

**SUPPLEMENTAL CHARTER AND  
OPTIONAL CITY GOVERNMENT LAW  
CHARTER**

[HISTORY: Adopted by the Laws of 1917, Chapter 668. Amendments noted where applicable.]

GENERAL REFERENCES  
Optional City Government Law.  
Election Districts -- See Ch. 53, Art. II.

**ARTICLE I, Corporate Capacity and Name; City Boundaries; Ward Boundaries; Definitions**

**§ C-1. Short title.**

This Act (Laws 1917, Ch. 668) shall be known as the "Supplemental Charter of the City of Binghamton."

**§ C-2. Corporate name.**

The citizens of the State of New York from time to time inhabitants of the territory in the County of Broome, included in the boundaries set forth in § C-3 hereof, and known as the "City of Binghamton" are to continue a municipal corporation in perpetuity under the name of "The City of Binghamton."

**§ C-3. City boundaries. [Laws 1950, Ch. 651, § 1]**

The territory in the County of Broome included within the following boundaries shall constitute the City of Binghamton: Commencing at the southeast corner of lot 23 in Bingham's patent; running thence northerly along the east line of said lot to the north line of said patent; thence westerly along said north line to a point in said line 500 feet east from the northwest corner of lot 25 in said patent; thence northwesterly in a straight line to the intersection of the east line of the lands of the Albany and Susquehanna Railroad Company with the dividing line between lots 2 and 3 in Clinton and Melcher's patent, being the southeast corner of the Village of Port Dickinson; thence westerly along said dividing line to the west bank of the Chenango River; thence southerly along said west bank to the center line of Bevier Street extended to said west bank of said river; thence westerly and parallel to the north line of Bingham's patent about 3,070 feet to an iron set in the ground in the east line of Ely Park, so called; thence north five degrees seventeen minutes west, 194 feet, more or less, to an iron set in the ground; thence south eighty-five degrees two minutes east, 712.51 feet to an iron set in the ground; thence north seven degrees eighteen minutes east, 514 feet to a twin oak; thence north eleven degrees two minutes west, 374 feet to a rock oak; thence north thirty-one degrees sixteen minutes west, 294.31 feet to an iron set in the ground; thence north eighty-five degrees thirteen minutes west, 135 feet to an iron set in the ground; thence north twenty-eight degrees twenty minutes west, 969 feet to an iron set in the ground; thence north eighty-four degrees thirty-seven minutes west, 3,230 feet to an iron set in the ground; thence south seven degrees eleven minutes west, 787 feet to an iron set in the ground; thence south eighty-four degrees nineteen minutes east, 2,260 feet to an iron set in the ground; thence south twelve degrees thirty minutes west, 800 feet to an iron set in the ground; thence south eleven degrees twenty-six minutes west, 542 feet, more or less, to an iron set in the ground in the extension westerly of the aforesaid line described as parallel to the north line of Bingham's patent; thence westerly and parallel to the north line of Bingham's patent to the west line of lot 32 in the Chenango township, being the east line of the Town of Union; thence, following said Union line, southerly along the west line of said lot 32 to the north line of lot 34 in Bingham's patent; thence westerly along the north line of said lot to the northwest corner thereof; thence southerly along the west line of said lot 34, and the same line continued southerly across the Susquehanna River to the south line of Bingham's patent; thence easterly along said south line to its intersection with the west line of lot 31 in Bingham's patent extended southerly; thence southerly along said line so extended 4,700 feet; thence easterly and parallel to the south line of Bingham's patent to the east line of lot 2 in Sidney or Cooper's patent; thence northerly along said east line to the south line of Bingham's patent; thence easterly along said south line to the southeast corner of lot 13 in Bingham's patent; thence northeasterly to the northeast corner of lot 9 in said patent, and thence diagonally across the Susquehanna River to the place of beginning, reference being had to the map of Bingham's patent recorded in the Broome County Clerk's office in Book of Deeds Number Four, at page 67, excepting all that tract or parcel of land

situated in the City of Binghamton, County of Broome, adjoining the Town of Dickinson, County of Broome, bounded and described as follows: Beginning at a point, the same being a monument at a corner of the City line at Ely Park, being known as C N 3 B having latitude 13589.65 and departure 18456.25 as laid down on a map of the City of Binghamton, New York, thence running S 2° 25' 30" W a distance of 190.0 feet, thence running S 89° 25' 30" W a distance of 1,160.0 feet, thence running S 86° 10' 0" W a distance of 3,451.16 feet to a point on the easterly line of lot No. 34001 as laid down on the assessment map of the City of Binghamton, thence N 1° 21' 30" E a distance of 36.00 feet along the easterly line of said lot to a point of intersection of the City line of the City of Binghamton, thence running N 85° 05' 50" E along the City line a distance of 4,629.43 feet to the point of beginning, the same being a strip of land 190 feet wide on the easterly end and 36.0 feet wide on the westerly end and adjoining the north City line of the City of Binghamton, New York, containing 11.75 acres more or less.

**§ C-4. Ward boundaries. [L.L. No. 2-1944, § 1; Amended 3-17-10 by Local Law 1-2010]**

Section reserved. Superseded by Councilmanic Districts in § C-6.

**§ C-5. Definitions; construal of provisions.**

Unless from the context of the language or otherwise it is apparent that a different meaning or application was intended, the meaning of terms used in this Act (Laws 1917, Ch. 668) shall be as given in the General Construction Law; the word "person" shall be held to include and be coextensive with the words "persons," "company," "joint-stock association," and "corporation"; the word "his" as used in this Act shall, in all proper cases, be held to include and be coextensive with the words "her," "its" or "their"; the word "street" shall be held to include and be coextensive with "improvements" and "repairs"; the word "materials" shall be held to include and be coextensive with "supplies," "stationery," "books," "furniture" and "repairs to furniture"; the word "tax" shall, in all proper cases, be held to include and be coextensive with "frontage tax," "water rents or rates," "assessments or reassessments for local improvements." A reference to the Code of Civil Procedure, to the Code of Criminal Procedure, to any statute, to the rules of practice or by sections or parts thereof shall be held to refer to such Code of Civil Procedure or Criminal Procedure and statutes and rules of practice as the same now exist or as they may from time to time hereafter be amended. The expressions "according to law," "pursuant to law," "by law" and "in reference to law," and similar expressions shall be held to refer to the law as now existing or as hereafter from time to time amended or changed.

**ARTICLE IA, Councilmanic District Boundaries; Number of Councilpersons; Commencement of Terms; Terms of Office [L.L. No. 3-1966]**

**§ C-6. Councilmanic district boundaries. [L.L. No. 1-1995, § 1 (Exh. A), 2-6-1995; 8-22-2005 by L.L. No. 5-2005; Amended 12-7-2022 by L.L. No. 22-03]**

The City of Binghamton shall be divided into seven Councilmanic districts, as follows:

<b><u>GEOID</u></b>	<b><u>Census Block #</u></b>	<b><u>District</u></b>
ID0003001000	360070003001000	1
ID0003001003	360070003001003	1
ID0003001017	360070003001017	1
ID0003001002	360070003001002	1
ID0003001004	360070003001004	1
ID0003001008	360070003001008	1
ID0003001005	360070003001005	1
ID0001002002	360070001002002	1
ID0002003021	360070002003021	1
ID0002003013	360070002003013	1

ID0002003009	360070002003009	1
ID0003001019	360070003001019	1
ID0002003017	360070002003017	1
ID0003001014	360070003001014	1
ID0003001020	360070003001020	1
ID0001002001	360070001002001	1
ID0002003012	360070002003012	1
ID0002003011	360070002003011	1
ID0002003010	360070002003010	1
ID0002003004	360070002003004	1
ID0002003003	360070002003003	1
ID0002003008	360070002003008	1
ID0002003014	360070002003014	1
ID0002003007	360070002003007	1
ID0002003016	360070002003016	1
ID0002002002	360070002002002	1
ID0002002003	360070002002003	1
ID0002001002	360070002001002	1
ID0002003018	360070002003018	1
ID0002003019	360070002003019	1
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ID0002001015	360070002001015	1
ID0003003003	360070003003003	1
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**§ C-7. Number of Councilpersons. [L.L. No. 3-1966, § 1]**

The Council shall consist of as many members as there are Councilmanic districts in the City of Binghamton, and one Councilperson shall be elected from each district.

**§ C-8. Commencement of terms. [L.L. No. 3-1966, § 1; L.L. No. 2-1971, § 1; L.L. No. 5-2005, 8-15-2005]**

The Councilpersons elected pursuant to the provisions of this article shall commence their terms of office on January 1, 2008.

**§ C-9. Terms of office. [L.L. No. 3-1966, § 1; L.L. No. 2-1971, § 1; L.L. No. 5-2005, 8-15-2005]**

The terms of office of the members of Council shall be four years and the first nominations and elections for such office of Councilperson shall be held at the primary and general elections, respectively, held in 2007.

**§ C-10. (Reserved)**

## **ARTICLE II, Officers**

### **§ C-11. City officers. [Laws 1953, Ch. 878, § 49]**

The officers of the City, in addition to the officers designated by the general laws, shall be a City Judge and four Constables, to be elected by the electors of the City, a Special City Judge, to be elected by the Common Council, Commissioners of Deeds to be appointed by the Mayor, as many in number as shall be authorized by ordinance of the Common Council, and other officers to be elected or appointed as provided in this Act. (Laws 1917, Ch. 668) or otherwise by law.

### **§ C-12. Terms of office. [L.L. No. 2-1927; L.L. No. 3-1931; 2-23-1932; Amended 1-22-08 by Ord. No. 3-2008; Amended 11-5-2013, see note below for history]**

The terms of office of each elective officer hereafter elected, unless elected to fill a vacancy then existing, shall commence on the first day of January next succeeding his or her election. The term of office of each appointive officer shall commence on the day succeeding his or her appointment unless a different date is specified in the certificate of appointment. The term of office of the Mayor, Comptroller, City Treasurer, President of the Common Council, Alderman and Supervisor shall be two years. The term of office of the Corporation Counsel, City Engineer\*, Commissioner of Public Works, Commissioner of Public Safety, Commissioner of Charities and Sealer of Weights and Measures shall be two years unless sooner removed by the Mayor. Where the term of office of the appointive officer is not specifically fixed by statute, it shall be deemed to continue only during the pleasure of the officer, officers, board or body authorized to make the appointment.

\*Pursuant to Permanent Local Law 13-1, adopted by the Council of the City of Binghamton on April 4, 2013 and approved by the electorate on November 5, 2013, the two year term of the City Engineer is extended for one six year term beginning on January 1, 2014 to December 31, 2019 subject to (i) approval by City Council and (ii) to removal or other disciplinary action by the Mayor for incompetency, misconduct, or insubordination in accordance with Civil Service Law § 75 and the Code of the City of Binghamton § 124-1. That after January 1, 2016, the term and appointment process may be extended by a Local Law approved by City Council.

### **§ C-13. Eligibility. [L.L. No. 1-1951, § 1; L.L. No. 3-1955, § 1; L.L. No. 4-1962, § 1; L.L. No. 1-1963, § 1; L.L. No. 3-1966, § 2; L.L. No. 6-1977, § 1; L.L. No. 8-1977, § 1; L.L. No. 5-1978, § 1; Amended 2-5-14 by Ord. No. 5-2014; Amended 9-22-21 by L.L. No. 1-2021]**

No person shall be eligible for election to a City office, unless, at the time of his or her election, he or she is a bona fide resident of said City, nor to the office of Councilperson unless he or she shall be at the time a bona fide resident elector of the Councilmanic district for which he or she is elected or appointed; nor appointment as a City employee unless he or she is a bona fide resident of Broome County; and whenever any elected official of said City shall cease to be a resident of said City or of the Councilmanic district for which he or she was elected the office or position shall thereby become vacant; and whenever any other employee of said City shall cease to be a resident of the County of Broome the position shall thereby become vacant. Notwithstanding the foregoing, residents of the City of Binghamton will be given a preference in hiring if they have equal or greater education, professional training, or experience for a position to be filled.

- A. The commission may grant a waiver from residency in Broome County for non-elected officials who reside in New York State for (i) a contract employee, e.g., the City Assessor, or (ii) other employees for a period not to exceed three (3) months for such employee to move into Broome County.

### **§ C-13.1. Applicability of § C-13 to employees of Binghamton General Hospital. EN [L.L. No. 5-1968, § 1]**

The eligibility and residence requirements set forth in § C-13 of the Supplemental Charter of the City of Binghamton shall not apply to employees of Binghamton General Hospital heretofore appointed or hereafter appointed. The Board of Managers of Binghamton General Hospital be and they hereby are authorized and

empowered to fix and establish residence requirements for employees of Binghamton General Hospital, heretofore appointed or hereafter appointed.

**§ C-14. Clerk to keep book containing list of officers.**

The City Clerk shall keep a book, ruled in columns, in which he or she shall enter the name of every person elected or appointed to a City office, and the name of the office, when elected or appointed, the commencement of the term, the expiration thereof, time of filing oath of office, and the time of filing official bonds; and every person elected or appointed to any such office shall, upon filing his or her oath of office, subscribe his or her name beside the office to which he or she was elected or appointed. Such book shall be open at all times to the inspection of any elector of said City.

**§ C-15. Commissioners of Deeds; fee for appointment.**

Each Commissioner of Deeds, hereafter appointed in and for the City of Binghamton shall pay the City Clerk for the use of the City at the time of his or her appointment, the sum of \$10.00.

**§ C-16. City Clerk; additional powers and duties. [Laws 1943, Ch. 710; L.L. No. 3-1972, § 1; L.L. No. 6-1972, § 1; L.L. No. 8-1981, §§ 1, 2; L.L. No. 2-1985, §§ 1, 2; L.L. No. 2-1992, § 1]**

- A. The City Clerk shall have an office in the City Hall, which shall be kept open at such times as the Common Council shall prescribe; in addition to the duties hereinbefore prescribed, he or she shall have the custody of the corporate seal; carefully index, file and arrange in his or her office, for convenient use, all books and papers required by law or Common Council; see that all matters requiring publication are promptly and correctly published; countersign all licenses granted by the Mayor, and enter in an appropriate book the name of every person to whom a license shall be granted, the date and particulars thereof, and the sum paid therefor. At the end of each week, he or she shall pay the amount so received to the City Treasurer, and report to the Comptroller the amount so received, and file in his or her office the City Treasurer's receipt therefor. He or she shall present to the Mayor for his or her action thereon, the ordinances and resolutions requiring the approval of the Mayor, forthwith, after the same shall have been engrossed; and, within 24 hours after any resolution directing the payment of any money shall take effect, he or she shall furnish to the Comptroller and City Treasurer, certified copies of such resolution, with a statement of the proceedings of the Common Council relating thereto. He or she shall immediately notify every person elected or appointed to any office, and shall give notice to all members of the Common Council, of special meetings thereof. He or she shall serve, or cause to be served, all notices required by the Common Council, and perform such other duties as it may require. His or her office is hereby declared a Town Clerk's office for the purpose of depositing and filing therein all books and papers required by law to be filed in a Town Clerk's office, and he or she shall possess all the powers and perform all the duties of a Town Clerk not inconsistent with this Act (Laws 1917, Ch. 668) or the Local Finance Law. Copies of all such papers duly filed in his office and of the records of the proceedings of the Common Council and of any board of which he or she is Clerk or secretary, certified by him or her under the corporate seal of the City, shall be evidence in all courts and places the same as the originals. When required to make copies of records, he or she shall be entitled to charges for the following, as set from time to time by the Common Council, except from the City: [Amended 12-4-2006 by L.L. No. 3-2006]

From the City Clerk's Office:

Zoning maps  
All other maps  
Zoning Ordinance  
Housing code  
Plumbing code

Budget book  
All booklets not specified  
Charter and Code of Ordinances  
Annual Supplements to Code

Other Departments:

Fire service report  
Police, accident reports

- B. He or she may administer oaths, take affidavits, acknowledgments of deeds and other papers, and receive the legal fees therefor. In case of the temporary absence or disability of the Clerk, if there be no Deputy Clerk, the Common Council may appoint a Clerk for the time being, who, on taking the required oath, shall possess the powers and perform the duties of the Clerk during the continuance of such absence or disability.

**§ C-17. Appointments during disability and suspension.**

If any officer, except a Mayor, City Judge, Special City Judge, Alderman, supervisor, police officer or fire fighter shall, from sickness, absence, suspension from office by the Common Council, or from any other cause, be unable to discharge the duties of his or her office, the Mayor, as to officers appointed by him or her, and the Common Council, as to all other officers, may appoint some suitable person to discharge such duties during such disability, and the person so appointed shall have and exercise all the powers and discharge all the duties and be subject to all the provisions of law applicable to the officer whose place he or she shall supply, or to the officer or the duties of the office to which he or she is appointed.

**§ C-18. (Reserved)**

**§ C-19. (Reserved)**

**§ C-20. (Reserved)**

**ARTICLE III, Common Council**

**§ C-21. Appointment of special committees.**

The President of the Common Council shall appoint its standing committees, unless the Common Council shall, by resolution passed by a majority vote of all its members, decide upon some other method of appointing, in which case the appointment of such committees shall be made by the method so decided upon. Special committees shall be designated or appointed in such manner as the Common Council may direct by a majority vote.

**§ C-22. Minutes of meetings.**

The minutes of each meeting of the Common Council shall be printed in full within six days after its adjournment and immediately distributed, one to the Mayor, one to each member of the Common Council and one to the head of each department. At the end of the year the printed minutes shall be indexed and bound in such manner as shall have been provided in the original letting of the official printing.

**§ C-23. Effective date of ordinances. [L.L. No. 3-1937, § 1; Amended 3-18-2012 by L.L. No. 12-1]**

No ordinance of the Council shall become operative until it has been attested by the Clerk and signed and approved in writing by the Mayor or passed over his or her veto, and whenever the same may be necessary promulgated according to law; any ordinance imposing a penalty or forfeiture for the violation thereof shall not take effect until 10 days after its approval by the Mayor nor until five days after the publication thereof in



the official proceedings of the Council as required by law; provided, however, in the event maps, plans and/or drawings of whatever nature are included in, referred to and/or made a part of any ordinance, such maps, plans and/or drawings shall not be published but the ordinance of which said maps, plans and/or drawings are included, referred to and/or made a part of, shall recite the City office or offices in which the said maps, plans and/or drawings are filed and made available for public inspection and examination. No other publication of such ordinance shall be necessary; provided that in the case of insurrection, riot, pestilence, conflagration or other public necessity requiring immediate operation of such ordinance, it shall take effect as soon as proclamation thereof has been made by the Mayor and it with said proclamation has been posted in five public places in each ward of the City.

Council may pass an ordinance over a mayoral veto by a vote of two-thirds of the members of council (five of seven). See § G-45, *Approval by mayor*.

#### **§ C-24. Additional powers of Council.**

In addition to all other powers conferred by law, the Common Council shall have power:

- A. To provide for laying out, opening, constructing, extending, widening, altering, straightening, altering of grade, grading, regrading, paving, repaving, surfacing, resurfacing, narrowing, discontinuing, improving, repairing, maintaining, caring for, cleaning, sprinkling, oiling, watering and flushing of public streets, and acquiring all lands or easements necessary for any or all such purposes.
- B. To provide for constructing, flagging, surfacing, altering, repairing, maintaining, caring for and cleaning sidewalks, crosswalks, drains, gutters and curbs in the public streets.
- C. To provide for constructing, operating and maintaining by the City in, along and under the public streets, highways, parks, squares and public places and in, along and under any real estate owned by the City, or acquired for the purpose, of conduits or ducts for electrical wires and cables and to cause to be installed therein electrical wires and cables constituting part of any system owned or operated by the City, and to permit the installation therein upon uniform rates, terms, rentals and conditions, which shall be approved by the Board of Estimate and Apportionment, of electrical wires and cables, owned, used or operated by any corporation authorized and empowered to construct, own, use or maintain a line or lines of electric telegraph, telephone, or signal system within the City, or to manufacture and supply electricity, for producing light, heat and power. No franchise or right heretofore granted by the Common Council or under lawful authority to any corporation now operating in the City shall be hereby affected.
- D. To provide for the planting and rearing and to protect and preserve shade and ornamental trees in the streets and public grounds, and to prohibit the injury, defacement or destruction of such trees.
- E. To give names to streets, and to change such names in the manner and subject to the restrictions provided by law; to give numbers to lots and buildings and to change such numbers, and to compel the owners or occupants of any lot or building to place such numbers in a prominent place thereon.
- F. Subject to the Constitution and laws of the state, to regulate the use of streets and sidewalks by foot passengers, animals or vehicles; to regulate the speed at which horses may be driven or ridden and at which vehicles may be propelled in the streets; to regulate processions or parades occupying or marching upon any street; to prevent encroachments upon and obstructions to the streets and to authorize and require their removal by the proper officers; to regulate the opening of street surfaces for purposes authorized by law; to regulate and control the laying, maintaining, alteration and repair of subways, conduits, mains and pipes in and under the streets; to require cables and wires in the public streets, to be placed underground, provided after reasonable notice to the company or companies affected and after hearing, it shall appear to the Common Council that public necessity and convenience require that such cables and wires be placed underground; to regulate and prevent

the throwing or depositing of ashes, garbage or other filth and rubbish of any kind upon the streets; to regulate the use of the streets for signs, sign posts, awnings, awning posts, horse troughs, comfort stations, posts for telegraph or other electric wires, trolley poles; and poles for other purposes; to regulate public criers, advertising, noise, steam whistles, and ringing bells in the streets; to regulate the exhibition of banners, placards or flags in or across the streets or from houses or other buildings; to regulate the distribution or exhibition of advertisements or handbills along the streets; and to make such regulations in reference to the running of stages, omnibuses, trucks and cars as may be necessary for the convenient use of the streets and stations. Whenever the word "street" or the plural thereof occurs in this section, it shall be deemed to include all that is included by the term "street, avenue, road, alley, lane, highway, boulevard, concourse, public square and public place," or the plurals thereof respectively; whenever the word "vehicle" or the plural thereof occurs in this section it shall be deemed to include wagons, trucks, carts, cabs, carriages, stages, omnibuses, motors, automobiles, street cars, locomotives, bicycles, tricycles, sleighs or other conveyances for persons or property. Nothing herein contained shall be construed to prevent the Common Council from providing by special ordinance for the erection or maintenance on the streets or sidewalks within the City of Binghamton of fountains, public comfort stations, urinals, public baths, or other like structures maintained by the public authorities; for the establishment of which the said Common Council is hereby empowered to provide. All general ordinances relating to authorized structures, encroachments or obstructions in or upon the streets or sidewalks by persons other than the authorities of the City of Binghamton or other public authorities, shall fix a definite license fee for every such authorized structure, encroachment or obstruction, according to the character, extent and duration thereof, excepting, however, any such structures as may belong to the necessary fixtures of public service corporations duly authorized by general or special laws or ordinances of the City to operate in the City, and shall provide for the issuing of revocable licenses therefor, which shall be according to an established form and shall be regularly numbered and duly registered as shall be prescribed by the Common Council.

- G. To establish and maintain a public pound; to restrain the running at large of animals and poultry; to authorize the impounding and sale of the same for the penalty incurred and the fees and costs thereof; to prescribe the manner of impounding or selling animals and poultry impounded; and to collect all costs and expenses from the owners thereof.
- H. To grant rights and franchises to use the streets, highways and public places or any part thereof, or the space above or underneath them for any purpose whatever, upon such terms as it may deem proper and as may be permitted by law.
- I. To provide for constructing, extending, altering, repairing, rebuilding, maintaining and caring for public sewers and drains within or without the limits of the City, and the drainage of swamps and lowlands.
- J. To provide for constructing, building, altering, rebuilding, repairing, maintaining and caring for sewage disposal plants within or without the limits of the City.
- K. To provide for constructing, building, rebuilding, repairing, maintaining, and caring for bridges, arches and culverts.
- L. To provide for constructing, altering and repairing the walls along the banks of any river, stream or watercourse within the City and improving, altering, changing, repairing and cleaning the beds and banks thereof, and to forbid and punish throwing, depositing or leaving rubbish in or on banks of streams.
- M. To establish and define the boundaries and grade of the natural watercourses and streams in the City and to prevent obstructions and encroachments in or upon the same, and to provide for and compel

the removal of all obstructions, encroachments and deposits in and to the same and to assess the cost thereof to the owner, and to establish lines for docks, wharves, and retaining walls.

- N. To provide for laying out, enlarging, opening, ornamenting, equipping, improving, maintaining, caring for, and regulating the use of public squares, parks and playgrounds.
- O. To provide for acquiring, constructing, maintaining and regulating the use of public markets.
- P. To provide for acquiring, constructing, building, altering, enlarging, improving, repairing, equipping, furnishing, maintaining and caring for buildings for libraries, hospitals, dispensaries, sanitariums, public baths, fire houses, police stations, lockups, a City Hall, and for other City purposes, and acquiring sites therefor. [Laws 1953, Ch. 878, § 50]
- Q. To provide for the leasing of buildings, or parts of buildings, for City purposes for a period of not exceeding five years.
- R. To provide for lighting the public streets, squares, parks, playgrounds and public buildings of the City.
- S. To provide for maintaining, operating, extending, improving and repairing the waterworks system of the City; acquiring and developing additional sources of water supply, building, operating and maintaining reservoirs, water towers, aqueducts, pumping stations, filtration beds, and acquiring by purchase or condemnation the lands needed therefor, within or without the limits of the City, and to regulate the use of water.
- T. To provide for maintaining a fire department, and acquiring horses, fire engines and other apparatus for the use of such department.
- U. To provide for a police department.
- V. (Reserved)
- W. To establish and maintain libraries, hospitals, dispensaries, sanitariums and public baths.
- X. Subject to the Constitution and laws of the state, to provide for licensing and otherwise regulating auctioneers, pawnbrokers, junk dealers, dealers in secondhand articles, hawkers, vendors, peddlers, dirt carts, public carters, truckers, hackers, cabbies, expressmen, taxicab drivers, car drivers, bootblacks, porters, scavengers, sweepers, theaters, bowling alleys, shooting galleries, billiard saloons, dance halls, skating rinks, automatic baseball courts, circuses, menageries, and other places of amusement and common shows; bone boiling, fat rendering and other noxious business. The Common Council shall establish uniform fees for licenses and shall prescribe the manner in which such licenses shall be issued.
- Y. To regulate the rates of fares to be taken by owners or drivers of hackney coaches, carriages, motors, omnibuses or other vehicles for public hire.
- Z. Subject to the Constitution and laws of the state to provide for licensing and otherwise regulating the carting, carrying, keeping, storing, selling or using gunpowder, dynamite, nitroglycerine and other explosives, gasoline, kerosene, petroleum and other combustible and dangerous materials, and to prevent the manufacture thereof and the refining or preparing of combustible oils or fluids, or bone boiling, fat rendering or other noxious business, either within the limits of the City or except in a specified area.

- AA. To regulate the sale of milk and provide for the inspection thereof, and of the dairies where the same is produced, to fix the fees for such inspection to be paid by the producer or seller, and to prohibit the sale of milk within the City without such inspection, or without first procuring a license therefor.
- BB. To prohibit the use within the City of steam boilers except upon such conditions and regulations regarding safety to life and property as it shall prescribe; to provide for the inspection and testing of steam boilers; to provide for the appointment and to prescribe the duties of an inspector of boilers and steam engines; to provide for the licensing of steam engineers or persons managing or operating steam engines or boilers.
- CC. To regulate or to prohibit the emission of smoke, noxious gas, deposits or other pollution from buildings, engines and from all other sources.
- DD. To regulate and prescribe the manner of weighing and marketing hay, straw, wood, coal and other commodities, and to regulate the inspection and sealing of weights and measures.
- EE. To adopt building ordinances, and to prohibit the erection, construction or repair of buildings, within the City except in compliance therewith; to fix and from time to time extend the area to be included in the fire limits, and to prohibit the erection or construction therein of buildings, except in compliance with such ordinances as to construction and material as it may prescribe. The Common Council shall not pass any special ordinance in relation to any of the matters mentioned in this subdivision. All ordinances in relation thereto shall be general ordinances which may be either applied throughout the whole City or throughout specific portions thereof.
- FF. To regulate the use of all buildings used for the purposes of public assemblage, and to prohibit the use of such buildings except in compliance with its requirements for the safety and security of persons therein; to raze or demolish any building or erection which by reason of fire or any other cause may become dangerous to human life or health.
- GG. To provide for the collection, removal and disposal of garbage, ashes, dead animals and rubbish; to provide for the erection and operation of crematories, incinerators or other apparatus for the burning and destruction of garbage, dead animals and other substances, and acquiring sites therefor.
- HH. To provide for insuring against fire of City property.
- II. To determine the number of Commissioners of Deeds in the City.
- JJ. To restrain and regulate the rate of speed of locomotive engines and cars upon the railroads within the City, and the unnecessary interruption of the passage in the streets of the City, and to prescribe the rules for and the warning to persons of the approach of locomotives in the City, and to prevent persons, not employees or passengers on any engine or cars, from jumping on or off such engine or cars while in motion. Also, to regulate and control the speed of street cars upon any of the streets or public places of said City.
- KK. To punish the willful giving of a false alarm of fire.
- LL. To regulate or prevent the discharge of firearms, percussion or airguns, rockets, gunpowder or other explosives, or the making of bonfires.
- MM. To prohibit the pursuit or exercise, without a license, of any of the following trades or occupations within the City, to wit: The business of expressmen, carters, porters, and any hack, cab,

truck, omnibus, and the use of all vehicles employed for hire in the transportation of passengers or merchandise, goods or articles of any kind, and to require the owners of such vehicles to mark the same in such manner as the Council may designate; to license or regulate common criers, hawkers, peddlers, solicitors, itinerant merchants, except farmers or truck gardeners who themselves or through their employees vend, sell or dispose of products of their own farm or gardens; to license or regulate pawnbrokers, auctioneers, auction sales, billposters, electric or kite advertisers, distributors of samples of medicines or merchandise, and scavengers to license circuses, theaters, moving picture shows or other exhibitions or performances, billiards and pool parlors, bowling alleys, shooting galleries and other places of amusement, for money or hire; to license the use of any public hall, theater or opera house, but such place shall not be licensed unless it complies with all the laws, ordinances, rules and regulations relating to fire; to authorize the City Clerk or the person acting as such, to issue all licenses authorized by this Act (Laws 1917, Ch. 668). If any such trade or occupation shall be prohibited without a license, the Council shall establish uniform fees for licenses therefor and shall prescribe the manner in which such license shall be issued. [L.L. No. 4-1950, § 1]

NN. To make and adopt a map of the City by wards or sections of wards and to designate thereon the different lots and parcels of land contained in such sections, with the names of the owners thereof, as far as can be ascertained, and to number the same; and also to locate streets on such portions of such territory as are not built upon, which location shall be observed by the owners thereof, and in case any building be erected within the lines of such streets after such location, the owners of such buildings shall not be entitled to compensation therefor when it shall be opened and improved.

OO. To preserve the public peace and good order; to prevent and suppress vice, immorality, disorderly and gambling houses, and houses of ill fame, riots, tumultuous assemblages, unnecessary crowds upon the streets or in doorways and stairways adjacent thereto, or loitering about such places, and all disorderly, noisy, riotous or tumultuous conduct within the City, disturbing the peace and quiet of the City, or any meeting or assembly therein.

PP. To permit and regulate public telephone booths and related facilities upon the streets and sidewalks and public grounds of the City. [L.L. No. 3-1962]

QQ. In addition to the authority vested in the Common Council by General City Law § 20 and Second Class Cities Law § 3, Council will have the power and authority to place conditions on conveyances of real property owned by the City, including, but not limited to, deed restrictions limiting the future use or development of the real property, performance guarantees for proposed improvements, requirements for owner occupancy for specified times, to provide for rights of reverter, recapture obligations, or other penalties or forfeitures in the event of a grantee's failure or refusal to comply with such conditions. [8-21-2006 by Ord. No. 06-37]

**§ C-25. (Reserved)**

**§ C-26. (Reserved)**

**§ C-27. (Reserved)**

**§ C-28. (Reserved)**

**§ C-29. (Reserved)**

**§ C-30. (Reserved)**

## ARTICLE IV, Assessment and Collection of Taxes

§ C-31. Department of Assessment and Taxation. [L.L. No. 5-1931, § 1; Deleted 1-22-08 by Ord. No. 3-2008]

§ C-32. Powers and duties of Assessor; taxable status date. [Laws 1922, Ch. 27; L.L. No. 5-1931, § 1; L.L. No. 4-1976, § 1; L.L. No. 6-1991, §§ 1--4]

- A. The Assessor shall perform all the duties imposed upon him or her by the provisions of this Act (Laws 1917, Ch. 668) and shall also perform all the duties, possess all the powers and be subject to the same obligations as the Assessors in the State of New York as specified in the New York State Real Property Tax Law in reference to the assessment of property within the City of Binghamton, except as necessarily modified by this Act or as otherwise provided by law and except as otherwise provided by this act, he or she shall also perform all the duties now provided by law in reference to the assessment of local improvements imposed according to law. It shall be his or her duty to install specific systems of Assessment and Taxation maps, unit rules and such other systems and records as may be necessary, and to gather and file useful and available information that pertains to the value of property subject to his or her assessment.
- B. The taxable status of real property in the City of Binghamton shall be determined annually as of the first day of March. All real property shall be assessed according to its condition and ownership as of June 1.
- C. The Assessor shall enter the assessments in books provided for that purpose, to be known collectively as the tentative assessment roll of the City of Binghamton, which roll is to be completed as of May 1.
- D. Upon the completion of such roll the Assessor shall deposit the same in his or her office for examination and shall by publication in the official paper daily for 10 days give notice of the completion of said roll, that the same is on file in his or her office and will remain there for the term of 10 days following the first publication of said notice, during which time any person interested may examine said roll and at the expiration of said 10 days and more specifically on the third Tuesday in May and at an hour and place to be specified in said notice, that the Board of Review will meet and hear the allegations and objections of all persons interested therein, and to review and correct said roll.
- E. At the time and place designated in said notice, the Board of Review shall meet and hear such allegations, objections, and complaints in relation to such assessments brought before them, and for that purpose may adjourn from time to time. Such complainants shall file with the Board of Review a statement, under oath, specifying the respect in which the assessment complained of is incorrect, which statement must be made by the person assessed or whose property is assessed, or by some person authorized to make such statement, and who has knowledge of the facts stated therein. The Board of Review may administer oaths, take testimony and hear proofs in regard to any such complaint and the assessment to which it relates. If not satisfied that such assessment is erroneous, they may require the person assessed, or his or her agent or representative, or any other person, to appear before them and be examined concerning such complaint, and to produce any papers relating to such assessment with respect to his or her property or his or her residence for the purpose of taxation. If any such person, or his or her agent or representative, shall wilfully neglect or refuse to attend and be so examined, or to answer any material question put to him, such person shall not be entitled to any reduction of his or her assessments. Minutes of the examination of every person examined by the Board of Review upon the hearing of any such complaint shall be taken and filed in

the office of the City Clerk. The Board of Review shall after said hearing fix the value of the property of the complainants and for that purpose may increase or diminish the assessment thereof and make such other corrections as may be proper and may at said time after giving personal notice of two days to the owner or his or her agent add to or insert in said roll any property liable to taxation and the assessment thereof which may have been omitted. On or before the first day of July in each year, the Assessor shall make and file in his or her office, for public inspection, the correct and complete assessment roll identifying each volume except the last by his or her signature and attach to the last volume the oaths required by law, signed by the Assessor, whereupon said Assessor shall cause a notice to be posted conspicuously in at least three public places in the City of Binghamton and to be published in the official paper that such assessment roll has been finally completed and stating that it has been so filed and will be open for public inspection. The Assessor shall make or cause to be made and certify a correct copy of each volume of said assessment roll as it shall then exist for the purpose of extending the tax thereon and on or before the 10th day of November next following shall deliver a certified copy of the original roll to the County Legislature of the County of Broome for the purpose specified in § C-63 of this Act; said Board, shall, after completing its duties, return the roll to the Assessor.

**§ C-33. (Reserved)**

**§ C-34. Map or description to be prepared by City Engineer. [L.L. No. 5-1931, § 1]**

The Common Council may, from time to time, direct the City Engineer to prepare and furnish to the Department of Assessment and Taxation, for use therein, a map or brief description of any real estate in the City, or prepare a roll or rolls, exclusive of application, of any real estate in the City for the Department of Assessment and Taxation.

**§ C-35. (Reserved)**

**§ C-36. Assessment of omitted real estate; reassessments. [L.L. No. 5-1931, § 1]**

If any taxable real estate has been omitted in any of the general tax rolls for any of the three preceding years, the Assessor may insert, or cause to be inserted, in the roll for the current year in addition to its share of the tax for each such year, the proportion of the tax it should have borne in such preceding years, or either thereof, stating such additional taxes separately, and such additions shall be collected as part of the tax for the current year; and in case any taxes levied on any real estate in said City shall remain unpaid or uncollected for any year, said Assessor is hereby empowered to reassess such real estate, and the same shall be collected as part of the tax of the current year, and in the same manner. But such taxes shall not be reassessed for a longer period than six years from the time they became due and payable.

**§ C-37. Correction of errors in assessment rolls; reassessment of void tax. [L.L. No. 5-1931, § 1]**

Whenever there is a manifest error in copying an assessment roll, or levying or extending any tax or assessment the Common Council may, at any time within six months after the completion of said assessment rolls, and upon the application of the person interested or upon 10 days' written notice to such person by a vote of 2/3 of all the members elected, correct, cancel, remit or add to the same, but shall have no power to alter any valuation made by the Assessor, nor shall such amended assessment, if greater than the original assessment, be a lien upon the real estate for the amount added, as against purchasers or mortgagees in good faith. In case any tax or assessment shall be void, or shall have failed for want of jurisdiction, or for any irregularity in the levying or assessing thereof, it shall be the duty of the Common Council to cause the same to be reassessed in a proper manner; if any person shall have paid on the former assessment the amount so paid shall be credited on the new assessment and in case the payment exceeds the amount reassessed, the surplus shall be refunded. The Common Council may, by a vote of 2/3 of all members elected, renew any warrant for the collection of any assessment or tax for a term not exceeding 30 days.

**§ C-38. Registry of unoccupied premises. [L.L. No. 5-1931, § 1]**

The owners of unoccupied lots or premises in the City may cause a true description of the same to be registered in a book kept by the Assessor for that purpose, with the name of the owner, if a resident of the City, and if not with the name of any resident of the City as an agent for said property; and in the assessment of real estate for local or general taxation, all papers or notices required to be served on the owners or resident occupants of lots, shall be served on such owners or agents, with the same effect as if such lots were occupied.

**§ C-39. Levy and collection of taxes. [L.L. No. 5-1931, § 1; L.L. No. 1-1934, § 1; L.L. No. 3-1940, § 1; L.L. No. 3-1951, § 1; L.L. No. 4-1967, § 1]**

All sums adopted by the Council in the tax budget as provided in § C-62 of this Act (Laws 1917, Ch. 668) shall be assessed on all real and personal estate in the City, (except City property and property exempt by law) according to the valuation of the same in the assessment rolls for said year and shall be extended by the Assessor and shall be regarded and known in all proceedings as "tax" and shall become due on the first day of January in each year; such tax shall be payable in two installments; the first installment shall be payable on the first day of January in each year; and the second installment shall be payable on the first day of July following. Each of said installments shall be 50% of said tax. The sum rated and assessed upon the estate of each person, company, corporation or association shall be set opposite the name of such person, company, corporation or association, respectively by the Assessor and when he or she shall have finally completed said roll, and on or before the 10th day of December in each year, he or she shall deliver the same to the City Treasurer, with a warrant annexed to each volume, under the corporate seal of said City, and signed by the Mayor and City Clerk, commanding him or her to receive, levy and collect from the several persons, companies, corporations, or associations named in the tax roll, the several sums mentioned in such roll opposite their respective names, in the manner in this Act provided. The City Treasurer shall each year receive and collect the relative proportions of the installments payable on the first day of January and the first day of July respectively, as hereinafter provided.

**§ C-40. Notice of receipt of tax roll; payment of taxes to City Treasurer; fees. [L.L. No. 5-1931, § 1; L.L. No. 3-1932, § 1; L.L. No. 10-1932, § 1; L.L. No. 1-1934, § 1; L.L. No. 3-1940, § 1; L.L. No. 3-1951, § 1; L.L. L.L. No. 1-1983, § 1]**

Upon receiving said tax roll, the City Treasurer shall forthwith give notice by posting a notice in five conspicuous places in the City of Binghamton and by publication thereof once a week for two weeks in the official paper that the same has been left with him or her for collection and that during the month of January the first installment of tax of every person, corporation or association may be paid to the City Treasurer without an additional charge; that 1% additional fee shall be added and collected on and after the first of each month and that said penalty shall be compounded on the balance outstanding each and every month thereafter. At least 10 days before the second installment of said tax upon said roll shall become due, the City Treasurer shall give notice in the same manner that during the month of July the second installment of tax of every person, corporation or association may be paid to the City Treasurer without an additional charge; that 1% additional fee will be added and collected on and after the first of each month thereafter and that said penalty shall be compounded on the balance outstanding each and every month thereafter. Said penalties shall continue in the manner prescribed above until such time as the City obtains the right to foreclose upon said unpaid taxes as set forth in the Real Property Tax Law.

**§ C-41. (Reserved)**

**§ C-42. (Reserved)**

**§ C-43. (Reserved)**

**§ C-44. Sale of real property for unpaid taxes. [L.L. No. 5-1931, § 1; L.L. No. 1-1934, § 1; L.L. No. 3-1940, § 1; L.L. No. 3-1951, § 1; L.L. No. 6-1974, § 4]**



Whenever any installment of tax or any local assessment shall remain unpaid, the City Treasurer shall, with the Assessor, make a proper description of the land on which such tax or any local assessment is laid, and shall cause a list and description of such lands to be published in the official paper once in each alternate week for a period of six weeks with a notice that, if the taxes, or local assessments, thereon are not paid to the City Treasurer with the fees, the interest and expense on or before a certain day to be therein designated, which shall not be less than six weeks from the first publication thereof, the lands and tenements on which they are imposed, will be sold at auction at City Hall in the City of Binghamton, which sale shall commence at ten o'clock in the forenoon of the day next after the last day for payment to said Treasurer of said taxes or assessments, fees and expenses, with the interest, but no sale for the first installment of tax of any year shall be held prior to the date upon which a sale could be held as herein provided for the second installment of tax for that year. Should any errors be discovered in the description of the lands so assessed and taxed, the said City Treasurer may correct the same at any time previous to the sale, and no errors in the printed description in such newspaper shall vitiate or in any manner affect the validity of such sale. The publisher of the newspaper in which such list shall be published shall, within 10 days after the last publication thereof, deliver to the City Treasurer, to be filed, an affidavit of publications, made by himself, the foreman or his or her principal Clerk, which affidavit shall be presumptive evidence in all courts and places of the facts therein stated. If any tax or assessment, or the fees, interest and expenses thereon, shall remain unpaid on the day specified in the notice, the City Treasurer shall proceed to sell at public auction, the property on which such tax and/or assessment shall have been imposed, all unpaid installments of taxes and/or assessments upon any parcel so advertised shall be included in one tax certificate under one sale. The City Treasurer shall add a penalty of 10% thereto for the benefit of the City of Binghamton. Two certificates of sale of each parcel of land so sold shall be made out, subscribed and acknowledged by said City Treasurer, one of which certificates shall be filed in the City Treasurer's office, and the other, within 20 days after such sale, shall be filed and recorded in the office of the Clerk of the County of Broome. Such certificates shall contain the particular description of the premises sold, the price bid for each distinct lot or parcel, the whole consideration due including recording fees, the names of the person or persons against whom such tax and/or assessment was made, the name of the City of Binghamton, the particular tax and/or assessment for which the sale was made, and the time when such sale will become absolute and the City of Binghamton entitled to a conveyance according to law. In making such sale, the officer making the same shall, nearly as possible, sell so much of the real estate only upon which said tax and/or assessment shall have become a lien, as may be sufficient to raise the amount of said tax and assessment fees, interest and expenses, and which may be sold separately without material injury to the entire premises and shall include in each sale and in one tax certificate all the taxes and assessments for which said property is sold at said sale. The certificates herein required to be filed in the Clerk's office of the county shall be duly recorded by the said City Treasurer in the same manner as deeds are required to be recorded by law, and, being so recorded shall have the same effect as against subsequent purchasers or encumbrances, as deeds and conveyances duly proved and recorded; and such certificate or record, or a duly authenticated copy of such record shall be received in all courts and places as a prima facie evidence of the fact therein stated. In indexing any certificates so to be recorded in his or her office, or any deed which may be given pursuant thereto, the said County Clerk shall index the same as follows: By inserting as grantor, the name of the person named in such certificate as owner, adding thereto the words by the City of Binghamton, and by inserting as grantee the City of Binghamton. The City Treasurer of said City shall provide and keep in his or her office a suitable book, in which he or she shall enter all such certificates of sale filed therein and shall index all such certificates in the manner as above required.

**§ C-45. (Reserved)**

**§ C-46. Redemption. [L.L. No. 5-1931, § 5; L.L. No. 6-1914, § 4]**

The owner or any person interested in or having a lien upon any parcel or lot so sold (as provided in § C-44), may redeem the same from such sale at any time prior to the conveyance of the premises to the City of Binghamton, by paying to the City Treasurer the sum mentioned in the certificate as having been bid for the premises, together with the penalty of 10% and all fees paid the City of Binghamton with interest on all said sums at the rate of 10% per annum from the day of sale, to the day of payment. In case of the redemption of

any land by any person entitled to redeem as hereinbefore provided, the City Treasurer shall give to any such person a receipt for the moneys paid for such redemption, which receipt shall be acknowledged by said Treasurer as a deed to be recorded, and such receipt so acknowledged, when filed and recorded in the office of the Clerk of the County of Broome, shall operate to discharge the recorded certificate of sale, and said Clerk shall so note upon the margin of said record; and the City Treasurer shall so note upon the record of the certificate in his or her office.

**§ C-47. Disposition of redemption money. [L.L. No. 5-1931, § 1; L.L. No. 6-1974, § 4]**

The City Treasurer shall credit such amount so received on account of the redemption of any property to a fund to be known as a tax redemption fund, and such funds shall not be used or employed for any other purpose.

**§ C-48. (Reserved)**

**§ C-48.1. Limitation. [L.L. No. 4-1947, § 1]**

- A. The owner of any certificate of sale of land sold by the City Clerk or City Treasurer for unpaid taxes and or assessments, and not redeemed, must file proof of service of the notice to redeem required under this article, and make application to the City Treasurer for a conveyance of the land described in the certificate, within 10 years after the date of sale. If such proof of service and application for a conveyance is not made within said time, the certificate shall become null and void and no claim can be maintained under the purchase.
- B. This section shall apply to the sales of land for unpaid taxes and/or assessments enumerated in Subsection A, whether heretofore or hereafter made, except that in the case of such sale made more than eight years and six months prior to the time this section takes effect, the owner of such certificate of sale must file proof of service of the notice required and make application to the City Treasurer for a conveyance of the land described in the certificate within one year and six months after this section takes effect.

**§ C-49. Expense of sale. [L.L. No. 5-1931, 1; L.L. No. 2-1951, § 1; L.L. No. 2-1972, § 1; L.L. No 6-1974, § 4; L.L. No. 6-1993, § 1]**

Fees for advertising parcels, giving of certificates, and recording certificates at the County Clerk's office shall be set equal to other agencies with any changes left to the discretion of the finance office of the City of Binghamton.

**§ C-50. (Reserved)**

**§ C-51. Collection of local assessments. [L.L. No. 5-1931, § 1; L.L. No. 1-1934, § 1]**

Whenever an assessment roll for local improvements shall be deposited with the City Treasurer, he or she shall forthwith give notice thereof in the official paper, by one insertion; and within five days from the date of the notice so published he or she shall cause a written or printed notice to be given to every person, owner, occupant or agent of real estate assessed for the local improvement, within the City, from whom an assessment may be due, specifying the amount and for what purpose the assessment was made, and when payable. Such notice may be served personally or by leaving the same at the residence or place of business of such person, owner, occupant or agent, or may be served by depositing it in the post office with the postage prepaid thereon, properly sealed and directed to such owner, occupant or agent, at his or her last known address, stating that an assessment roll for local improvements has been left with him or her for collection, and that for the first 10 days he or she will receive the assessment or any installment thereof, then due thereon, without fee; for 10 days thereafter, at 1%; for 10 days succeeding at 3% and thereafter and to and including the day preceding the day of sale as directed by § C-44 of this Act (Laws 1917, Ch. 668), at 5%. Where any assessment shall be payable in installments at least 10 days before any installment after the first

shall become due, the said Treasurer shall cause a notice to be served in the same manner as the notice first above specified, which shall specify the amount of the installment about to become due, together with the interest upon all unpaid installments, and the time when the same will be due, and if paid when due, no fee will be charged thereon, and that for five days thereafter, 1% fees; for the succeeding five days, 2% fees; for the succeeding five days, 3% fees and thereafter and to and including the day preceding the day of sale as directed by § C-44 of this Act at 4%.

**§ C-52. Annual tax sale. [L.L. No. 5-1931, § 1]**

One tax sale shall be held annually by the City Treasurer in which shall be included all taxes and assessments so advertised and remaining unpaid at the time of said sale.

**§ C-53. Collection of tax or local assessment by suit. [L.L. No. 5-1931, § 1]**

Whenever any tax or local assessment levied or assessed upon any person, copartnership, corporation or property, with the fees, interest, addition and expenses which have by law been added thereto, shall remain unpaid for three months after the warrant for its collection has been placed in the hands of the City Treasurer, he or she may maintain an action in his or her name of office, for the amount of such tax, fees, additions and expenses remaining unpaid and uncollected against any person, corporation or copartnership liable for such tax or local assessment, or the representatives of such corporation, copartnership or person, in any court of competent jurisdiction in which the proceedings, costs, judgments, supplementary proceedings, thereon and executions shall be the same, and with like effect as in actions between public officers and individuals, and in civil actions generally under the Civil Practice Act;EN the amount collected by any such action or proceeding shall be used and applied by said City Treasurer in the same manner as though the same had been collected by the sale of real estate under the provisions of this Act (Laws 1917, Ch. 668), relating to the collection of unpaid taxes, and the same costs and disbursements may be allowed against the person examined in such supplementary proceedings, but none shall be allowed against the City. The warrant delivered to the City Treasurer shall be presumptive evidence that all the previous proceedings, including the assessing and levying of the tax or local assessment, were regular and according to law. A judgment in such action in favor of the City shall not release or in any manner effect the lien of any tax or assessment until satisfied, and nothing in this section contained shall be construed or held to repeal or abridge any other remedy or power given for the collection of taxes or local assessments in the City of Binghamton.

**§ C-54. Lien for assessments. [L.L. No. 5-1931, § 1]**

All taxes assessed upon the general tax roll shall be and become a lien upon the property assessed upon the first day of January next after the completion of the roll and every assessment for a local improvement, unless otherwise specifically provided, shall be and become a lien upon the property assessed upon the date of the filing with the City Treasurer of such assessment roll and all taxes shall so remain a lien until fully paid.

**§ C-55. Payment of eligible delinquent taxes in installments. [L.L. No. 1-2001, § 2]**

A. Definitions.

- (1) "Eligible delinquent taxes" means the delinquent taxes, including interest, penalties and charges, which have accrued against a parcel as of the date on which an installment agreement is executed.
- (2) "Eligible owner" means an owner of record of real property who is eligible to or has entered into an installment agreement.
- (3) "Installment agreement" means a written agreement between an eligible owner and the enforcing officer providing for the payment of eligible delinquent taxes in installments pursuant to the provisions of § 1184 of the Real Property Tax Law and this section.
- (4) "Special assessments," for purposes of this section, shall mean any other assessment or charge which has been legally imposed upon said property, including but not limited to an act of City Council, clean-up charges pursuant to a code violation, delinquent water and

sewer charges, garbage violation costs, avoidable alarm charges, or any other similar imposition.

- B. The City Treasurer, the enforcing officer of the City of Binghamton, is authorized (upon approval of the In-Rem Agreement Committee, consisting of the City Comptroller, Corporation Counsel, City Treasurer, Assessor and Assistant Mayor) to enter into an installment agreement providing for the payment of eligible delinquent taxes in installments with property owners. Such installment payments of eligible delinquent taxes shall be made available to each eligible owner on a uniform basis pursuant to the provisions of the New York State Real Property Tax Law and this section. Such installment payments of eligible delinquent taxes shall commence upon the signing of an agreement between the City of Binghamton and eligible owner. The agreement shall be kept on file in the City of Binghamton Treasurer's office, and copies of each agreement shall be provided to the Comptroller and Corporation Counsel.
- C. Pursuant to RPTL § 1184, Paragraph 3, the term of the installment agreement shall be 24 months, the payment schedule shall be monthly, the required initial down payment shall be 25% of the eligible delinquent taxes, and eligible properties shall include all properties within the City of Binghamton. Should an eligible property owner be experiencing extreme financial distress, the property owner may seek the authorization of City Council to enter into an installment agreement with an initial down payment of not less than 10%.
- D. A property owner shall not be eligible to enter into an agreement pursuant to this section where:
- (1) There is a delinquent tax lien on the same property for which the application is made or on another property owned by such person and such delinquent tax lien is not eligible to be made part of the agreement pursuant to this section;
  - (2) Such person is the owner of another parcel within the City of Binghamton on which there is a delinquent tax lien, unless such delinquent tax lien is eligible to be and is made part of the agreement pursuant to this section;
  - (3) Such person was the owner of property on which there existed a delinquent tax lien and which lien was foreclosed within three years of the date on which an application is made to execute an agreement pursuant to this section; or
  - (4) Such person defaulted on an agreement executed pursuant to this section within three years of the date on which an application is made to execute an agreement pursuant to this section.
  - (5) Such person has existing code violations upon any property that person owns within the City of Binghamton.
- E. A property owner shall be eligible to enter into an agreement pursuant to this section no earlier than the date the delinquent listing is filed with the County Clerk.
- F. The amount due under an installment agreement shall be the eligible delinquent taxes plus the interest that is to accrue on each installment payment up to and including the date on which each payment is made. The agreement shall provide that the amount due shall be paid, as nearly as possible, in equal amounts on each payment due date. Each installment payment shall be due on the last day of the month in which it is to be paid.
- G. Interest and penalties. Interest on the total amount of eligible delinquent taxes, less the down payment made by the eligible owner, shall be 12% per annum. If an installment is not paid on or before the date it is due, interest shall be added at the rate prescribed above for each month or portion thereof until paid. In addition, if any installment is not paid by the end of the 15th calendar day after the payment due date, a late charge of 5% of the overdue payment shall be added.

H. Default.

- (1) The eligible owners shall be deemed to be in default of the agreement upon:
  - (a) Nonpayment of any installment within 30 days from the payment due date;
  - (b) Nonpayment of any tax, special ad valorem levy or special assessment which is levied, by the City of Binghamton or the Binghamton City School District, subsequent to the signing of the agreement and which is paid prior to the expiration of the warrant; or
  - (c) Default of the eligible owner on another agreement made and executed pursuant to this section.
- (2) In the event of a default, the City of Binghamton shall have the right to require the entire unpaid balance, with interest and late charges, to be paid in full. The City shall also have the right to enforce the collection of the delinquent tax lien pursuant to the applicable sections of law, special tax act, charter, or local law.
- (3) Where an eligible owner is in default and the City does not either require the eligible owner to pay in full the balance of the delinquent taxes or elect to institute foreclosure proceedings, the City shall not be deemed to have waived the right to do so.

I. Notification of potential eligible owners.

- (1) Within 45 days of filing the delinquent listing with the County Clerk, or as soon thereafter as is practicable, the enforcing officer shall notify, by first class mail, all potential eligible owners of their possible eligibility to make installment payments on such tax delinquencies.
- (2) The failure to mail any such notice, or the failure of the addressee to receive the same, shall not in any way affect the validity of taxes or interest prescribed by law with respect thereto.
- (3) The enforcing officer shall not be required to notify the eligible owner when an installment is due.

J. The provisions of this section shall not affect the tax lien against the property except that the lien shall be reduced by the payments made under the installment agreement, and that the lien shall not be foreclosed during the period of installment payments, provided that such payments are not in default.

K. Charges.

- (1) Pursuant to § 1102 of the Real Property Tax Law and commencing with the effective date of this section, the following charges, required or authorized by RPTL and this section, will be assessed (as they are incurred by the City) to all properties with taxes becoming a lien:
  - (a) Per first class mailing sent: \$1;
  - (b) Per certified mailing sent: \$3;
  - (c) For the cost of publication of notices: \$30;
  - (d) For the cost of recording or filing legal documents: \$25;
  - (e) For title search and legal services: \$150.
- (2) Charges shall be deemed a part of the delinquent tax for purposes for redemption.

§ C-56. (Reserved)

§ C-57. (Reserved)

§ C-58. (Reserved)

§ C-59. (Reserved)

§ C-60. (Reserved)

## **ARTICLE V, Department of Finance**

### **§ C-61. Department estimates.**

The estimates required to be furnished by the heads of departments by the provisions of § 73 of the Second Class Cities Law shall be furnished on or before the 25th day of September instead of the date in said section stated. The Comptroller shall furnish with his or her estimate of such expenditures for his or her department a statement showing in detail the items of principal and interest upon bonds, notes, certificates of indebtedness and other fixed legal liabilities and obligations which will become due and payable during the next fiscal year.

### **§ C-62. Annual estimate. [Laws 1943, Ch. 710; L.L. No. 3-1967, § 1; 11-20-2006 by Ord. No. 06-53; Amended 7-6-09 by Ord. No. 09-21; Amended 7-7-10 by Ord. No. 10-32; Amended 3-23-11 by Ord. No. 11-9; Amended 9-12-11 by Ord. No. 11-32; Amended 2-23-2011 by Ord. No. 11-9]**

The annual estimate by the Board of Estimate and Apportionment required to be made by the provisions of § 75 of the Second Class Cities Law shall be made and submitted to the Common Council on or before the fifteenth of September; that any amendments to the annual estimate by the Common Council shall take place on or before the thirtieth of October; that any veto of any amendment made by the Common Council shall be enacted by the Mayor on or before the sixth of November; that any override of any mayoral veto shall be enacted by the Common Council on or before the twentieth of November; and that the tax warrant for the City of Binghamton shall be delivered to Broome Count on or before the twenty-fifth of November. Said estimate shall include the estimated balances that will remain at the close of the current fiscal year, and shall include the probable amount necessary to be levied in the City for state, county and other lawful purposes. If the amount of state, county and other lawful purposes is finally determined after the adoption of the annual budget but prior to the extension of taxes, the Common Council may amend the budget and revise the amount to be levied for state, county and other lawful purposes. If it is ascertained, when the certificate of amount of tax to be levied in the city, state, county and other lawful purposes is received from the Board of Supervisors, that the amount included in the budget is more or less than the sum certified, the Board of Estimate and Apportionment shall apply the surplus or deficit to its next estimate for state, county and other lawful purposes specified in § C-63 of this Act (Laws 1917, Cha. 668).

### **§ C-63. Certificate by County Legislature of amount of state and county tax apportioned to City. [L.L. No. 11-1989, § 1]**

- A. The Legislature of the County of Broome shall in each year equalize the assessment rolls delivered to its Chairperson or Clerk by the City Clerk with those of other towns in the County of Broome as required by law, and shall, by resolution, ascertain and direct the amount of tax to be levied in the City for the state, county and other lawful purposes, and shall cause the City to collect said amounts on its behalf by causing such state and county tax to be spread upon the tax roll and property within the City, and shall, on or before the first day of January in each year, certify such resolution under the seal of the county to the Comptroller of the City; and of the amount so certified and actually collected by the City, 1/2 shall be paid by the City to the county on or before the first day of March, and the balance of such amounts as are collected by the City on or before the first day of September next succeeding such certification by warrant of the Comptroller of the City, and payable to the order of the County Treasurer, who shall receive and disburse the same for the purpose of and in liquidation to the extent of the amount actually collected by the City of the amount so certified.
- B. The City shall be obligated to transmit to the county such additional amounts as it collects in the period between the dates set forth above in Subsection A of this section together with the county's pro-rata apportionment of any interest or penalties added to such tax as levied and collected by the City.

- C. In the event that the City collects any tax through the foreclosure in rem of any tax lien, the City shall, upon the sale of any parcel so acquired, transmit to the county its pro-rata share of the sale proceeds less any fees that the City may be entitled by law to collect in connection with the foreclosure action.
- D. In the event that any tax lien cannot be perfected or the taxes cannot be collected as a result of any action commenced under the Bankruptcy Act of the United States (11 U.S.C. Section 101 et seq.), the City shall remit to the county only its pro-rata share of such taxes, interest and penalties as may be allowed by a court of competent jurisdiction and actually received by the City under a plan of reorganization or liquidation, as the case may be.

**§ C-64. Appropriations for hospital purposes; pavements, sewers, curbs, park purposes; celebrations. [Laws 1922, Ch. 27; Laws 1926, Ch. 411; Laws 1927, Ch. 177; L.L. No. 7-1941, § 1; Laws 1943, Ch. 710; L.L. No. 1-1945, § 1; L.L. No. 4-1955, § 1]**

The Board of Estimate and Apportionment may annually include in the annual estimate such sums as may be deemed necessary for the following purposes: For hospital purposes; to defray the City's portion of the cost of construction of new pavements; and/or the repair and/or the resurfacing of existing pavements; to defray the City's share of the cost of construction of stone or concrete sidewalks, curbs and combination curbs and gutters; to defray the City's portion of the cost of construction of sanitary sewers: to defray the cost of stormwater sewers; for the maintenance of parks. The Board of Estimate and Apportionment may also include in the annual estimate, such sum as it may deem necessary for the decoration of public buildings or other purposes on or for the occasion of any public celebration in which the officers of the City shall participate, or in the entertainment of guests of the City.

**§ C-65. Authorization of issuance of obligations by ordinance; application of assessments when collected. [Laws 1943, Ch. 710; Laws 1945, Ch. 839]**

- A. Whenever the finance board, as that term is defined in the Local Finance Law, authorizes the issuance of obligations, it shall do so by ordinance.
- B. Deferred assessments and assessments levied for the purposes of paying for the expense of improving streets with bituminous or water bound macadam, constructing, grading or repairing sidewalks, when collected, shall be applied to the payment of the cost and expense of the improvements for which they shall have been levied or to the redemption of the bonds or notes issued to pay all or part of the cost thereof; provided, however, that if tax anticipation notes are issued in connection with the financing of such improvements, the assessments in anticipation of the collection of which such notes were issued shall be applied in the manner provided in § 24.00 of the Local Finance Law.

**§ C-66. (Reserved)**

**§ C-67. (Reserved)**

**§ C-68. Depositaries of City funds. [L.L. No. 1-1932, § 1; L.L. No. 3-1934, § 1; L.L. No. 3-1939, § 1]**

All moneys received by the City Treasurer shall be properly deposited and placed to the credit of the City in such banks or trust companies as the Council may designate. Not less than two depositaries shall be designated for the City funds and one or more for the sinking fund. Any interest on deposits shall be the property of the City and must be credited to the proper fund. Accounts with depositors shall be verified by the City Treasurer at least once in each month. No money shall be drawn from such banks or trust companies except on checks or drafts signed by the City Treasurer, or his or her deputy, countersigned by the Comptroller and showing the fund chargeable. Such checks shall be made payable to the person entitled to receive the payment unless such moneys are for public use in the Treasurer's office, in which case such

checks or drafts must be made payable to the order of the City Treasurer. No money shall be paid out except upon the authorization of the Comptroller.

**§ C-69. (Reserved)**

**§ C-70. (Reserved)**

**ARTICLE VI, Department of Public Works**

**SUBDIVISION 1. Streets**

**§ C-71. Commissioner of Public Works; subordinates.**

The Commissioner of Public Works shall appoint to hold office during his or her pleasure, a Superintendent of Streets and Sidewalk Inspector when authorized by the Board of Estimate and Apportionment, and such other subordinates as may be authorized by said board. In case of the absence or disability of the Commissioner, and deputy, or of a vacancy in the office of both, the Superintendent shall discharge the duties of the office until the Commissioner or deputy return, the disability ceases or the vacancy is filled.

**§ C-72. Duties of Superintendent of Streets.**

The Superintendent of Streets shall personally supervise the making and repairing of streets and other highways and Act in all things, except as in this Act (Laws 1917, Ch. 668) or otherwise by law provided, under the direction of the Commissioner of Public Works.

**§ C-73. Duties of Sidewalk Inspector.**

The Sidewalk Inspector shall inspect sidewalks within the City, and see that the provisions of this Act (Laws 1917, Ch. 668) and of all the ordinances relating to sidewalks are strictly enforced; he or she shall serve personally, when possible, all certified copies of all sidewalk orders or ordinances passed by the Common Council or made by the Commissioner of Public Works, and shall report to the Commissioner of Public Works the location of all sidewalks, the condition of which require new walks to be laid, and all walks needing repairs, and perform such other duties as the Commissioner of Public Works shall require and direct.

**§ C-74. Public streets.**

The following shall be deemed public streets within the City:

- A. All streets in public use within said City, laid out as streets or public highways under any law of this state, or under any proceedings authorized by the statutes of this state;
- B. All streets not laid out or recorded under any statute of this state or by proceedings authorized by such statutes, but which have been worked or improved by the City and shall have been used as public streets or highways for 20 years or more;
- C. All such streets heretofore dedicated to the public use in pursuance of law, or dedicated in the manner described in the next section (§ C-75) and hereafter accepted by the Common Council as provided in this article.

**§ C-75. Dedication of streets and parks.**

Whenever any lands have been or are hereafter sold or conveyed within the City of Binghamton and described in the deed or conveyance thereof as abutting upon or bounded by any street, park or square, which is owned wholly or partly by the grantor in such deed or conveyance, and such street shall not be one of the public streets of said City, as defined in the preceding section (§ C-74), or such park or square shall not be one of the public parks or squares of said City, the fact of such sale or conveyance of lands so described, or the conveyance to the City for street purposes of any land intended to be used for or described as a street,



shall be deemed a dedication to the public use by the grantor of the street, park or square, as so described in the description of the land so sold or conveyed, or in any map, plan or survey referred to in such description, and filed in the Clerk's office of the County of Broome or as described in such deed or conveyance to the City.

**§ C-76. Acceptance of dedication.**

Whenever any street, park or square shall have been dedicated to the public use, the Common Council may, by ordinance, adopted by the affirmative vote of 2/3 of all its members, taken by yeas and nays and recorded in its minutes, accept such dedication. Thereupon the street so dedicated and accepted shall be a public street within said City, and the park or square so dedicated and accepted shall be one of the public parks or squares of said City.

**§ C-77. Survey and description of streets dedicated.**

Whenever any street, park or square shall have been accepted, as in the preceding section (§ C-76) provided, the Common Council shall cause a survey, map and description thereof to be made by the City Engineer and by him or her reported to the Common Council, stating the course, distance, width and boundaries of the street, park or square so accepted. Such description shall be entered at length in the minutes of the Common Council, and a copy thereof duly certified by the City Clerk shall be presumptive evidence in any proceeding, of the location of said street, park or square.

**§ C-78. Record of streets, parks and squares.**

The Common Council may by ordinance, cause such streets, public parks or squares in said City as shall have been used for 20 years, and are not sufficiently described, or have not been duly recorded, to be ascertained, described and entered of record in its minutes, and the record thereof, and of such as shall hereafter be laid out, or of such as have been dedicated and accepted by the Common Council or a copy thereof, certified by the City Clerk, shall be evidence of the existence and location of such streets, parks and squares as therein described.

**§ C-79. Encroachments on streets, parks and squares.**

If any street, park or square in said City, is encroached upon by any fence, building or otherwise, the Common Council may cause a survey to be made and the extent of such encroachment ascertained, and may, by ordinance specifying the nature of such encroachment and the extent thereof, require the person making or maintaining such encroachment, or the occupant thereof, to remove the same or to remove therefrom, within the time specified in such ordinance, which time shall not be less than 10 days from the passage thereof. A copy of such ordinance shall, within 10 days after the passage thereof, be served under the direction of the Commissioner of Public Works, upon the person making or maintaining such encroachment, if he or she is known and resides within the County of Broome, and also, upon the occupant thereof, either personally or by leaving it at his or her place of residence with some person of suitable age. If the removal of such encroachment shall not be made within the time specified in such ordinance, the owner or occupant so served, shall each forfeit to the City the sum of \$5 per day for each day after the time mentioned in said notice that such encroachment shall continue. The Commissioner of Public Works may cause such encroachment to be removed, and may, in the name of the City, collect of such person, owner or occupant, all reasonable charges therefor, with costs, in any court of competent jurisdiction, and upon a judgment rendered in such action, execution may issue against the person of such defendant.

**§ C-80. Proceedings if encroachment is denied.**

If any person upon whom a copy of such ordinance (provided for in § C-79) shall have been served, shall, within five days after such service, file with the City Clerk a notice that he or she denies such encroachment, the Corporation Counsel may apply to the County Judge of Broome County for a precept directed to the sheriff of said county, commanding him or her to summon 12 freeholders of said City, to be named in such precept to meet at a certain day and place specified therein, not less than two days after the issuing thereof, to inquire into the existence of such encroachment. The Corporation Counsel shall give the person so denying

such encroachment at least 24 hours' notice of the time and place at which such freeholders are to meet. At the time and place specified in such precept, a jury of six persons shall be drawn by said judge from those so summoned, who shall appear, which jury shall be sworn by said judge, well and truly to inquire whether any such encroachment has been made, to what extent and by whom. The County Judge shall preside at such investigation, and shall decide all questions of law that may arise upon the evidence offered by either party, and may instruct the jury as to the law of the case, as in civil actions. Any party to such proceedings may except to any ruling or decision of the County Judge made therein, and have such exception inserted in the record. The jury shall hear the proofs and allegations that may be submitted by either party. If the jury finds that any encroachment has been made, the members shall make and subscribe a certificate, in writing, stating the particulars of such encroachment, and by whom made. A record of the proceeding including the testimony and evidence taken therein, and the ruling and decisions of the County Judge, which have been excepted to, and such exceptions, shall be made by or under the direction of the County Judge, and certified to by him, and such record, so certified, filed with the City Clerk. The person denying such encroachment within 10 days after notice of the filing of such record and certificate that there is an encroachment, shall, under the penalty provided in the last preceding section (§ C-79), remove the same, or, in case of a neglect so to do, the Commissioner of Public Works may cause the same to be removed and collect the charges therefor, in the manner provided in the last preceding section. If the jury finds that no encroachment has been made, the members shall so certify, and the proceedings shall be dismissed.

**§ C-81. Jurors and witnesses; costs and allowances.**

Persons summoned as jurors, and persons subpoenaed and attending as witnesses (pursuant to the provisions of § C-80), shall be entitled to the same fee as jurors and witnesses in courts of record. The party prevailing in such proceeding shall recover costs as against the other, which shall be ascertained and certified by said judge, and, if in favor of the City, collected by a warrant issued by him or her to the Sheriff of the County of Broome, commanding him or her to collect the same out of the goods and chattels of the party against whom such warrant shall issue. Such costs shall consist of the sheriff's, jurors' and witnesses' fees, and such amount as the judge shall allow for attorney's fees, not exceeding \$20. In case the proceeding shall terminate in favor of a party other than the City, his or her costs shall be paid by the City in the same manner as other judgments against the City are paid under the provisions of the Second Class Cities Law.

**§ C-82. Appeal to appellate division from determination of jury as to encroachment.**

Any party affected by any determination made in a proceeding instituted under § C-80 of this Act (Laws 1917, Ch. 668), may appeal therefrom to the Appellate Division of the Supreme Court, in the same manner as an appeal is taken from a final order of a justice of such court in a special proceeding. Such appeal shall be taken within 30 days after the filing of such record, as aforesaid, by service of a notice of appeal upon the City Clerk, and the other parties to said proceeding. The proceedings for bringing on the appeal and the hearing and decision thereof by the Appellate Division shall conform to the practice and procedure for appeals to said court in similar proceedings as regulated by the Code of Civil Procedure and otherwise by law and rules of practice.

**§ C-83. Power of Common Council as to street improvements. [L.L. No. 1-1962, § 1, L.L. No. 7-1975, § 2]**

Under the restrictions and limitations hereinafter prescribed, the Common Council may, by ordinance, provide for:

- A. Acquiring lands for and the laying out, opening, constructing and making of public streets, public grounds, squares, parks, and the construction of drains, culverts, arches and bridges in said City;
- B. Widening, narrowing, altering or discontinuing of any street, public ground, square or park, or any part thereof, in said City.

**§ C-84. Petition to Common Council for street improvements. [L.L. No. 7-1975, § 2]**

Whenever a petition for layout, opening, widening, narrowing, altering, construction or making of any street, public ground or park, including the acquisition and improvement of land to be used in part for a park or public grounds and in part for street purposes, shall be presented to the Common Council, such petition shall be entered at length in the minutes of the Common Council and Common Council, if deemed appropriate, shall direct the City Engineer to prepare plans and specifications for such improvement. Said plans and specifications, when completed, shall be filed with the City Clerk, along with estimates of the probable cost and expense thereof, including the amount of damages which in his or her judgment will be sustained, in consequence thereof, by the owners and occupants of lands and buildings if any, required to be taken for such improvement.

**§ C-85. Notice of proposed improvement; hearing and action thereon by Common Council. [L.L. No. 7-1975, § 2]**

The Common Council upon the presentation of such plans and specifications (provided for in § C-84) unless it shall determine to deny the petition for such improvement, shall direct the City Clerk to give notice by publication thereof, for at least twice a week for two weeks in the official newspaper, of the time and place at which the Common Council will consider the matter of such proposed improvement, which time shall be not less than 10 days from the first publication of such notice. At the time and place mentioned in such notice, the Common Council shall meet, and then, or at such other time as a majority of its members then present may appoint, shall hear all persons desiring to be heard upon the matter of said proposed improvement and shall take such action as it shall deem proper.

**§ C-86. Acquisition of land by contract. [L.L. No. 7-1975, § 2]**

After the adoption of such ordinance (provided for in § C-85) the engineer may contract with the owner or owners of any of the lands required for said improvement for the sale thereof, to said City, at a price to be stated in said contract, which price shall be approved by the Board of Estimate and Apportionment, and shall be payable at some time after the final confirmation of the apportionment and assessment of the probable cost and expense of said improvement, as hereinafter provided, and upon the delivery of a good and sufficient deed or deeds of the lands so contracted for, conveying to the said City in fee the lands so purchased, free and clear of all liens and encumbrances.

**§ C-87. Acquisition of land by legal proceedings. [L.L. No. 7-1975, § 2]**

Whenever any lands are required for such improvement for the purchase of which no contract shall be made, as provided for in the last preceding section (§ C-86), the City of Binghamton, through its proper official, shall take and is authorized to take appropriate action under the Condemnation Law (Chapter 923, Laws of 1920) of the State of New York, for the acquisition of the lands required for such improvement.

**§ C-88. Power of City Engineer as to street improvements. [L.L. No. 7-1975, § 2; L.L. No. 7-1979, § 1; L.L. No. 7-1981, § 1]**

- A. Under the restrictions and limitations hereinafter prescribed, the City Engineer is hereby authorized and empowered to determine those streets in the City of Binghamton that are deemed, in his or her opinion, in need of reconstruction or rebuilding. The expense and cost of the street reconstruction or rebuilding including, if the City Engineer deems necessary, the construction of curb, combination curb and gutter and sidewalk on said streets, shall be borne by the City of Binghamton, with no cost being assessed to the property owners adjacent thereto.
- B. The City Engineer is further authorized and empowered to direct the repair and/or replacement of sidewalk and curb or combination curb and gutter when necessary to correct dangerous situations or when in his or her opinion the repair and/or replacement is necessitated by actions of the City. This authorization shall be limited to 20 linear feet per property.

- C. The City Engineer is further authorized and empowered to direct and require any street or public ground in the City or any part of either of them to be graded, paved or macadamized, or to be regraded, repaved or resurfaced or otherwise repaired or improved at the cost or expense of the City of Binghamton.
- D. The estimated cost of the street reconstruction or rebuilding including the replacement of curb, combination curb and gutter, or sidewalk shall be included in the annual budget as presented to City Council.

**§ C-89. City improvements; Council may direct. [L.L. No. 7-1975, § 2]**

The Council may by ordinance, with or without petition, direct and require any street or public ground in said City or any part of either of them to be graded, paved, or macadamized or to be regraded, repaved or resurfaced or otherwise repaired or improved at the cost or expense of the City of Binghamton. The Council may by ordinance, with or without petition, authorize the Mayor to enter into contract for the laying of substances other than water on the streets and public grounds in said City or any part or either of them or cause the said work to be performed by the employees' tools and machinery of the City of Binghamton, at the expense of the public at large as provided here and after.

**§ C-90. Sidewalk, curb, and combination curb and gutter. [L.L. No. 7-1975, § 2; L.L. No. 4-1979, § 1; L.L. No. 7-1981, § 2]**

- A. The Council may, by ordinance to be adopted not less than two weeks after being introduced and not until after a public hearing relating to such ordinance is held, order the construction of a sidewalk, curb or combination curb and gutter. The notice of the public hearing must be published in the official newspaper once each week during the two weeks prior to the public hearing. Construction so ordered on any street or portion thereof shall be continuous for not less than from one intersecting street to the next, unless it shall be for more than 400 feet or unless it shall be to complete the construction of sidewalk, curb or combination curb and gutter between two such intersecting streets or unless it shall be otherwise authorized by Council. The cost shall be borne jointly by the City and by the respective owners of the lots in front of which said improvements are constructed as follows: 50% thereof shall be borne by the City and 50% thereof shall be borne by the owners of the lots in front of which said improvements are constructed in proportion to their respective frontages. This 50% cost proportion to both the property owner and the City can be applied at the time of initial construction of sidewalks, curbs, or combination curbs and gutters and, thereafter, can be utilized for replacement of same once every twenty-year period.
- B. After an ordinance ordering such work has been adopted and approved by the Mayor, the cost and expense to which the owner of property fronting on such street or portions of street along which said sidewalk, curb or combination curb and gutter is constructed shall be apportioned, assessed, collected and enforced in same manner as provided in this article.

**§ C-91. Sidewalk, curb, combination curb and gutter, individual application. [L.L. No. 7-1975, § 2; L.L. No. 4-1979, § 2; L.L. No. 7-1981, § 3]**

- A. Upon an individual application for the construction of sidewalk, curb or combination curb and gutter, a rebate shall be applied in the same manner as described in the aforementioned section (§ C-90). Said applications shall be made to the City Engineer and are subject to all applicable rules and regulations relating thereto, as deemed appropriate by the City Engineer.
- B. The estimated cost of the aforementioned rebate program shall be included in the annual budget as presented to City Council.

**§ C-92. Application of assessments. [L.L. No. 7-1975, § 2]**

Moneys received on account of assessments against the owners of the lots in front of which work is done pursuant to § C-90, shall, when collected, be applied to the payment of the cost and expense of such work or to the redemption of the bonds, notes or certificates of indebtedness issued to pay all or part of the cost thereof; provided, however, that if tax anticipation notes are issued in connection with the financing of such work, the assessments in anticipation of the collection of which such notes were issued shall be applied in the manner provided in § 24.00 of the Local Finance Law.

- § C-93. (Reserved)
- § C-94. (Reserved)
- § C-95. (Reserved)
- § C-96. (Reserved)
- § C-97. (Reserved)
- § C-98. (Reserved)
- § C-99. (Reserved)
- § C-100. (Reserved)
- § C-101. (Reserved)
- § C-102. (Reserved)
- § C-103. (Reserved)
- § C-104. (Reserved)
- § C-105. (Reserved)
- § C-106. (Reserved)
- § C-107. (Reserved)
- § C-108. (Reserved)
- § C-109. (Reserved)
- § C-110. (Reserved)
- § C-111. (Reserved)
- § C-112. (Reserved)
- § C-113. (Reserved)
- § C-114. (Reserved)
- § C-115. (Reserved)
- § C-116. (Reserved)
- § C-117. (Reserved)
- § C-118. (Reserved)
- § C-119. (Reserved)
- § C-120. (Reserved)
- § C-121. (Reserved)
- § C-122. (Reserved)
- § C-123. (Reserved)
- § C-124. (Reserved)
- § C-125. (Reserved)
- § C-126. (Reserved)
- § C-127. (Reserved)
- § C-128. (Reserved)
- § C-129. (Reserved)
- § C-130. (Reserved)

## **SUBDIVISION 2. Sewers and Pavements**

### **§ C-131. Plans and specifications for public work to be adopted. [L.L. No. 5-1931, § 1]**

Before any contract for the paving, repaving or resurfacing of any street or part of a street or public place or for the building of sewers or reservoirs, public buildings or bridges, shall be made, the Common Council shall cause plans and specifications or specifications only, as the work may require, to be prepared and filed with

the City Clerk, unless such specifications shall have already been prepared, under the direction of the head of the department said work is to be performed in, and filed with the City Clerk and, in case of pavements, may include in the specifications a provision requiring the contractor to keep and maintain such pavement in good repair for a certain specified period; and after said Council shall have adopted such plans and specifications, the same shall be referred to the Board of Contract and Supply which shall advertise for proposals as provided by law and the rules of said Board.

**§ C-132. Sewers; ordinance for construction; power of City to enter private lands. [L.L. No. 5-1931, § 1]**

The Common Council may by ordinance order the construction of a sewer or sewers, which ordinance shall specify the points between which the same is or are to be constructed and for the purpose of sewerage or draining any street or streets in said City, whether said street or streets have been dedicated to the City or accepted or not, shall have power to cause the same to be sewerage, and the said Council is empowered and authorized when necessary for the purpose of sewerage or draining any street or streets to construct a sewer upon and through lands of any owner in said City, and for that purpose the Common Council and those acting by its direction or under the direction of the Commissioner of Public Works for the purpose of performing the work so ordered, shall have power to enter upon any grounds in said City. An ordinance for the construction of a sanitary sewer shall not be finally adopted in less than two weeks from the date of its introduction nor until after a hearing has been called and held thereon as hereinafter provided.

**§ C-133. Hearing and notice thereof. [L.L. No. 5-1931, § 1]**

The City Clerk shall forthwith after the introduction of an ordinance for the construction of a sanitary sewer or sewers give notice in the official paper that a hearing will be held upon the said ordinance at a time therein specified, not less than two weeks from the date of the introduction of said ordinance, which notice shall be published once a week during the two weeks preceding the date of said hearing.

**§ C-134. Objections; hearing. [L.L. No. 5-1931, § 1]**

At any time after the first publication provided for in the last preceding section (§ C-133), any person interested, aggrieved or liable to be assessed for the construction of said sewer may file objections thereto in writing, with the City Clerk, to be presented to the Common Council at such hearing. The Common Council at such hearing shall hear all objections so presented, with the evidence which may be offered, and any objections which may be made personally at such hearing, and after such hearing may adopt the ordinance for the construction of said sewer or sewers with all necessary connections, to a point at least six inches beyond the curblin.

**§ C-135. Performance of work. [L.L. No. 5-1931, § 1]**

After the adoption of such ordinance (ordinance provided for in §§ C-132 through C-134) and its approval by the Mayor, the City Clerk shall transmit a copy thereof to the Board of Contract and Supply which shall advertise for proposals for said work as provided by law and the rules of said Board, to be performed according to the plans and specifications therefor filed with the City Clerk. Should the Board of Contract and Supply deem all bids excessive it may reject the same or withhold action thereon and refer the matter to the Common Council for further consideration and, in case said Common Council shall deem it best for the interest of the City that said bids be rejected and the work done by day labor it may do so, in which case the work done shall be done by and under the direction of the Commissioner of Public Works and under the direct supervision of the City Engineer and his or her assistants. In the event the Common Council shall direct the said work to be done by days' work as hereinbefore provided, the Commissioner of Public Works shall have and is hereby given full power and authority to purchase, as provided by law, all necessary tools, machinery and materials and hire and employ the necessary labor for the doing of said work as in his or her judgment shall be deemed proper.

**§ C-136. (Reserved)**

**§ C-137. Frontage tax; amount. [L.L. No. 5-1931, § 1; L.L. No. 1-1946, § 1; L.L. No. 2-1947, § 1; L.L. No. 5-1953, § 1; L.L. No. 1-1959, § 1; L.L. No. 5-1962, § 1; L.L. No. 1-1964, § 1]**

The lands fronting upon any street, and which are provided with sewage facilities by the construction of a sanitary sewer along said street shall, upon the completion of said sewer, be subject to a tax of \$6 per lineal foot of frontage along the street upon which the sewer is constructed, with the following exceptions:

- A. A corner lot shall be assessed for its frontage along the street upon which the lot faces for tax purposes as indicated on the City tax maps, regardless of which street the sewer is constructed on. No further assessment shall be made against said lot for the construction of another sewer along the intersecting street if the lot has less than 10,000 square feet of area. If the lot has 10,000 square feet or more of area it will be subject to an additional assessment on an arbitrary frontage of 50 feet for each full 5,000 square feet of area in excess of the first 5,000 square feet, if or when a sewer is constructed along the intersecting street.
- B. A lot extending through from street to street shall be assessed for the frontage along the street in which the sewer is constructed and shall not be subject to further assessment upon the construction of a sewer along the other street unless the total area of the lot shall equal or exceed 10,000 square feet, in which case the lot shall be subject to assessment along both frontages. If said lot is less than 10,000 square feet, and a request is made for a sewer connection on the other street, then the lot shall be subject to a frontage assessment at the time a sewer connection is requested.
- C. Any lot which cannot be built upon by virtue of the zoning ordinances shall be exempt from assessment for sewage facilities, unless a sewer connection is requested for said lot, then the lot shall be subject to a frontage assessment at the time a sewer connection is requested.
- D. Whenever an intercepting or trunk sewer is constructed, the cost of which is being borne by the City at large, the owner of any lot being provided with sanitary sewer facilities by virtue of said intercepting or trunk sewer shall be subject to an assessment on the frontage along said sewer.

**§ C-138. Certificate of completion of work. [L.L. No. 5-1931, § 1]**

Upon the completion of the work of construction of any sanitary sewer the City Engineer shall file a certificate and report with the Assessor showing completion of work and total costs thereof and total amount to be assessed against the owners of the land fronting upon the street or portion of the street through which said sewer has been constructed together with a map which shall show such street or portion thereof and the frontage of each parcel of land on said street or portion thereof in which said sewer has been constructed.

**§ C-139. Assessment roll proceedings. [L.L. No. 5-1931, § 1]**

Upon the filing of such report and map the Assessor shall make out an assessment roll of such frontage tax and when so made out shall give public notice in the official paper by publication thereof twice a week for one week that the same is on file in his or her office and will remain with him or her for a term of 10 days from the date of such notice during which time any person interested may examine said roll and at the expiration of said 10 days and on a day, hour and at a place to be specified in said notice, said Commissioner will hear any objections to said assessment and shall, if need be, alter and correct said roll and, when completed, shall sign same and file it in his or her office. In case any party has filed an objection with the Commissioner as herein provided, deeming himself aggrieved he or she may file with said Commissioner a written appeal therefrom to the Common Council, briefly stating therein the grounds of such appeal, whereupon the Common Council shall proceed to a hearing and determine such appeal or appeals and affirm or reverse the assessment. In case of affirmance the proceedings to collect said tax or assessment shall thereafter be the same as if no appeal had been taken. In case of reversal said Commissioner shall proceed to make out a new assessment roll of said frontage tax in accordance with the determination of the Common Council which he or she shall file in his or her office and which shall be conclusive upon all parties.

**§ C-140. Assessment may be paid in installments. [L.L. No. 5-1931, § 1]**

During the 10 days when said roll shall be open to review any person assessed may file with the Assessor a notice in writing, stating that he or she desires to pay said assessment in three equal installments, the first when said roll shall be delivered to the City Treasurer for collection, the second one year thereafter, and the third two years thereafter, whereupon the said Assessor shall file such notice, and shall subdivide such assessments upon said roll accordingly, and such deferred installments of said assessments shall bear interest at the rate of 6% per annum from the time said roll is delivered to the City Treasurer for collection until all installments are fully paid and said Common Council shall cause the proper warrant to be attached to said roll delivered to the City Treasurer for collection in the manner provided for the collection of local assessments, under the provisions of this Act (Laws 1917, Ch. 668), and said City Treasurer shall retain said roll in his or her possession until all installments thereon have been collected.

**§ C-141. (Reserved)**

**§ C-142. (Reserved)**

**§ C-143. Disposition of excess of assessment; City to pay deficiency.**

In case the assessments so collected shall exceed the total cost of the sewer or sewers with connections for which the assessments are made, the excess shall be paid into the general sewer fund of said City. In case the assessments so collected shall fall short of the amount necessary to defray the total cost of constructing such sewer or sewers with connections, the deficiency shall be paid by the City from the general sewer fund and the Common Council, subject to the limitations in the next succeeding section (§ C-144) contained, is hereby authorized, whenever there is not sufficient moneys in the general sewer fund to pay such deficiency, to add such deficiency or any part thereof to the annual tax budget of the year in which such deficiency shall occur, or of the succeeding year, and collect the same in the same manner as other contingent expenses of the City are collected.

**§ C-144. Limitation of amount to be expended in any fiscal year. [Laws 1943, Ch. 710]**

The amount of liability to be incurred by the City for sanitary sewers in any fiscal year exclusive of frontage tax when the same shall be raised by direct tax levied for such fiscal year shall not exceed the sum of \$20,000; and the amount of liability to be incurred by the City for stormwater sewers in any fiscal year when the same shall be raised by direct tax levied for such fiscal year shall not exceed the sum of \$20,000. Nothing herein contained shall prevent the City of Binghamton from financing any such expenditure, in whole or in part, pursuant to the Local Finance Law.

**§ C-145. Sewer through private land; cost of; payment. [Laws 1943, Ch. 710]**

When in the opinion of the Common Council it shall become necessary in order to abate a nuisance, or the public interest(s) requires, said Council may order the construction of a sewer or sewers through private lands of any person, persons, corporation or association upon the assessment and payment of damages as in the case of the taking of private lands for streets. And where such sewer or sewers do not furnish sewer facilities for any lots along the route thereof having frontage upon streets, the whole expense of the construction of such sewer shall be borne by the City and shall be paid from the general sewer fund or pursuant to the provisions of the Local Finance Law; except, however, that if the construction of said sewer will furnish drainage for low lands or swamp lands whereby the said lands will be improved and rendered more valuable, the cost thereof, or such portion thereof as shall be determined in the manner prescribed in § C-147, shall be paid by the owners of lands in an assessment district to be determined upon and designated by proceedings the same as prescribed for determining upon and designating an assessment district when private lands are taken for streets as prescribed by this article, and the portion of the said expense which the owners of respective lots or parcels of land shall be assessed and shall pay shall be determined by Commissioners as provided by § C-148 of this Act (Laws 1917, Ch. 668).

**§ C-146. Change of and improvement in watercourses. [Laws 1919, Ch. 366, § 1; Laws 1943, Ch. 710]**



Whenever in the opinion of the Common Council it shall become necessary in order to abate a nuisance, or the public interests require, said Council may by ordinance direct and order the diversion and change of the natural course of any stream of water within the City of Binghamton except the Chenango River and the Susquehanna River, or the improvement of the bed and banks of such stream to prevent or minimize the danger of overflow thereof and for that purpose may acquire lands either within or without the City of Binghamton for the purpose of providing for a new course for said stream, and in the event that the said lands cannot be acquired by gift or grant or by purchase in the manner provided by law, the same may be acquired in the manner and according to the procedure provided for under the provisions of the General Condemnation Law; and the expense of acquiring lands for such diversion and diverting of such stream and the improvement of the bed and banks of such stream shall, as may be determined upon and directed by ordinance of the Common Council, be borne by the City at large, or by the owners of property which shall be benefited by such diversion or such improvement, or apportioned between the City at large and such owners: Such portion of the expense of such work as is directed to be borne by the owners of property benefited thereby shall be apportioned and assessed against and borne by the owners of property thereby benefited in a district of assessment to be determined upon and designated by proceedings the same as prescribed for determining upon and designating an assessment district when private lands are taken for streets as prescribed in this article, and the portion of the expense which the owners of respective lots or parcels of land shall be assessed and shall pay, shall be determined by Commissioners appointed to ascertain and assess damages and benefits to the parties interested as provided by the sections of this article relating to the taking of private lands for streets and said sections are hereby declared to apply to proceedings under this section. The necessary funds for defraying the portion of the expense of such work which shall be required to be borne by the City at large, may be included in the budget and raised by tax in the same manner as for other general City charges, or may be provided for pursuant to the Local Finance Law. The Common Council may by ordinance permit and direct that the share of the expense of such work which is assessable to the owners of the property benefited thereby may be paid in annual installments with interest thereon, at the rate of 6% per annum, in which case the portion of expense of such work which shall be represented by such installments shall be paid in the first instance by the City, and funds therefor may be raised pursuant to the Local Finance Law.

**§ C-147. Assessment of cost.**

If in order to abate a nuisance, or the public interests require, it shall become necessary in the opinion of the Common Council to construct a sewer or sewers through private lands of any person, persons, corporation or association and at the same time for the same purpose and coincident therewith it shall also be decided to be necessary to divert or change the course of any natural stream of water as provided in the last preceding section (§ C-146), the cost of the said entire work shall be apportioned between the City at large, the owners of lands which will be benefited by either the construction of said sewer or sewers or the diversion or change of the said watercourse, or both, and the owners of lots fronting on streets which will be furnished sewer facilities by the construction of such sewer or sewers, and the same proceedings as in this Act (Laws 1917, Ch. 668) prescribed for apportioning, assessing and collecting the cost and expense thereof in either of the said cases separately shall apply to and govern the apportionment, assessment and collection of the cost and expense thereof when taken together.

**§ C-148. Proceedings to obtain right-of-way.**

Whenever the Common Council shall order a public sewer to be made through the lands of any person, corporation or association, such proceedings shall be had to appoint Commissioners to ascertain and assess the damages and benefits to the parties interested as is provided by the sections of this article relating to the taking of private lands for streets, and said sections are hereby declared to apply to proceedings under this section, and by such proceedings the City of Binghamton shall acquire a permanent right-of-way for a sewer of any size or depth, with the right to repair or relay such sewer at any time.

**§ C-149. City Engineer to give direct supervision to work; inspectors to be appointed; duties of inspectors.**

The City Engineer shall give direct supervision to the construction of all sewers, and upon the acceptance of a proposal for the construction of a sewer or sewers, or upon the determination of the Common Council to construct a sewer or sewers by days' work, the Commissioner of Public Works, with the approval of the Board of Estimate and Apportionment, shall appoint some competent person or persons, by an instrument in writing, fixing the rate of compensation to be paid to such person or persons by the City, to oversee or superintend under the direction of said City Engineer the construction of such sewer or sewers. Said person or persons must be present at all times during the construction of the sewer, and shall promptly report to the City Engineer any violation of contract on the part of the contractor, or any other person employed on such work, or any neglect or inefficiency of any person employed on said work.

**§ C-150. City engineer to certify performance of work; acceptance and payment not conclusive.**

Before the claim of the contractor for the construction of the sewer, or any portion of such claim, shall be audited, a certificate of the City Engineer, approved by the Commissioner of Public Works, stating that said sewer has been properly constructed in accordance with the contract must be filed with the City Clerk, but said certificate shall not in any way conclude or bind the City. Nor shall the acceptance of the sewer by the City and full payment for the same preclude the City from recovering against the contractor, or his or her sureties, any damages which the City may suffer by reason of the failure of the contractor to construct the sewer according to contract.

**§ C-151. Common Council may authorize payment during progress of work.**

The Common Council, if it deems it expedient, may by general ordinance authorize the audit by the Comptroller and payment by the City Treasurer, upon the certificate of the City Engineer, and the approval of the Commissioner of Public Works, of estimates of the contractor to apply upon the contract price of the sewer, not to exceed 85% of the value of the work done, but such payments shall not be used as evidence against the City that the work already done has been completed according to contract, nor shall it preclude the City from contesting the claims of the contractor that the sewer has been completed according to contract.

**§ C-152. Contract prices; when due. [Laws 1943, Ch. 710]**

The contract price of any sewer constructed under the provisions of this Act (Laws of 1917, Ch. 668) shall be due and payable within 60 days after the completion and acceptance of the work.

**§ C-153. Commissioner of Public Works may compel connection.**

The Commissioner of Public Works may, whenever deemed expedient, order any person whose property has been or is about to be provided with sewage facilities, by the construction of any sewer, to make connections of such property with such sewer, and whenever it shall be necessary to do any such work, the Commissioner of Public Works shall order it done within a time specified and in the manner prescribed by the rules and regulations of the Bureau of Health, and in case said premises shall be in the actual occupation of any person such person or the owner of the premises shall be served with a notice in which shall be stated in general terms what has been ordered to be done, and the time in which it has been required; such notice shall be signed by the Commissioner of Public Works and shall be served personally or by leaving it with some person of suitable age at the place of residence of said occupant or owner, or it may be served by depositing it in the post office, with the postage prepaid thereon, properly folded and directed to such owner or occupant at Binghamton, New York.

**§ C-154. Procedure to compel connection.**

An affidavit stating the time and manner of the service of such notice (provided for in § C-153) shall be made by any person having knowledge thereof, and filed with the Clerk, which affidavit, when so filed, shall be presumptive evidence in all courts of the facts there contained. If any work shall not be done within the time limited therefor, the Commissioner of Public Works shall, by contract or otherwise, cause the same to be

done and for that purpose he or she or the person employed by him or her shall have the right to enter such premises.

**§ C-155. Procedure to collect expense of connection. [L.L. No. 5-1931, § 1]**

Upon the completion of the work provided for in the preceding section (§ C-154), the Commissioner of Public Works shall forthwith present a statement of the expense thereof, with a description of the premises upon which the work was done, to the Assessor who shall assess the expense of said work, with 10% additional, upon said premises, or upon the owner thereof; and in case said premises shall not be in actual occupation of any person the Commissioner of Public Works may cause such work to be done forthwith, and without any notice and the expense thereof to be so assessed. The Assessor shall make out an assessment roll and the same proceedings as to objections, appeals and collection of said assessment thereon shall be had as in this Act (Laws 1917, Ch. 668) provided, in the case of assessments for the construction of sewers, except said assessments shall not be subdivided and payment deferred; assessments upon several different persons and premises may be included in the same roll.

**§ C-156. (Reserved)**

**§ C-157. (Reserved)**

**§ C-158. (Reserved)**

**§ C-159. (Reserved)**

**§ C-160. (Reserved)**

**§ C-161. (Reserved)**

**§ C-162. (Reserved)**

**§ C-163. (Reserved)**

**§ C-164. (Reserved)**

**§ C-165. (Reserved)**

**§ C-166. (Reserved)**

**§ C-167. (Reserved)**

**§ C-168. (Reserved)**

**§ C-169. (Reserved)**

**§ C-170. (Reserved)**

**§ C-171. City engineer to give direct supervision to work; inspectors to be appointed; duties of inspectors.**

The City Engineer, under the direction of the Commissioner of Public Works, shall have and give direct supervision to all paving, repaving, macadamizing or resurfacing of any street when the same shall have been ordered by the Common Council, and the Commissioner of Public Works shall, with the approval of the Board of Estimate and Apportionment, appoint some competent person or persons, by an instrument in writing, fixing the rate of compensation to be paid to such person or persons by the City, to oversee and

superintend, under the direction of the City Engineer, the said paving or repaving, macadamizing or resurfacing; such person or persons must be present at all times during the performance of the work, and shall promptly report to the City Engineer any violation of the contract on the part of the contractor, or any other person employed on such work or any neglect or inefficiency of any person employed on said work.

**§ C-172. Certificate of City Engineer; certificate not to bind City.**

Before the claim of the contractor for the doing of the work or any portion of such claim shall be audited, a certificate by the City Engineer, approved by the Commissioner of Public Works, stating that said work has been properly constructed in accordance with the contract, must be filed with the City Clerk, but such certificate shall not, in any way, conclude or bind the City, nor shall the acceptance of the work by the City and full payment of the same preclude the City from recovering against the contractor or his or her sureties any damages which the City may suffer by reason of the failure of the contractor to do the work according to contract.

**§ C-173. Payments during progress of work.**

Upon estimates certified by the City Engineer, approved by the Commissioner of Public Works and filed with the City Clerk, the Comptroller may audit and the City Treasurer may pay to the contractor on account of the contract not to exceed 85% of the contract price of the work then performed as shown by such estimates.

**§ C-174. Contract price, when due. [Laws 1943, Ch. 710]**

The final payment on the contract price for any pavement constructed under the provisions of this Act (Laws 1917, Ch. 668) shall be due and payable within 60 days after the acceptance of the work.

**§ C-175. Correction of errors in assessment.**

Every assessment authorized by this title (Laws 1917, Ch. 668) shall be valid and effectual notwithstanding any irregularity, omission or error in any of the proceedings relating to the same, and the Common Council may, in its discretion, correct any such irregularity, error or omission, or any error or mistake in the description of the lands assessed, or intended to be assessed, or in the designation of the owners or occupants thereof; and the original assessment upon such lands, after such corrections are made, may be enforced and collected in the same manner as though no error, irregularity or mistake had been made.

**§ C-176. Evidence of assessment generally.**

Every assessment authorized by the Common Council under this Act (Laws 1917, Ch. 668), or a copy of the ordinance making the same or authorizing the work for which said assessment is made, certified by the City Clerk, or the minutes of the Common Council containing such ordinance, or a printed copy of such minutes, published under authority of the Common Council, shall be presumptive evidence in all courts and places that such assessment was legally imposed, and that all the notices and proceedings required for such assessment were duly given and taken, and that the lands thereby assessed are legally subject to the lien of such assessments.

**§ C-177. Establishment of boundaries of watercourses; publication of description; hearing.**

The Common Council may, by ordinance, determine, fix and establish the boundaries, limits and grade at the bed thereof, of the natural streams or watercourses within said City, or of any part of such streams or watercourse. Whenever any such boundaries, limits or grade of such stream or watercourse shall be so fixed and established, the Common Council shall make such description thereof as shall definitely describe and locate the boundaries and grade as so fixed and established, and enter the same at length in their minutes, and cause the same to be published in the official newspaper of the City for at least once a week for two successive weeks, which publications shall be due and sufficient service upon the owners, occupants and other persons interested therein, of all the lands through which said stream shall pass or which abut thereon. If such owner, occupant or other person interested shall, within 15 days after the first publication of such ordinance, file with the City Clerk his or her objections thereto in writing, he or she shall be entitled to be heard by and before said Common Council at its next regular meeting after the filing of such objections, or at

such other time as the Common Council may appoint in reference to such ordinance or the determination therein stated, or the facts upon which it was based. Upon such hearing, the Common Council shall receive such legal evidence as may be offered which is relevant to the matter. The Common Council shall thereupon pass upon the objections so filed, and may confirm the ordinance previously adopted, or modify or rescind the same. The ordinance as confirmed or modified shall be final and conclusive upon all parties interested therein, and the boundaries, limits and grade of such stream as thereby and therein described and designated shall thereafter be the legal boundaries, limits and grade of said stream or watercourse, but none of the riparian rights of any of the owners of lands abutting on such watercourse or stream shall be impaired or affected.

**§ C-178. Construction in streams; removal.**

It shall be the duty of any owner of lands through which a stream flows to keep the same clear and free from obstructions except deposits of stone and gravel deposited in large quantities by freshets and floods, and the Commissioner of Public Works may order the same cleared and the obstructions removed therefrom by the owners, and in event of failure may cause the same to be done and the cost thereof shall be paid by or assessed against the owners. All of the provisions and proceedings contained in § 92 of the Second Class Cities Law relating to cleaning snow or ice from sidewalks shall be and hereby are made applicable to cleaning deposits and removing obstructions from streams.

**§ C-179. Compensation of Commissioners and Assessors; action of majority.**

The Commissioners and Assessors provided for in this article shall each receive for their services \$5 a day for each day actually and necessarily spent in the hearing and determination of the matters submitted to them, to be paid in the first instance by the City. And any report or assessment provided for in this title (Laws 1917, Ch. 668) made under the hands of a majority of such Commissioners or Assessors shall be as valid as if signed by all of them.

**§ C-180. (Reserved)**

**SUBDIVISION 3. Water Department [L.L. No. 10-1979, § 2]**

**§ C-181. Department of Water. [L.L. No. 10-1979, § 2]**

The Water Department shall constitute a department within the City of Binghamton; and the chief officer thereof, appointed by the Mayor, shall be the Superintendent of Water (hereinafter referred to as "superintendent"), in accordance with state law.

**§ C-182. Powers and duties of Superintendent of Water. [L.L. No. 10-1979, § 2]**

The Superintendent of Water may enter upon any public street, highway or place in the City, for the purpose of laying, altering, repairing and maintaining conduits, mains and pipes for the conveyance of water and for the purpose of extending any portion of the waterworks of said City, and may lay and construct such conduits, mains and pipes over, under or across any watercourse, canal or railroad, and may enter upon any public street, highway or place without the City limits in the County of Broome, subject to regulation by the officials having control thereof, for the purpose of laying, altering, repairing and maintaining conduits, mains and pipes for the conveyance of water; and may carry and conduct the same over, under or across any watercourse or railroad without the limits of the City, provided that such public street, highway or place, or watercourse or railroad crossing so entered upon is restored in as good condition as before such entry; and the City may maintain its conduits, mains and pipes in and under the public streets, highways and places within and without the City in which they are now laid, and over, under or across the watercourses and railroads over, under or across which they are now maintained.

**§ C-183. Plans for extension. [L.L. No. 10-1979, § 2]**

The Superintendent of Water may adopt plans for the extension or improvement of the waterworks system, or for the acquisition of an additional supply of water for public and private use, or for conserving the

present water supply of the City, including rights of riparian owners, and rights of all kinds in dams and water powers, developed or undeveloped. A plan so adopted by him or her shall be submitted to the Common Council and the Board of Estimate and Apportionment for their approval. If such plan is approved by the Common Council and the Board of Estimate and Apportionment, the Superintendent of Water shall cause such work to be done, and necessary lands and rights to be acquired, in accordance therewith. The contracts for such work shall be let in accordance with such plan, and in the same manner as other contracts for public improvements; except that if bids are deemed excessive, the Board of Contract and Supply may reject all bids and the Common Council may, upon report thereof, order said work to be done under the supervision of the Superintendent of Water with the tools, machinery and employees of the City.

**§ C-184. Acquisition of lands and rights. [L.L. No. 10-1979, § 2]**

For the purpose of carrying out the provisions of the preceding section (§ C-183), the Superintendent of Water or City Engineer may enter into or upon any land or water in the County of Broome for the purpose of making surveys. The superintendent, with the approval of the Common Council and the Board of Estimate and Apportionment, may agree with the owner of any property or rights in the County of Broome which in his or her judgment may be required for such extension, improvement, protection, conservation or increase in supply, or which may be injuriously affected by such work. If the Superintendent of Water shall agree with any owner for the purchase of any lands or easement in the same, or for the taking of any water, water rights, rights in dams or other rights, all such agreements and conveyances shall be made and taken in the name of the City of Binghamton. If the Superintendent of Water is unable to agree with the owner of any such lands or easements, water, water rights or other rights, as to the amount of compensation to be paid therefor, the City of Binghamton may acquire such lands or easements, water, water rights or other rights, by the power of eminent domain as provided by law.

**§ C-185. Extension of water system. [L.L. No. 10-1979, § 2]**

Whenever there is money in the treasury applicable to such purpose, or the issue of bonds for such purpose has been authorized, the Common Council may, by ordinance, direct the Superintendent of Water to cause the line of water mains or pipes for the City waterworks to be extended in any street of the City.

**§ C-186. Fire hydrants. [L.L. No. 10-1979, § 2]**

The Superintendent of Water shall procure and set hydrants for the supply of water for the extinguishment of fires, of such kind, in such manner and at such places in the public streets of the City as he or she may deem advisable, or as the Common Council shall direct.

**§ C-187. Connecting with mains. [L.L. No. 10-1979, § 2]**

The connecting or supply pipes leading from the mains or distributing pipes to dwellings or other private property shall be installed from the main to and including service box at the curb, by the Water Department, upon application from the owners of the premises. Such applications for installation shall be in accordance with such regulations and rules as may be promulgated by the superintendent and approved by the Board of Estimate and Apportionment. Whenever permanent type pavements are constructed pursuant to § C-160 hereof, all supply and water service lines which are connected from the main to and including service box at the curb which have been installed for more than 35 years, shall be replaced by the Water Department; and the owner of the premises shall pay such charges therefor as shall be fixed by the superintendent and approved by the Board of Estimate and Apportionment, which charges shall be collected in the manner provided for the collection of other local assessments under applicable provisions of law and the provisions of this Act (Laws 1917, Ch. 668).

**§ C-188. Water rates. [L.L. No. 10-1979, § 2]**

**§ C-188.1. Establishing water rates.**

The Superintendent of Water shall recommend rates to be charged for the use and supply of water, to be called water rents. The rates shall be approved by the Board of Estimate and Apportionment prior to

implementation. The superintendent may recommend modifying, amending, increasing or diminishing such rates, but the rates shall be so fixed and kept that no consumer shall obtain water for less than cost, and that the aggregate amount collected therefrom shall, each year, at least equal the cost of all expenses.

**§ C-188.2. Annual rate review. [Amended 4-21-09 by Ord. No. 22-2008]**

The superintendent shall review and issue a report on water rates no less than once every year to determine if rates changes are necessary so revenue will be equal to, or exceed total costs of the Water Department. The superintendent shall file a copy of this report with the Board of Estimate and Apportionment and the City Clerk on or before December 1 of each year.

**§ C-188.3. Public notice of water rate changes.**

Before any such rates shall be established, the superintendent shall give public notice in the official newspaper of the City by publication thereof once a week during two weeks that he or she has prepared proposed water rates and they are subject to the inspection of any resident for the period of at least five days, at a place to be named by the superintendent, and that he or she will be present at the time and place, which shall be named in such notice, for the hearing and consideration of any complaint that may be made by any resident of the City. At the time and place so appointed, he or she shall hear the complaints and allegations of all parties interested, and may take written statements in relation thereto, and may recommend the adoption of proposed rates without alteration, or with such alteration as he or she may deem proper, except that he or she shall not increase said proposed rates.

**§ C-188.4. Correction of charges. [Deleted 6-2-08 by Ord. No. 28-2008]**

**§ C-188.5. Entry to premises receiving water. [Deleted 6-2-08 by Ord. No. 28-2008]**

**§ C-189. Frontage tax and enforcement of collection. [L.L. No. 10-1979, § 2]**

The City of Binghamton shall have power to levy and collect a frontage tax in each and every year on all real estate or upon real estate not taking City water lying along or facing on either side of a street or alley in which a water main is now laid, or may hereafter be laid; said frontage tax shall be equal to the annual minimum water charge on each 100 feet of frontage, or fraction thereof, in any and all tracts or parcels of land lying along or fronting on either side of such street or alley, and the money collected on such tax shall be applied to the same purpose as water rents. The Superintendent of the Water Department of the City shall, on or before the first day of August in each year, cause to be prepared and deposited in his or her office an assessment roll of the frontage tax assessed for the following year, which roll shall contain in four columns the names of the persons assessed, the street upon which the property assessed to each person is situated, the number of feet frontage assessed upon each piece of real estate and the amount of tax imposed thereon; such roll shall remain in his or her office for the period of 10 days after the depositing thereof and during that time shall be open for the inspection of all persons who are assessed thereby or interested therein; and during the last three days the superintendent shall be at his or her office between the hours of 10:00 a.m. and 3:00 p.m., for the purpose of hearing objections to and making corrections of the roll. The superintendent shall, upon the depositing of the roll in his or her office, cause due notice of the depositing of the roll in his or her office, and of the time and place to hear objections to and make corrections of the roll by publication of the notice in the official paper each day during the 10 days that the roll is required to remain in his or her office, and shall make such corrections thereof as may be proper and for that purpose he or she is hereby given the same powers as are given Assessors by law in making corrections of the annual assessment roll. At the expiration of the 10 days, and after the making of corrections, the roll, as corrected, shall be delivered to the City Clerk to be reported to the Common Council; the Common Council shall, by ordinance, order a warrant to be annexed to the assessment roll, signed by the Mayor and City Clerk under the corporate seal of the City, and the assessment roll with the warrant annexed to be delivered to the City Treasurer for collection, and all taxes and assessments imposed thereby shall, from the time of filing with the City Treasurer, be final and conclusive upon all persons against whom such taxes or assessments are made, and shall be a lien upon such premises and shall bind the same in the same manner as the City taxes which are assessed and levied as

provided by law. The frontage tax shall be payable at the office of the City Treasurer at the same time as other City real estate taxes; and if any frontage tax imposed or assessed as herein provided shall remain unpaid on the first day of February following the assessment thereof, said unpaid taxes shall, from that date, draw interest at the rate of 10% per annum, and the Superintendent of Water shall file with the City Clerk a list of such unpaid taxes, duly certified by him, and the same shall be enforced and collected, together with the interest as hereinbefore provided, and expenses of sale, advertising and necessary searches, in the same manner as the City taxes in said City are collected by sale of real estate, and the moneys collected therefrom shall be paid over to the City Treasurer. The City shall have a right of action against any party or parties using the water of the City, and also for the collection of the water tax or rent due from any party; and all property liable to be taken for any other tax, levied by law in the City, shall be liable to be taken upon execution issued upon any judgment obtained for such taxes or rents. Any violation of the rules and regulations made and adopted as provided by law shall be punishable by fine, or imprisonment, or both.

**§ C-190. Collection of water rents. [L.L. No. 10-1979, § 2; Deleted 6-2-08 by Ord. No. 28-2008]**

**§ C-190.1. Shut-off of water service for nonpayment of bill. [L.L. No. 10-1979, § 2; Deleted 6-2-08 by Ord. No. 28-2008]**

**§ C-190.2. Water billing dates. [L.L. No. 10-1979, § 2; Deleted 6-2-08 by Ord. No. 28-2008]**

**§ C-190.3. Comptroller's report of rents received. [L.L. No. 10-1979, § 2]**

The City Comptroller and City Treasurer shall submit monthly reports to the Water Superintendent of the aggregate of all water rents collected during the preceding month and keep a separate account of the amounts so received, or otherwise received, and of all payments made in such month for maintaining and operating the City Water Department.

**§ C-190.4. Enforcing collection of unpaid water rents. [L.L. No. 10-1970, § 2; L.L. No. 7-1989, §§ 1, 2; 9-18-2006 by Ord. No. 06-43; Deleted 6-2-08 by Ord. No. 28-2008]**

**§ C-190.5. Receipt and accounting for Water Department moneys. [L.L. No. 10-1979, § 2]**

All moneys collected for water rents and frontage taxes, and all other moneys received directly or indirectly from operation of the waterworks, including fines and penalties for violations of rules and regulations of the Water Department, shall be paid to the City Treasurer, who shall keep a separate account of the moneys so received. Said money shall be used exclusively for the purpose of the Water Department, except that an amount equivalent to taxes which said waterworks, if privately owned, would pay to the City of Binghamton, and, in addition, a fair return on the value of the property used and useful in the Water Department, may be used for the payment of expenses and obligations incurred by the City of Binghamton for its municipal purposes. Nothing herein contained shall be construed to limit or abridge the right of the City to issue bonds or notes pursuant to the Local Finance Law for the supply and distribution of water.

**§ C-191. (Reserved)**

**§ C-192. Furnishing water outside of City. [L.L. No. 10-1979, § 2]**

Whenever in the judgment of the Superintendent of Water the supply of water shall exceed the needs of the City, the City, by ordinance of the Council and approval of the Board of Estimate and Apportionment, shall have power to contract with any corporation or corporations, municipal or other water districts or person or persons without the City, to supply to such corporations, districts or persons, water for a term not exceeding 10 years and to supply and deliver such water under such contract.

**§ C-193. Protecting water supply. [L.L. No. 10-1979, § 2]**

The Common Council shall have power to prevent drainage into any lake, stream, reservoir, pond or spring within or without the City of Binghamton in the County of Broome, from which any part of the water supply



is obtained, either directly or indirectly, for the purposes herein set forth, or the erection of slaughterhouses, outhouses, stables or other structures or works, causing or being liable to cause impurities to the water, at any place within 500 feet of any such lake, stream, reservoir, pond or spring. No person shall willfully do, or cause to be done, any act whereby any work, materials or property whatever, rejected or used, or hereafter to be erected or used for the purpose of procuring or keeping such supply of water, shall in any manner be injured, nor erect or place any nuisance on the banks of any lake, stream, reservoir, pond or spring from which supply of water is obtained, nor throw anything into such lake, stream, reservoir, pond or spring, or into any reservoir or pipe which will be likely to contaminate the waters thereof. Any person who shall violate any ordinance enacted hereunder or commit any act herein shall be guilty of a misdemeanor and further shall forfeit the sum of \$100 for each violation, to be recovered by action by the superintendent of water.

**§ C-194. (Reserved)**

**§ C-194.1. Creation of Water Advisory Board. [L.L. No. 1-1997, § 1]**

There is hereby created a Water Advisory Board for the City of Binghamton ("Board"). The Board shall consist of seven members, to be appointed by City Council, each of whom have background or experience in the fields of water plant operation, engineering, management or finance. One member of the Board shall be a City Councilperson, and this member shall be appointed by the Council President. City employees, other than the Councilperson, are not eligible for membership on the board. Each member of said Board shall be a citizen of the United States and an actual resident of Broome County.

**§ C-194.2. Term of office of Water Advisory Board. [L.L. No. 1-1997, § 1]**

The term of office of the members of such Board first appointed shall be two members for one year, two members for two years, two members for three years. The term of the Councilperson shall be one year. Upon the expiration of each of said terms, the term of office of each member (except the Councilperson) thereafter appointed shall be three years from the first day of January of the year in which he or she shall be appointed, or until his or her successor is appointed. Vacancies shall be filled for the unexpired term.

**§ C-194.3. Officers of Water Advisory Board. [L.L. No. 1-1997, § 1]**

- A. The officers of the Board shall be a Chairperson, a Vice-Chairperson, and a Secretary. The officers shall be elected annually, at the first meeting held each year.
- B. The Chairperson shall preside over the meetings; the Vice-Chairperson shall preside in the case of absence of the Chairperson; the Secretary shall be responsible for the preparation and distribution of minutes.

**§ C-194.4. Meetings of Water Advisory Board. [L.L. No. 1-1997, § 1]**

- A. The Board shall meet one time per month, at a date and time to be selected by the members. Special meetings may be called by the Chairperson as needed, upon no less than 48 hours' notice.
- B. A member of the City Clerk's staff, as designated by the City Clerk, shall serve as Assistant Secretary of the Board for the purpose of preparing and distributing the minutes of each meeting.
- C. At all meetings of members, a majority of the total membership shall constitute a quorum for the transaction of business.
- D. The Water Superintendent and City Engineer will be welcome to attend the meetings of the Board.

**§ C-194.5. Powers and duties of Water Advisory Board. [L.L. No. 1-1997, § 1]**

- A. The Board shall have the power and duty to:

- (1) Observe and communicate to the Mayor and the City Council the activities and condition of the Water and Sewer Departments, including the condition of the plants and equipment, and the financial condition of the departments.
- (2) Make recommendations regarding said activities, including recommended replacements or improvements in plant or equipment, optimum methods of financing improvements or operations of the departments, and recommendations regarding improvements in operations of the departments.
- (3) Establish a list of needed physical or process improvements by priority.

B. The Board shall be purely advisory in nature. The Mayor and the department heads shall retain all authority and management power they currently possess over those departments.

§ C-195. (Reserved)

§ C-196. (Reserved)

§ C-197. (Reserved)

§ C-198. (Reserved)

§ C-199. (Reserved)

§ C-200. (Reserved)

## **ARTICLE VII, Department of Public Safety**

### **SUBDIVISION 1. Bureau of Police [Amended 12-4-2006 by L.L. No. 3-2006]**

#### **§ C-201. Qualifications for membership in Police Department.**

In addition to the qualifications prescribed by § 135 of the Second Class Cities Law and otherwise by law of appointment to and membership in the Police Department of the City, the Mayor, acting as the Commissioner of Public Safety, may also, by general rules and regulations, prescribe additional requirements as to age, height, weight and physical condition of applicants for appointment to membership therein. To be appointed as a member of the Binghamton Police Department the applicant must pass all New York State Civil Service requirements as prescribed by civil service law, rules and regulations.

§ C-202. (Reserved)

§ C-203. (Reserved)

#### **§ C-204. Execution of orders and commitments; conveyance of prisoners.**

The members of the Police Department shall execute the orders and commitments of the City Court Judge of the City of Binghamton and of any judge having power and authority to act in criminal cases, and of all courts held by him or her or them for the trial of criminal cases. They shall convey all persons sentenced by the City Court Judge to confinement in any jail, and for such purpose shall have and possess all the powers of a peace officer under the general laws of the state.

#### **§ C-205. Receiving fees prohibited; traveling expenses.**

No fee or compensation shall be charged or received by any member of the Police Department for the arrest, confinement or discharge of any person, or for mileage, or for serving any process or warrant, or for discharging any other required duty. Any reasonable expense incurred and actually paid by any police officer

when traveling in the discharge of his or her duties as a police officer shall be paid by the City Treasurer of the City of Binghamton.

**§ C-206. Receiving of rewards prohibited.**

No member of the Police Department shall receive any gift or reward for services rendered, or to be rendered, absent the approval of the Chief of Police and the Mayor, acting as the Commissioner of Public Safety, who, upon receiving and application in writing; shall refer to § 805-a of the General Municipal Law. Any police officer violating this section shall be subject to removal thereof.

**§ C-207. Police Pension Fund.**

The Police Pension Fund as created and established by Chapter 268 of the Laws of 1915 and the provisions relating thereto, as contained in said Chapter 268, shall be continued, and said Chapter 268 of the Laws of 1915 and all provisions thereof shall be and remain in full force and effect until changed otherwise by law.

**§ C-208. (Reserved)**

**§ C-209. (Reserved)**

**§ C-210. (Reserved)**

**SUBDIVISION 2. Bureau of Fire**

**§ C-211. Qualifications for membership in Fire Department. [Amended 12-4-2006 by L.L. No. 3-2006]**

In addition to the qualifications prescribed by § 135 of the Second Class Cities Law and otherwise by law for appointment to and membership in the Fire Department of the City, the Mayor, acting as the Commissioner of Public Safety, may also by general rules and regulations prescribe additional requirements as to age, height, weight and physical condition of applicants for appointment to membership therein.

**§ C-212. Property and effects of Department.**

The Commissioners may, upon the approval of the Board of Estimate and Apportionment, from time to time, sell and dispose of such personal property as shall not be needed for the (Fire) Department, in such manner as the Board of Estimate and Apportionment shall direct and the proceeds thereof shall be paid by him or her to the City Treasurer.

**§ C-213. Fire limits.**

The fire limits of the City of Binghamton shall remain as existing at the time this Act (Laws 1917, Ch. 668) takes effect, until changed as hereinafter provided. The Common Council may, by ordinance, from time to time, adopted by a 2/3 vote of all the members, change the fire limits of the City of Binghamton as existing at the time this Act takes effect or as hereafter established, but no such ordinance shall take effect until it has been published in the official paper once a week during two weeks.

**§ C-214. Buildings in fire limits; permits for buildings.**

No building, structure, or part of the same, shall hereafter be erected, placed or moved, or added to, within the fire limits, for outside said fire limits of said City, if, in the opinion of the Superintendent of Buildings, such building or structure outside said limits will materially increase the fire hazard, unless the outside and party walls of said building, structure or part of the same shall be built and constructed of brick, stone, concrete or iron or partly of all of such materials, and the roofs covered with slate, tile, tin, gravel or other noncombustible material, but this section shall not be construed to apply to the inside finish of any such buildings or structures, nor prevent the erection of front or rear stoops or stairs of wood not enclosed, nor a bay window of wood. Permits shall be required for all buildings and structures and billboards, or parts of the

same, hereafter built, erected, placed or moved within the City, and the Common Council shall, in its building code, specify the manner in which an application for building permits shall be made and to what officer, board or department of the municipality such application shall be made, and may in such code provide for filing with such officer, board or department a copy of the plans and specifications for such building or structure. All provisions of the building code of the City of Binghamton in force when this Act (Laws 1917, Ch. 668) takes effect shall continue in force until changed in the manner provided by law.

**§ C-215. Penalties for violations; injunction.**

Any owner, builder, occupant, or other person offending against any of the provisions of the last preceding section (§ C-214), shall, for each such violation, be subject to a penalty of \$300, to be recovered in an action brought in the name and for the benefit of the City of Binghamton in any court of competent jurisdiction. If such action is brought in the Supreme Court, the said Court, or any justice thereof, or the County Judge of Broome County, may grant a temporary injunction restraining such owner, occupant, builder or other person from violating the provisions of such section during the pendency of the action. The judgment in such action may perpetually enjoin such defendant from constructing said building or structure so built or being built in violation of the provisions of such section and may order the same to be removed or taken down.

**§ C-216. Fire marshals; powers and duties. [Amended 12-4-2006 by L.L. No. 3-2006]**

The Mayor, acting as the Commissioner of Public Safety, may appoint a Fire Marshal or designate some member of the Fire Department to perform the duties of a Fire Marshal who shall have all the authority and power of a Fire Marshal. The Chief of the Fire Department and the Assistant Chiefs shall be ex officio Fire Marshals of the City of Binghamton under the direction and control of the Commissioner of Public Safety. The said Fire Marshals shall have the power, at reasonable hours of the day, to enter and inspect buildings, dwellings and other structures within the limits of the City of Binghamton and to ascertain whether such buildings and structures are safe from danger of fire. Whenever any Fire Marshal shall report that any dwelling, building or structure is not safe from danger of fire, the Commissioner of Public Safety shall be and he or she hereby is authorized to issue orders directing the owner of said building or structure to make such changes therein as shall be directed to lessen and decrease such danger, and the Common Council may adopt such ordinances as necessary to enforce such orders.

**§ C-217. City not liable for acts or omission.**

The Chief of the Fire Department, Assistant Chiefs and members of the Fire Department, including the Fire Marshals herein provided for, are not officers or agents of the municipal corporation known as the City of Binghamton for whose acts or omissions the said corporation shall be held liable in a civil action for injuries to persons or property.

**§ C-218. Destruction of buildings to prevent spread of fire. [Amended 12-4-2006 by L.L. No. 3-2006]**

Any two Aldermen, with the engineer in charge at a fire, or the Mayor, acting as the Commissioner of Public Safety, and such engineer, or the Mayor and such engineer, may cause to be pulled down or destroyed any building which they shall, in relation to said fire, deem hazardous or likely to communicate fire to any other building or buildings, and no action shall be maintained against the City of Binghamton nor against any person therefor; but the owner or any person interested in any building so pulled down or destroyed, or in any personal property therein, may, within three months, but not thereafter, apply to the Common Council by petition, stating the interest of the petitioner in said building, or the personal property therein destroyed, with a particular description of the property destroyed, and its value.

**§ C-219. Appointment of Commissioner to ascertain damages.**

Upon the receipt of such petition (provided for in § C-218), the Common Council may agree with such petitioner on the amount of just compensation to be paid for any building or personal property so destroyed, but in case the Common Council is unable to agree with any petitioner as to the amount of just compensation, then said petitioner or the Common Council may make application for the appointment of Commissioners to ascertain and report the just compensation to be paid to the said petitioner, owner of said

building or personal property therein destroyed, in the same manner and to the same court as is provided in Article VI of this Act (Laws 1917, Ch. 668) relating to the opening of streets.

**§ C-220. Fees and powers of Commissioners.**

The Commissioners so appointed (pursuant to § C-219) shall receive like fees and possess like powers to ascertain and report the just compensation to be paid to any petitioner, for the building or personal property destroyed, as the Commissioners named in Article VI of this Act (Laws 1917, Ch. 668) relating to the opening of streets, and may also take proof of the probability of said building or personal property having been destroyed or injured by fire, if the buildings had not been so pulled down, and may report that no compensation should equitably be awarded to said petitioner when the probability of its being destroyed by fire is established by proof to their satisfaction. The Commissioners, or a majority of them, shall make and sign their report and deliver the same to the City Clerk, and an appeal may be taken therefrom in like manner upon like condition, brought to hearing upon like notice, and the court shall possess upon said appeal like powers as are provided in the said Article VI of this Act relating to street opening proceedings.

**§ C-221. Assessment of damages awarded.**

The Common Council may, upon the confirmation or correction of the report of the Commissioners or upon agreement with any petitioner, for just compensation, direct the Assessors to assess the amount awarded by the Commissioners or agreed upon as just compensation, as aforesaid, upon the real estate benefited. The Assessors, upon receipt of a copy of the ordinances in either of said cases, shall possess like powers and proceed in like manner to make said assessment, and to make and subscribe an assessment roll thereof, to hear objections, correct amounts and complete and file the assessment roll thereof, as is given to the Assessors in said Article VI of this Act (Laws 1917, Ch. 668), relating to street openings. All the provisions of Article VI of this Act relating to street openings shall apply so far as applicable to said assessment roll and the amount therein assessed, and the same shall be collected and enforced as other local assessments are collected and enforced, under the provisions of this Act.

**§ C-222. Fire Fighter's Relief and Pension Fund.**

The Fire Fighter's Relief and Pension Fund as created and established by Chapter 403 of the Laws of 1912 and the provisions relating thereto as contained in said Chapter 403 and all acts amendatory thereof and supplemental thereto shall be continued, and said Chapter 403 of the Laws of 1912 and the acts amendatory thereof and supplemental thereto shall be and remain in full force and effect until changed otherwise by law.

**§ C-223. (Reserved)**

**§ C-224. (Reserved)**

**§ C-225. (Reserved)**

**§ C-226. (Reserved)**

**§ C-227. (Reserved)**

**§ C-228. (Reserved)**

**§ C-229. (Reserved)**

**§ C-230. (Reserved)**

**SUBDIVISION 3. Bureau of Health**

**§ C-231. Power of Common Council as to public health.**

- A. The Common Council may, by ordinance:
- (1) Take such measures as it shall deem effectual to prevent the entrance of any pestilential or malignant disease into the City;
  - (2) Stop, detain and examine for the purpose every person coming from any place infected with such a disease;
  - (3) Establish, maintain and regulate a hospital at some place within the City, and cause any person not being a resident of the City, and who shall be infected with any such disease, to be sent to such hospital;
  - (4) Remove from the City or destroy any furniture, wearing apparel or other property of any kind, which shall be tainted or infected with any pestilential disease.
- B. Nothing in this section shall be deemed to supersede the powers of the Mayor, acting as the Commissioner of Public Safety, in making such orders and regulations as he or she deems necessary and proper for the preservation of life and health, and the execution and enforcement of the Public Health Law of the state. [Amended 12-4-2006 by L.L. No. 3-2006]

**§ C-232. Powers of Superintendent of Buildings as to removal of dangerous buildings and fences. [Amended 12-4-2006 by L.L. No. 3-2006]**

Whenever, in the opinion of the Superintendent of Buildings, any building or any part thereof, or any fence or other erection or any part thereof, is liable to fall down whereby persons or property may be injured, he or she may order any owner or occupant of the premises on which said building, fence or other erection stands, to put the same in a safe condition or take down the same or any part thereof within a reasonable time to be fixed by the order or immediately as the case may require; or may immediately, in case the order is not complied with as therein provided, cause the same to be taken down at the expense of the owner of the premises, which expense may be sued for and recovered of such owner or occupant and shall, until paid, be a lien and charge on the lot on which said erection stood. Said order shall be served upon the owner or occupant personally or by leaving it at his or her residence if he or she resides in said City or, if he or she does not reside in said City, then in such manner as the Superintendent of Buildings may direct. The owner of any building who is ordered to put the same in a safe condition or take down the same may, within 24 hours after such order is given, appeal to the Mayor, acting as the Commissioner of Public Safety, who shall, after conference with the Commissioner of Public Works and the City Engineer and consideration by the said officers, either affirm or modify or vacate the order of the Superintendent of Buildings, which order of the Commissioner of Public Safety so given shall be final and binding upon the owner of the said property.

**§ C-233. (Reserved)**

**§ C-234. (Reserved)**

**§ C-235. (Reserved)**

**§ C-236. (Reserved)**

**§ C-237. (Reserved)**

**§ C-238. (Reserved)**

**§ C-239. (Reserved)**

**§ C-240. (Reserved)**

**ARTICLE VIII, (Reserved)**

§ C-241. (Reserved)

§ C-242. (Reserved)

§ C-243. (Reserved)

§ C-244. (Reserved)

§ C-245. (Reserved)

§ C-246. (Reserved)

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§ C-297. (Reserved)

§ C-298. (Reserved)

§ C-299. (Reserved)

§ C-300. (Reserved)

ARTICLE IX, (Reserved)

§ C-301. (Reserved)

§ C-302. (Reserved)

§ C-303. (Reserved)

§ C-304. (Reserved)

§ C-305. (Reserved)

§ C-306. (Reserved)

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§ C-326. (Reserved)

§ C-327. (Reserved)

§ C-328. (Reserved)

§ C-329. (Reserved)

§ C-330. (Reserved)

#### **ARTICLE X, Miscellaneous Provisions**

**§ C-331. City boundaries may be marked; no adverse title obtained by encroachments.**

The Common Council shall have power to cause the boundaries of the City to be surveyed and permanent monuments to be placed to indicate the same, and a map to be made thereof. No encroachments on any sidewalk, alley, street, highway or public grounds in said City, shall operate to confer any right upon any person or corporation adverse to the City, but such encroachment shall be deemed a nuisance, and the City may, at any time, cause the same to be removed.

**§ C-332. Notice to one owner, notice to all.**

Whenever any real estate in said City shall be owned by two or more persons jointly, or as tenants in common, a notice served on one of such persons shall be sufficient notice to all, for any purpose requiring a notice under this Act (Laws 1917, Ch. 668).

**§ C-333. City to be regarded as town for certain purposes.**

The City shall be regarded as a town, under the provisions of the Code of Civil Procedure respecting the return of jurors, and the supervisors, or a majority of them, and the Clerk of said City shall perform the duties therein enjoined upon the supervisors, Assessors and Town Clerks of the several towns of the state, except that a duplicate of the return of jurors made by them shall be filed in the office of the City Clerk. For all other purposes except those provided for in this Act (Laws 1917, Ch. 668), the City shall be regarded as one of the towns of Broome County.

**§ C-334. County to pay expenses of apprehending offenders.**

The expense 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 Broome, shall be audited,

allowed and paid by the supervisors of said county, in the same manner as if such expenses had been incurred in any town of said County of Broome.

**§ C-335. Charges against officers.**

Charges against any City officer may be of disability for service, in which case the examination shall be one of inquiry, and the decision may be for honorable discharge from service; or of neglect, or violation of law or duty, inefficiency, intemperance, disobedience of orders, or unbecoming official or personal conduct, in which case the examination shall be a trial, and the offender may be punished as in this Act (Laws 1917, Ch. 668) provided.

**§ C-336. Officers to complete term.**

Except as otherwise herein expressly provided, every officer elected or appointed for a definite term and in office when this Act (Laws 1917, Ch. 668) shall take effect shall continue in office for the term for which he or she was elected or appointed.

**§ C-337. Construction of Act.**

The provisions of this Act (Laws 1917, Ch. 668), so far as they are substantially the same, or cover the same subject matter, as those of any law repealed hereby, shall be construed as a continuance of such repealed law, modified or amended, according to the language employed herein and not as new enactments. References in law not repealed to the provisions of any law incorporated into this Act, shall be construed as applying to the provisions so incorporated. The meaning and effect of the terms and language used herein shall be construed in accordance with the provisions of the statutory construction law (General Construction Law). This Act is intended to be and shall be deemed and held in all courts to be a public act of which the courts shall take judicial notice and shall be liberally construed so as to carry into effect the objects and purposes thereof.

**§ C-338. Obligations and rights to continue.**

The repeal of a law, or any part of any law by the provisions of this Act (Laws 1917, Ch. 668), shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment, or any bar, limitation or defense incurred prior to the time when this Act takes effect, under or by virtue of the law so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such law had not been repealed, except as to bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the City, its boards or officers; and all actions or proceedings, civil or criminal, commenced under or by virtue of any law so repealed and pending when this Act takes effect, may be prosecuted and defended to final effect in the same manner as they might under such law so repealed, unless it be otherwise specifically provided herein. Any limitation or bar imposed by any act repealed hereby, shall be computed from the time when the same began to run, and if the whole time thereof has been completed when this Act takes effect, such bar or limitation shall become absolute, except as to bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the City, its board or officers; but if the whole time thereof has not been completed, the time thereof which has run before the taking effect of this Act shall be computed as a part of the time provided by this Act as such limitation or bar. The repeal hereby of a law or part of any law, does not revive a law repealed by the law or part of a law hereby repealed and includes all laws amendatory of the laws hereby repealed, unless otherwise stated.

**§ C-339. Saving clause.**

Nothing contained in this Act (Laws 1917, Ch. 668) shall be construed to repeal any statute of the state or ordinance of the City, or rule or regulation of the Board of Health or Bureau of Health, Water Commissioners of the City of Binghamton, or any other board, bureau, or department of the City, not inconsistent with the provisions of this Act, and the same shall remain in full force and effect when not inconsistent with the provisions of this Act, to be construed and operated in harmony with the provisions of this Act. The powers which are conferred and the duties which are imposed upon any officer or department of the City under any statute of the state, or any City ordinance which is in force at the time of the taking

effect of this Act, shall, if such office or department be abolished by this Act, or otherwise by law, be thereafter exercised and discharged by the officer, board or department upon whom is imposed corresponding or like functions, powers and duties under the provisions of this Act. All contracts, made by the Water Commissioners of the City of Binghamton between the date that the provisions of the Second Class Cities Law, being Chapter 53 of the Consolidated Laws, became applicable to the City of Binghamton, and the first day of January, 1917, are hereby legalized, and all rules, and regulations made by said Water Commissioners of the City of Binghamton between said dates, or prior thereto and in force on the 31st day of December, 1916 are hereby ratified and to remain in full force and effect until changed, modified or repealed as provided by law. Where any contract has been entered into by the City, prior to the time of taking effect of this Act, or any bond or undertaking has been given to or in favor of the City, which contains provisions that the same may be enforced by some officer, board or department therein named, but by the provisions of this Act or otherwise by law, such office, board or department is abolished, such contracts, bonds and undertakings shall not in any manner be impaired and the duties imposed with reference to the same upon the officer, board or department which has been thus abolished shall thereafter be exercised and discharged by the officer, board or department upon whom is conferred or imposed like powers, functions or duties under the provisions of this Act (Laws 1917, Ch. 668).

**§ C-340. Laws repealed.**

Chapter 751 of the Laws of 1907 (except Title 17-A thereof, added by Chapter 268 of the Laws of 1915); Chapter 337 of the Laws of 1908; Chapter 135 of the Laws of 1909; Chapters 37, 67, 97 and 460 of the Laws of 1910; Chapter 337 of the Laws of 1911; Chapter 402 of the Laws of 1912; Chapter 158 of the Laws of 1913; Chapter 289 of the Laws of 1914 are hereby repealed and all acts or parts of acts inconsistent with the provisions of this Act (Laws 1917, Ch. 668) so far as they affect the City of Binghamton, and all City ordinances inconsistent herewith are hereby repealed. Such repeal shall not revive any act or ordinance repealed by a law or ordinance hereby repealed, but shall include all laws amendatory of the laws repealed, except as provided in this section. Such repeal shall not affect any right already existing or accrued or any liability incurred by reason of any violation of a law or ordinance heretofore existing, or any suit or proceeding already instituted or action had under the laws or ordinance, unless expressly provided in this Act. Nothing herein contained shall be construed to affect any of the acts or parts of acts to regulate and improve the civil service of the State of New York.

**§ C-341. When effective.**

This Act shall take effect immediately.

**SUPPLEMENTAL CHARTER COMPARATIVE TABLE**

Note: This is a chronological and/or numerical listing of the laws of the State of New York and the Local Laws of the City of Binghamton used in the Supplemental Charter. Repealed or superseded laws and any omitted materials are not reflected in this table.

<u>Year</u>	<u>Number</u>	<u>Section</u>	<u>Disposition Part/Section</u>
1917	Ch. 668 1 – 341	A1 – 341	
1919	Ch. 366 1	146	
1921	Ch. 39	24	
1922	Ch. 27	32, 64	
1926	Ch. 411	64	
1927	Ch. 177	64	
	L.L. No. 2		12
1929	L.L. No. 1		164
1931	L.L. No. 3		12
	L.L. No. 5	1	31, 32
		34 – 40,	
		44 – 54,	

		123 – 129, 131 – 135, 137 – 140, 155 – 162, 164, 165	
1932	L.L. No. 1	1	68
	L.L. No. 3	1	40
	L.L. No. 7	1	156, 161
	L.L. No. 10	1	40
1933	L.L. No. 2		156, 159, 161
	L.L. No. 3	1	159
1934	L.L. No. 1		39, 40, 44, 51
	L.L. No. 2	1	161
	L.L. No. 3	1	68
1937	L.L. No. 2	1	123
	L.L. No. 3	1	23
1938	L.L. No. 3	1	123
1939	L.L. No. 3	1	68
1940	L.L. No. 3		39, 40, 44
1941	L.L. No. 1	1	190
	L.L. No. 7	1	64
1942	L.L. No. 4	1	161
1943	Ch. 710	16, 24, 62, 64, 65, 124, 144, 145, 146, 152, 159, 166, 168, 169, 174, 183, 191	
1944	L.L. No. 2	1	4
1945	Ch. 839	65, 124, 159, 166	
	L.L. No. 1	1	64

<u>Year</u>	<u>Number</u>	<u>Section</u>	<u>Disposition Part/Section</u>
1946	L.L. No. 1	1	137
	L.L. No. 2	1	161
1947	L.L. No. 2	1	137
	L.L. No. 3	1	161
	L.L. No. 4	1	48-a
	L.L. No. 6	1	191
1950	Ch. 651 1	3	
	L.L. No. 4	24	
	L.L. No. 1	1	13
	L.L. No. 2	1	49
	L.L. No. 3	1	39, 40, 44
1953	Ch. 878	24	
		49	11
	L.L. No. 4	1	191
	L.L. No. 5	1	137
	L.L. No. 2	1	187
1955	L.L. No. 3	1	13

	L.L. No. 4	1	64
1957	L.L. No. 3	1	192
1958	L.L. No. 2	1	88
1959	Ch. 712 1	40-a	
	L.L. No. 1	1	137
1962	L.L. No. 1	1	83
	L.L. No. 3		24
	L.L. No. 4	1	13
	L.L. No. 5	1	137
1963	L.L. No. 1	1	13
	L.L. No. 5	1	163
1964	L.L. No. 1	1	137
1966	L.L. No. 3	1	6 – 9
		2	13
1968	L.L. No. 5	1	13-a
1969	L.L. No. 3	1	62
	L.L. No. 4	1	39
1971	L.L. No. 2	1	6, 8, 9
1972	L.L. No. 2	1	49
	L.L. No. 3	1	16
	L.L. No. 6	1	16
1974	L.L. No. 6	4	44
			Rpld 45, 46, 47, 48, 49, 50
1975	L.L. No. 6	1	191
	L.L. No. 7	1	Rpld 84 – 88,
		123 – 129,	
		156 – 166,	
		168, 169	
		2	83 – 92
1976	L.L. No. 4	1	32
	L.L. No. 6	1	40-a (note)
		2	Rpld 40-a
1977	L.L. No. 6	1	13
	L.L. No. 8	1	13
<u>Year</u>	<u>Number</u>	<u>Section</u>	<u>Disposition Part/Section</u>
1978	L.L. No. 5	1	13
1979	L.L. No. 2	1	16
	L.L. No. 4	1, 2	90, 91
		3	93
	L.L. No. 7	1	88
	L.L. No. 10	1	Rpld 181 – 193
		2	181 – 188.5, 189 – 190.5,
			191 – 193
1981	L.L. No. 7	1	88
		2, 3	90, 91
		4	Rpld 93
	L.L. No. 8	1, 2	16
1983	L.L. No. 1	1	40
	L.L. No. 2	1	6
1985	L.L. No. 2	1, 2	16
1989	L.L. No. 7	1, 2	190.4
	L.L. No. 11	1	63

1991	L.L. No. 5	1	Rpld 35
	L.L. No. 6	1-4	32 (2nd note) – (5th note)
		5	32(note)
1992	L.L. No. 2	1	16
1993	L.L. No. 6	1	49
1997	L.L. No. 1	1	194
2001	L.L. No. 1	2	55
2005	L.L. No. 5	1	6, 8, 9
2006	Ord. No. 06-53	1	62
	L.L. No. 3	1 – 3	16, 201 – 207, 211, 216, 218, 231B, 232