by L.L. No. 3-1975, adopted 2-24-1975. Former Sec. 12.13, which dealt with the City Manager's authority to delegate his power of appointment and was derived from L.L. No. 3-1972, adopted 12-11-1972, was repealed 2-24-1975 by L.L. No. 2-1975.

28. Editor's Note: Former Secs. 12.16, 12.18 and 12.20, which immediately followed this section, were renumbered as Secs. 11.14, 11.15 and 11.16, respectively, by L.L. No. 3-1975, adopted 2-24-1975. Former Sec. 12.31, which dealt with the powers, functions and duties of the Health Officer, was repealed 9-14-1987 by L.L. No. 4-1987.

shall have the power summarily to cause the removal of any building or other structure or portion thereof which, because of a violation of the ordinances of the city relating thereto, he deems unsafe.

§ C12.50. Powers and duties of Plumbing Inspector.

The Plumbing Inspector, when required, shall assist the Building Inspector in the examination and approval of plans and specifications filed with him in relation to the plumbing provided for in such plans and specifications. He shall inspect all plumbing in new buildings before the same is used, and the same shall not be used until his permit therefor is given. He may require the installation of new plumbing in any building or structure within the city, the plumbing of which does not conform to the ordinances of the city relating thereto. He shall have all the powers in relation to plumbing in buildings and structures within the city herein granted to the Building Inspector in relation to buildings and structures therein.²⁹

ARTICLE XIII³⁰
Youth Bureau
[Added 2-8-1993 by L.L. No. 2-1993]

§ C13.00. Bureau established.

There is hereby created a Youth Bureau for the city headed by the Youth Bureau Director and including a Division of Youth Services and a Division of Recreation.

§ C13.01. Youth Bureau Director.

The Youth Bureau Director, as the head of the Youth Bureau, shall have supervision and control of the Division of Youth Services and the Division of Recreation. The Youth Bureau Director shall be appointed by the City Manager, shall have administrative control over the Bureau, shall report directly to the City Manager and shall have such other functions and duties as may be assigned by the City Manager.

§ C13.02. Youth Services Division.

The Youth Services Division shall be headed by the Youth Services Coordinator, who shall report directly to the Youth Bureau Director.

§ C13.03. Recreation Division.

29. Editor's Note: Former Sec. 12.60, which immediately followed this section and was added 9-22-1980 by L.L. No. 6-1980 and dealt with the power of the City Manager to authorize the issuance of appearance tickets, was renumbered as § C3-94B by L.L. No. 4-1987, adopted 9-14-1987. Former Sec. 12.80, which dealt with the duties, functions and powers of the Sealer of Weights and Measures, was deleted 3-25-1974 by L.L. No. 2-1974.

30. Editor's Note: Former Art. XIII, which dealt with the Department of Public Welfare, as amended, was repealed 6-18-1974 by L.L. No. 6-1974.

The Recreation Division shall be headed by the Senior Recreation Leader, who shall report directly to the Youth Bureau Director.

ARTICLE XIV
Department of Planning and Development
[Added 1-27-2003 by L.L. No. 1-2003]

§ C14.00. Establishment; head.

There shall be a Department of Planning and Development, headed by a Director of Planning and Development, who shall be appointed by the City Manager and who shall serve at the pleasure of the City Manager.

§ C14.01. Director of Planning and Economic Development.

The Director of Planning and Development shall be appointed on the basis of his education and experience in carrying out the duties of the position. Among the Director's functions and duties, but not by way of limitation, shall be the following:

A. To act as a full-time administrator of the Department, the Newburgh Local Development Corporation and the Newburgh Industrial Development Agency offices to ensure a coordinated and comprehensive approach to community and economic development within the City of Newburgh.

B. To develop and administer a combined and integrated staff to support the Newburgh Community Development Agency, Newburgh Local Development Corporation and the Newburgh Industrial Development Agency and other community-based programs recognized by the Council.

C. To oversee all volunteer community-based initiatives, recognized by resolution of the City Council, and to provide administrative services and technical support to the various community-based initiatives so recognized.

D. To identify economic problems and opportunities in the City and develop relevant policy responses for the City Manager.

E. To supervise demolition and construction of public works within federally or nonfederally assisted renewal projects sponsored by the City or its agencies.

F. To undertake any other planning, community and economic development duties deemed necessary by the City Manager.

§ C14.02. Department of Planning and Development functions.

The Department of Planning and Development shall have the following functions:

A. Economic development: to undertake, direct, supervise and coordinate the City's participation in activities, programs and ventures intended to designate and to advance the economic climate in the City of Newburgh through marketing, real estate, planning and financial strategies and techniques; to establish and

maintain contact with industrial and manufacturing businesses within the City, assist them in their dealings with the City government, and to provide them with information on state and federal assistance programs; and to provide relevant market and site data for industrial and major commercial developers.

B. Planning: to provide technical support required in the administrative and/or legislative review and consideration to the Building Inspector, Planning Board, Zoning Board of Appeals, Council, Architectural Review Commission and Waterfront Advisory Board.

C. Housing and Community Development: to plan, undertake and direct the City's efforts in providing affordable rental accommodations and home ownership opportunities for its residents by encouraging the growth and revitalization of the City housing stock; to supervise and/or coordinate the City's participation in programs, activities and ventures designed to construct new housing accommodations, rehabilitate existing residential structures or convert other structures to residential use to better meet the need for affordable housing; to plan and undertake other activities designed to contribute to an enhanced quality of life and long-term stability for the City's neighborhoods, including activities which provide additional opportunities for employment and business development to the residents of those neighborhoods; and to coordinate the other City agencies as such actions relate to the provision of housing in and development of the City's neighborhoods.

D. Program evaluation: to submit to the City Manager an annual program evaluation and audit reports on agencies and organizations funded with state and federal monies. The program evaluations and audit reports shall be submitted in January of each year. Such evaluations and reports must be in full accordance with all applicable regulations. The information to be contained in the annual reports will include but not be limited to the following service indicators: documentation indicating that program requirements were met, including goals, performance standards and objectives and the methodology used for measuring performance.

E. Processing and servicing loans: documentation indicating the loan amount, and the funds used, the amount collected on repayment and the payment history, documentation on how the grantees met the loan objectives.

F. Contractor evaluations: documentation evaluating the contractor's qualifications, performance history and compliance with federal, state and City guidelines regarding equal opportunity ownership, participation and employment.

ARTICLE XV Commissions and Boards

§ C15.10. Civil Service Commissioners.

The Civil Service Commissioners shall have such powers, exercise such functions and perform such duties as are conferred or imposed by law upon Civil Service Commissioners. Any vacancy shall be filled for the unexpired term in the same manner as an original appointment. Not more than two (2) members of the Commission shall be adherents of the same political party, and no member shall hold any other salaried public office. A Commissioner may be removed by

unanimous vote of the Council by resolution stating the reasons for such removal, after such Commissioner has been allowed an opportunity to make an explanation.

§ C15.11. Board of Parks, Recreation and Conservation. [Added 10-14-1980 by L.L. No. 7-1980³¹]

A Board of Parks, Recreation and Conservation is hereby established.

§ C15.12. Membership; terms; agencies; compensation of Board of Parks, Recreation and Conservation. [Added 10-14-1980 by L.L. No. 7-1980; amended 3-23-1981 by L.L. No. 3-1981; 2-10-1986 by L.L. No. 2-1986; 4-8-1991 by L.L. No. 2-1991]

The Board of Parks, Recreation and Conservation shall consist of nine (9) members who are residents of Orange County who may or may not be residents of the City of Newburgh. Upon the first appointment of members of said Board by the City Council, the terms of the first three (3) members shall be one (1) year, the terms of the next three (3) members shall be two (2) years and the terms of the final three (3) members appointed shall be three (3) years. Thereafter, the terms of all members shall be three (3) years. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term. Members of such Board shall serve without pay.

§ C15.13. Chairman and Secretary of Board of Parks, Recreation and Conservation; rules of procedure. [Added 10-14-1980 by L.L. No. 7-1980]

The members of said Board of Parks, Recreation and Conservation shall elect from their own number a Chairman and Secretary and other necessary officers to serve for one (1) year and shall have the power to adopt rules of procedure for the conducting of all business within its jurisdiction.

§ C15.14. General powers of Board of Parks, Recreation and Conservation. [Added 10-14-1980 by L.L. No. 7-1980]

The Board of Parks, Recreation and Conservation shall be an advisory board established to advise the City Manager, the City Council and the Recreation Department with respect to the maintenance of all parks, playgrounds, recreation fields, swimming pools and other recreational facilities and the recreation programs to be conducted by the city.

§ C15.15. Expenditures of money by Board of Parks, Recreation and Conservation. [Added 10-14-1980 by L.L. No. 7-1980]

The Board of Parks, Recreation and Conservation shall have power to expend for all purpose provided for in this Charter such sums as may be approved by the City Manager and appropriated for such special purposes by the Council.

31. Editor's Note: Former Secs. 15.11 through 15.20, added 5-10-1965 by L.L. No. 2-1965, were repealed 8-12-1986 by L.L. No. 2-1968.

§ C15.16. Appropriation and transfers of moneys for Board of Parks, Recreation and Conservation. [Added 10-14-1980 by L.L. No. 7-1980]

A separate appropriation may be made annually by the Council. Transfers between categories of moneys appropriated can be made by resolution of the Board of Parks, Recreation and Conservation with approval of the City Manager.

§ C15.17. Annual report and budget request of Board of Parks, Recreation and Conservation. [Added 10-14-1980 by L.L. No. 7-1980]

A. The Board of Parks, Recreation and Conservation shall present an annual report to the City Council covering its operations for the year closing, together with detailed recommendations for future years. Such annual report and recommendations shall be submitted in August of each year. The reporting year is August 1 through July 31.

B. In August of each year, the Board is to submit to the City Manager its budget request for the following year. The budget request is to be submitted in the manner and detail that the City Manager requires.

§ C15.18.³² Old Town Cemetery Commission. [Added 6-11-1990 by L.L. No. 2-1990]

An Old Town Cemetery Commission is hereby established to consist of the Mayor of the city; the Superintendent of Schools of the Newburgh Enlarged City School District, in his capacity as President of the Trustees of the Glebe Land on the German Patent; the Pastor of the Calvary Presbyterian Church; and two (2) other residents of the city to be selected by the Council of the City of Newburgh for terms of three (3) years. The members of said Commission shall serve without compensation.

§ C15.19. Duties of the Commission. [Added 6-11-1990 by L.L. No. 2-1990]

The Commission shall have charge of such funds as the Council may annually appropriate for the Commission, which moneys shall be expended under the general supervision and direction of the City Manager, for the proper care, improvement, maintenance and restoration of the Old Town Cemetery in the City of Newburgh. The Commission shall annually make a detailed report of its expenditures, activities and recommendations in regard to the maintenance and improvement of the cemetery, together with its request for appropriations for the next fiscal year. Such report shall be delivered to the City Manager on or before the 1st day of August of each year.

§ C15.20. Cable Television Advisory Committee. [Added 8-9-1993 by L.L. No. 3-1993]

32. Editor's Note: Former Secs. 15.18 and 15.19, which were added 5-10-1965 by L.L. No. 2-1965 and which dealt with annual appropriations and annual and monthly reports, respectively, were repealed 10-14-1980 by L.L. No. 7-1980.

A Cable Television Advisory Committee is hereby established. The Cable Television Advisory Committee shall consist of nine (9) members who are residents of the City of Newburgh who shall be appointed by the Council of the City of Newburgh. Upon the appointment of said Committee, the terms of the first three (3) members shall be one (1) year; the terms of the next three (3) members shall be two (2) years; and the terms of the final three (3) members shall be three (3) years. Thereafter, the terms of all members shall be three (3) years. If a vacancy shall occur other than by expiration of terms, it shall be filled by appointment for the unexpired term. Members of such Committee shall serve without pay.

§ C15.21. Duties of Cable Television Advisory Committee. [Added 8-9-1993 as L.L. No. 3-1993]

The duties of the Committee shall be:

- A. To inform itself and the public about cable communications.
- B. To determine the communications need and desires of the residents of the community and analyze how the potential services that can be provided by a cable television system can satisfy those needs and desires.
- C. To prepare and submit to the Council and the City Manager all reports that may be required by the Council, the City Manager or by any law, ordinance, rule or regulation.
- D. To administer the public access channel in cooperation with any other municipalities sharing such access channel.
- E. To advise the Council and City Manager on the setting of cable rates insofar as such authority is allowed by law.
- F. To hold public hearings to solicit public comment on the setting of rates and issues of cable communications generally and to report the same to the Council and the City Manager.
- G. To submit an annual report to the Council and the City Manager covering its questions for the year closing. Said report is to be submitted in August of each year.

§ C15.22. Committee expenditures. [Added 8-9-1993 as L.L. No. 3-1993]

The Committee shall have the power to expend for all purposes provided in the Charter such monies as may be approved by the City Manager and appropriated for such purposes by the Council.

§ C15.23. Financial Advisory Board. [Added 10-12-1993 by L.L. No. 5-1993]

A Financial Advisory Board is hereby created. By Chapter 683 of the Laws of 1993, the State Legislature authorized the City of Newburgh to issue bonds to finance the liquidation of its accumulated deficit. The law provided, among other things, that a Financial Advisory Board be created to advise city officials with

respect to budget matters. This section is intended to comply with that legislative direction.

§ C15.24. Purpose of the Financial Advisory Board. [Added 10-12-1993 by L.L. No. 5-1993]

The Financial Advisory Board shall advise the Mayor, the City Council and the City Manager and make recommendations regarding the city budget.

§ C15.25. Time of existence of the Financial Advisory Board. [Added 10-12-1993 by L.L. No. 5-1993]

The Board shall remain in existence for as long as the bonds or bond anticipation notes, authorized by Chapter 683 of the Laws of 1993, remain outstanding.

§ C15.26. Membership and meetings of the Board. [Added 10-12-1993 by L.L. No. 5-1993]

The Board shall consist of five (5) members who shall be initially appointed not later than sixty (60) days after the effective date of Chapter 683 of the Laws of 1993: two (2) appointed by the Mayor of the City of Newburgh, County of Orange, and two (2) appointed by the City Manager. The State Comptroller, or a designee, shall also serve on the Board. The Board members shall have knowledge and expertise in financial matters. The appointments made by the Mayor and City Manager to the Advisory Board shall be residents of the City of Newburgh, County of Orange. Each member of the Advisory Board shall serve at the pleasure of the appointing official. The members of the Board shall elect a Chair who shall preside over the meetings of the Board. The Board shall convene as frequently as it deems necessary to accomplish its purposes but no less than quarterly.

§ C15.27. Board records and reports.

The Board shall maintain records of its proceedings in such form as it may determine and shall submit its formal review and recommendations to the Mayor, the City Manager, each member of the City Council, the City Comptroller, the Director of the Division of the Budget, the State Comptroller and the Chairs of the Senate Finance Committee and the Assembly Ways and Means Committee.

§ C15.28. Information and assistance from the city. [Added 10-12-1993 by L.L. No. 5-1993]

Each member of the Board may request and shall receive such information and assistance from the Mayor, the City Manager, the City Comptroller, the City Council and the agencies of the city as such member shall deem necessary or desirable to accomplish the purposes of the Board.

ARTICLE XVI
Miscellaneous Provisions

§ C16.03. Rights of city in waterfront, lands under water, wharves, piers, docks, parks and playgrounds. [Amended 7-27-1961 by L.L. No. 1-1961]

The rights of the city in its waterfront, lands under water, wharves, piers, docks, parks or playgrounds shall not be sold or conveyed unless such sale or conveyance shall first have been authorized by a plurality of votes cast at a special election at which all qualified voters of the city who registered at the last preceding general election shall be entitled to vote. The notice, officers, polling places, manner of conducting and other details of such special election shall be determined by ordinance of the Council.

§ C16.04. Transfer of municipal property to Industrial Development Agency. [Added 8-11-1986 by L.L. No. 4-1986]

Notwithstanding any other provision of this Charter or of any statute, law, rule or ordinance, but subject to the provisions of § C16.03 of this Charter, real property held by the city for a municipal purpose and, in the opinion of the Council, no longer needed for any municipal purpose may be sold or conveyed to the City of Newburgh Industrial Development Agency without public auction for the purpose of industrial development as defined in the General Municipal Law of the State of New York.

§ C16.05. Appropriation of abandoned vehicles by city. [Added 4-8-1991 by L.L. No. 1-1991]

A. Pursuant to § 1224, Subdivision 6(a), of the New York State Vehicle and Traffic Law, the City Manager may convert, in any one calendar year, to the use of the city, or he may, by sale or gift, transfer title to any such vehicles to any other municipal corporation for use by its law enforcement agency, up to one percent (1%) of its unclaimed abandoned vehicles not affected by Subdivision 2 of § 1224 of the Vehicle and Traffic Law or two (2) of such abandoned vehicles, whichever is greater.

B. If parts are taken from an abandoned vehicle, as described in Subsection A hereof, for use on a city-owned vehicle, the vehicle from which the parts were taken shall count as one (1) abandoned vehicle for purposes of calculating the city's annual allotment of abandoned vehicles that it may convert to its use as provided in Subsection A of this section.

§ C16.12. Venue for proceedings against city.

The place of trial of all actions or proceedings against the city or any of its officers, boards or departments shall be the County of Orange.

§ C16.13. Service of process in action against city.

Every process commencing an action against the city shall be served on the Mayor and not otherwise.

§ C16.30. Protection of voter from arrest on civil process on day of election.

No person entitled to vote at any election held under any provision of this Act shall be arrested on civil process in said city on the day on which said election is held.

§ C16.31. Perjury.

Any person who may be required to take any oath or affirmation or to make any affidavit or statement under oath or affirmation in any matter pending before the Council or any hearing, trial or matter pending before the City Manager who shall, under such oath or affirmation or in any such statement under oath or affidavit willfully swear falsely as to any material fact or matter shall be guilty of perjury.

§ C16.40. Expenses chargeable to Orange County. [Amended 9-14-1987 by L.L. No. 4-1987]

The expenses of apprehending, examining, trying and committing offenders against any law of the state in said city and of their confinement, properly chargeable against the County of Orange, shall be audited, allowed and paid by said county in the same manner as if such expenses had been incurred in any town in said County of Orange.

§ C16.50. Vesting of property rights in city.

All property and rights of property and all estate, real and personal, vested in or belonging to or held in trust by the Trustees of the Village of Newburgh or by the City of Newburgh before the passage of this Act shall be and are hereby vested in the City of Newburgh.

§ C16.70. Preservation of ordinances, rules and regulations.

The ordinances of the city and the rules and regulations of all officers and boards thereof in force at the time this Act takes effect shall continue in full force and virtue until changed, rescinded or altered by the proper authorities.

§ C16.80. Favorable and benign construction of act.

This Act is hereby declared a public act and shall be construed favorably and benignly for every beneficial purpose therein contained.

§ C16.81. Repeal of conflicting acts.

All acts and parts of acts inconsistent herewith are repealed so far as they affect the City of Newburgh, and Chapter 575 of the laws of 1916 is repealed.

§ C16.90. When effective.

This Act shall take effect immediately.

(

(

(

RECENT
AMENDMENTS

(1)

(

(

LOCAL LAW NO.: 5 - 2010

OF

JUNE 14, 2010

A LOCAL LAW AMENDING ARTICLE VIII OF THE CITY CHARTER ENTITLED
"FINANCIAL PROCEDURES" SECTION C8.00, "ANNUAL ASSESSMENT ROLLS"
WITHIN THE CODE OF THE CITY OF NEWBURGH

BE IT ENACTED, by the Council of the City of Newburgh, New York as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law amending Article VIII of the City Charter entitled "Financial Procedures" Section C8.00, "Annual assessment rolls" within the Code of the City of Newburgh.

SECTION 2 - AMENDMENT

Article VIII, Section C8.00, "Annual assessment rolls" shall be amended to read as follows:

- A. All real property subject to taxation shall be valued as of the preceding first day of January ~~July~~. The taxable status date of real property in the city shall be determined annually as of the first day of March.
- B. All real property shall be assessed in the city according to its condition and ownership as of such date. The annual assessment rolls of the city shall be completed by the City Assessor on or before the first day of May in each year and shall be filed immediately with the Assessor's office. The Assessor shall cause a notice to be published in the official newspaper of the City of Newburgh to the effect that the said annual assessment rolls have been completed, are on file in his office and are open for inspection by any interested person during office hours until a day specified in such notice, such day being not less than fifteen (15) calendar days after the publication of the said notice. During such inspection period, any taxpayer feeling himself aggrieved by the valuation placed on his property by the Assessor may file a written appeal from such assessments with the Assessor. At the close of the inspection period, the Assessor shall present the assessment rolls, together with all written appeals received by him as aforesaid, to the Chairperson of the Board of Review for transmission to the members of the Board of Review, said Board of Review created by appointment and confirmed by the Mayor and City Council, Said Board of Review shall cause a notice to be published in all official newspapers designated in § 20-8 of the Code of Ordinances of the City of Newburgh to the effect that the assessment rolls

(

(

((

are in the hands of the Board of Review and that the said Board of Review will meet in regular session on the ~~third~~ fourth Tuesday in May to consider such rolls and to hear objections thereto. The Board of Review shall, at said regular session on the ~~third~~ fourth Tuesday in May, consider such assessment rolls and all appeals that have been filed in writing with the Assessor or have been presented in person at said meeting. The Board of Review may amend or correct any item on the said rolls and may defer action from time to time, but not later than the first day of July. On or before the first day of July, the Board of Review shall confirm the said annual assessment rolls as prepared by the Assessor or as amended and corrected by the Board of Review. After confirmation by the Board of Review, the annual assessment rolls shall be returned to the Assessor who shall cause a note to be published in all official newspapers designated in § 20-8 of the Code of Ordinances of the City of Newburgh to the effect that the completed assessment rolls have been filed with him as required by law.

SECTION 3 - VALIDITY

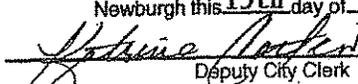
The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 4 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held June 14, 2010 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 15th day of June 20 10


Deputy City Clerk

| Strikethrough denotes deletions
Underlining denotes additions

(

(

((

LOCAL LAW NO.: 6 - 2010

OF

JUNE 14, 2010

A LOCAL LAW AMENDING ARTICLE VIII OF THE CITY CHARTER
ENTITLED "FINANCIAL PROCEDURES" SECTION C8.85, "WATER RENTS"
WITHIN THE CODE OF THE CITY OF NEWBURGH

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law amending Article VIII of the City Charter entitled "Financial Procedures" Section C8.85, "Water Rents" within the Code of the City of Newburgh.

SECTION 2 - AMENDMENT

Article VIII, Section C8.85, "Water Rents" shall be amended to read as follows:

B. After such roll of water rents has been completed, it shall be filed in the office of the City Clerk, and the City Clerk shall deliver the same to the Council of the City of Newburgh at its next regular meeting for confirmation, and the Council shall then confirm the same and deliver the roll of water rents and delivered to the Collector of Taxes [of said city with a warrant, under the Seal of the city annexed thereto, commanding him to] who shall collect from the several persons named in said roll of water rents the several sums mentioned in the last column of such roll opposite their respective names, together with the fees for collecting, [to be] fixed by [said] the Council of the City of Newburgh, and pay over the same to the Comptroller of said city. Said water rents so charged shall be collected in the same manner as is or may be prescribed by law for the collection of taxes for city purposes of the City of Newburgh; the like notices shall be given by the Collector of Taxes of said city, like fees and penalties shall be fixed by the Council, and in all respects like proceedings shall be had by said Collector, as is or may be provided by law for the collection of taxes for city purposes. If said Collector shall be unable to collect any of such water rents, he shall make return thereof, under oath, to the Council, and thereupon and thereafter the city shall have power to sue for and collect such rents, together with all fees, penalties and interest and the costs and disbursements of the action. Said water rents shall be liens upon the property in

(

(

(

|

respect to which they are assessed and may be collected by a sale of such property in the manner hereinbefore provided for the collection by sale of taxes and assessments for city purposes.

SECTION 3 - VALIDITY

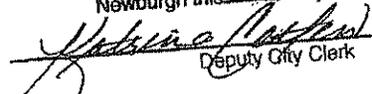
The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 4 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held June 14, 2010 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 15th day of June, 20 10


Deputy City Clerk

Underlining denotes additions

[Brackets and strike through] denote deletions

(

(

(

LOCAL LAW NO.: 7 - 2010

OF

JUNE 14 2010

A LOCAL LAW AMENDING CITY CHARTER SECTIONS C9.03 ENTITLED
"DUMPSTER USER FEES" AND C9.33 ENTITLED "USER FEES TO BE CHARGED FOR
COLLECTION" OF THE CODE OF THE CITY OF NEWBURGH

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending User Fees to be Charged for Sanitation Collection as Set Forth in City Charter Sections C9.03 entitled "Dumpster User Fees" and C9.33 entitled 'User Fees to be Charged for Collection' of the Code of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

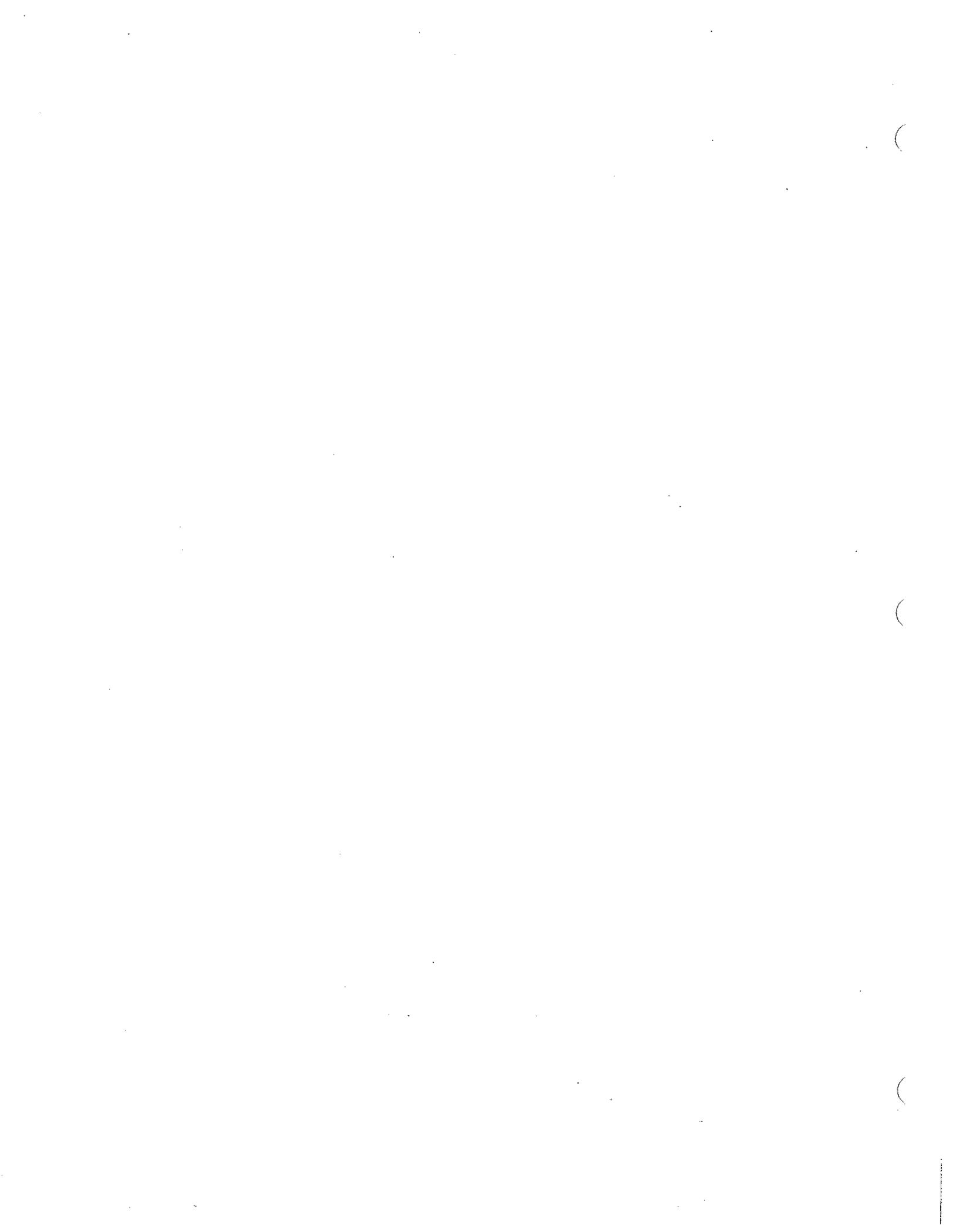
The City Council finds that it is necessary to have a consolidated schedule of fees and to bill refuse collection fees at the beginning of the collection calendar quarter to promote proper governmental administration. Accordingly, the City Council finds it is in the best interests of the City of Newburgh to amend City Charter Sections C9.03 and C9.33 to provide that the fees for the collection and disposal of garbage, trash, refuse and recyclables be removed from the City Charter and be relocated in Chapter 163, entitled "Fees", and that the billing schedule be amended for these purposes. This local law is enacted under the authority granted to municipalities under the Municipal Home Rule Law of the State of New York.

SECTION 3 - AMENDMENTS

Subsections A and D of City Charter Section C9.03 entitled "Dumpster User Fees" of the Code of the City of Newburgh are hereby amended to read as follows:

§ C9.03. Dumpster User Fees

- A. The owners of all properties where dumpsters are serviced by the city, within the City of Newburgh, shall be charged for the removal of wastes generated by such properties at a rate [of one hundred twenty dollars (\$120.) per month per dumpster for waste generated at said property] as set forth in Chapter 163, "Fees" of this Code. A dumpster is defined as having a volume not exceeding two (2) cubic yards. Dumpsters exceeding two (2) cubic yards will not be serviced by the city.



- D. The Council shall adjust the above rates from time to time so that the amount charged shall be sufficient to fund the operating costs of garbage collection services [offered to commercial properties] together with an appropriate proportional share of such capital improvements, principal and interest payments on bonds that may be issued to finance such garbage collection operations, and such other related expenses as the Council may deem necessary to fund [the] collection operations [related to commercial properties] all under the Sanitation Fund.

Subsections D and E of City Charter Section C9.33 entitled "User fees to be charged for collection" of the Code of the City of Newburgh are hereby amended to read as follows:

§ C9.33. User fees to be charged for garbage collection.

D. Fees defined and set.

(1) Stop fee. A stop fee is the fee for the garbage truck making a stop in front of a property. The stop fee shall be computed as set forth in Chapter 163, Fees, of this Code. [is set at ten dollars (\$10) per month for each tax lot within the city, whether or not a building is erected thereon.]

(2) Dwelling unit fee. A dwelling unit fee is the fee charged for collection of garbage from one (1) dwelling unit for a period of one (1) month. The dwelling unit fee shall be computed as set forth in Chapter 163, Fees, of this Code. [twelve dollars (\$12.) per month per dwelling unit.]

(3) The Council shall adjust the above rates from time to time so that the amount charged shall be sufficient to fund the operating costs of garbage collection services together with an appropriate proportional share of such capital improvements, principal and interest payments on bonds that may be issued to finance such garbage collection operations, and such other related expenses as the Council may deem necessary to fund collection operations, all under the Sanitation Fund.

E. Bills for sanitation user fees. Bills for sanitation user fees shall be prepared and sent to each owner on a quarterannual basis, starting on August 1, 1991, in the same manner as water and sewer charges are now billed and distributed, except that sanitation user fees shall be billed and paid during the first month of the calendar quarter in which sanitation removal services are performed, in the months of January, April, July and October. Bills for user fees shall be payable within the same time limits as may be prescribed in the Charter for the payment of water bills.

SECTION 4 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

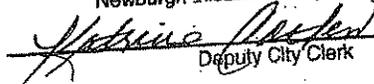


SECTION 5 - EFFECTIVE DATE

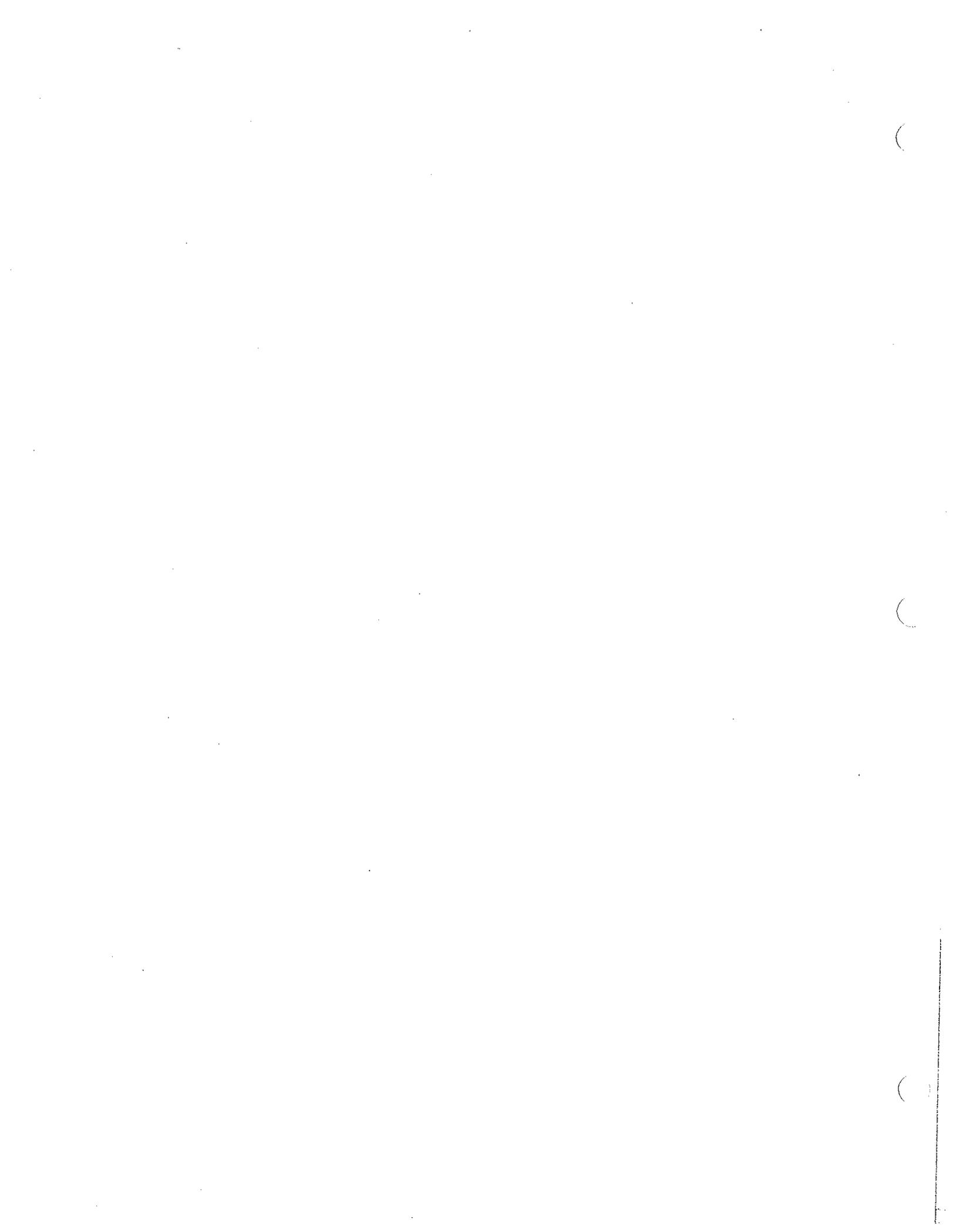
This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law, except that sanitation fee billings for the months of May through August 2010 shall be billed in August 2010 and sanitation fee billings for the months of September through December 2010 shall be billed in November 2010.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held June 14, 2010 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 15th day of June 20 10.


Deputy City Clerk

[Brackets] denote deletions
Underlining denotes additions



LOCAL LAW NO.: 11 - 2010

OF

OCTOBER 25, 2010

A LOCAL LAW AMENDING CITY CHARTER SECTION 8.16 ENTITLED "COMBINING
OF STATE, COUNTY AND CITY TAXES FOR COLLECTION"
OF THE CODE OF THE CITY OF NEWBURGH

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Charter Section C.8.16 entitled "Combining of state, county and city taxes for collection" of the Code of the City of Newburgh".

SECTION 2 - AMENDMENT

City Charter Section C.8.16 entitled "Combining of state, county and city taxes for collection" of the Code of the City of Newburgh are hereby amended to read as follows:

§ C8.16. Combining of state, county and city taxes for collection.

A. The Council may, by ordinance, combine the taxes levied for state and county purposes and the taxes levied for general city purposes and provide for the collection thereof at such time or times and in not more than ~~three (3)~~ four (4) installments as it may determine; provided, further, however, that such installments must be paid in the order in which they become due.

SECTION 3 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 4 - EFFECTIVE DATE

This Local Law shall take effect on January 1, 2011.

I, Lorene Vittek, City Clerk of the City of Newburgh, hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held Oct. 25, 2010 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 26 day of Oct. 20 10

Lorene Vittek
City Clerk

